

FERGUSON TOWNSHIP ZONING HEARING BOARD

Regular Meeting

Tuesday, February 23, 2016

7:00 pm

I. ATTENDANCE

The Zoning Hearing Board held its regular on Tuesday, February 23, 2016 at the Ferguson Township Municipal Building. In attendance were:

Board: Matthew Patch, Chairman
George Pytel, Vice Chair
Scott Petryshak
Swamy Anatheswaran
Karen English
Charles Farrell
Michael MacNeely

Staff: Jeffrey Ressler, Zoning Administrator
Jeffrey Stover, ZHB Solicitor

Other in attendance included: Heather Bird, Recording Secretary; Mark and Cindy Scanlon, Louis Glantz, Brandon Glantz

II. SWEARING IN OF THOSE WHO WISH TO TESTIFY

III. MARK D AND CYNTHIA A SCANLON – APPEAL IN THE ALTERNATIVE A REQUEST FOR VARIANCE

Mr. Ressler stated the property is located at 280 Treetops Drive, State College, tax parcel 24-736-009 and is owned by Mark D. and Cynthia A Scanlon. This building lot was created as part of the Thistlewood Subdivision Plan which was approved and recorded July 28, 2005. The subject property is lot number 9 on the recorded plan. To develop this lot for a single family dwelling will require land development approval. The subdivision plan that was approved and included this lot depicted conservation easements and wetlands on the property. These conservation easements were to remain in their natural condition. The Riparian Buffer Overlay Zoning District regulations were adopted by Ordinance 924 on May 18, 2015 and amended by Ordinance 954 on June 6, 2011. The applicants appealed the decision of the Zoning Administrator that the Riparian Buffer Overlay Zoning District regulations of Chapter 27-213 and that the floodplain regulations of Chapter 27-801 apply to the subject property. In the alternative the applicants requested several variances for the property. The variances requested are to the following ordinance sections: Chapter 27-213.2.C.2 regarding a required 50 foot buffer around the entire perimeter of the outer edge wetlands and water bodies greater than 5,000 square feet, Chapter 27-213.3.A.2.a regarding a conditional use hearing for centralized sewer and water lines to cross a stream, Chapter 27-213.4.D regarding roads and driveways crossing a stream, Chapter 27-213.5.A (1)(b) regarding the exemption of lots where the riparian buffer overlay consumes 50% or more of the lot, Chapter 27-213.6.A(1)d regarding stream crossing standards (if using the existing driveway no variance is required, Chapter 27-801.G.3 regarding restrictions on building in wetland (if no construction is proposed for the wetlands, no variance is require) and Chapter 27-801.I regarding 50 foot land buffer between the permitted use and edge of the floodplain. It is my opinion that variances are not needed for the following sections of the Zoning Ordinance: Chapter 27-801.I this section requires a 50 foot land buffer between the permitted use and the edge of floodplain as defined by FEMA. This property does not have any FEMA defined floodplain and Chapter 27-213.5.A(1)(b) this section does not apply in that the lot has not been developed as of May 18, 2009. There have been no other variance requests for this property. As stated in the February 3, 2016 memorandum from Mark Kunkle, Township Manager, the Board of Supervisors has reviewed this request for variances and has chosen to remain neutral but has requested that the Zoning Hearing Board consider the following: minimize the encroachment of the

structure into the designed buffer area adjacent to the wetlands and if a variance is granted, condition the variance of encroachment into the buffer by restricting any current or future development into the wetlands.

Mr. Patch verified that the two of variance requests, Chapter 27-213.3.A.2.a and Chapter 27-801.G.3, were not needed according to Mr. Ressler and the applicants.

Mr. Glantz stated the applicant does plan to use the existing driveway which would allow for one other variance request to be removed

Mr. Patch asked which other lots received a variance. Mr. Ressler stated Lot #12 and #13.

Mr. Ressler stated that the applicant submitted a new plan depicting the home in a slightly different location moving it forward so that it will not encroach into the wetlands or conservation easement.

Mr. Glantz stated that provided a decision for lot 13 and verified with Mr. Ressler that decision was for dimensional variances. Mr. Glantz verified that the development plan was approved in 2005. He reviewed the applicant's exhibits which included maps of the lot, declaration of covenants (minimum home size of 2,600 square feet and minimum of a two car garage) and the decision by the Zoning Hearing Board for Lot 13.

Mr. Glantz stated that it would not be possible to build a dwelling that would meet the requirements of the development without the encroaching into the 50 foot setback. Mr. Ressler agreed.

Mr. Glantz stated the front setback is further from road than normal because of the lot width. He also confirmed that both of the adjoining lots area already constructed, Lots 8 and 10.

Mr. Glantz stated that in order for the applicant to build on this lot they would need variance to permit construction not in wetlands but within the 50 foot setback to buffer area. Mr. Ressler stated that is correct. Mr. Glantz also pointed out that prior to the ordinance amendment for buffers this would not have been needed.

Mr. Glantz asked if the conservation easement extends to rear of lot. Mr. Ressler stated the conservation easement goes from the buildable line back. Mr. Glantz stated that the applicant is willing to stipulate that the entire rear of the lot from the front line back be maintained in its current state and the applicant is also willing to stipulate that they will only use the existing driveway.

Mr. Glantz reminded the Board that the revised plan has no construction proposed in the wetlands.

Mr. Patch asked why the buffer zone was laid out in 2009 after the development plan was submitted and approved. Mr. Ressler stated they were created for protection of wetlands. It would apply to lands adjacent to streams and lands adjacent to state or federally determined wetlands.

Mr. Pytel asked if they were looking at the appeal or variance first. Mr. Glantz stated they would like them to look at the variances first and go to the appeal if necessary.

Mr. Glantz stated that if the variances are granted the applicants will still go through the full land development process before the construction of the home.

Mr. Glantz called Mr. Brandon Glantz, professional engineer and home builder. Mr. Brandon Glantz confirmed that exhibit 4 is the deed for the Scanlon's. He also confirmed that they purchased this land in 2015. Exhibit 5 is an aerial image of the property in question. Exhibit 6 is the site plan made for the Board by cleaning up the master plan to show the parts needed for this decision by the Board showing that if the 50 foot buffer line were to stay in place you would lose the buildable area for the home. The

proposed structure is outside of the conservation easement and is a 2,800 square foot home. Exhibit 7 is a picture of the proposed home. The driveway location would be in front right corner of Lot 9. He stated that it would be difficult to meet the requirements of the covenants without being in the 50 foot buffer of the wetlands.

Mr. Patch asked Mr. Brandon Glantz what would prevent them from moving the house forward closer to Treetops Drive. Mr. Brandon Glantz stated with the current design the front of garage touches the front setback line, moving forward would enter the front setback zone.

Mr. Pytel asked what would happen if the required home size home based on the covenants was not permitted to be built. Mr. Brandon Glantz stated it would be very difficult to change the covenants on a fully populated development.

Mr. Pytel asked about moving the home forward. Mr. Brandon Glantz stated that a minimum lot width requirements and front setback would be effected. The applicant does not have an issue with moving the home forward.

Mr. Brandon Glantz stated that on the plan the back of building is deck posts not the foundation for the home. Mr. MacNeely stated the construction vehicles would access the wetlands.

Mr. Anatheswaran stated the Board wants to grant variances where the home will cause the least amount of problems.

Mr. Glantz stated the applicants have no objection to moving the home forward to the conservation easement in the front of the home.

Mr. Anatheswaran asked why the home was designed before the locations were determined. Mr. Brandon Glantz stated that the home fits within the normal setbacks but not within the additional 50 foot setbacks.

Mr. Anatheswaran would prefer the more ecological approach by moving the home forward. Mr. Patch agreed with this.

Ms. English asked for verification to the location of the access to the property.

Mr. MacNeeley asked if this home is considered ranch or two stories. Mr. Brandon Glantz stated he would consider it a two story.

Mr. Glantz again confirmed the applicant has no objection to moving the home forward.

Mr. Ressler stated that moving the home forward would require variances to the minimum lot width, Chapter 27-302, Table 302 setbacks for single family dwelling and the lot width at setback line. They would also need variances for the driveway including crossing the stream and being a minimum of 1000 feet apart.

Mr. Glantz amended the application to move the structure forward to the line of the conservation easement.

Mr. Pytel made a motion to GRANT the variances to Chapter 27-213.2.C.2 regarding a required 50 foot buffer around the entire perimeter of the outer edge wetlands and water bodies greater than 5,000 square feet, Chapter 27-213.4.D regarding roads and driveways crossing a stream, Chapter 27-213.6.A(1).d regarding stream crossings standards and Chapter 27-302 Table 302 for setbacks and minimum lot width at setback line and that there is no further encroachment into the buffer areas. Mr. Petryshak seconded the motion. The motion passed unanimously.

IV. MINUTES

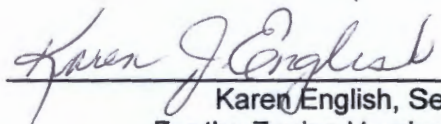
Mr. Pytel made a motion to APPROVE the organizational meeting minutes from January 26, 2016. Ms. English seconded the motion. The motion passed unanimously.

Mr. Pytel made a motion to APPROVE the regular meeting minutes from January 26, 2016. Mr. Petryshak seconded the motion. The motion passed unanimously.

V. ADJOURNMENT

With no further business to come before the Ferguson Township Zoning Hearing Board, Mr. Pytel adjourned the regular meeting at 8:10 pm.

RESPECTFULLY SUBMITTED,



Karen English, Secretary
For the Zoning Hearing Board

Date approved by the Board: _____