

SWANCREEK TOWNSHIP BOARD OF ZONING APPEALS

3-18-2010

Record of Proceedings - MINUTES

Board members present: Darrin Gramling, Chairman, Gregg Winseman, Vice Chairman, & David Smith, Board Member

Roll Call was taken by Chairman, Darrin Gramling

Elected Officials: Trustee, James Leu

Employees: Walt Hallett, III, Zoning Inspector & Christine Lauch, Administrative Assistant

Visitors: None

Meeting was called to order at 6:30 p.m. by Chairman, Darrin Gramling.

Mr. Gramling led in the Pledge of Allegiance.

New Business:

Variance Requested by Chad & Charah Faber for 1636 Co. Rd. F, Swanton, Ohio

Walt Hallett, III, Zoning Inspector, was sworn in and stated his case:

Mr. Hallett stated the township received a citizen complaint about a roof height above permitted 30' height. He did a site inspection, where he found the height of the highest roof peak to be 4' above township zoning regulation. The permit application #03-10 (attached) was denied by virtue of Article numbers 100-5.2 #2, 100-8.4, 100-18.1 and 100-23. Mr. Hallett stated that the grade is still being established, due to the slop. He established grade from the top of the basement cement to the highest roof peak. The Faber's original permit application #76 -09 (attached) was approved. The Faber's added the additional roof peak after the approval, found in violation, and submitted the permit application #03-10 along with a Variance Request application (attached), requesting the 4' overage be exempt. Mr. Hallett read the Variance Request.

Darrin Gramling asked Mr. Hallett if the Faber's obtained a permit prior to breaking ground to build the dwelling. Mr. Hallett stated that this case is regarding the height regulation and referred to permit #03-10. Darrin Gramling asked if Mr. Hallett informed the Faber's of the township zoning regulations in the district where the dwelling is being constructed. Mr. Hallett said he issued a violation and did a site inspection.

The constructor was on site when Mr. Hallett measured from the top point of the concrete up, which the height at that time was in compliance, it was then altered. Mr. Hallett stated the resolution states he and/or the Fulton County Engineer have the ability to establish grade. Due to the new construction to the East of the Faber's, the grade is harmonious because both owners decided to have basements. These dwellings are the first new constructions in this section of the neighborhood.

Gregg Winseman asked Mr. Hallett if the strip of land to the West is empty. Mr. Hallett stated that there are lots available. The Fulton County Regional Planning Commission approved the lot splits as not a sub division.

The board discussed establishment of grade. Mr. Hallett referred the board to Article 100-5.2 #5:

Any building requiring yard space shall be located at such an elevation that a sloping grade shall be maintained to cause the flow of surface water to run away from the walls of the building. Grade elevations shall be determined by using the elevation at the centerline of the road in front of the lot as the established grade or such grade determined by the County Engineer or Zoning Inspector.

He said if there was a lower lying dwelling in between these homes, the established grade would be different, due to run off issues. Mr. Hallett stated that the township resolution does not restrict basements or the ability to build up the land to have one as long as the new construction is not out of character. Measurement starts at the wood or the top of the foundation.

David Smith asked Walt about the exceptions in the resolution in Article 100-5.2 #2 that gives the ability for up to 15'. Walt stated this situation does not qualify due to the use under that article. He read the zoning resolution of building height on page 89: ***Building Height: The building height is the vertical distance measured from the reference level to the highest point of the roof surface if a flat roof to the deck of mansard roofs; and to the mean height level between eaves and ridges of gable, hip and gambrel roofs. (Article 100-18)***

Chad Faber, 128 Oak St., Swanton, Ohio was sworn in to testify:

Mr. Faber stated that he is not a builder, unaware of the regulations and did not have any deliberate intentions to not follow any regulations. He said he not find out of the regulations until the roof was already built. They have been working with his wife's uncle, who was suppose to be doing the construction, however, this situation did not work out, so he obtained assistance from someone else, who basically is not a contractor, he does mostly rough construction.

Mr. Faber said he obtained his permit after having an architect draw up the specs and his bank's approval of funds. Darrin Gramling asked if his architect or contractor ever asked if there were any zoning regulations. Mr. Faber said no. Darrin asked if he thought to ask his neighbor, who is also building a new dwelling, if he needed anything. Mr. Faber said no, he was under pressure to begin construction. Mr. Faber said he and Mr. Hallett spoke of applying for the variance request. He also said he didn't realize he was going to hit water less than 3' of digging and due to the expense of bringing in dirt to raise the house up, he could not afford to it tear down.

Walt requested the board review Article 100-21.4 "Authority"

Darrin Gramling asked for public support of this case, none.

Darrin Gramling asked for public opposition, none.

The board reviewed the standards and voted as follows:

Standards Set Described in Article100-21.5

1. Location, size and character as it relates to the development of the surrounding neighborhood and regulations of applicable zoning district.
VOTE: Darrin Gramling-Doesn't relate, Gregg Winseman-Doesn't relate, David Smith-Doesn't relate.
ROLL: All Agreed
2. Impact on vehicular and pedestrian traffic.
VOTE: N/A
ROLL: All Agreed
3. Any possible nuisance emanating from the proposed use.
VOTE: N/A
ROLL: All Agreed

4. Location, height, nature of buildings and other structures as they relate to appropriate development and use of adjacent lands and buildings and how the proposed use affects values of other lands.

The board discussed the two new dwellings there setting precedence for height on that side of the road. Mr. Faber stated that the foundations across the street are also above the road. The ditch to south was discussed. This case is in regards to only additional 4' additional height.

VOTE: No Effect

ROLL: All Agreed

5. Whether the proposed use will be harmonious with the physical and economic aspects of the adjacent property.

Darrin Gramling stated the use is a new dwelling -

VOTE: No Effect

ROLL: All Agreed

6. The necessity of the proposed use for public convenience at this location.

VOTE: N/A

ROLL: All Agreed

7. Will the proposed use protect the public health, safety, and welfare?

VOTE: N/A

ROLL: All Agreed

8. The effect the proposed use will have on the value of other property in the area in which it is to be located.

Darrin Gramling stated the use is a new residence -

VOTE: Darrin Gramling-None, Gregg Winseman-None, David Smith-None

ROLL: All Agreed

- Gregg Winseman motioned to approve the Variance Request for the additional 4' height as requested. A 2nd was heard from David Smith.

~ **Roll: Darrin Gramling - yea, David Smith - yea, Gregg Winseman - yea**

There was general discussion of the interpretation of establishing grade level.

- Gregg Winseman motioned to approve the 1-21-10 Minutes

~ **Roll: Darrin Gramling - yea, David Smith - yea, Gregg Winseman - yea**

- David Smith motioned to adjourn the meeting, Gregg Winseman, 2nd motion

~ **Roll: Darrin Gramling - yea, David Smith - yea, Gregg Winseman - yea**

Meeting adjourned at 7:14 p.m.

Darrin Gramling, Chairman

Gregg Winseman, Vice Chairman

David Smith, Board Member

Board Member

Board Member

Board Alternate Member