

SAUGATUCK TOWNSHIP BOARD OF APPEALS

January 4, 2007

The Saugatuck Township Zoning Board of Appeals met on January 4, 2007, at the township hall on Blue Star Highway, Saugatuck, Michigan 49453.

Present: Marczuk, Oyler and VanOss

Absent: None

Z.A. Ellingsen, Charley Palm, Paul Zehner, Randall Schipper, several members of the general public.

Chairman Oyler called the meeting to order at 4:00 P.M.

Two items were scheduled: A request from Charley Palm, 6359 Silver Lake Dr. Saugatuck, MI 49453 for a variance from Section 40-1012 which does not allow the expansion of a non-conforming building unless the expansion is compliant with all current setbacks. The applicant wishes to erect 3 additions to a single family residence located on the above parcel (Parcel #0320-260-045-00) in the R-2 Zone. The applicant wishes to place one addition approximately 2 feet from the side lot line contrary to the provisions of Section 40-277(3)b of the Zoning Ordinance which requires a 10 foot setback and two additions approximately 42 feet from the River's Edge contrary to the provisions of Section 40-277(1) which requires a 75 foot setback. Note that the elevated deck of the existing dwelling is already located approximately 42 feet from the River's Edge.

Also a request from the Z. A. to review and clarify the conditions placed on a decision that allowed the expansion of a non-conforming building owned by Paul Zehner.

Approval of November 9, 2006 ZBA minutes, motioned by Marczuk, VanOss seconded. Unanimously approved.

Z. A. Ellingsen stated that this is a non-conforming building and probably was built before the zoning ordinance went into effect. Setbacks now are 75 feet from the waters edge. It's a long narrow lot and at least 100 feet wide. He wants to expand it but cannot expand it to the west side and would need a variance if he wants to bump out on the east and on the other side is already 42 feet which should be 75 feet from the high water edge. Part of the problem is that it's a hill lot and the house sets down in the valley to the bluff line and than goes upward.

Charley Palm and wife Jackie Ziehm has owned the home since 1989 and would like to make it their full time resident. Currently the home is a bedroom and half and two baths and wants to expand to three bedrooms and two-bath home. Mr. Palm questioned Z.A. Ellingsen if the side yard setbacks were 10 or 15 feet? Figuring it out it was over an acre so the side yard setbacks would be 15 feet. Mr. Palm explained he wanted to add a closet/home office on the east side. Also on the other side of the home on the west side adding a bedroom, bathroom and closet. Screen in half of the existing deck to make a

screen-in porch, facing the water. Making sure to stay within the existing neighbors and not get any closer to the water.

Marczuk asked Mr. Palm if he would be cutting into the hill and yes he would a little bit. Mr. Palm stated if they were denied of the request it would cause them to clear cut into the hill in building a new home, they would level this home and build a brand new one.

Letters of support were received from the adjacent neighbors on the east and west side.

Jeff and Cindy Tolbert, 6367 Silver Lake Road was in full support of the proposed construction.

Tammy Kerr, 6363 Silver Lake Road was in full support also.

A phone call was made to Chairman, Tedd Oyler from Al Malkowski, 6365 Old Allegan Road to voice his objection on the request from Charley Palm. He lives west of Tammy Kerr's house, which would be west from Palm's.

Public comments:

Gerrit Sturuss, 6377 Old Allegan Road, concerned about the encroachment to Silver Lake. Chairman Oyler said they would not be any closer to the water than they are now.

Brent Johnson, 6351 Old Allegan Road, concerned about fire accessibility, houses being too close.

Marczuk asked Mr. Palm if had ever been to the ZBA for this property and in 1985 they were at the ZBA and had asked for a larger home and also a walkout and were approved but never went through with the construction.

Chairman Oyler read through the questions on finding the facts for approval or denial of variance request:

- 1) No
- 2) No
- 3) Yes
- 4) No
- 5) Yes

Motion to approve the variance requested. Marczuk motion to approve the variance, VanOss seconded. Unanimously approved.

Second hearing: A request from the Zoning Administrator for a clarification conditions placed on a decision on July 28, 2005.

Z. A. Ellingsen stated that Mr. & Mrs. Mahoney addressed a letter to the ZBA & Township Board about failure to enforce the conditions the ZBA approved. Z.A. Ellingsen concern is the number of trailers and type of trailers, storage trailer and what storage trailers constitutes. Z. A. Ellingsen wants clarified, the storage trailer issue and

whether or not the 6th trailer is a storage trailer or an over the road trailer for use of transfer goods from one place to another.

Chairman Oyler stated the conditions the ZBA placed on Zehners property located on 6461 124th Ave., on July 2005 that any storage trailers left on the property has to be placed as far away from M-89. No more than 5 storage trailers on site at any one time.

Z.A. Ellingsen stated that there is no definition of storage trailers in the ordinance because it's a condition and not an ordinance.

Mr. Mahoney concerns are not only the number of storage trailers on the property but also the proposed use of the building. Chair Oyler mentioned this was an enforcement issue and that Z.A. Ellingsen has been investigating that. Z.A. Ellingsen mentioned that Mr. Wooten is working out of that building. As long as it's for storage and not for doing business in there it's no issue.

Randall Schipper, Attorney representing Paul Zehner, stated that the key issue is what is a storage trailer? The reason for the addition was to take inventory out of those trailers. The definition for storage trailers in trucking term is not suitable to go over the road verses over the road trailers.

Chairman Oyler mentioned that there are trailers in transit (over the road trailer) in the front of the building at the loading dock, being unloaded or loaded for Mr. Zehner or Mr. Wooten, besides the 5 storage trailers. Mr. Zehner stated that those trailers could be there for more than 1 night, but it's always been that way. Mr. Zehner stated that the over the road trailers are rotated every 4 to 5 days. Oyler asked how long does it take to unload a trailer? Zehner stated that it varies.

Mr. Mahoney mentioned that the trailer that is at the loading dock has been there for 2 months, the one before that was 6 months. Mahoney states if it doesn't move for more than 3 days it's considered a storage trailer.

Chairman Oyler definition of a storage trailer. If its license its over the road and if not license its considered storage. If it is parked there for sometime that essential the lack of use it is a storage trailer. The lack of movement could be also being a storage trailer.

Mr. Schipper, Attorney representing Zehner mentioned that the issue at the 05' meeting was all the trailers being parked in the front. Its only one trailer at the dock compared to 13 trailers.

Chairman Oyler replied that the ZBA will have a written decision within a week. Letters will be sent to Mr. Zehner, Mr. & Mrs. Mahoney and Mr. Schipper.

Marczuk motion to adjourn at 5:00 p.m., Vanoss seconded.

**SAUGATUCK TOWNSHIP
ZONING BOARD OF APPEALS**

RE: Zoning Administrator's written request for interpretation or clarification of the decision dated July 28, 2005, regarding variance request for parcel # 0320-035-028-00.

The specific request concerns the ZBA's conditions it set in granting the variance request in 2005 that the property owner maintain "no more than 5 storage trailers on site at any one time".

On January 4, 2007, the ZBA heard testimony from the owner, the owner's counsel and the neighbor (Mr. Mahoney) regarding the course of events since the time of the earlier decision. The ZBA also took comments from the Zoning Administrator concerning the enforcement issues created by the ZBA's earlier decision.

Based upon the Board's review of the earlier decision and consideration of testimony taken on January 4, 2007, and deliberations, we find as follows:

- 1. That the term "storage trailer" requires clarification.**
- 2. That we should provide the Zoning Administrator with better enforcement guidelines.**

We therefore enter the following as our decision:

- 1. The term "storage trailer", as we used it in the decision of July 28, 2005, is hereby interpreted as referring to trailers remaining on the subject property for a period of 28 consecutive days, regardless of contents or lack thereof and regardless of licensing (DOT or otherwise).**
- 2. The Zoning Administrator need not determine whether the trailers located on the property are empty or loaded, how the trailers located on the subject property are used, whether the trailers located on the property are licensed, nor need the Zoning Administrator determine the dimensions of the trailers in order to consider them as "storage trailers".**

This decision is entered on January 6, 2007.