

**MINUTES SILVER CREEK TOWNSHIP  
ZONING BOARD OF APPEALS HEARING HELD ON FEBRUARY 27, 2018**

The hearing was called to order by Jean Rowe at 7:00 p.m. on Tuesday, February 27, 2018. The Pledge of Allegiance to the Flag of the United States of America was recited.

MEMBERS PRESENT: Mike Glynn, Jean Rowe, Thom Brown

OTHERS PRESENT: Attorney John Magyar, Building/Zoning Administrator Todd Herter, Supervisor Bill Saunders, Recording Secretary Lindsay Krohne, several members from the public.

ABSENT: Bruce Nevins, Adele Straub, Jerry Donley

**PUBLIC HEARING**

Jean Rowe read the Notice of Public Hearing, which explained the reason for the hearing: A variance request by Philip Nevins and Lynette Nevins for a reduction in lot size for a campground, as the ordinance calls for five acres and the proposed property is only 3.02 acres.

Building/Zoning Administrator Todd Herter explained the reason for the Zoning Board of Appeals Hearing, being that he denied Philip and Lynette Nevins's Zoning Application due to the five acre requirement for a campground in Silver Creek Township's Zoning Ordinance. He explained that Philip and Lynette Nevins only had 3.02 acres.

**PUBLIC COMMENT**

Jean Rowe opened the floor for public comment at 7:05 p.m.

Applicant Philip Nevins stated that they were requesting a variance for eight trailer sites on what has been Shady Shores Resort on Dewey Lake. Philip explained that Shady Shores has been in the family since 1926 and was previously operated by his father, Frank Nevins until his death in 2006, and then operated by his brother Bruce Nevins through 2017. Philip stated that Shady Shores consists of fourteen cottages and two separate trailer sites, and that a decision was made in 2017 to split the property up. Philip stated that they would be receiving 3.02 acres, which included eight trailer sites on the north end, which has been filled with the same families for many years. Philip stated that after the property was divided, they found out that they had to have five acres per the Zoning Ordinance in order to operate a travel trailer resort. He asked that the board approve a variance so they could continue to operate the eight trailer campground.

Applicant Lynette Nevins stated that the property has been in the family for a long time. She stated that they would be good neighbors, abide by the rules, maintain the noise ordinance and not allow loud parties. She also stated that the campers would be swimming, playing horseshoes,

and that it. Lynette stated that she has been living in Silver Creek Township since 2006 and owns property on Swisher Street.

Roger Bower stated that he has lived in Sister Lakes since 1978 and has never had any problems with folks at Shady Shores. He stated that they are very courteous, and pose no danger to the people there or surrounding them. Roger stated that he does not see a problem with continuing to keep the eight camp sites there.

Bonnie Stasiak of 51196 Garrett Road stated that her property touches the back of the lot containing the eight trailers. Bonnie stated that she has resided there from 1965-1989 and 2002-current. Bonnie stated that she looked up the state campground rules, and almost all of them are being violated right now. She stated that fireworks are going off from Labor Day to Memorial Day, all through the night. She stated that she cannot have her windows open in the summer, use her back patio, and has to pick up trash in the back of her property from the resorters. Bonnie stated that the resorters have their radios up loud, talk loudly, keep her newborn granddaughter awake, and disturb their pets. Bonnie questioned who will keep up the property, how the resorters will access it, and if the traffic would increase. She added that people speed down the road and drive golf carts.

Billy Jean Stasiak stated that she has lived here for 52 years and has seen no improvements to the cottages, equipment, or beach. Billy Jean questioned if they are going to improve anything. She stated that there is enough traffic on this lake and it is already crowded. She added that the road is treacherous and people do not move out of the road. Billy Jean stated that the loud noise and fireworks have required her to medicate her pet. She stated that they do not have the required five acres, and she is not in favor.

Royce Chenore stated that he has owned property butting up to Shady Shores since 2006. Royce stated that the resorters use foul language, loud music, garbage, and campfires. He stated that with two small children, they are unable to stay in their yard due to the language. He added that the resorters have no vested interest in anything but a good time, and don't care about the neighbors. Royce stated that there is junk piled up on his property line. Royce stated that the five acre requirement is in place for a reason, and the variance request is for almost half. He questioned where the access was as he did not see it on the survey. Royce questioned who will be responsible for the upkeep of the property, and what would happen if someone wanted to bring more than eight trailers. He stated that he is tired of cleaning up the garbage.

John Fehland stated that he has property in the middle of Shady Shores. He stated that he did not receive the notice and found out through the neighbors. John stated his concern of overcrowding with only 107 feet of frontage for eight trailers and two cabins in Waterfront District. He stated that there are no rules that say you can't put twenty cabins there, which the board needs to consider. John stated that they need to be mindful that the access road has to be 50 feet from the center point of the next driveway, meaning it needed to be moved to the left, which would be impossible. He stated his concern with the number of piers, and reiterated his main concern of overcrowding.

Recording Secretary Lindsay Krohne read a letter submitted by Jean Lintner of 51202 Garrett Road, in opposition of the variance. Jean stated that although she considered Philip and Lynette friends, she could not support their request for a variance due to surrounding property values, potential theft, increase of foot traffic, etc.

Mike Glynn read a letter submitted by David and Janet Fehland in opposition of the variance. The letter states that the property is surrounded by individual residential homes, in which ordinances are based on the front footage on the lake. The letter stated that with eight trailer sites and two cottages, ten families would have living facilities and he believes it is time to eliminate the trailers. Janet and David's letter stated that the problem is self-imposed by the owners and questioned if they are willing to acquire the additional acreage needed. The letter expressed concern of excess traffic on the sole access road and the potential of ten boats on 100' of beach, as well as concern for parking and accessing the driveway to the camp sites. They questioned when the electrical, plumbing, sewage, and other building violations would be brought up to code. Lastly, their letter stated their opposition to the variance due to the minimum acreage required in the Ordinance.

Jean Rowe read a letter submitted by Howard and Ann Walsh, in opposition of the variance request. Their letter stated that the only access to this 3.02 parcel is a small dirt road that runs between the Nevins' cottage and the Luce's cottage, barely wide enough to accommodate golf carts and running directly along and up against the driveway of the Luce's property. They questioned how the water and sewer would be rerouted and if it would have to be brought up to code, as well as where the campers would enter and exit, where the office that controlled the campground would be, who would monitor the campground, and where they would park their boats and vehicles. They stated there was not enough room for all of this.

Thom Brown read a letter submitted by Eileen and Donald Luce in opposition of the variance request. The letter stated that the proposal would have a negative impact on their quality of life due to additional car and boat traffic, and noise. They stated it would be too much for a small piece of land, as well as repercussions for the surrounding property values.

Jean Rowe stated that Philip and Lynette Nevins could now speak in rebuttal to the previous comments.

Lynette Nevins stated that she has never had an opportunity to operate Shady Shores, and that the property has about sixteen more acres. She stated she did not know about the five acre requirement in the Ordinance. Lynette stated that she would go back to court to get more acreage if their proposal is denied. She added that her brother did not keep up with the property as she would have, and that she wanted to do something nice with the property. She stated that she just wants to have a family campground and that she would take care of the trash.

Philip Nevins stated that they were not looking to put in any more travel trailer sites, and that it would never be year round. They would always respect the 11:30 p.m. quiet time, and added that families have been kicked out in the past for violation. Philip stated that there was plenty of room

for a fire truck to come through, and that he understood the complaint about the fireworks. He stated that he would work with the neighbors for this to work as this was not a trailer trash resort.

Public Comment was closed at 7:48 p.m. by Jean Rowe.

### **COMMISSION MEMBER DISCUSSION**

Mike Glynn stated that the request for a variance to reduce the size is an extreme, drastic amount. Thom Brown stated he had no questions as their request was quite clear. Jean Rowe stated that she was unsuccessful in seeing the area proposed; she was unable to access it.

Mike Glynn questioned what the proposed property was zoned as. Discussion followed that it is a Permitted Use with a Special Use, going to a Non-Conforming Use.

Building/Zoning Administrator Todd Herter stated that the property was zoned R-1 (Residential).

Attorney John Magyar stated that the lot size proposal would be going from conforming to non-conforming. Member from the public John Fehland stated that his property sits in the middle of Shady Shores, and it is Waterfront District.

Mike Glynn read the Five Standards of Review:

- (1) The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
- (2) The variance will not impair the intent and purpose of this chapter.
- (3) The immediate practical difficulty causing the need for the variance request was not created by any action of the applicant or predecessor.
- (4) The variance requested is the variance necessary to meet the purpose and intent of the chapter and to meet the other standards of review in this section.
- (5) Would a lesser relaxation than applied for give substantial relief to the owner of the property involved and be more consistent with justice to other property owners, and whether relief can be granted in such fashion that the spirit of the chapter will be observed and public safety and welfare secured.

Discussion followed: All ZBA members agreed that with five letters and members of the public opposing the request, it is apparent that it would be detrimental. Mike Glynn stated that it would have an impact on the intent and purpose. Members agreed that the problem was created by the applicant due to the lot split. Mike Glynn stated that the variance request is in excess and that if the request was much smaller, it could have been a necessary variance. All agreed. Discussion followed with all agreeing that a lesser relaxation was not applicable. Attorney John Magyar stated that number five applies more if a compromise could have been reached.

### **MOTION TO DENY VARIANCE REQUEST**

Mike Glynn motioned to deny the variance request by Philip and Lynette Nevins to reduce the five acre requirement for a campground to 3.02 acres. Jean Rowe supported.

Roll call vote:

Yes (3): Mike Glynn, Jean Rowe, Thom Brown

No (0): None

Absent (3): Bruce Nevins, Jerry Donley, Adele Straub

Motion passed by roll call vote. Jean Rowe declared the variance request by Philip and Lynette Nevins denied.

### **ADJOURNMENT**

Jean Rowe adjourned the hearing at 8:02 p.m.

Respectfully submitted,

Lindsay Krohne, Recording Secretary