

# SWANCREEK TOWNSHIP BOARD OF ZONING APPEALS

5-16-13

## Record of Proceedings - MINUTES

Meeting was called to order at 6:30 p.m. by Darrin Gramling, Chairman

Mr. Gramling led in the Pledge of Allegiance.

Roll Call was taken.

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

Elected Officials: None

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

Visitors: See Sign In Sheet

### **New Business:**

#### **Variance Request for Michael & Tracy Kennedy, 5571 Co. Rd. E, Delta, OH**

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

Walt Hallett reviewed his denial of permit application #17-13, which violates Zoning Articles: 100-5.1, 100-6.2 (1), 100-8.4, 100-18.1 and 100-23.

Mr. Kennedy constructed an 1800' addition to his dwelling. The structure's placement has a nonconforming front set back of six feet more into the front yard, increasing a pre-existing nonconformance. The addition extends farther towards Co. Rd. E, which constitutes an increase in nonconformity. All the other setbacks met compliance.

Mr. Kennedy has two lots of record, with unique characteristics, in the fact that it shares frontage on Co. Rd. 5-2 and Co. Rd. E. Both properties are nonconforming, individually. His home was constructed prior to the enactment of zoning in that area. Together the lots have the proper amount of right of way.

Walt Hallett explained the insufficient right-of-way and referred the Board to the Zoning Articles.

David Smith noted that the Zoning Permit Application was submitted at the same time as the Variance Request. Walt Hallett explained that a previous Zoning Permit Application was denied, however, that the previous issue was irrelevant to this case.

Steve Fuzinski asked for clarity, the front porch on the original structure was already nonconforming. He asked if the porch was the build line, would that have made it in compliance. Mr. Hallett stated, yes, however, that build line was nonconforming after zoning was put into place. Walt Hallett said the right-of-way is 78.69' from the center line of the street.

Darrin Gramling and Dennis Lazenby questioned Mr. Kennedy's mention in his Variance Request that he was "misinformed". Walt said he received a call from Mr. Kennedy with questions regarding his Zoning Permit Application. Walt Hallett stated that he gave him information about the setback requirements to the best of his ability, without having the application and then Mr. Kennedy spoke to separate entities, as well, and that he thought that was where the confusion came in play.

Darrin Gramling asked when the property became zoned. Mr. Hallett stated it was zoned in May of 2003.

**Mr. Michael Kennedy Sworn in to testify:**

Mr. Kennedy stated that Mr. Hallett was very helpful in his efforts to assist him. He said the misinformation started right when his area was being zoned, when his home was built and he had built a shed, he was told he was un-zoned. He called several entities he was told it was an un-zoned area.

Mr. Kennedy said that his family is growing. He tried to sell his home, however, was unsuccessful, so he decided to do an addition. He had material and parts he needed from a supplier business. He contacted an architect and had changed the prints, scaling back, three times. He did not place the addition in the rear of the property because there is a 60' maple tree, a high water table, and he has a need for a larger garage, due to large vehicles. He also stated that he received a good price from a friend for the block needed. The weather was good. He misunderstood the requirements, so he started the project.

Mr. Kennedy stated that he didn't have the means to measure from the center line back for the right-of-way set back. He went through the process of filing for a Zoning Permit Application, it was denied, he didn't get the Variance Request submitted in time, received a letter for the Fulton County Prosecutor that stated he needed to file for the Variance Request, so he paid all the fees and submitted the Variance Request. Mr. Kennedy apologized and reiterated that he misunderstood the requirements.

He stated there are adjacent homes that also pre-date zoning in that area that are similar. He referred to several homes.

Mr. Kennedy believes the addition to the front of his home increases the look.

Darrin Gramling voiced his concern that when Mr. Kennedy found out he was in violation, he continued building. Mr. Kennedy stated his decision to do so was money and weather driven and that he was hoping to be able to work with the Township and Mr. Hallett. Mr. Gramling asked about the first Zoning Permit Application that was denied. He said it was not in his hearing information packet. Chris Lauch stated it was not in the packets because it is irrelevant to this hearing.

Darrin Gramling said he realizes a change order would mean an extreme cost expense; however did Mr. Kennedy check into it? Mr. Kennedy stated, yes and that his vehicles are large and would not fit into the existing garage, he added basic needs like the larger garage a bedroom and a bathroom. His home is now four bedrooms and two bathrooms. Steve Fuzinski asked how much larger his garage is now? Mr. Kennedy said 13'.

Darrin Gramling asked for public support of this case.

**Mr. Mike Blohm, 5590 Co. Rd. E, Delta, Ohio was Sworn in to testify:**

Mr. Blohm stated he feels the addition looks great. He has known Mike for a very long time; he doesn't feel that he meant any ill-doing on purpose and that he was only looking to make his home bigger. Mr. Blohm has lived across the street since the home was built and he feels it looks really good.

Darrin Gramling asked for public opposition, none.

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

The Board discussed past cases when a resident does not get a Zoning Permit and asks for forgiveness later. The Board reiterated that it is irrelevant to each separate case.

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: Does Not**  
ROLL: Full Board Agreed
2. Impact on vehicular and pedestrian traffic.  
**VOTE: None**  
ROLL: Full Board Agreed
3. Any possible nuisance emanating from the proposed use.  
**VOTE: No**  
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: No**  
ROLL: Full Board Agreed
5. Whether the proposed use will be harmonious with the physical and economic aspects of the adjacent property.  
**VOTE: Harmonious with adjacent properties and structures in the area**  
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: Appreciate this dwelling and adjacent properties**  
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 Request as requested; a second was heard from Dennis Lazenby.  
~ **Roll Call:** Darrin Gramling - yes, Gregg Winseman - yes, David Smith - yes, Dennis Lazenby - yes, Steve Fuzinski - yes, Sue Whitaker - absent.

**Variance Request Permit Granted**

The Board discussed changing the meeting time to 6:00 p.m. The time will remain the same at 6:30 p.m.

Minutes approval meeting set for 5-30-13 at 6:30 p.m.

~Dennis Lazenby motioned to adjourn the meeting, So moved. Meeting adjourned at 7:12 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