

SWANCREEK TOWNSHIP BOARD OF ZONING APPEALS

3-21-13

Record of Proceedings - MINUTES

Meeting was called to order at 6:30 p.m. by Chris Lauch, Administrative Assistant
Mr. Gramling led in the Pledge of Allegiance.

Board members present: Darrin Gramling, Chairman, Gregg Winseman, Vice Chairman,
David Smith, Dennis Lazenby, Steve Fuzinski & Sue Whitaker.

Roll Call was taken.

Elected Officials: None

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

Visitors: Terry Kaper, Attny, Virginia Rains, and Ronald Rains

New Business:

Greg Winseman motioned to appoint Darrin Gramling as Chairman, a second was heard by
David Smith

~ **Roll Call:** Darrin Gramling - yes, Gregg Winseman - yes, David Smith - yes,
Dennis Lazenby - yes, Steve Fuzinski- yes, (Sue Whitaker - agreed).

Darrin Gramling motioned to appoint Greg Winseman as Vice Chairman, a second was heard by
David Smith

~ **Roll Call:** Darrin Gramling - yes, Gregg Winseman - yes, David Smith - yes,
Dennis Lazenby - yes, Steve Fuzinski- yes, (Sue Whitaker - agreed).

New Board member: Steve Fuzinski was appointed by the Swancreek Township Board of Trustees
to the Board of Zoning Appeals.

Darrin Gramling motioned to not read the meeting minutes out loud at each meeting, because
Chris Lauch provides the Board with the draft prior to the minutes being approved. The minutes
approval meetings will be one week after the hearing, or when it is convenient for the Board, as soon
as possible after each hearing, a second was heard from Gregg Winseman.

~ **Roll Call:** Darrin Gramling - yes, Gregg Winseman - yes, David Smith - yes,
Dennis Lazenby - yes, Steve Fuzinski- yes, (Sue Whitaker - agreed).

The Board accepted of the 2013 meeting schedule and time of the third Thursday of the month, if
there is new business at 6:30 p.m.

Variance Request for Virginia Rains 3499 Co. Rd. C, Swanton, OH

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

Walt Hallett reviewed his denial of permit application #03-13. Walt presented the Board with pictures
of each property for a visual of the lot lines (attached to Swancreek Township case file). Mrs. Rains
requested to change lot lines, which complies with Zoning Article 100-5.6, however intent was not
suppose to change/transfer of ownership; violates Zoning Articles: 100-5.1, 100-6.5, 100-20.91,
100-18.1 and 100-26. Transferring the ownership creates a lot sub frontage. Walt explained that
Zoning Article 100-6.5 describes three requirements; (1) having continuous frontage, (2) in single
ownership, and (3) were of record at time of passage of the Zoning Resolution, which was on the
November 2002 ballot.

Due to the lot transfer of ownership, neither of the two lots meet requirements for lot width and area. If the lots were in one ownership, they are considered one parcel for purposes of resolution. Lots in combination are a conforming lot of record. Lots that are 2 acres or more cannot be without 250' frontage and one acre lots cannot be less than 150' frontage.

Prior to the transfer of ownership, Walt Hallett did not find issue with changing the lot lines, because at the time of the change, it was one undivided parcel and met the requirements. This is documented in an email to Tammy Richardson from Mr. Hallett dated 12-10-12 (attached to Swancreek Township case file). At the time of the change in lot lines, there was no intent expressed to the Fulton County Regional Planning Commission of any lot transfer.

Darrin Gramling stated there was a prior Variance Request on this property, he asked Mr. Hallett if the lot line changed, which is not currently showing on the Auditor's property card from their website, will cause any issue in the future. Mr. Hallett stated that there was in fact, a prior Variance Request due to tornado destruction. Mr. & Mrs. Rains lost two mobile homes. The Variance Request was to replace one of the structures with a structure similar, however was not in compliance with size. This Variance Request was approved. David Smith referred the prior Variance; inquiring about the mobile home replaced. Walt Hallett stated that Mr. & Mrs. Rains found and replaced the destroyed structure with one that is in compliance. David Smith asked Mr. Hallett if there would be any issues with the leach fields and if there were any encroachment issues, would it be the responsibility of the Board of Zoning Appeals if this Variance was approved. Walt stated that would be an issue for the Health Department and it would be up to a potential future buyer to check in to.

Steve Fuzinski asked Mr. Hallett if changing the lot lines causes any setback issues. Mr. Hallett stated that Mrs. Rains called him to inquire about the setbacks, the lot line changes that have been made clear up all of the lot lines and some setbacks for some issues that were there previously.

Darrin Gramling asked if the 3471 Co. Rd. C parcel will create another need for a non conforming lot, because it is a mobile home on its own parcel, not in combination with the others. Walt Hallett stated the Non Conforming Validation Certificate goes with the property, not the (new) owner. The use is still maintained as a non conforming lot of record. The use is not going to change, nor is the Non Conforming Validation Certificate for this property. Mr. Hallett stated that the change in ownership making the sub frontage is the reason for the Variance Request.

Terry Kaper, Attorney, Representing Mrs. Rains, 1772 St. Hwy. 109, Delta, OH was sworn in to testify:

Mr. Kaper apologized to the Board for the mistake in transferring the lot into Mrs. Rains' son's name. He stated that it was his oversight and he did not mean any bad intent.

Mr. Kaper submitted information to the Board members (attached to Swancreek Township case file), which had plat maps prior to lot line changes, new plat maps, property deeds, Fulton County Auditor's GIS prior to lot line changes to show the improvement of the lines and Mr. Hallett's email to Tammy Richardson, showing his oversight of Mr. Hallett's sentence "Variance required if intent is to divide/transfer either lot not in single ownership". He explained the history of the lot lines and referred to the GIS pictures prior to the lot line changes. Mr. Kaper showed the Board where the lot changes have made the lots in more compliance.

Mr. Kaper expressed that, if need be, Mrs. Rains' son has conveyed he will re-transfer the parcel into her name to be in compliance, should the Variance Request be denied.

Due to some confusion in the beginning of the meeting regarding the current Non Conforming Validation Certificate, Chris Lauch, Administrative Assistant, asked permission to address the Board. The Board members said yes. Chris asked the Board if they all had a complete and accurate understanding of the Variance Request before them. The Board members stated yes.

Virginia Rains 3499 Co. Rd. C, Swanton, OH Sworn in to testify:

Mrs. Rains stated that it wasn't her intent to do anything wrong. Her intent was, to in fact, provide protection to her son, who is currently paying for the mobile home he is residing in, in the event that something should happen to her. She stated that her son has expressed that when she passes he would like to purchase all of the parcels and will ask his siblings to allow him to do so, so that all of the parcels will go back into one ownership.

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

Darrin Gramling asked for public opposition, none.

Darrin Gramling asked the Board and Mr. Hallett for any further discussion - none.

The board reviewed the standards and voted as follows:

Standards Set Described in Article 100-21.5

1. Location, size and character as it relates to the development of the surrounding neighborhood and regulations of applicable zoning district.
VOTE: No
ROLL: Full Board Agreed
2. Impact on vehicular and pedestrian traffic.
VOTE: N/A
ROLL: Full Board Agreed
3. Any possible nuisance emanating from the proposed use.
VOTE: N/A
ROLL: Full Board 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.
VOTE: N/A
ROLL: Full Board Agreed
5. Whether the proposed use will be harmonious with the physical and economic aspects of the adjacent property.
VOTE: N/A
ROLL: Full Board Agreed
6. The necessity of the proposed use for public convenience at this location.
VOTE: N/A
ROLL: Full Board Agreed

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

VOTE: N/A

ROLL: Full Board 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.

VOTE: N/A

ROLL: Full Board Agreed

Darrin Gramling asked the Board and Mr. Hallett again for any further discussion - none.

Based on the above consideration, the Board finds as follows:

- Darrin Gramling motioned to approve the Variance as requested; a second was heard from Gregg Winseman.
 ~ **Roll Call:** Darrin Gramling - yes, Gregg Winseman - yes, David Smith - yes, Dennis Lazenby - yes, Steve Fuzinski- yes, Sue Whitaker - abstained.

Variance Request Permit Granted

Minutes approval meeting set for 3-28-13 at 6:30 p.m.

~Darrin Gramling motioned to adjourn the meeting, Gregg Winseman seconded the motion. So moved. Meeting adjourned at 7:20 p.m.

Darrin Gramling, Chairman

Gregg Winseman, Vice Chairman

David Smith, Board Member

Dennis Lazenby, Board Member

Steve Fuzinski, Board Member

Sue Whitaker, Alternate Board Member