SPRING LAKE TOWNSHIP
ZONING BOARD OF APPEALS MINUTES
JUNE 24, 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
Ron Bultje, Township Attorney

A meeting of the Spring Lake Township Zoning Board of Appeals was held at Barber School, 102 W Exchange St., Spring Lake MI 49456.

I. Call to Order
The meeting was called to order by Ketchum at 7:01 p.m.

II. Approval of Minutes
Motion by Terpstra, support by TenCate, to approve the minutes of the May 27, 2021 meeting as presented. The motion passed unanimously.

III. Adopt Agenda
Motion by TenCate, support by Terpstra, to adopt the agenda with the addition of VI Discussion. The motion passed unanimously.

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

V. DeMaria – Variance Request for Retaining Walls – 16123 Terrace Rd.
DelaRosa-Pearn continued as the acting ZBA member for this application.

Motion by delaRosa-Pearn, support by TenCate, to remove the application from the table. The motion passed unanimously.

Sarah Somers and John DeMaria presented the request for retaining walls. The site plan has been changed to minimize the number of walls which require a variance. There are no side yard setback variance requests remaining. They are still asking for a variance of 1 foot 11 inches for Wall 2 in the center of the property. The height exceeds the 4-foot limit for about 30 feet. The wall will be covered by planting climbing hydrangeas. Where Walls 5 and 6 are in close proximity, they are asking for a variance of 5 feet 7 inches. This is the maximum height variance required. The walls are in close proximity for about 54 feet. Climbing hydrangeas will also be planted near these walls. A variance request of 1 foot 4 inches is requested for a portion of Wall 6, when it is not in close proximity to Wall 5.

Pam Blough evaluated the neighboring tree and provided a report.

Board members discussed applicable Federal laws related to DeMaria’s disability with Bultje. Bultje stated that the Americans with Disabilities Act should be considered, as should the Federal Fair Housing Act. As the requirements for the Federal Fair Housing Act are particular to the individual, what is reasonable depends on what is necessary for the individual to remain in the home.
The disability needs to be taken into account when determining if requirements for granting a variance are met.

Mierle asked about the wall on the north property line, and how the sheet piling will be supported. Somers stated there will be grading to match the neighboring property, and the wall will be covered with stone to match the other walls. Postmus asked the final height of the wall. Somers stated it would be 3 feet 11 inches.

DelaRosa-Pearn asked where the maximum height of Wall 2 would be. Somers stated the maximum height is where it is in the waterfront setback. In the side yard setback the wall will be 2 feet 9 inches tall and decrease to grade. Wall 2 ends about two feet from the property line.

Board members reviewed Sections 348 A and B of the Zoning Ordinance, relating to retaining walls.

TenCate asked Somers to discuss the landscaping. She stated there will be taller plants at the ends of Walls 5 and 6. There will be climbing hydrangeas on Walls 5 and 6, and on Wall 2. Some plants will be brought from the owner’s current house, so there will be more-mature plants.

TenCate asked if the house could have been designed or placed further back to minimize the variances needed. Somers stated the house was built on the footprint of the old house, which limited the options.

Ketchum asked if the path was for a wheelchair or a motorized vehicle. DeMaria stated it was for a golf cart. Somers stated she looked at a bigger vehicle that could handle a steeper slope, but those require a much larger turning radius and will not work.

Terpstra asked if anything else was considered to avoid the steep grades. Somers stated that the cart path was a concept at the beginning of the house construction, but they had no expectation that there would not be enough land to install it without retaining wall issues.

Ketchum asked the distance between Wall 5 and Wall 6. Somers stated that it was about 2.5 feet.

Postmus confirmed that where Wall 5 was moved back 12 feet from the neighbor a piling system will be installed.

DeMaria stated that this has been a long project with no coordination between the builder and the landscaper. It was not intentional to miss the necessary permits. Also, the retaining walls are being designed so the property will not look like a fortress.

Ketchum referenced the PMBlough report stating there will be porous surfaces on the path.

The public hearing was opened at 7:48pm.

Hill stated two emails were received, and read them into the record.

Penny Annese, 16109 Terrace, stated she has concerns about the walls near her property line. She also stated she is concerned that the exposed roots are from the tree on her property.
Lucy and Montgomery Welch, 18168 Lovell Rd, stated they are in opposition to the DeMaria variance request.

Motion by TenCate, support by Mierle, to close the public hearing at 7:53pm. The motion passed unanimously.

TenCate asked Pam Blough to provide comments regarding the neighboring oak tree. Blough stated she was acting as an arborist, not a landscape architect. She looked at the tree and also looked at the design. The area around the critical root zone had not been disturbed. Disturbance of the critical root zone should be minimized, so the slope needed to be steeper to protect the tree. Pervious paving will allow air and water through and will allow the tree roots to thrive. The staggered pile system that is replacing the geogrid system will have less impact on the tree roots.

Bultje asked if the change in slope affected the wall heights. Blough stated that it did not, it just affected the soil behind the walls.

Ketchum asked if there will be an irrigation system for the plants. Somers stated there will be, and if the chosen plant does not survive it will be replaced with something that will survive.

Board members reviewed the criteria in Section 112 I for granting a variance. They found that all conditions were met.

Motion by TenCate, support by Postmus, to approve the waterfront setback variance as presented on the plan dated June 10, 2021, at 16123 Terrace Road 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 as represented in the minutes of the May 27 and June 24, 2021 Zoning Board of Appeals meetings.
c. There will be a certified as-built drawing submitted after project completion.
d. There will be oversight by PMBlough Associates.
e. The final landscape plan will be reviewed by staff.
f. The landscaping is to be maintained in perpetuity.

A roll call vote was taken and the motion passed unanimously.

Terpstra was the acting Board member for the remainder of the meeting.

Scott Weber presented his request. He stated he believed the existing deck could be repaired and replaced without permits. In addition, he believed he did not need a permit to add a deck for his hot tub. Weber showed a picture from 2012 to show that the main deck has not been changed. The existing deck is rotting, and he wants to replace the deck and steps. He is asking for a waterfront setback determination to allow him to continue the repair of the deck. Weber stated the houses to either side have been rebuilt and adjusted the waterfront setback for his property. His primary request is to repair the existing deck, but he would like to keep the small deck. Weber apologized for building the small deck without a zoning permit.
Hill clarified that for a waterfront setback determination, all setbacks can be considered. A portion of the existing deck is in the 10-foot side yard setback. Hill also noted the waterfront setback was determined based on the foundations of the neighboring houses. The subject house meets the average waterfront setback, but the decks do not. An adjustment of three to six feet would be necessary for rebuilding the original deck.

Postmus asked if the replacement deck would have the same footprint as the original deck. Weber stated it would.

TenCate asked about the dimension of the deck on the side of the house. Weber stated it was seven feet.

Terpstra asked what the distance from the water to the decks were for each neighbor. Hill stated it was about 112 feet for each neighbor. Terpstra noted that there would be a problem with losing the view if the deck is cut back.

The public hearing was opened at 8:49pm.

Norman Dodds, a consultant for the North Shore Estates Association, stated that Weber was informed about the Township and the Association rules. The Association requires a 10-foot setback from the road, which is part of the bylaws. He is also concerned about the hot tub on the new deck, because it is past the crest of the dune. He would like a survey of the property.

Weber stated he hired a professional company to build the retaining wall and assumed they would get the necessary permits. He specifically told the Association he was replacing the retaining wall.

Chris Jansen, builder, stated he is not involved in this project. He stated that permits were pulled for the interior work. The contractor for the retaining walls stated that replacing them in the same location was acceptable. They started replacing the deck boards, but the supports are too rotten to continue.

Motion by Terpstra, support by TenCate, to close the public hearing at 9:04pm. The motion passed unanimously.

Hill stated he is concerned about whether the decks meet code. He stated a topographic survey is a good idea, as the Township general assumes the homeowner is providing accurate information.

Motion by TenCate, support by Terpstra, to table the application with the following conditions:
  a. A topographic survey will be provided.
  b. Information from EGLE will be provided.

A roll call vote was taken. The motion passed unanimously.

VI. Discussion
Board members discussed the many recent projects beginning without permits, and what can be done so people know when permits are required.
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VII. **Adjournment**

Motion by Terpstra, support by TenCate, to adjourn the meeting at 9:25pm. The motion passed unanimously.

Respectfully submitted,

George Postmus, Secretary
Zoning Board of Appeals