



## WASHINGTON TOWNSHIP BOARD OF ZONING APPEALS MINUTES

The Washington Township Board of Zoning Appeals met in regular session on December 14, 2015 in the Terry L. Blair Meeting Room December 14, 2015 Room of Washington Township Government Center. Members of the Board present were Mr. Schmidt, Mr. Roberts and Mrs. Mulligan. Mr. Klepacz and Mr. Schwartz were excused. Call to order at 7:00 p.m.

### *Pledge of Allegiance*

*Mr. Schmidt explained the hearing procedure.*

*Mr. Schmidt administered the oath to all persons testifying.*

### **Case A-1711 Dianne K Popik and Paul Horan request a variance for an expansion of their residential dwelling into the required rear yard setback located at 2680 Langtree Lane.**

Zoning Manager, Ryan Lee, presented the case.

The applicant is requesting a variance to exceed the 45' minimum rear yard setback for a residential dwelling of the PD-R zoned lot. The request is to expand the existing footprint of the house 320 square feet, having an overall rear yard setback of approximately 37'.

The applicant is requesting a 7.16' encroachment for a residential home addition in an area zoned PD-R. The PD designation has been established for the purpose of conserving land through more efficient allocation of private lots, common grounds, as well as greater efficiency in providing public and utility services. The Cobblestone Estates approval stipulated a slightly reduced setback from the R-4 base zoning district by imposing a 45" rear yard setback. The district also implemented a minimum requirement of brick or masonry for the exterior elevations to not fall below 50%.

The variance request before the Board propose a building addition located where an existing rear deck is currently constructed. The particular layout was chosen to accommodate the internal layout and functions of the home and lot, the building addition has been designed to integrate well with the existing character of the home and surroundings. The addition is proposed to be brick exterior walls matching the fit and finish for the existing dwelling. The applicant postulates that the request is not substantial given the minor nature of the encroachment and aesthetic considerations.

Staff has received one correspondence related to the public hearing from a neighbor expressing concern for future drainage impacts associated with the development. Staff provided the neighbors correspondence to the board.

Mr. Schmidt asked how far will the new structure extend out from the existing patio pad and pavers. Mr. Lee responded that the encroachment will not go further than the existing patio and advised that the applicant will be able to give detail of the addition.

Jason Heckman 5600 Poe Ave Dayton, Ohio, I have been sworn in.

Mr. Schmidt asked about how the addition will look from the photo that staff provided. Mr. Heckman reviewed the area of the proposed addition, removal of existing windows also noted that they keep as much of the existing pavers as possible surrounding the addition.

Mr. Schmidt- Will the proposed addition will be fully encased in full brick?

Mr. Heckman- Yes also the esthetics of the proposed addition will match the existing materials on the home.

Mr. Schmidt- We received in our case packets an email received by the Development Services Department from the neighbor located at 2690 Langtree Lane the applicant's next door neighbor. The issues brought were drainage

issues is there anyone from the applicant's side to speak about any drainage issues that they may have experienced.

Dianne Popik, 2680 Langtree Lane, Washington Township, Ohio, I have been sworn in. There are some French drains in my yard that go down towards a drain a couple yards and along our property line. The neighbor's property actually sits up higher and their house sits up higher. Their back yard drainage runs on the side and the back downs into my french drains and that's not going to change because that's where my yard drains. I talked to him about their drainage issues and theirs is in the middle of their backyard. I believe they had a drain that goes out to the sewer on Langtree Lane but any of the drainage from any of the yards will not be altered at all. There will still be a dip there and their yard will still be higher than mine.

Mr. Schmidt- Have you had any conversations with them?

Ms. Popik- I have I talked to them the morning five minutes after the email was sent out and talked for about 40 minutes about all of it. I don't want there to be any drainage issues especially his drains into mine and keep that going out to the street. We talked about different things like who put in his drain in the middle of his yard. He just expressed his concern which I would expect when construction is happening in a neighbor's yard. We didn't expect to have any drainage issues we have talked about the drainage.

Mr. Schmidt- As a result of that conversation was his concerns alleviated?

Ms. Popik- I think he would still like someone to look at the area but I'm not sure who that would be. How would we go about having someone look at it?

Mr. Roberts- It would have been beneficial to the board if a contour map would have been provided to show us what the drainage situation is.

Ms. Popik- I don't know how we would get a contour map. Is there one of this area already?

Mr. Schmidt- I would say from my perspective if the neighbor had an issue with drainage they would be the ones to produce that information.

Mr. Lee advised from a staff perspective they will need to review this request through a zoning certificate. They will be reviewing that to see if anything from a review that will be negatively impacting drainage across the rear of these yards. Also, noted that from a zoning perspective apart from saying that water that needs to move away from a building and set back requirements for sump pump discharge of alike. They do not necessary have engineering requirements for zoning certificates and they look at this on case by case basis.

He mentioned that they are now aware a potential issue with a neighbor and will look at it a little bit closer but the other side of this the addition and size being proposed is very small and negligible far as effecting water drainage. This proposed addition is located over an existing fairly imperious area with the decking, etc. If you are looking at it from a size perspective its very similar to an accessory structure or shed.

Mrs. Mulligan-Does everyone in the three houses have a french drain?

Ms. Popik- The previous neighbors which has been sold on the other side of me changed their entire level of yard and instead of the French drain that went down the back of the yard installed a pipe and raised their yard 4-5 feet. This dramatically changed the drainage in my yard because we had problems with that pipe was bent and they had to dig it up and redo it. It was a big problem my yard would flood for days because there was no drainage when they change it.

Mrs. Mulligan- Why did they installed french drains to begin with they must have needed them?

Mr. Lee responded that typically when a residential development occurs it's approved through the platting process with certain approved engineering for contour lines. As individual sites are developed and property owners do their own thing it changes the course of drainage flow. You will find that property owners will take matters into their own hands to elevate that water ponding pooling and put in a series of french drains to move the water. It sounds as though that the neighbor had taken it towards the sewer drain. It seems of though there have been some drainage issues that property owners have addressed over years.

Ms. Popik- The drainage along the back is great that pipe they put in is now functional say that is not an issue.

Mrs. Mulligan- Are the yards wet in the early spring?

Ms. Popik- They is areas that are wetter than others but when it rains it rains a lot normally and drains off.

Mrs. Mulligan asked staff if what they are saying that the applicant's proposed addition will not change any of the drainage. Mr. Lee advised he is not an engineer and cannot guarantee that the drainage will not change. He mentioned from previous experience he doesn't see this as being a large deterrent to the flow of drainage. He noted practically the neighbor's yard is a higher elevation there will not be any impact of water flowing onto their property.

Mrs. Mulligan- Are there any other areas that you can compare it to?

Mr. Lee- No.

Mr. Roberts- I agree 320 square feet of run off is not a big deal considering the fact that a lot of the water has been taken care of by that patio and drainage is a real headache. It can be trivial and a real pain.

Mrs. Mulligan- We don't really know if anything will change with this new addition?

Ms. Popik- The photo that had the pavers stones and little bit of a raised patio decking underneath is already has a raised cement slab and then the yard dips down then rises back up to their house.

Mr. Lee mentioned if it is a poured concrete slab that would add even more credence as the area is already truly an imperious area. Also, noted from an engineer's perspective it would be swapping like for like with imperious areas on the property and taking the calculations into consideration would be negligible given that its poured concrete patio.

Mrs. Mulligan- When they are building that is supposed to have that settled that there would be any drainage but they all have french drains. These drains were not done when the homes were built and prior to building they will see if they have a drainage problem and they didn't. They all have french drains in there now and the yards in the back are wet in the early spring probably, right now.

Ms. Popik- You can't see the elevations very well but the french drains between our properties hasn't changed. I have been there since 2001 and they always have worked by pulling the water between the houses out to Langtree Lane. The drains have not been altered and we each have some landscaping around there and it's not a problem. I know the issues that the neighbors have had are more in the center of their back yard where it's really flat. I'm not sure how much more my yard needs to drain from that property.

Mrs. Mulligan -It will never change I speak from experience.

Ms. Popik- I don't see how it could change. I'm also going to be very particular about the green area where the trucks will be driving over to get this process done.

Mrs. Mulligan- Have you walked back there to see if it's wet?

Ms. Popik- I have and it's not that bad only when we have has inches and inches of rain and you wait a day or two to mow. It clears off. It does what it supposed to do on my property.

Mr. Lee was able to obtain a contour map of the three properties which displayed orange contour lines which do exist. He noted in general looking at the contours that there is a higher elevation on the neighboring property to the east.

Mr. Schmidt- You are saying the 2690 property is higher that the applicant at 2680?

Mr. Lee- Yes just generally looking at these contour lines is what it is indicating.

Mrs. Mulligan- If there is a drop off then the water goes down into the back yards?

Mr. Lee advised he is not for sure how dated the contour map is as it coincides with some of the work that was done on the neighboring property lot. He believes that the contour lines are drawn up its starting to pull water down a common area. This portion of the sub-division was approved and developed at a different time than to the South. He showed the diving line of the two plats and the water is traveling along an easement in the rear yard area out towards the roadway.

Mrs. Mulligan- Is the water traveling towards the front and not the back? Is there anybody that can tell us if there would be a problem?

Mr. Lee- Its traveling West at the rear property line out toward Clio Road. The only concern in digging deeper the drainage at this structure is that staff doesn't have a process in place to review the engineering on this practically the drainage. If this were a new plat it would be reviewed by the Montgomery County Engineer's office but as to individual certificate approvals they do not review once sub divided and purchased. We can certain have staff

township engineer review this as part of the zoning certificate just to see from their perspective to review for issues or zoning compliance. This would be my recommended course of action.

Mrs. Mulligan noted that properties changes as they get older and Mr. Roberts agreed.

*No citizens voicing concerns, questions or comments.*

*Public hearing closed.*

*Board deliberation.*

Mrs. Mulligan- They only thing that we can find out from the county engineer is to see if there going to be a problem or can they anticipate that problem.

Mr. Schmidt advised that with photos and documentation they are only proposing on adding a smaller addition onto a paver patio that already existing. They will only be taking up a portion of that paver patio and any water run-off is already there with the paver patio. Their asking for a variance and going by what we are governed by I don't see in the sense of with this water run -off. He noted if there are other problems then there are solutions and avenue that those homeowners can take besides the Board of Zoning Appeals.

Mr. Roberts advised for documentation reasons that kind of issue should be investigated and in our packets should be investigation in the packets especially when a neighbor, not in a hostile way, is raising concern. Is something was to south they will expect reimbursement for potential damage. He noted it's just a caution we need to cover.

Mrs. Mulligan advised that there is a known drainage issues and could be worse after the addition. Mr. Roberts commented that we just don't know and Mrs. Mulligan agreed.

Mr. Schmidt advised that the variance is not substantial and they are keeping with the characteristic of the neighborhood with the full brick wrap with the small addition. He continued that it does not have any negative effect on any government services whether that is water, sewage or garage.

**MOTION-** Mr. Roberts moved to approve Case A-1711 Dianne K Popik and Paul Horan request a variance for an expansion of their residential dwelling into the required rear yard setback located at 2680 Langtree Lane as submitted. Motion was seconded by Mrs. Mulligan.

**VOTE-** Mr. Roberts, yes; Mrs. Mulligan, no; Mr. Schmidt, yes

***Additional Business:***

None

Meeting adjourned.

Next Regular Meeting Date – December 28, 2015

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Matt Schmidt, Co-Chairman