

**SWANCREEK TOWNSHIP BOARD OF ZONING APPEALS**

**March 19, 2008**

**Record of Proceedings - MINUTES**

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

Roll Call was taken.

Elected Officials: Trustee James Leu

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

Visitors: See sign in sheet

Meeting was called to order at 7:00 p.m. by Darrin Gramling.

Mr. Gramling led in the Pledge of Allegiance.

**New Business:**

Variance requests for lot splits from Mr. Allyn Schmitz & Mr. John Gilders

Board member David Smith was sworn in for remainder of Tom Baker's term

➤ Gregg Winseman made motion to not read the minutes of past meetings out loud at each meeting,  
2<sup>nd</sup> by Darrin Gramling.

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

The board will review the minutes prior to the meeting for approval at the following meeting.

**• Variance Requested by Allyn Schmits**

Walt Hallett, III, Zoning Inspector: Stated his case -

Mr. Hallett stated per resolution article 100-8.4 & 100-18.1 the required lot width of an area of 2 acres or greater shall have 250'. Due to the ownership being the same for both parcels and the land not being that of a subdivision, the lots are not conforming to be split, because the frontage would be approximately 170' and approximately 178' for East lot, if split.

The lots are buildable lots according to all other articles.

Zoning was put in place for this area in November 2002, which amended the required 150' frontage to 250' frontage.

David Smith asked if these parcels were owned by two different owners, would there be a need for the variance.

Walt Hallett said no, there would be no need.

James Schmitz of 8406 Co. Rd. 3 was sworn in to testify on behalf of his father Allyn Schmitz.

Mr. Schmitz presented the property survey and deed to the board for the record.

The board discussed the lot sizes.

Darrin Gramling asked Mr. Schmitz if it was his intent to sell these parcels. Mr. Schmitz said yes.

David Smith noted that each parcel would be approximately 6.7 acres.

Mr. Schmitz added that each would also be approximately 1500' deep.

Darrin Gramling asked for public opposition.

Mr. Michael Bayer of 1522 Co. Rd. B was sworn in.

Mr. Bayer provided the board with pictures, as well as deed restrictions. Mr. Bayer was under the impression the two lots were going to be split into four. Mr. Bayer retracted his opposition upon the knowledge that the split request was only for two parcels.

Mr. Gramling asked for public support for the variance - None.

**Standards Set Described in Article 100-21.5 list.**

**#1. *Location, size and character as it relates to the development of the surrounding neighborhood and regulations of applicable zoning district.***

Yes - relates - All Agreed.

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

**#2. *Impact on vehicular and pedestrian traffic.***

No impact - All Agreed

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

**#3. *Any possible nuisance emanating from the proposed use.***

No nuisance - All Agreed

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

**#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.**

N/A - All Agreed

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

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

Yes - All Agreed.

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

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

N/A - All Agreed

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

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

N/A - All Agreed

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

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

No impact-All Agreed

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

➤ Motion to approve the variance request for the lot split was made by Gregg Winseman, 2<sup>nd</sup> by David Smith

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

- **Variance Requested by John Gilders**

Walt Hallett, III, Zoning Inspector: Stated his case -

Mr. Hallett stated Mr. Gilders' permit was denied because the setback does not meet the required 20' for the building, which Mr. Gilder's refers to as a "lighthouse".

Walt Hallett invited Mr. Gilders to file for a non-conforming validation certificate in a letter dated 2-19-09. A single family dwelling and a home occupation exists on one parcel zoned M1 - light industrial - Article 100-6.4. Should Mr. Gilders not wish to alter the lot line to encompass the lighthouse with the business parcel, there would be no need for the variance. Mr. Gilders stated on his variance application that he feels the house is going to be foreclosed on and wants the lighthouse to be placed with his business parcel.

Gregg Winseman asked if the lighthouse building is too close to the business and the house and if both would be non-conforming if the split was approved. Mr. Hallett stated that both parcels would be non-conforming. Mr. Winseman said this was pre-existing before zoning was put in.

David Smith asked Mr. Gilders if there are two dwellings or just one. Mr. Gilders said he just has one home on the property.

David Smith asked if an easement was necessary to go through the property line for utilities. Walt Hallett stated the easement would be by prescription of an authoritative recommendation.

David asked if the split is approved, would the parcel with the home have issues being in an MI district, either if Mr. Gilders owns it or if later someone else purchases it. Mr. Hallett said yes, it is a non-conforming lot because it still remains in an MI district; however, the board can give provision for allowance with approval of variance.

Mr. John Gilders of 5226 Co. Rd. 6, Delta, Ohio was sworn in to testify:

Mr. Gilders shared his strong feelings about keeping the lighthouse. He stated that it has very special meaning to him, he has put a lot of work into it, that he is dedicating it to the fallen soldiers of the armed forces and it will be on the 6:00 news someday.

Darrin Graming questioned the separate mortgages, because Mr. Gilders has stated that he feels the home is going to be repossessed. Darrin asked Mr. Gilders if he had any documentation that supports that the mortgage company has been notified of the proposed split. Mr. Gilders stated they are aware of the proposal and that his attorney Terry Kaper has the information.

Mr. Gramling's concern was if the mortgage company could come back on the board if the split was approved and the home later repossessed. Walt Hallett stated any possible foreclosure isn't the burden of the BZA because of the current zoning issue.

Trustee Leu stated that the BZA is simply giving Mr. Gilders the ability to pursue his proposal to split the lot, it then goes to Fulton County and the appropriate departments to change the legal description of the land.

Walt Hallett stated that this case was for the alteration of a lot line that caused noncompliance due to a setback requirement only.

**Standards Set Described in Article 100-21.5 list** (for the setback zoning issue)

**#1. Location, size and character as it relates to the development of the surrounding neighborhood and regulations of applicable zoning district.**

Darrin Gramling - doesn't relate, Gregg Winseman - Makes it a more useable lot, David Smith - makes more sense. No Impact - All Agreed

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

**#2. Impact on vehicular and pedestrian traffic.**

N/A - All Agreed

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

**#3. Any possible nuisance emanating from the proposed use.**

N/A - All Agreed

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

**#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.**

N/A - All Agreed

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

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

N/A - All Agreed.

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

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

N/A - All Agreed

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

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

N/A - All Agreed

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

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

N/A - All Agreed

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

➤ Gregg Winseman made Motion to grant the variance for the non-conforming placement of a lot line, 2<sup>nd</sup> by David Smith

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

**• Old Business:**

Approval of 9-18-09 Krasula Minutes:

➤ Darrin Gramling Motioned to approve the Minutes, 2<sup>nd</sup> By Gregg Winseman

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

➤ Darrin Gramling Motioned to adjourn the meeting, Gregg Winseman, 2<sup>nd</sup>

~ Roll: Darrin Gramling - yea, David Smith - yea, Gregg Winseman - yea - Meeting adjourned at 8:14 p.m.

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