

**MINUTES SILVER CREEK TOWNSHIP
ZONING BOARD OF APPEALS MEETING HELD ON APRIL 25, 2019**

VARIANCE REQUEST BY RONALD AND KOLLEEN ZEILER

Chairperson Jean Rowe called the Zoning Board of Appeals Hearing to order at 7:00 p.m. on Thursday, April 25, 2019. The Pledge of Allegiance to the Flag of the United States of America was recited.

MEMBERS PRESENT: Dave Grabemeyer, Bruce Nevins, Mike Glynn, Jean Rowe, Adele Straub

OTHERS PRESENT: Attorney Roxanne Seeber, Building/Zoning Administrator Todd Herter, Recording Secretary Lindsay Krohne, members from the public.

ABSENT: None

APPROVAL OF APRIL 3, 2019 MINUTES

Jean Rowe motioned to approve the April 3, 2019 Zoning Board of Appeals minutes. Dave Grabemeyer seconded. Motion passed by voice vote.

EXPLANATION/REASON FOR MEETING

Secretary Adele Straub read aloud an e-mail correspondence from Attorney Seeber, explaining that the March 20, 2019 Zoning Board of Appeals Hearing ended in a denial of a motion to deny the variance request, which is not the same thing as approving it. Attorney Seeber's letter explained her recommendation to reconvene in a special meeting to deliberate and make a decision. Attorney Seeber's correspondence explained where to locate HUD labels on manufactured homes and how to obtain verification letters. The e-mail message also stated that an older mobile home cannot be remodeled by the addition of porches or anything else that is load-bearing, because they had specific engineered "additions" that were allowed based on the serial number. She stated that any work done to the mobile home would need to meet current building code standards and he would have to apply for permits.

BUILDING/ZONING ADMINISTRATOR COMMENT

Building/Zoning Administrator Todd Herter stated that he spoke to State Building Official/HUD Inspector John Paradine, who informed him that the home no longer meets its HUD rating and is no longer a HUD home/mobile home, but essentially a storage building. Todd stated that if you take a storage building and want to turn it into a house, the requirement for a house is 23' wide in any zoning district, which it is not. A variance would have to be granted for that as well.

Jean Rowe questioned if it is no longer a HUD home because of the 50 year rule, and Todd answered that it's because of all the changes that were done. When you alter the structure, you alter the HUD requirements.

Dave Grabemeyer asked how the additions are held up, and Mr. Zeiler stated that they are separate and have no connections to the mobile home.

PUBLIC COMMENT

Applicant Ron Zeiler questioned how he changed the home. Todd answered by removing drywall, kitchen cabinets, wiring, and plumbing. Mr. Zeiler stated that he put exactly the same stuff in exactly the same spot. He stated that he wanted to seal the place up, and took the walls down to see what was behind them because he couldn't get the stink out of it. He stated that he hasn't done anything different than what was there. He added that he had an electrician come in to take a look, and he told him to replace it so he replaced it himself.

Mr. Zeiler stated that there isn't a single contractor in this county that doesn't know that you cannot remodel a mobile home. He questioned where the protection is for the next person who buys a mobile home and wants to remodel it.

Mr. Zeiler asked who gets to determine whether he changed it and that it's now a shed, some guy on the phone from the state who didn't come out and look at it? He added that he has two porches that are connected to 4x4's that are covering the entire building, and aren't putting any stress on the building itself.

Mr. Zeiler stated that if he had come for permits first, he would have the same argument.

No other public comments.

ZONING BOARD OF APPEALS DISCUSSION

Chairperson Jean Rowe closed public comment and opened board discussion.

Bruce Nevins questioned Todd about what the state official said about the storage building. Todd answered that the state official told him it is no longer a mobile home. Bruce asked Todd if he told the State Official what he told the ZBA, which Bruce stated was not true. As Todd began to answer, Bruce asked Todd if he told him that the walls were removed. Todd asked Bruce if he would like him to answer, and Bruce answered yes.

Todd answered that he talked to the state building inspector over the phone and the HUD inspector in his office, and told them everything that was removed – wiring, plumbing, exterior wall sheeting, and basically stripped out on the inside.

Bruce questioned Todd if he told the state official that new walls were built, and Todd answered no. Bruce stated that Todd's letter said they were.

Todd stated that when he talked to inspectors he told them that it was basically gutted, which it basically was.

Bruce stated that the paneling was taken off the walls and not rebuilt. Todd stated that it was removed and so was the plumbing.

Bruce stated that he agreed, but he is reading the statement that new walls were built and they were not.

Todd stated that the ZBA is here because the zoning ordinance says that mobile homes cannot be changed to the point of extending the natural life of the structure.

Bruce stated that plumbing, to him, isn't safety and no one is going to drown or get shocked because of plumbing. He added that safety is electric. He questioned that Todd wouldn't allow electric to be permitted because it would extend the life. He asked Todd how he addresses safety vs. extending the life.

Todd stated that it is not safety, it is extending the life, and that's what it says. Discussion.

Todd explained that it is no longer HUD because it was changed and altered by the removal of kitchen cabinets, paneling, plumbing, and wiring.

Bruce stated that anyone in a mobile home doesn't dare remove whatever exists on the wall, but only add to it, and asked if that is correct. Todd answered yes, as far as he knows.

Adele asked for clarification that it is no longer a HUD home and if he is saying that it is considered a regular house which would have to be 23' wide according to their ordinance.

Todd answered that it had lost its HUD rating, and the meeting is about permission to redo what is in the home.

Mike stated that he thought the focus of the meeting was to determine whether the Zoning Administrator interpreted the ordinance properly in the section he cited, if it had met its natural life, and he felt that Todd had interpreted the ordinance properly. Mike stated that it was a lawful non-conforming structure and in order to make it livable again, the owner gutted and rewired and re-plumbed it, extending its natural life.

Mr. Zeiler began to speak and Jean Rowe stated that it is not public comment.

Mike stated that he felt the interpretation was correct. Bruce commented that it was, all but new walls being built.

Discussion.

Mike Glynn explained that HUD came into play in the sense that being an engineered unit, there were standards that were developed in the 70's for HUD housing, and state inspectors were in the factories to make sure those standards were met. He explained that the way they were developed, any component part in the trailer supported the next component part, and they all added up to a structure that could support itself. Mike stated that he doesn't know if there was actually a specific time or expiration date, because as long as you maintained them they could go on for a long time, but after a certain point they were no longer habitable. Mike added that when they couldn't be maintained any longer, they didn't have a HUD rating anymore. He stated that there has to be some guidance and maybe the issue needs to go back to the Planning

Commission. Mike added that it has to now comply with the zoning ordinance, which is 23' wide, square footage requirements, footings and energy efficiency. Mike discussed habitability and safety and explained that they have to come up to some standard of a dwelling unit that they have adopted now, making it livable and safe. Mike suggested that they require it to comply with Michigan Residential Builders Code and the Zoning Ordinance. Mike explained that if they are going to allow mobile homes to be remodeled/rebuilt, they need to adopt some standards so they know the mobile homes are being rebuilt appropriately, safely, and someone can sleep there safe at night.

Bruce stated that it is a non-conforming, already existing mobile home and they don't need to use the term "23 feet."

Mr. Zeiler stated that he has researched and there is no record anywhere found by HUD.

Dave Grabemeyer referred to the March 20th meeting, stating that he researched natural life of a mobile home and found that it is 35-55 years unless you put in some type of addition that would prolong it, which in this case is the roof. He stated that there was some confusion in the motion of the last meeting, but he thought the applicant was approved after obtaining the required permits.

Attorney Seeber explained that the motion to deny the variance was denied, which is not a motion to approve. Attorney Seeber stated that they need to decide if they agree with Todd that this has extended beyond its natural life, and if so, will they allow a variance to continue the lawful non-conforming structure past its natural life with some conditions, including permits and inspections. Attorney Seeber added that the goal isn't so much what to do with this one, it's what they need to do to be safe and correct.

Discussion. Todd stated that some electrical and plumbing has been done, but he doesn't know if it's finished because there are no permits or inspections for either.

Mike clarified with Mr. Zeiler that it isn't his primary residence and he has no intentions of living there. Mr. Zeiler stated that he intends for his son to live there. Mike explained that since it is not his primary residence, any work that is done there requires a licensed trade, and he'll have to hire the trades to pull the permits and do the work. Mike explained that he can only do work there that doesn't require a permit.

Mike asked what code Todd would enforce, and stated that the township has adopted the Michigan Residential Builders Code.

Mike stated that nothing can be supported off that structure, and nothing is supported now from the ZBA's understanding and that will have to continue. Mike explained that they now have a mix of the MRC to bring the trailer up to standard, but yet they're still back to the HUD standard that nothing can be supported off that structure. Mike stated that they can't put this on the Building Department every time this comes up, and when these cases come up, they need to have some guidance. Mike stated that this is a tough one and he agrees with Todd's findings, that it is a 55 year old trailer in the township and it has met its natural life.

Bruce stated that Attorney Seeber said they should decide if they agree with Todd or not. Bruce stated that he could easily agree with Todd if it had new walls, but he doesn't know if he even would then with the fancy roof. He added that if that roof wasn't there and new wall studs were put in, then he'd be extending the life of it, but these are not new studs, therefore he does not agree with Todd.

Attorney Seeber referred them to what they looked at last time, Section 155.052 Section D: "Nothing in the chapter shall prevent the strengthening or restoring to a safe condition any part of a building or structure which is unsafe. All repairs and maintenance required to keep a non-conforming building or structure in sound condition may be made, but it shall not be structurally altered to permit the use of such building or structure beyond its natural life, except for repairs necessary to maintain public safety."

Adele Straub explained the previous meeting's motion and outcome of the vote.

Discussion about taking the issue to the Planning Commission to avoid problems in the future.

MOTION TO APPROVE VARIANCE REQUEST

Dave Grabemeyer motioned to approve a variance to permit the alteration of a non-conforming structure, extending it beyond its natural life, with the conditions that all the necessary permits are pulled to bring it up to code by licensed contractors. Jean Rowe seconded.

Mike Glynn asked if they will use our current residential code standards, Attorney Seeber answered yes. Mike stated that they are then looking at frost footings and crawl space, and Mr. Zeiler will need to provide an engineered drawing for the mobile home project. He stated that just getting air to the furnace is going to be a major project in a mobile home. Mike stated that the ZBA is not qualified to make these decisions.

Todd stated that the Michigan Residential Code covers this to an extent, but the mobile home has a metal frame, which is not covered in the residential code. Todd stated that his alternative is that he's going to have to have an engineered drawing.

Mr. Zeiler stated that he thought the reason for the meeting was because the motion was wrong, and there has been a lot of things said in the meeting and they are not letting him stand up to argue his point again. Mike stated that if Mr. Zeiler has something new to add, he'd like to listen to it.

Mr. Zeiler stated that he does have something new to add. He stated that it seems like they are trying to change people's votes, and the e-mail says let's do the motion right, not let's straighten this situation up. He stated that he knows it is an odd circumstance, but dragging him on and Mike bringing up these other things is absolutely crazy. Mr. Zeiler stated that they have reiterated everything from the last meeting and they already voted in his favor, and Mike and the lawyer are trying to get everyone to change their votes.

Mike Glynn stated that he is not trying to change anyone's vote, he is trying to establish guidelines on how Todd can go forward, and they need to have something that everyone agrees upon. Mike stated his concern of the motion being too generic to just say "code". Discussion.

Bruce stated that they can pick and choose the codes on this case. Todd answered that they cannot pick and choose the code, the code is adopted by the state and that is the law. Todd explained that the only way you can pick and choose what code is followed is by making an appeal to the Building Board of Appeals, as they are the only ones that can vary from the code book.

Adele Straub re-read the motion made by Dave Grabemeyer.

Roll call vote:

Yes (4): Dave Grabemeyer, Bruce Nevins, Jean Rowe, Adele Straub

No (1): Mike Glynn

Motion carried by roll call vote.

Attorney Seeber stated that the appeal period runs either 30 days after approving the minutes of this meeting, or if the applicant is handed a copy of the decision form tonight, then the appeal period starts right now.

Todd questioned what is being done with the 23' width requirement. Attorney Seeber answered that it is kept as a lawful non-conforming structure, extended beyond its normal life. She added that the Planning Commission will consider what to do with substandard mobile homes in making improvements.

ADJOURNMENT

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

Respectfully submitted,

Lindsay Krohne

Recording Secretary

To be approved at the next Zoning Board of Appeals meeting

Adele Straub, Secretary