

**SWANCREEK TOWNSHIP BOARD OF ZONING APPEALS**

**August 21, 2008**

**Record of Proceedings - MINUTES**

Board members present: Bill Grimsley, Darrin Gramling, David Smith, Alternate.

Elected Officials: 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

Bill Grimsley led in Pledge of Allegiance

**New Business**

**• Variance Permit Requested by Irving Young**

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

Mr. Hallett stated the township received a zoning permit application #33-08 from New Horizon Homes, on behalf of Mr. Steve Young, for the construction of a 28' x 52' new dwelling on the corner of County Road 1-2 & County Road EF, which would create a lot split from the principal parcel of 11.740 acreage owned by Mr. Irving Young.

The zoning permit was denied by virtue of the following:

Article 100-5.1	Conflicting Regulations
Article 100-5.9 (#12)	Scope
Article 100-6.1	Statement and Purpose
Article 100-8.4 & 100-18.1	Area, Height, Bulk and Placement Requirements
Article 100-23	Definitions

The Zoning Inspector, Walter Hallett III, referred to the above Articles and gave definition and explanation of each, as well as his handwritten notations taken at the time of property inspection. Walt also referred to the plat map that was provided with the application, created by Matt Spiess of New Horizon Homes. Walt explained that the minimum lot size shall be 1 acre, excluding the right-of-way. Walt gave definition to Article 100-18.1 (4) "Shall have continuous non-interrupted frontage". If Mr. Irving Young's property were to be split, his existing parcel would no longer have non-interrupted continuous frontage and would be in violation of the Resolution, because the parcel is below the 20 acre exemption.

The Board discussed required frontage, setbacks, HUD regulations, minimum size requirements, and area size.

Walt sent a request for Legal Opinion to the Fulton County Prosecutor for clarity on double frontage and area items that are in the Zoning Resolution. He stated it has no bearing on this Variance. The cause for this Variance is due to the continuous non-interrupted frontage issue.

**• Matt Spiess, New Horizon Homes, sworn in to testify.**

Mr. Spiess said the proposed plat will be enlarged to cover the 30' right-of-way set back.

Matt stated the plat map he submitted with the zoning permit has to be changed. He has not yet submitted his formal application with the reconfigurations of the lot size.

He created the drawing that has a buffer for the drainage tile area. He obtained his measurements from the Fulton County Auditor's website. The measurements may not be exact. He received a drawing from Rod Creager of the Fulton County Engineer's office and that is why and how he came up with the buffer area. He stated that Rod Creager is well aware of the drainage tile issue and will be working on a solution for the drainage issues in that area, however, did not have any objections with Mr. Spiess's buffer area.

Mr. Spiess stated that by not allowing this lot split it is creating hardship. The parcel on the corner would then become a non-buildable lot, due to the access control on County Road 1-2. He was under the impression that there cannot be any more driveway accesses placed on Co. Rd. 1-2.

Mr. Spiess met with the Fulton County Health Department also. Mr. Spiess stated that the drainage tile will not be disturbed. He realizes that the tile location is unusual and it is draining a large area. His intention is to be in complete compliance with all Fulton County and Swancreek Township regulations.

- Mr. Steve Young sworn in to testify.

Darrin Gramling asked Steve Young if he has looked into purchasing any other parcels and explored his options in the Swancreek Township area. He stated that if Mr. Young were to purchase a conforming parcel it would alleviate any nonconforming issues. Mr. Young stated that he wants to live on that corner lot and that he, too, was under the impression that he cannot obtain access off of Co. Rd. 1-2. He likes the small corner lot and has found nothing in that immediate area.

David Smith said the property owner Hinton's would have to move their driveway north on their property and share the driveway if access was placed on Co. Rd. 1-2. Darrin Gramling said that access is regulated by Fulton County.

Walt Hallett clarified that it is called access management. There has to be 500' between access points, not driveways. He gave example of a side road with several driveways and access points. Darrin Gramling said he knows of situations where Fulton County has made other accommodations.

Darrin Gramling asked for Public input.

- Irving Young sworn in to testify.

Mr. Young stated that this is a family project. Steve Young is his grandson. He wants to keep his family close and that his family helps each other.

- Robert Rhoads sworn in to testify.

Mr. Rhoads' concern is the drainage tile. He stated that the system is in poor condition and has never been properly maintained, therefore, causing flooding on his property, which is directly adjacent to the proposed new dwelling. Mr. Rhoads stated that the tile was replaced, but never maintained and has caused his full basement to flood. He is not opposed to building a new home or developing that area; however, he wants to ensure the area has proper drainage to handle the area. Mr. Rhoads explained the direction, flow and the size of the tile he is concerned about. It goes straight through his property.

Darrin Gramling asked Mr. Rhoads if he felt the lot split of an irregular lot would affect his property value. Mr. Rhoads said the development would probably increase his property value. His only issue is that the drainage tile system is inadequate.

Matt Speiss stated that Rob Creager has acknowledged the issue, but didn't say specifically what will be done to rectify it. Mr. Rhoads stated the drainage tile runs on a 45 degree angle; it is not straight and parallel with Co. Rd. 1-2.

**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.***

Ok if measurements are correct. All Agreed.

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

Darrin Gramling stated it is a popular intersection, however, he felt the field of corn previously there hinders th

e viewing of the stop sign more than a house set back off of the road would.

No impact - All Agreed

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

Darrin Gramling stated the possible drainage nuisance.

Yes, possible nuisance - 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.***

Board heard testimony of possible increased values.

Yes, possible increase in land values - All Agreed - No negative impact - All Agreed

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

Darrin Gramling stated the lot would be the only lot in that area that would be nonconforming.

Darrin Gramling - No, Not harmonious with area.

David Smith stated the proposed new dwelling would be harmonious with other homes in area. Yes, harmonious

Bill Grimsley - Yes, agreed.

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

N/A - All Agreed

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

N/A - 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.***

Reiterated Standard #4

No negative impact - All Agreed

Further Board Discussion:

Liability in the event the drainage tile was damaged.

Depth of tile: Irving Young stated it is approximately 4 ½' deep.

Trustee Leu stated he spoke with Mr. Rod Creager; there is a possibility the tile will be relocated.

Walt Hallett described non-interrupted continuous frontage, as there were questions as to why this split is considered nonconforming because it has the adequate frontage on both Co. Rd. EF & Co. Road 1-2.

Entities who review lot splits before approval; Engineer's, Regional Planning Commission and Health Department.

Mr. Rhoads explained where the drainage tile is now and where he felt it could not be placed. Mr.

Rhoads stated where he feels obstruction is in the drainage tile, as well as the direction of the flow of the drainage and the issues he has with it.

➤ Darrin Gramling asked the Board for a Motion to approve the Variance Request for Mr. Irving Young's lot split provided that the proposed and remaining lots meet Swancreek Township's Zoning Requirements.

➤ David Smith made the Motion, 2<sup>nd</sup> by Bill Grimsley

~ Roll: Bill Grimsley - yes, Darrin Gramling - no, David Smith - yes

● **Old Business:**

Approval of January 17, 2008 Minutes (Hospital)

Approval of June 19, 2008 Minutes (Meiring)

No quorum for approval of Minutes - Old Business next agenda

➤ Darrin Gramling Motioned to adjourn the meeting, Bill Grimsley, 2<sup>nd</sup>

~ Roll: Bill Grimsley - yea, Darrin Gramling - yea, David Smith - yea

● Meeting adjourned at 8:32 p.m.

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