

# SWANCREEK TOWNSHIP ZONING BOARD OF APPEALS

April 19, 2007

## Record of Proceedings

Board members present: Earl Rowland, Chairman, Bill Grimsley, Darrin Gramling & Tom Baker

Alternates: None

Elected Officials: None

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

Visitors: Mr. Shawn Albert

- Meeting was called to order at 7:00pm by Earl Rowland
- Bill Grimsley lead in Pledge of allegiance
- **New Business:**
- Albert Variance Permit Request
- Election of Board Members
- Darrin Gramling motioned to accept Agenda, Bill Grimsley 2<sup>nd</sup>.
- ~ Roll call: Earl Rowland – yes, Tom Baker – yes, Darrin Gramling – yes,  
Bill Grimsley - yes
- Four Board members present with no alternates – Mr. Bill Grimsley recused himself.

### **~Shawn Albert Variance Request:**

Mr. Albert is requesting a Variance for front set back –south, due to electrical and phone service location and for west set back to build 4.5’ - 5’ off property line.

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

- Mr. Albert requested a zoning permit for a 16’ X 30’ attached garage. Walt Hallett, III, Zoning Inspector, inspected the property on 3/8/07. Walt Hallett, III, Zoning Inspector, explained the zoning resolution 100.84 that states the side set back must be 12’ off property line. Mr. Albert’s dimensions were only 4.5 – 5’ off property line. Walt Hallett, III, Zoning Inspector, stated the permit was denied because the addition did not comply with the zoning resolution on setbacks.
- Earl Rowland questioned Mr. Albert as to if the neighbor’s privacy fence was located on the property line. Mr. Albert stated that the fence is approximately 6” onto his property, according to the survey, but there is a discrepancy between the survey, the Plot record and the auditor’s website. Walt Hallett, III, Zoning Inspector stated he measured area from fence to dwelling and it is 21.5’. Dimensions of Mr. Albert’s property were discussed as to road to dwelling, side, front and rear setbacks and off neighbor’s fence. The requested garage will surpass the front of home.
- Mr. Shawn Albert was sworn in to testify.
- Mr. Albert stated his case:

He would like to build this attached garage due to the fact that his current garage is in the far rear of his property, not attached to his home and his wife has to walk outside to get into the house once her car is parked. He would like her to be able to enter the home without having to be outside. He stated the new garage would only be used for her car. Mr. Albert said that he would basically be switching “green space”, moving gravel driveway and leaving existing flower beds.

- Mr. Albert stated that he has made attempts to contact his neighbor, Mr. Dreyer, who's property adjoins Mr. Albert's, by sending him two letters in regards to buying a portion of his property, informing him of his plan for the garage addition and to complain about the maintenance of Mr. Dreyer's evergreen and fruit trees. Mr. Albert stated that he has mowed Mr. Dreyer's yard because he doesn't take care of it and also maintained his trees for the same reason. Mr. Dreyer has never replied to his letters.
- Earl Rowland informed Mr. Albert that he needs to focus on the case that has been presented to the Board of Zoning Appeals for consideration and not his problems with his neighbor.
- Earl Rowland inquired about the existing buildings. Mr. Albert said a 10'X12' shed would be removed and the existing garage would stay.
- There was discussion again about dimensions of purposed garage addition, footage of setbacks and existing placement of septic and leach field. Earl Rowland asked Mr. Albert what other objects he has in his back yard. Mr. Albert stated he also has an above-ground swimming pool.
- Darrin Gramling questioned Mr. Albert as to why he bought the house to begin with if he did not like the placement of the existing garage. Mr. Albert stated that his family is growing. His kids are getting older now and they will be driving soon. He also has a 5<sup>th</sup>-wheel that he uses for working out of town. The 5<sup>th</sup>-wheel would be able to be moved back further and out of site once his shed is torn down.
- Bill Grimsley questioned the offset. Mr. Albert stated that his power meter and phone box would have to be moved, electrical and phone wires are underground and it would be very costly to move.
- Earl Rowland asked Mr. Albert to explain his drawing and discussed position of electrical and phone boxes located on the side of the home.
- Tom Baker asked Mr. Albert why he doesn't want to just take off footage and build a smaller garage instead. Mr. Albert said he could, but does not prefer to do that.
- Earl Rowland asked Mr. Albert how wide and deep his property is. Mr. Albert said 100' X 150'.
- Bill Grimsley inquired as to whether Mr. Albert will be pouring cement for this new garage. Mr. Albert indicated that he will be, however, he will dig around the underground phone wires, not relocate them and mentioned that Toledo Edison said that the electrical relocation would be a "big deal". He said that Toledo Edison would charge him about \$3000.00. He hasn't contacted an electrician yet, but their quote would be comparable. Bill Grimsley asked amount of amp service. Mr. Albert wasn't sure.
- Walt Hallett, III, Zoning Inspector, spoke about this area being questionable as to if it is R1 District or AG/RE District. R1 District would fall under a sub-division, which would change the need for a variance as far as the front set back, however, would not change Mr. Albert's variance need for side set back from the neighbor's property line. The zoning resolution for the side set back for a R1 District is 10' instead of 12' and Mr. Albert would still fall under that amount. Walt explained that the map he has acquired from the Planning Commission has a shaded area and it is not clear if it is R1 or AG/RE. The Fulton County Prosecutor told Walt that if there is a question to assume it is AG/RE.

- Mr. Albert submitted a copy of his plot record for the board to review. He stated that the Auditor's website information is different than his Plot record and survey of his land. The survey shows that his markers would be 6" inside of his neighbor's privacy fence. Mr. Albert complained again about his neighbor not maintaining the area behind his home. At which time, Earl Rowland explained the responsibilities of the Board of Zoning Appeals and the relevance to Variance requests to Mr. Albert.

- Earl Rowland stated there was a notarized letter, regarding this case, submitted by Mr. Dreyer, who's property adjoins Mr. Albert's.

- Earl Rowland motioned to accept the notarized letter as record, Darrin Gramling 2<sup>nd</sup>.

- Bill Grimsley read the letter out loud. See attached for letter.

~ Earl asked Mr. Albert if he disputes any part of the letter. Mr. Albert disagrees with the portion of the letter that states Mr. Dreyer's property value would be affected. He also said that the up-keep of Mr. Dreyer's trees has no relevance, so his complaint about the health of his trees that are noted in the notarized letter, cannot have relevance on his variance request. He said that the trees would only block the view of his construction.

- Earl said he would be 16' closer to Mr. Dreyer's property. Mr. Albert said yes, but he won't be able to see it through those trees.

- Earl Rowland went over the Standards Set Described in Article 100-21.5 list.

Walt Hallett, III, Zoning Inspector noted that Mr. Albert has replied to these on his copy.

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

Darrin Gramling – discussed how this area is borderline country/city

Earl Rowland – stated that the new building would be 16' closer to Mr. Dreyer's property and that is relevant. Tom Baker concurred.

Vote on #1: Agreed no impact on the development of the surrounding neighborhood and regulations: Darrin Gramling – No, Tom Baker – No, Earl Rowland – No

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

Earl Rowland: No visibility impact, agree?

Vote on #2: Darrin Gramling – Yes, Tom Baker – Yes, Earl Rowland – Yes

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

Board agreed that structure would be close to neighbor. Stated noise factor and nuisance of being so close.

Vote on #3: Agreed that would have impact: Darrin Gramling – Yes, Tom Baker – Yes  
Earl Rowland – Yes

**#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.**

Board saw no impact on development or use of adjacent land.

Discussion of Mr. Dreyer's letter that stated it would depreciate his property value.

Board agreed not within location and height of nature of other buildings and structures.

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

Vote: on #5: Earl Rowland - not harmonious, Darrin Gramling – Agreed, Tom Baker – Agreed.

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

Mr. Albert stated in earlier testimony that it was for the convenience of his wife; that she not have to walk outside into the elements. The board agreed N/A for public use.

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

N/A

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

Vote on #8: Earl Rowland – No impact on improving value of adjacent properties, Darrin Gramling – Agreed, Tom Baker – Agreed.

• Motion to approve Variance Request:

Earl Rowland – No, Darrin Gramling – No, Tom Baker – No

• Walt Hallett, III, Zoning Inspector, informed Mr. Albert he has 30 days to appeal.

• **Old Business:**

• Motion to not read the minutes out loud by Earl Rowland, Tom Baker 2nd.

• Darrin Gramling motion to approve the minutes of February 22, 2007, Tom Baker 2<sup>nd</sup>.

• Tom Baker nominated Earl Rowland to stay on as Board of Zoning Appeals Chairman

~ Roll call: Earl Rowland – yes, Tom Baker – yes, Darrin Gramling – yes,

Bill Grimsley – yes

• Earl Rowland described the responsibilities of Vice Chairman. Darrin Gramling nominated himself, Tom Baker 2nd.

~ Roll call: Earl Rowland – yes, Tom Baker – yes, Darrin Gramling – yes,

Bill Grimsley – yes

• Bill Grimsley motioned to adjourn the meeting, Darrin Gramling 2<sup>nd</sup>

~ Roll call: Earl Rowland – Yes, Bill Grimsley – Yes, Darrin Gramling – Yes, Tom Baker – Yes.

• Meeting adjourned at 8:15 p.m.

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