

**LEIGHTON TOWNSHIP
ZONING BOARD OF APPEALS**

October 28, 2020

PRESENT: Chairperson Ron Schrottenboer, Steve Shoemaker, Bob Skinner, Jonathan Roodvoets, and Dave Gould

ABSENT: None

ALSO PRESENT: Eric Thompson, PCI, Township Zoning Administrator and five (5) members of the public in person and one (1) virtually.

CALL TO ORDER

Chairperson Schrottenboer, called the meeting to order at 7:04 p.m.

APPROVAL OF AGENDA

The agenda was approved as presented.

APPROVAL OF MINUTES

The next matter to come before the Board was consideration of the proposed minutes of 6/22/2020. Board discussion determined that minutes provided were not the minutes from the most recent meeting Mr. Roodvoets moved to postpone approval of the meeting minutes until the next ZBA meeting, Mr. Gould seconded the motion. The motion carried unanimously.

PUBLIC COMMENT CONCERNING NON-PUBLIC HEARING ITEMS

No public comment was offered on non-public hearing items.

CONFLICT OF INTEREST INQUIRY

No boards member found any conflict of interest

PUBLIC HEARING ITEMS

VARIANCE REQUEST - Dunbar

The next matter to come before the Board was the request of Travis Dunbar, for variance approval to allow for the construction of an attached garage failing to meet the setback requirements set forth in sections 7B.05.a of the Leighton Township Zoning Ordinance. The subject property is PP# 03-13-313-001-00 also known as 721 South Shore Dr.

Travis Dunbar was present on behalf of the application. Mr. Dunbar reviewed for the board his plans to remove the cottage and construct a new year-around residence, stating that the condition of the foundation is deteriorating to the point that it has become deteriorated to the point that his plans to renovate the existing home were no longer feasible. He further stated that he does not have property opposite the subject site as many others do in the area and that this design was intended to best utilize the site, maintain the views and provide covered vehicle parking.

Neil Kelly, contractor for the Trivises added that the condition of the foundation made repair unfeasible and that a demolition and construction of a new home was proposed. The board asked for clarification on the scope of the project, Mr. Kelly stated that all structures on the property would be demolished with exception of the established docks.

Mr. Shoemaker inquired as to the dimension of the lot. Mr. Thompson clarified the lot dimensions, square footage and determined that the lot was a Tier C lot according to the ordinance.

Chairman Schroteboer asked if there was any public comment related to the variance request.

Comments were offered Roger & Cathy Riemink, 219 S. Shore Dr. Mr. Riemink presented the board with a detailed review of the concerns he and his wife have about the proposed. Those being primarily the negative impact that the location of the garage would have on their views of the lake, potential safety concerns for users of the road cause by the reduced setback and the establishment of a precedent for reduced setbacks for other properties wishing to re-develop in general vicinity.

Mr. Riemink provided the board with pictures detailing his concerns about the impact that the proposed construction would have on his home and his views of the lake. Mr. Riemink stated that the west side of the property could be used for the garage having a lesser impact on his property without the need for a variance.

Chairman Schrotenboer questioned the applicant on the impact that relocation of the garage to the west side of property would have on the project, specifically relating to available parking. Mr. Travis stated that limited parking would still be available, but this would have a negative impact on the aesthetic of the entry way as designed.

Mrs. Riemink stated that the proposed location of the garage would block views that they currently have from their existing windows. She further stated that the proposed construction could have a negative impact on the value of their home.

Mr. Dunbar stated that he felt that the proposed location of the home and garage was the most practical use of the space that was available.

Mr. Thompson informed the board that there was one person attending the meeting virtually who is muted and advised that they should be given the opportunity to comment on the request. Chairperson Schrotenboer opened the floor to the virtual attendant.

The virtual attendant was Thomas Meir, 522 S. Shore Dr. He stated for the board that he owns the home across the street from the subject site and the adjacent lakeshore property. He went on to say that the location of the garage to either the east side or the west side of the property will not have a negative impact on his property.

Mr. Riemink went on to review the ZBA standards for review noting that he believed practical difficulties for development of the lot do not exist and that the property is not unique in character to present a practical difficulty. Mrs. Riemink explained that she felt the most appropriate location of the garage would be on the westside of the property due the lesser impact it would have on there property and the property across the street.

With no further comments from the public, Mr. Schrotenboer closed the public comment portion of the hearing.

Mr. Shoemaker asked the Dunbars what the impact of locating the garage on the westside side of the property would have on their plans. Mr. Dunbar explained the how was the home was designed to incorporate the more desirable lakefront view of the western side of the property into the entry way of the home.

Mr. Shoemaker stated to the board that it was his understanding to which people are entitled pertain to their own parcel; not across property lines. Mr. Thompson confirmed noting that the ordinances for setbacks, height and lot coverage indirectly protect neighboring views but that there is not specific ordinance or legal statue that provides protection of a property owner's view of

the lake. He further stated that the views that are protected are limited to what is between the property lines.

The Board then proceeded with a review of the variance criteria set forth in Section 26.09. Specifically, the following findings with respect to the requested front setback variance were noted:

A - That the enforcement of the literal requirements of this Ordinance would cause practical difficulties. The ZBA found that significant practical difficulties for use of the property did not exist and that reasonable use could be obtained in compliance with ordinance

B – That special conditions or circumstances exist which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same zoning district. The ZBA found that though the lot size was very small and that development of property to the west was not possible, that the subject site did not possess any peculiar characteristics that make development of the property within the confines of the ordinance unnecessarily burdensome.

C – That the literal interpretation of a provision of this Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zoning district. The ZBA found that the application of the ordinance did not deprive the applicant of reasonable use of the property noting viable options for compliance were available.

D - That the authorizing of such variance will not be of substantial detriment to adjacent or nearby lands, structures or buildings, and will not be contrary to the spirit and purpose of this Ordinance. The ZBA asked Mr. Thompson to review the meaning of “significant detriment”. Mr. Thompson explained that this should be measured in terms of whether the general health, safety and welfare is protected by the ZBA’s decision. The ZBA found that the proposed project did not cause a significant detriment to surrounding properties or for the general health and safety of the public.

E – That the special circumstances or conditions referred to in subsection (b) do not result from the actions of the applicant. The ZBA noted that they found no significant special circumstances with the subject that property and these criteria was not applicable.

It was noted that the above findings were based on the application documents presented and the representations made by the applicant at the meeting.

Mr. Shoemaker then moved to deny variance approval from the front yard setback allowing for a reduction of the setback to 5'11" based upon the above findings. Mr. Mr. Skinner seconded the motion. Mr. Thompson called roll vote:
Shoemaker – Yes
Skinner- Yes
Schrotenboer – Yes
Roodvoets – Yes
Gould – Yes

The motion to deny the request was passed unanimously.

UNFINISHED BUSINESS

Chairman Schrotenbor stated that no 'Unfinished Business' was scheduled for Board consideration.

NEW BUSINESS

Mr. Gould inquired as to the status of the appointments of the board members. Discussion regarding the terms of the individual members occurred.

The board also discussed having a Planning Commission liaison as a member of the ZBA and having a joint meeting of the PC and ZBA.

It was noted that this would be reviewed with the Township Supervisor.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 8:34 p.m.