

**MINUTES SILVER CREEK TOWNSHIP
ZONING BOARD OF APPEALS MEETING HELD ON JUNE 18, 2020**

VARIANCE REQUEST BY CATHERINE DALY

Chairman Thom Brown called the Zoning Board of Appeals Hearing to order at 7:00 p.m. on Thursday, June 18, 2020. The Pledge of Allegiance to the Flag of the United States of America was recited.

Mike Glynn commented that although only five members were required, there were six present. He questioned who would not participate in the voting.

Thom Brown suggested that alternate Wendy Fitzgerald would not vote.

Lindsay Krohne commented that Bruce Nevins was just listening in.

Mike Glynn stated that Bruce Nevins would not be voting.

MEMBERS PRESENT: Thom Brown, alternate Wendy Fitzgerald, Mike Glynn, David Grabemeyer, Bruce Nevins, Jean Rowe

OTHERS PRESENT: Todd Herter, Recording Secretary Liberty Nevins, Attorney Roxanne Seeber, members from the public

ABSENT: none

APPROVAL OF JUNE 11, 2020 MINUTES

Jean Rowe motioned to approve the June 11, 2020 Zoning Board of Appeals minutes. David Grabemeyer seconded. Motion passed by voice vote.

EXPLANATION/REASON FOR MEETING

Chairman Thom Brown recited the Notice of Public Hearing, explaining the reason for the public hearing:

The request of Catherine C. Daly, 32699 Haley Road (Parcel No. 130-353-087-00) for a 12-foot variance from the required 30-foot double-frontage lot setback requirement in order to permit the construction of a 20'x24' single car garage 19 feet from the Jeffrey Drive (northeast) side property line. The property is located in the "WD" Waterfront District Zoning Classification. Standards of review for the Zoning Board of Appeals are contained in Section 155.253 of the Zoning Ordinance.

Jean Rowe added such other and further matters as may properly come before the Zoning Board of Appeals.

BUILDING/ZONING ADMINISTRATOR COMMENT

Building/Zoning Administrator Todd Herter restated the purpose of the meeting. He commented that in the ordinance in 155.023, it says that the required setback in the street side yard of a corner lot shall be the same as required for the lot's front yard. He stated that this variance

request would be the fourth that has come before the board regarding double frontage lots. Todd claimed that he believed all the standards were met. He commented that he believed the variance should be granted. He stated that how the garage is situated with the street, the applicant would have nineteen feet from their property line to the overhead door of the garage. Todd commented that usually when pulling in and out of a garage in the Waterfront District, it is done in the rear lot line. He stated that twenty feet is the required distance for a garage to be from the rear lot line in the Waterfront District on a normal lot. He restated that the request would be keeping within the ordinance.

APPLICANT COMMENT

Catherine Daly stated that she wished for the variance to be passed so that she could have a garage for the winter. She commented that she should be able to have enough space for the garage.

Thom Brown questioned if the applicant would be requesting a variance for nineteen feet.

Building/Zoning Administrator Todd Herter stated that from the way it sits, the variance would be nineteen feet from the property line. He commented that the requirement is to be thirty feet, therefore the request would be for an eleven-foot variance.

PUBLIC COMMENT

Thom stated that there were a few letters received by the board and asked if Vicki Foote had any comments.

Vicki Foote stated that she is a property owner adjacent to the applicant's property. She commented that she wrote a letter as well and stated that she is passionate about her property. Vicki stated that she did not oppose the garage being built, she just opposed the location of it. She commented that she hoped to see other options because she felt the new garage would destroy the view and the reason why she bought the property. She said the placement of the garage would affect her property value.

Thom Brown acknowledged Vicki Foote's letter. He asked Carl Garland for any comments.

Carl Garland commented that the look of the neighborhood would be affected by the requested garage. He stated that the answers to the questions on the application are the opposite of what the applicant put in. He commented that the applicant is entitled to improve her property and to have a garage to keep her car in during the winter, but that the requested garage's location would impede on the neighbors and compromise their view. Carl questioned whether there was already a permit put in place, since he had noticed work had started and stopped at the location. He stated that he didn't know how tall the structure was going to be and was concerned about its height. He commented that there had likely been variances granted to lake homes in the area, but those with garages did not impede on other site lines. Carl stated that Dennis Foote works hard on his property, and if the garage were to go up, it would cause the Foote's to lose value on their home. He commented that not only would it compromise value for the Foote's it would

also compromise value for other neighbors including himself. He stated that he opposed the location of the garage. Carl commented on the size of the garage, saying that it did not appear to be a one car garage. He said that a 20'x24' garage is closer to a one and a half or a two-car garage.

Thom Brown asked David Bulat for any comments. Thom acknowledged David's letter.

David Bulat commented that for most of the homes in the neighborhood, the garages are adjacent to the house and usually copy the look of the house. He stated that it seemed like the requested garage would be a pole barn type garage, which he believed would take away the look of the neighborhood.

Thom Brown asked for any remaining public comments.

Curt Creameans commented that he was the builder of the garage. He stated that what was written down on the permit was accurate. He said that although the garage would have a pole barn-like style, the siding and roofing would master out. Curt commented the garage would sit one to two feet further back than the Foote's house from the north side of the property on Jeffrey Drive. He stated that the building would be 8 feet high. He said that although the building may obstruct the neighbors view, there was a tree in full bloom in the back lake lot yard that is already in the way.

The members of the public disagreed with what Curt Creameans said about the tree.

Thom Brown asked Catherine Daly for any comments.

Catherine Daly commented she is not trying to block the neighbor's view and stated that it should not be a tall structure.

Curt Creameans commented that there was no good alternative for the location of the garage on Catherine Daly's property.

Carl Garland questioned whether or not it would work if the garage were set back further by the house and was shrunk down to a one car garage.

Curt Creameans stated that it was decided the garage would not be closer to the house because the ordinance said the garage would have to be ten feet away from the house.

Carl Garland questioned if Curt Creameans had talked to the Foote's about getting a variance for moving the garage further back.

Vicki Foote commented she would be fine working with the back property line behind Catherine Daly's house. She stated if the garage were placed there, she would likely not be able to even see it. She commented that if the garage were behind the house, it would save her view and property value and the look of the neighborhood. Vicki said that it may be more costly or require different variances if the garage were located there, but that she would work with it to make the situation work for everybody.

Thom Brown closed public comments.

ZONING BOARD OF APPEALS DISCUSSION

Jean Rowe questioned if the letters submitted from the public needed to be read out loud.

Mike Glynn commented that reading the letters is the usual procedure.

Jean Rowe suggested that Liberty Nevins should read the letters from the public.

Mike Glynn asked Attorney Roxanne Seeber if the letters could simply be addressed rather than be read aloud.

Attorney Roxanne Seeber stated that the letters did not need to be read. She commented that the letters had to be included in the minutes.

Jean Rowe asked Todd Herter if the ten-foot separation was the building code.

Todd Herter stated that it is in the ordinance. He commented the reason it was in the ordinance was because the fire department requested it. He said ten feet is what they consider to be a minimum distance needed to get firemen around a structure.

David Grabemeyer asked Todd Herter if the garage could be moved back ten feet. He asked if the ten feet between the Foote's and the garage would allow enough space for the firemen.

Todd Herter stated that when you attach a garage to a house it needs a concrete foundation which adds cost to the project. He said there would also need to be a fire wall between the house and the garage. He stated that he had not gone out to view the property so he could not verify if that would be alright. Todd said that when a garage attaches to a house and there is a bedroom where the garage and house connect, a door cannot go up entering into the bedroom.

Mike Glynn commented he understood David Grabemeyer's idea of attaching the garage to the house, but that the garage could have a service door in one of its corners. He stated that this would also address the setback issue and the need for the variance. He said it would diminish the eleven feet to one foot. Mike questioned Todd Herter if there was a foundation issue.

Todd Herter stated that when a new structure is attached to a home, the foundation of the addition is typically attached to the foundation of the primary structure.

Mike Glynn questioned what the code says about attaching a pole barn structure to a house foundation.

Todd Herter stated that the building code does not cover that type of construction, so it would have to be up to the inspector. He commented that when building a structure, the foundation goes down first and then the walls are attached, followed by the addition of the roof.

Jean Rowe stated that she had visited the site. She said she believed the garage would be jammed into the designated space. She commented that in Keeler Township the houses and garages are all squashed together. Jean said she thought the purpose of the ordinance was to prevent overcrowding. She stated she wouldn't want to deny anyone a garage, but that she felt it would be too jammed in. She asked for someone to restate how the garage could be moved.

Mike Glynn commented that there is ten feet between the house and the garage, therefore the house could move ten feet towards the house, but they would both have to be attached.

Thom asked if there were any more comments from the members of the Zoning Board. He then commented that he had been hearing that the garage would be a pole barn like style and wanted to confirm if that was correct.

Building/Zoning Administrator Todd Herter stated that the framing would be pole barn like, but that the rest of the structure could be finished to match the rest of the house.

Thom Brown stated that he had read that an additional structure had to reflect the architecture of the original structure.

David Grabemeyer commented that the builder said he would try and make the garage match the look of the house.

Attorney Roxanne Seeber stated that making the garage look like the house could be a condition.

Jean Rowe read the Five Standards of Review.

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.

Jean Rowe and Thom Brown agreed the garage would be detrimental.

Mike Glynn commented that if the neighbors did not want it obstructing their view, then it would be detrimental. However, he stated that it would then not be a zoning issue. He said that zoning does not deal with the issue of views.

David Grabemeyer stated that many buildings go up around the lake and that it upsets the surrounding people, although not much can be done about it.

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

Jean Rowe stated she thought the garage would impair.

Mike Glynn commented that the garage would not impair the intent, but that it could be made better by moving the garage back and attaching it to the house.

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

Jean Rowe and Thom Brown agreed that it was created by the applicant.

Mike Glynn commented that the zoning ordinance for a corner lot was the reason for the practical difficulty. He stated he did not think that it was the applicant who created the practical difficulty.

Todd Herter stated that under normal circumstances if the property was not on a corner lot, the side yard setback in that district would be seven feet from the property line. He commented that it was the road and the ordinance that created the issue.

(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.

Mike Glynn commented that he believed the variance requested was not necessary since the garage could be attached to the house.

(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.

David Grabemeyer stated that if the applicant wanted to change the variance to one foot, they would have to bring it before the board again later on.

Attorney Roxanne Seeber commented that a lesser variance could be granted.

Mike Glynn stated that if the applicant would consider moving the location of the garage so that it would be attached to the house, he would make a motion to grant a one-foot variance.

David Grabemeyer asked if the applicant moved the garage back but did not want to attach it to the house, if it could sit a foot away from the house.

Todd Herter responded that the garage would either have to be attached to the house or sit ten feet away. He restated that the fire department requested for there to be space between the two so they could fit equipment in between if necessary.

MOTION TO APPROVE 12-FOOT VARIANCE REQUEST

David Grabemeyer motioned to grant the applicant a twelve-foot variance to put up their one car garage.

Bruce Nevins seconded.

Roll Call Vote:

Yes (2): Thom Brown, David Grabemeyer

No (3): Mike Glynn, Jean Rowe, Wendy Fitzgerald

Jean Rowe stated the motion was not carried.

MOTION TO APPROVE ONE-FOOT VARIANCE FOR ATTACHED GARAGE

Mike Glynn motioned to grant a one-foot variance if the applicant would attach the garage to the house.

David Grabemeyer seconded.

Roll Call Vote:

Yes (4): Thom Brown, Mike Glynn, David Grabemeyer, Wendy Fitzgerald

No (1): Jean Rowe

Jean Rowe stated that the motion was carried 4:1.

ADJOURNMENT

Jean Rowe motioned to adjourn.

Mike Glynn seconded.

Meeting adjourned at 7:49 p.m.

Liberty Nevins, Recording Secretary

To be approved at the next Zoning Board of Appeals meeting