

HARRISON TOWNSHIP
BZA
March 9, 2016

Members present: Valerie Hans, George Snider, Dwight Gibson, Jr. and Douglas Harned
absent: James Hannahs and Ryan Bailey

Also present: Tom Frederick, Zoning Inspector, Vickie Noble, Zoning Secretary and Marilyn Martin of Anderson Reporting

Guests: Applicants Tamara and Dirk Eckels, Wayne Middaugh, Charles Ginn, Joe Barnes, Angelina Drake, Forest Williams and Nicole Howard.

The meeting was called to order by Valerie Hans at 6:30 p.m. with all standing for the Pledge of Allegiance

Ms. Hans asked the court reporter to swear in all who wished to speak at tonight's hearing.

Ms. Hans read the application and the Zoning Inspector's report/recommendation:

Zoning Inspector's report and recommendation March 8, 2016

Harrison Township Zoning Inspector's report & recommendation for variances requested for 192 Almahurst Rd. (Lot 17) of the Yorkshire Village subdivision.

Property owners Dirk & Tamara Eckels are requesting the variances for the construction of a single family residence with either a front yard setback of 25.38 ft. instead of the required 40 ft. setback and/or a side yard setback of 13.64 ft. instead of the required 15 ft. setback. Lot 17 has the retention for storm water control for Yorkshire Village subdivision which occupies about 2/3rds of the lot leaving about 1/3rd lot the lot for the construction of a single family residence.

On October 10, 2015 the Zoning Inspector issued a Zoning Permit for the construction of the residence. On January 26, 2016 the Township was notified that construction of the house had started and there was an issue with the footers and basement being located within the drainage easement for the retention basin. After reviewing the issue, Mr. Eckels was contacted and he stopped construction. After considerable discussion with the Eckels and County officials it was determined that part of the residence was within the drainage easement of the drainage basin. It does need to be noted that the Licking County Planning Commission staff was notified of this issue on January 26, 2016. The LCPC staff and the Licking County Prosecutor's office conducted a three-week review to determine if according to the Licking County Subdivision Regulations the LCPC had enforcement responsibilities over this issue. It was determined they did.

The original variance request is for the front yard setback of 25.38 ft. from the required 40 ft. which is 14. 62 ft. less than the required setback. After having some engineering review done by Willis Engineering & Surveying it was determined that the existing location of the residence could stay where it is with an engineering plan to redesign

Harrison Twp. Board of Zoning Appeals

Final-Approved

the basin and maintain the capacity of the basin as originally designed. This review discovered that the existing construction was with 13.64 ft. of the side lot line and not the required 15 ft. which is 1.36 ft. less than what is required.

Zoning Inspectors recommendation:

Both issues of the front and side yard variances considerations are within this recommendation.

This recommendation will follow the requirements of Section 4.12, #2 Area Variance of the Harrison Township Zoning Resolution.

a. whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without a variance.

Front yard setback: This variance request would require that the residence be relocated from the existing construction that has taken place and remove the residence from the drainage easement of the basin but would require a smaller front yard setback.

Side yard setback: This variance would allow for the existing construction to remain where it is located but require that there be a reengineering of the drainage basin to maintain the original capacity. This would require a review and approval under the Licking County Subdivision Regulations, not Harrison Township.

b. whether a variance is substantial:

Front yard setback: This variance is for a 14.62 ft. from the required 40 ft. to a 25.38 ft. front setback and for total relocation of the residence.

Side yard setback: This variance is for 1.36 ft. from the required 15ft. to have the existing construction remain as is with the reengineering being approved by the County.

c. whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.

Front yard setback: Variance is less than half of the required Front yard setback and the lot is at the end of a cul de sac.

Side yard setback: This is the least of the two request of 1.36 ft. from the required 15 ft.

d. whether the variance would adversely affect the delivery of governmental services. (e.g. water, sewer, garbage, medical, fire, police.)

Front yard setback and Side yard setback: No.

e. whether the property owner purchased the property with knowledge of the zoning restrictions:

Front yard setback The relocation of the residence out of the drainage basins easement (that would not comply with the zoning regulations) is what caused this variance request.

Side yard setback: The request of this variance was caused by the review by Willis Engineering & Surveying that discovered there was an error on the original measurement by the property owner.

f. whether the property owner's predicament feasibly can be prevented or corrected through some other method other than a variance: and:

Front yard setback: This variance is the most costly for the property owner due to the total relocation of the residence.

Side yard setback: This variance is the least costly for the property owner and would require the reengineering of the drainage basin and to keep the residence where construction has begun.

g. whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Front yard setback: I am not sure that this variance is within the spirit and intent of the requirements but it is the result of the lot having the drainage easement located on it.

The property owner was not aware that it was a drainage basin.

Side yard setback: This variance is due to the error in measurement by the property owner and was done in good faith at that time because he told me he measured 16 ft. from the property pin just to provide an addition foot of side yard.

The last recommendation I have is that if the side yard variance is approved and the residence can remain where construction has begun there needs to be a condition of approval that all reengineering of the drainage basin is submitted to the Licking County Planning Commission and the Licking County Subdivision regulations for approval.

It would be my recommendation to approve both variances to provide for options to the property owner if there become issues with the Licking County approval.

Thomas D. Frederick, Harrison Township Zoning Inspector

Mr. Middaugh asked to look at the maps posted on the board. He and Mr. Barnes stated they had observed water fill the basin after rains.

Mr. Gibson asked where the water was coming from. Mr. Frederick explained about the drainage tiles in the area. He also said there is an emergency spillway. Ms. Hans questioned as to the possibility of the large piles of dirt on the property creating a problem. Mr. Eckels said he was told to stop work and he did.

Mr. Eckels added that he is taking on the responsibility to redo at his expense.

Mr. Ginn is concerned about flooding and would like to know what guarantees will be in place. Mr. Frederick explained that if a variance is approved, the applicant will have to submit any reengineering and replatting to the county planning as well as follow the requirements of the soil and water, the engineer's office, and all county entities.

Mr. Snider asked Mr. Williams if all the water eventually ends up on his property. Mr. Williams said it does but it doesn't bother him. He feels the Eckels want to maintain their property. Mr. Williams asked who would maintain any retention ponds. Mr. Frederick explained the deed restrictions say any owner with an easement has the responsibility to maintain a drainage way. He also added that the county can be contacted for a ditch petition making the Soil and Water District responsible for maintenance.

While Mr. Frederick would like to see both options approved, Mr. Harned has a problem with reducing the front yard setback.

Mr. Snider moved to approve, with conditions, a variance for a side yard setback of 13.64 ft. making it 1.36 ft. less than the required 15 ft. setback.

Conditions:

1. Reengineering of the drainage basin.
2. The reengineering/ redesign of drainage basin to be approved by the Licking County Planning Commission, the Licking County Subdivision Regulations and all required Licking County Entities.

The motion was seconded by Mr. Harned.

Vote:

Valerie Hans.....yes

George Snider..... yes

Dwight Gibson, Jr.... yes

Douglas Harned..... Yes

Motion passed with a unanimous yes vote.

The Eckels were informed of the next steps of going to the LCPC.

At 7:41 Mr. Snider moved to close the public hearing. The motion was seconded by Mr. Gibson. The motion passed with unanimous ayes.

Working Session:

Ms. Hans moved to approve the minutes of the February 23, 2016 Pubic Hearing and meeting. Mr. Harned seconded. The motion passed with unanimous ayes.

At 7:48 Mr. Gibson moved to adjourn. Mr. Snider seconded. The motion passed with unanimous ayes.

Respectfully submitted

Vickie Noble, Zoning Secretary

Valerie Hans, Chair

The Public Hearing was professionally recorded by Anderson Reporting