

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A MEETING HELD
May 11, 2010

LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS
54111 BROUGHTON ROAD, MACOMB, MI 48042

PRESENT: CHAIRMAN, DINO BUCCI
MEMBERS: EDWARD GALLAGHER
CLIFFORD FREITAS
TERRY CAMPION
DAWN SLOSSON

ABSENT: ALL PRESENT

ALSO PRESENT: JEROME R. SCHMEISER, PLANNING CONSULTANT
LARRY DLOSKI, TOWNSHIP ATTORNEY
(Additional attendance record on file with Clerk)

Call Meeting to Order.

Chairman BUCCI called the meeting to order at 7:00 P.M.

1. Roll Call.

Secretary SLOSSON called the Roll Call. All members where present.

2. PLEDGE OF ALLEGIANCE.

3. Approval of Agenda Items. *(with any corrections)*

Note: All fees have been received and all property owners were notified by mail.

MOTION by CAMPION seconded by SLOSSON to approve the agenda as presented.

MOTION carried.

4. Approval of the previous meeting minutes.

No minutes provided.

PURPOSE OF HEARING:

To consider the requests for variance(s) of Zoning Ordinance No. 10 for the following:

Agenda Number/Petitioner/ Permanent Parcel No. Zoning Ordinance Section

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No.

- (5) Frank Cusamano – 46870 Farmall Trail –Lot 46 10.0704(D)(3)
Permanent Parcel No. 08-05-129-002

5. VARIANCE REQUEST FROM ZONING ORDINANCE

Section 10.0704 (D)(3) – Request To reduce the rear yard from 35 feet to 31.5 feet .

Located at 46870 Farmall Trail, Lot # 46 of the Beaufait Farms Subdivision; Located on the east side of Farmall Trail, 100 feet south of Massey Lane. (300 feet south of 21 Mile Road and east of Card Road) Section 35; Rudolph F. Cusmano, Petitioner; Permanent Parcel No. 08-05-129-002.

Jerome R. Schmeiser, Planning Consultant, presented the findings and recommendations of May 5, 2010. They are as follows:

The Petitioner is requesting a permission to retain a sunroom patio on the above describe property. The proposed patio projects approximately 3.56' into the rear yard.

The Assessing Office notified the Building Department regarding the construction of the sunroom patio.

The Building Department has no record of any permits or inspections for a sunroom patio for the above described property. It is further noted that the original plot plan approved for building permits did not indicate the addition as subsequently built.

RECOMMENDATIONS

It is recommended that the variance request be denied for the following reasons:

1. Compliance with the strict letter of the rear yard setback requirement would not unreasonably prevent the ownership from using the property as zoned. Other residential structures planned in Macomb Township will be required to comply with the same rear yard setback requirement which is evidence that the proper setbacks would not be unnecessarily burdensome.
2. The granting of a variance as requested would give to the applicant an advantage or benefit not received by any other property owners in residential developments in Macomb Township. The other owners are or will be required to comply with the rear yard setback requirement. As a result the other

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property owners do not have the opportunity to make use of 50% of their rear yard for structural purposes.

There is nothing unusual about the parcel in question that sets it apart from other parcels in area or in Macomb Township. There is nothing to prevent any part of the rear yard setback from being met. For example, there are no significant grade differences or natural feature such as a stream or wetland to prevent full use of the parcel according to the ordinance as written.

Public Portion:

Mr. Cusmano stated that his son was a masonry contractor, and as a surprise for him, his son poured a patio at his home. Then his son decided to construct a sunroom over the patio. In compliance there were no permits pulled for this sunroom. Furthermore, he knew the sunroom was built to code. However he didn't know what the penalty was for constructing it without permits.

Chairman Bucci stated if Mr. Cusmano's son was a licensed contractor, he would be familiar with pulling permits to do any type of construction.

Mr. Cusmano stated the sunroom was completed within a month.

Chairman Bucci stated the problem is as Mr. Schmeiser indicated there were no permits pulled, no inspections, and we don't know if the foundation is safe. This is an unsafe condition for you, and for everybody else surrounding you. This is a concern.

Mr. Cusmano stated it's a financial burden at this time. He also stated he is ready to walk from his home.

Chairman Bucci state the last thing he wanted to do was to cause Mr. Cusmano anymore financial harm.

Mr. Cusmano stated that's where he's at right now; it's a real financial hardship.

Chairman Bucci stated the concerns he had in regards to the addition, was that it could be a safety issue. Therefore it could cause you a lot more of a financial burden. Chairman Bucci stated that he may want to legally challenge the Board's decision.

Mr. Cusmano stated he cannot afford to challenge the decision.

Chairman Bucci asked whether a Building Inspector could come and inspect the existing structure. Mr. Cusmano stated they have been out three times! Chairman Bucci stated he did not know if it was possible for the Inspectors from the Township to

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go to Mr. Cusmano's home and examine the additional room that was built, and then give the Board a positive feedback to say that it's safe.

Chairman Bucci stated if Mr. Cusmano was asking the Board to give a decision tonight, it would not be a favorable one. They have to follow the recommendation of the Planning Consultant, which states that no permits have been pulled. Therefore it is an unsafe dwelling. Further more in his opinion the Board can't allow this to happen.

Chairman Bucci suggested that Mr. Cusmano may want to table this variance and go another avenue with the Building Department to see if something could be worked out.

Chairman Bucci suggested Mr. Cusmano consider a consent judgment, furthermore, you have a house that is non conforming.

Mr. Cusmano stated he was willing to tear off the paneling on the wall to show you the beams that were put up and how it was tied in. There are only 4 electrical plugs; there is no heat or air conditioning.

Chairman Bucci again stated to Mr. Cusmano that he may want to table this and consider this with the Building Department before the board renders a decision. Mr. Cusmano stated alright, and that he will go back and talk to the Building Department.

Chairman Bucci asked Mr. Cusmano if he was requesting to table his variance.

Mr. Cusmano asked what was meant by tabling his variance request.

Chairman Bucci stated it was postponing the decision and that he could go back to the Building Department and speak with Dan Fairless.

Chairman Bucci asked Mr. Cusmano if his request to the Board was to table indefinitely. Mr. Cusmano replied that he would talk to the Building Department the following day.

Chairman Bucci stated the applicant has made a request to table his variance request till the next Zoning Board of Appeals meeting of July 13, 2010.

Mr. Cusmano asked the Board what the outcome would be if everything went wrong.

Chairman Bucci stated if he had the time to talk to the Building Department and resolve the issues, that would be great, if you don't, you will have the time to seek an attorney and try to get a consent judgment.

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Mr. Cusmano asked what would be the penalty if everything went bad!

Chairman Bucci stated the addition will have to be torn down.

Mr. Cusmano stated when it's torn down there will be debris lying around, and I'll walk away from this house. And that's what's going to happen.

Chairman Bucci stated that is not what they want to happen.

Member Gallagher stated if the addition was 12 feet wide, and it was put in the long way to the house there would not have been a problem with needing variance, only with needing permits.

Mr. Cusmano stated the patio is 25 feet, and it was already constructed. We just took 12 feet of it and made it a sunroom.

Member Gallagher stated if a permit would have been obtained, it would have been discussed and the problem would have been caught.

Member Campion questioned if there was a permit pulled for the patio.

Mr. Cusmano stated there were no permits pulled.

Chairman Bucci asked Mr. Cusmano if he understood and that he agreed with the tabling of his request to the Zoning Board of Appeals meeting of July 13, 2010.

Mr. Cusmano stated to table the variance, and that he would go to the Building Department the following day.

MOTION by FREITAS seconded by SLOSSON to close the public portion of the meeting.

MOTION carried.

MOTION by GALLAGHER seconded by CAMPION to table this request to the next regular scheduled meeting of July 13, 2010.

MOTION carried.

6. Old Business.

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None

7. New Business.

None

8. Planning Consultants Comments.

None

ADJOURNMENT

Motion by CAMPION seconded by SLOSSON to adjourn the meeting at 7:15 p.m.

Motion carried

Dino F. Bucci Jr., Chairman

Dawn Slosson, Secretary

Cynthia J. Berlin, Recording Secretary

CJB