

**MINUTES SILVER CREEK TOWNSHIP
ZONING BOARD OF APPEALS HEARING HELD ON OCTOBER 11, 2018**

VARIANCE REQUEST BY KEVIN SKIBINSKI

Chairman Bruce Nevins called the Zoning Board of Appeals Hearing to order at 7:52 p.m. on Thursday, October 11, 2018. The Pledge of Allegiance to the Flag of the United States of America was previously recited.

MEMBERS PRESENT: Bruce Nevins, Jean Rowe, Mike Glynn, Nick Barnes, Adele Straub

OTHERS PRESENT: Township Attorney Catherine Kaufman, Building/Zoning Administrator Todd Herter, Recording Secretary Lindsay Krohne, several members from the public.

ABSENT: None

PUBLIC HEARING

Bruce Nevins read the Notice of Public Hearing, which explained the variance request:

The request of Kevin Skibinski, 33305 Lakeview for an 18-foot variance from the required 30ø front and side yard setback requirements contained in Section 155.023 of the Township Zoning Ordinance for øDouble Frontage Lotsö in order to permit the construction of a 30ø x 50ø garage on the parcel 12ø from the side yard parcel line. The property is located in the WD Waterfront Residential District Zoning Classification. Standards of review for the Zoning Board of Appeals are contained in Section 155.253 of the Zoning Ordinance.

BUILDING/ZONING ADMINISTRATOR COMMENT

Building/Zoning Administrator Todd Herter referred to Section 155.023 Double Frontage Lots (C) in the Zoning Ordinance. Todd Herter stated that this pertains to any lot that has frontage on two roads. He added that the side that would normally be the side lot line is required to have a 30ø side yard setback from the road, the same setback as the front yard setback. He stated that a 30ø side yard setback and a 7ø side yard setback on the other side would only allow the property owner to have a garage that would be 19ø at the widest point and 12ø width at the narrowest point.

Todd Herter stated that in order to fit a 30x50 garage, 1,500 square feet, which is allowed in Waterfront District, they would need a 12ø side yard setback, giving them a difference of 18ø from the from the side yard.

Todd Herter stated that it is his recommendation that the variance be granted based on the fact the side yard setback requirements make this lot unbuildable for a reasonable size structure.

PUBLIC COMMENT

Applicant Kevin Skibinski stated that he would like to tear down his old garage, built in the 30ø, and rebuild a larger garage for overflow for family, more parking, additional recreational

vehicles for the lake. He added that his plans are to retire here. He stated the structure currently there is not in great shape. He stated he'd like to make the building larger and more adaptable to family.

Lee Park stated that he is the builder and explained the lot is 65ø by 163ø long. Lee stated that it is not a very busy road and most of the traffic is local. He added that it would not obstruct any views, and it would be far enough off the road that it wouldn't bother any corner blinds. Lee stated that it would be in line with the other two garages he built, with the same design, which would match and look nice. Lee stated that he believes Mr. Skibinski should be able to have it built.

Jim Archbold stated that he is the next-door- neighbor and believes everything Mr. Skibinski has done to his property has elevated all the neighbor's property values. He added that Mr. Skibinski is an excellent neighbor and would like to see the variance granted.

There were no other public comments.

COMMUNICATIONS

None. Public Comment was closed at 8:00 p.m.

COMMISSION MEMBER DISCUSSION

Nick questioned if Mr. Skibinski's intention was to build a two story garage like the others, and Lee Prak answered yes. Jean asked if it was for storage only, and Lee answered that they would like to finish it off eventually, with living quarters upstairs. Jean Rowe asked if they can do that. Todd Herter answered that they can have overnight sleeping as long as the safety requirements are met. He added that there cannot be a full bath upstairs or downstairs, but there can be a half bath downstairs, and there cannot be cooking facilities.

Bruce Nevins asked if there was a sewer tap involved. Lee answered that it had already been paid for. Lee added that their permits had already been issued before they ran into the setback issue.

Adele Straub commented that there is plenty of space for what they are describing.

Mike Glynn asked if the road way is actually platted through that area. Todd answered that the road is, but it's not where it's supposed to be. Mike Glynn asked Todd Herter if he researched the 30ø front yard setback and the 30ø side yard setback. Todd answered that through his research he found that it was brought up for discussion, but the Planning Commission didn't change it. Mike Glynn stated that he knows the corner lot issue was addressed in 2015, and he thought it had changed. He added that there is a handful of corner lots that would ever be affected; and it's going to be on these secondary street lots.

Todd Herter commented that they may end up having another Zoning Board of Appeals hearing in the future for a property on Huckleberry where they cannot even put up a yard barn next to their house.

Todd stated that in the previous ordinance, the side yard setback on the lot would have been 7ø but when the new ordinance was developed and adopted in 2004, the 30ø side yard setback on the corner lot was put in. Todd stated that he was against it, but it got in there anyway.

Mike Glynn stated that there are utility poles quite a ways away from the pins between the road and the flags. He added that if anything ever came of road construction, due to the costs he doesn't think anything with the road would change. Todd Herter added that the sewer cleanout is right in the intersection, which shows how far off the road is.

Mike Glynn commented that the way the pins are placed, they look like they line up exactly or very close to the existing garage, but just extend north. Lee Prak stated that it will go farther west, because the current 20øx20ø will be extended 10ø more on the side and be 50ø deep. Mike stated the new building would be 30ø wide, 10ø further on the west. Discussion followed.

Mike Glynn stated the new structure would be more in compliance than the existing, because of the 30ø setback requirement on the front. He added that it's less than 30ø now, so it's going to improve and be in greater compliance. Discussion followed.

Jean Rowe read the Standards of Review for a Non-Use Variance:

155.253 STANDARDS OF REVIEW.

(A) *Granting of non-use variances.* A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are addressed.

(1) The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.

All members agreed it would not be detrimental.

(2) The variance will not impair the intent and purpose of this chapter.

Jean, Bruce, and Adele answered yes. Mike Glynn answered that it will in the sense we're not in compliance with the side yard, but it helps the intent and purpose. He added that it will not impair because it will make the front yard more compliant than it is currently because it will be torn down and the new garage will be 30ø in the front yard setback, which would be compliant. Mike Glynn stated that the side yard is still not in compliance, so we have not impaired it any further than it has already been impaired. Nick Barnes agreed and noted that he would need to work with the Planning Commission to make an adjustment on that side yard setback.

(3) The immediate practical difficulty causing the need for the variance request was not created by any action of the applicant or predecessor.

Jean, Bruce, and Adele agreed that the practical difficulty was created by the applicant. Mike Glynn answered that the applicant did not create their own practical difficulty, and Nick Barnes agreed.

(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.

Bruce answered that you can look at it any way you want. Adele answered that it is necessary. Mike Glynn and Nick Barnes answered yes, after Mike Glynn asked Attorney Catherine Kaufman for clarification on the meaning of the standard, in which Catherine explained that if the variance requested was granted, it would meet the purpose and intent of the chapter. She explained that they had discussed corner clearance. Catherine stated that there had been testimony that it was not a busy street and not a lot going on. She added that from that, you can decide if what the applicant is seeking will still allow them to meet the purpose and intent of the ordinance.

(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.

All agreed that a lesser relaxation than applied for would not give substantial relief to the owner of the property.

MOTION TO APPROVE VARIANCE REQUEST

Nick Barnes motioned to grant the variance as requested for an 18-foot variance from the required 30-foot front and side yard setback. Jean Rowe seconded.

Roll call vote:

Yes (5): Jean Rowe, Bruce Nevins, Nick Barnes, Mike Glynn, Adele Straub

No (0): None

Absent (0): None

Variance approved by roll call vote. Chairman Bruce Nevins declared the variance request approved.

ADJOURNMENT

Bruce Nevins adjourned the meeting at 8:25 p.m.

Respectfully submitted,

Lindsay Krohne
Recording Secretary

Adele Straub, Secretary

To be approved at the next Zoning Board of Appeals meeting