SPRING LAKE TOWNSHIP  
ZONING BOARD OF APPEALS MINUTES  
MAY 27, 2021 – REGULAR MEETING

Present:   Ellen delaRosa-Pearn, Jack Ketchum, Larry Mierle, George Postmus, Tom TenCate, Rachel Terpstra
Absent:   None
Participants:   Lukas Hill, Community Development Director

Pursuant to PA254 of 2020 and the Ottawa County Emergency Order, the Township of Spring Lake Zoning Board of Appeals conducted its business via conference call to mitigate the spread of COVID-19. Members of the public were encouraged to dial in to this meeting. Members of the public were not required to register or otherwise provide information to attend.

I.  Call to Order
The meeting was called to order by Ketchum at 7:02 p.m.

Due to Terpstra’s inability to visit the applicant sites, delaRosa-Pearn was the acting Board member for this meeting.

II. Approval of Minutes
Motion by TenCate, support by Mierle, to approve the minutes of the April 22, 2021 meeting as presented. A roll call vote was taken and the motion passed unanimously.

III. Adopt Agenda
Motion by delaRosa-Pearn, support by TenCate, to adopt the agenda as written. A roll call vote was taken and the motion passed unanimously.

IV. Public Comment
A time for public comment was provided. There were no comments.

V. Postma – Variance and Waterfront Setback Determination – 15314 Central Ave
Richard Postma presented his request to enclose a portion of his back porch. This will be a two-story addition which faces the Grand River and will not interfere with views, as the two adjacent residences are set further back from the river. The front of the Postma residence is also at a different angle from the neighboring residences so the views will not be impacted. The highest water level experienced was still about 18 inches below the top of the sea wall and there has been no erosion in the past.

Ketchum asked if the current deck is 12x14 and would be enclosed. Postma stated that was correct. Ketchum asked if the remaining deck would be increased in size. Postma stated that the composite boards from the enclosed area would be removed and the existing deck would be extended 12 feet.

TenCate asked if Postma talked to the neighbors. Postma stated he talked to both nearest neighbors and they had no problems with the request.

Hill asked if the proposed enclosed space is the size of the existing deck. Postma stated it was as large as the largest part of the existing deck, but not larger.
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TenCate asked if it was possible to make the sunroom 10x16, and therefore a variance would not be needed. Postma stated that it was possible, although there might be an effect on the windows.

The public hearing was opened at 7:22pm. There were no comments. Motion by TenCate, support by Mierle, to close the public hearing at 7:23pm. A roll call vote was taken and the motion passed unanimously.

Ketchum stated the variance and waterfront setback determination would be reviewed separately.

Criteria for a variance was reviewed.

Hill stated that there is an existing nonconforming deck that is at the requested 48-foot setback. The extraordinary circumstance is that the house is very close to the river. Approving the variance would allow an improvement to an existing nonconforming aspect.

Motion by TenCate to deny the variance as it does not meet Section 112 I a. The motion died for lack of support.

Mierle stated that the house was there before the ordinance was adopted, and that Section 112 I b should be considered.

Hill stated that the waterfront setback allowed is 72 feet. A waterfront setback determination would be needed to allow the 48-foot setback.

TenCate stated he was still concerned with the precedent of giving the requested setback.

Motion by Postmus, support by delaRosa-Pearn, to approve the variance as presented at 15314 Central Avenue as the application meets all of the criteria in Section 112, I, with the following conditions:
   a. The applicant will comply with any other local, state, and federal laws.
   b. The applicant will comply with all verbal representations.
   c. No additional construction is allowed on the river side of the house.

A roll call vote was taken. Postmus, delaRosa-Pearn, and Mierle voted yes. TenCate and Ketchum voted no. The motion was approved.

The Board then considered the waterfront setback determination. Hill stated that he considered the unusual configuration of the shoreline to be the positions of the homes. If the ZBA disagrees, they can treat the request as a variance rather than a waterfront setback determination.

The Board discussed the waterfront setback determination and the related variance.

Postma stated he would like to return to his contractor to discuss a 10x16 room and will return to the next meeting.

Motion by TenCate, support by delaRosa-Pearn, to table the application until the June 24 ZBA meeting. A roll call vote was taken. With Postmus as the only no vote, the motion was approved.
Hill stated he will contact the Township attorney to discuss how to handle the situation if there are different decisions on the variance and the waterfront setback determination.

VI. Spooner – Waterfront Setback Determination – 15657 View Dr.

Richard DeBoer, representative of the owners, presented the request for a waterfront setback determination. There has been a big remodel on the property, including adding an 8x26 patio. They would like to add a roof over the existing patio to give shade and add character to the home. The roof will not obstruct any views.

Ted Spooner stated that the roof will be an extension of the existing roof with two posts holding up the end. There will be no walls.

DeBoer stated the posts will be on the patio, not next to it as it was staked. The view of the house to the east will not change. The view from the association’s beach is not affected. The view from 17400 Villa Park will be slightly affected.

Mierle asked about the arch shown on the elevations. DeBoer stated that the arch is the gable portion of the roof. There will be siding below the arch.

DelaRosa-Pearn asked if the posts will be on the patio on the concrete, and why the soil erosion permit was needed. DeBoer stated that they will remove the patio pavers, put in the posts with footers, and rebuild the patio. Hill stated that Ottawa County is particular about construction along the lake and they determined that a soil erosion permit was needed.

Postmus asked about the interior sliding doors. DeBoer stated the interior sliding doors will be removed and the existing porch will become part of the home.

Ketchum asked how stormwater runoff will be handled. DeBoer stated they will extend the existing gutter system.

The public hearing was opened at 8:12pm. There were no comments. Motion by TenCate, support by Mierle, to close the public hearing at 8:13pm. A roll call vote was taken and the motion passed unanimously.

Commissioners reviewed the criteria for a waterfront setback determination. Due to the vacant lot to the west, the setback cannot be determined administratively.

Motion by Postmus, support by Mierle, to approve the waterfront setback determination as presented at 15657 View Drive as the application meets all of the criteria in Section 356, C, with the following conditions:

a. The applicant will comply with any other local, state, and federal laws.

b. The applicant will comply with all verbal representations.

c. No walls/enclosures are allowed in the extended roof area.

A roll call vote was taken. Postmus, Ketchum, and Mierle voted yes. TenCate and delaRosa-Pearn voted no. The motion was approved.
VII. DeMaria – Variance Request for Retaining Walls – 16123 Terrace Rd.

Matt Penninga and Sarah Somers presented the request for retaining walls. Ketchum noted that he serves on the Planning Commission with Somers.

Somers stated that there was an oversight by all contractors related to the retaining walls. The intent is to create a switchback cart path for a golf cart. The original plan has been modified to reduce all 4-foot 1-inch walls to 3-foot 11-inch walls by adjusting the grading. One of the walls in the 10-foot setback has been moved back out of the setback. The revised request relates to portions of Wall 2, Wall 5 and Wall 6. For Wall 2, a 1-foot 11-inch height variance is requested for the portion located within the 50-foot waterfront setback. Wall 5 and Wall 6 are adjacent to each other and create a total wall system height of nine feet seven inches. The height varies throughout the distance where the walls are in close proximity, so a 5-foot 7-inch height variance is requested, as this is the maximum that would be required. Wall 6 does not entirely meet the 50-foot waterfront setback or the 10-foot side yard setback. A 1-foot 8-inch height variance is requested for Wall 6 in areas that are not in close proximity to Wall 5. There is also a request for a 9-inch height variance for the side yard setback.

A letter from project engineers Prein&Newhof was presented, showing that the global slope stability was considered in designing the retaining walls.

There will be full vegetation between the walls and the drainage will be engineered. The slope of the path was maximized to minimize the height of the retaining walls.

DelaRosa-Pearns asked if the County is concerned about soil erosion. Hill stated he contacted them and they are satisfied that the conditions of the existing soil erosion permit are being met.

TenCate asked if a trolley system was considered. Somers stated the owners have one at their current home and it does not have a platform large enough for a wheelchair and an aide.

Mierle asked about the neighbor’s tree. Somers stated that Wall 2 will have little effect on the tree, as the height decreases to grade as it approaches the property line. Penninga stated Wall 6 is installed. Wall 5 will go above it to support the grassy slope. The roots that are seen above Wall 6 are from trees that were previously removed from the property. Many trees were removed in 2019 due to termite damage. Some stumps from trees removed before that were left in the ground.

TenCate stated that the walls need to be worked out to protect the neighboring property.

Ketchum asked if the project was discussed with the neighbors. Penninga stated that they did not discuss it before beginning the project, but they did discuss it as soon as the project started. He has not discussed the project with the new homeowner to the west.

Somers stated that the height of Wall 5 was reduced and the wall was moved back so no variance is required. Wall 6 would need a 9-inch variance in the setback as it is 4-feet 9-inches high.

Ketchum stated that a letter from the neighbor was received regarding their oak tree. Is the construction interfering with the tree? Penninga stated his opinion is that the roots that are visible are from an old stump, not from the neighbor’s tree.
Ketchum asked if there were other alternatives. Somers stated the request is for a cart path. There is no room on the other side to get around.

Hill noted that two walls within close proximity are considered as one wall system.

Ketchum asked about the distance between Wall 5 and Wall 6. Penninga stated it was about 2.5 feet. The plantings in that area will be climbing hydrangeas. Irrigation will be installed in the wall system.

Ketchum asked how the potential for erosion and damage to the neighboring property would be mitigated. Penninga stated that Wall 5 will fill the open space that is currently there. There will be engineered walls with drainage. At the property line, if there are any slope changes, small stone walls less than two feet tall will be added.

The ZBA then discussed the landscaping for the walls.

The public hearing was opened at 9:11 pm.

Hill stated letters were received from Steve and Penny Annese, 16109 Terrace. They own the adjacent property to the east and are concerned about their tree. They request that the contractors follow the ordinance regarding retaining walls and setbacks.

Penny Annese also commented at the meeting. She has an issue with the setback of the walls, and believes the walls should be set back 10 feet. She also disagrees that the root system is from a different tree, and believes the root system is from her tree. Also, the retaining walls are very visible from her property.

Motion by TenCate, support by delaRosa-Pearn, to close the public hearing at 9:16 pm. A roll call vote was taken. The motion was approved unanimously.

DelaRosa-Pearn asked if the noncomplying walls could be redesigned to meet the ordinance. Somers stated the walls are at the absolute minimum to support the hillside and the cart path. Hill stated he could ask the Township engineer to review the walls if the ZBA desired.

Board members stated they were concerned about the wall heights at the property line. They were also concerned about the landscaping. They would like a 3-D view so they know what the final project will look like.

Motion by TenCate, support by delaRosa-Pearn, to table the application until a June 10 special meeting, with the following conditions:

a. Construction can proceed in areas where the walls meet the ordinance requirements.

b. Applicants shall provide more information on the areas where the walls do not meet the ordinance.

c. Applicants will provide a landscape plan and a 3-D view from the water to illustrate what the project will look like.

d. Applicants will provide an opinion from an arborist related to the neighbor’s tree:
   1. If the roots belong to the neighbor’s tree
   2. The state of the neighbor’s tree
   3. How to protect the neighbor’s tree, if necessary
A roll call vote was taken. Mierle, TenCate and delaRosa-Pearn voted yes. Postmus and Ketchum voted no. The motion was approved.

VIII. Adjournment
Motion by Mierle, support by Terpstra, to adjourn the meeting at 9:58 pm. The motion passed unanimously.

Respectfully submitted,

George Postmus, Secretary
Zoning Board of Appeals