

**MINUTES SILVER CREEK TOWNSHIP
ZONING BOARD OF APPEALS HEARING HELD ON OCTOBER 3, 2017**

The hearing was called to order by Jerry Donley at 7:00 p.m. on Tuesday, October 3, 2017. The Pledge of Allegiance to the Flag of the United States of America was recited.

MEMBERS PRESENT: Jerry Donley, Bruce Nevins, Jean Rowe, Trustee Mike Glynn, Adele Straub

OTHERS PRESENT: Attorney Jim Miller, Supervisor Bill Saunders, Recording Secretary Lindsay Krohne, several members from the public.

ABSENT: Building/Zoning Administrator Todd Herter

PUBLIC HEARING

Chairman Jerry Donley read the Notice of Public Hearing, which explained the reason for the hearing: Property owner John Doherty requested a variance of section 155.030(B) of the Ordinance to construct an accessory building that exceeded the allowed square footage. The notice stated that the applicant requested 717 square feet in excess of what the ordinance allowed. The property location is 54598 Park Lane, Dowagiac, MI 49047 and the Tax ID number is 14-130-385-003-00.

PUBLIC COMMENT

Jerry Donley opened the floor for public comment at 7:05 p.m.

Applicant John Doherty stated that he was confused reading the Notice of Public hearing because he was requesting a ~~48x48~~ building, which is 2,304 square feet. He commented that a ~~40x40~~ building would not put him 717 square feet over the allowable amount. He stated that he and his wife are integrating to Michigan. He stated they own a trailer with no basement, and need more space.

Patrick Parenti of 54671 Park Lane questioned what the lot was zoned. Jerry replied that it was Waterfront District ó Residential. After discussion and clarification, Jerry stated that it was not Waterfront District as it was not lakefront property it was mobile home park. Patrick stated that it was residential, it was not for a pole barn. Patrick stated that when he applied for a permit to build a pole barn in the 1980s on Park & Ann Street, he was told he could not because the property was not adjoining, it was across the street.

Dave Bonadona of 54532 Estates Lane stated that he wanted to buy a piece of property across the street from him, on the corner of Estates and School St. He stated he came in to the township hall in 2013 wanting to build a pole barn and was denied because the property was not adjacent

to his residence. Dave then voiced his opinions regarding blight issues at Love Estates. Chairman Donley referred him to the blight department.

Dan Montag of 33717 Ann Road stated that there are a lot of older mobile homes in the area, and if someone can put up a pole building on these lots, what is to stop businesses from buying up lots and doing the same and taking over the area with buildings?

George Suprenant of 33713 Ann Road brought forward two letters of correspondence in opposition of the request.

Ray Baldassarra of 33733 Ann Road stated that there used to be residents on that property, up until about five months ago, and expressed concern of pole buildings going up and lowering his property values.

John Brady of 34646 Park Lane stated that he bought property next to his residence about three years ago, and was told he could not build a 36x40 size pole barn on the property. He stated that if he couldn't build the size he wanted, then this applicant shouldn't be allowed to. He stated there is not even a home attached. He also stated that he was told he could only build a 1300 square feet garage. He stated that he just wants to know the rules and if they apply to everyone.

Adele Straub read the two letters received by George Suprenant. Vickie Brown of 54679 Park Lane stated that she opposed the building of a garage on the empty lot on Park Lane, and that it should be used for a home. Gerri Szczecina of 34645 Park Lane stated that she opposed the building of a garage on the empty lot on Park Lane, and that it should be used for a home.

John Doherty stated in regards to the request "If I can, I can, and if I can't, I can't."

Jerry Donley closed the floor for Public Comment at 7:23 p.m.

COMMISSION MEMBER DISCUSSION

Mike Glynn stated that looking at the survey, he doesn't see the pins from the lot across the street to see how the lots line up, and if it is a contiguous lot. He stated that it doesn't look like the home property lines up with the other property. John Doherty showed him where they line up. Mike Glynn stated that the survey shows them being off-set. Discussion followed regarding whether or not the two properties were contiguous or adjoining. John Doherty stated that his property line catches the corner of the lot across the street and that he was told it is adjoining by Todd Herter.

Jean Rowe stated that she went with Adele Straub to view the property and they were unaware the house number was 54583 Park Lane, because 54598 Park Lane was the only address listed in Todd Herter's correspondence and John Magyar's notice. She stated she didn't realize the house was across the street.

Adele Straub asked if this was a public road and Jerry answered yes. Further discussion on whether the lot was contiguous or adjoining took place.

Attorney Jim Miller stated that "conjoining" is more an art in Todd Herter's profession because historically, contiguous is side-by-side, or somehow overlapping, in a sense. Corner to corner might be contiguous. He stated that a legal description in court, if you say you bought a piece of contiguous property, and they say no, all you have is a point of contact, he doesn't know if that would rise to the level of contiguous.

Jerry asked, if he cannot access the property without getting on someone else's property, then it is not contiguous/conjoining? John Doherty stated that the property is connected point-to-point. Jerry stated that they would be acting as if the road was not there.

John Doherty stated that they were using "contiguous" and Todd Herter used "conjoining".

Adele asked for clarification on which house was his, and he answered it was the house across the street, a single wide trailer. Mike Glynn stated that it was Lot 15.

Mike Glynn stated that in writing the Zoning Ordinance, the intent of the definition "contiguous" meant directly across from the residence. Discussion followed.

Mike Glynn stated that in a manufactured home park, an accessory building is a permitted use and 1500 square feet is allowable. He stated that John, without a variance, could have 717 more square feet for an accessory building. He stated that 40'x40' would be 1600 square feet, which John Doherty said that he could do, with 10 foot sidewalls. He stated that the 1600 square feet is around 900 square feet in excess of the 717 more feet actually allowed. Mike also stated that a 717 square feet accessory building would not need a variance, as long as the property was contiguous.

Jerry Donley stated that if he were asking for a few hundred square feet, it would be different; however, this is not the norm.

Mike Glynn referred to the master plan and maintaining character of an area. He added that one of the residents voiced that allowing this variance would change the character of Love Estates. He stated that the mobile home park was intended to help people with lower incomes to get started. Mike added that you have to look into the future, if it is going to change the character of that area by allowing pole barns on separate pieces of property.

Adele questioned if they should go over the Five Standards of Review. Jerry Donley replied that they have to read them, but they do not have to respond to them, and that they actually should not respond to them according to what they were previously told.

Discussion followed on setting the precedent for the inner circles of property being nothing but pole barns.

MOTION TO DENY VARIANCE REQUEST

Jean Rowe motioned to deny the variance request by John Doherty. Bruce Nevins seconded.

Jerry Donley read the Five Standards of Review.

Roll call vote:

Yes (5): Bruce Nevins, Jean Rowe, Jerry Donley, Mike Glynn, Adele Straub

No (0): None

Motion passed by roll call vote. Jerry Donley declared the variance request by John Doherty denied.

ADJOURNMENT

Jerry Donley adjourned the hearing at 7:55 p.m.

Respectfully submitted,

Lindsay Krohne, Recording Secretary