

**Cannon Township Zoning Board of Appeals
Regular Meeting Held Tuesday, September 17, 2013 at 6:00 PM**

Business Agenda Items: ZBA 13-5 Jeff Tittle
6967 Goldenrod

Members Present: Warmbier, Van Keulen, Eslinger, and Levan

Members Absent: McBrien

Staff Present: Zoning Administrator Lovelace

The invocation was offered by Commissioner Van Keulen

Move to approve meeting minutes from May 21, 2013 as written. Motion: Warmbier. Support: Levan. Voice vote: Yes – 4, No – 0. Motion carried.

Public Hearing open 6:05 p.m.

Public Comments: Chris Gillespie, builder - The goal was to do an addition, not a tear down. The chimney fell over when the floor was leveled. They continued to have to tear the house down as they encountered portions of the house that were not up to code. Randy Haverkamp (6973 Goldenrod) lives to the north side of this house. He stated this house was built in 1926 and has had numerous additions. He feels this is an exceptional circumstance because the house was in such poor condition. He feels it is a unique situation because the site is on a hill. The grades are difficult and costly to deal with at this site. He feels it was not self created because it was not the contractor's intention to tear down the house completely. One wall fell and they continued to find problems after that. As for substantial justice, Mr. Haverkamp estimates 50% of the homes also are nonconforming. Jennifer Haverkamp (6973 Goldenrod) described the time and effort taken to spare the house before it was torn down. Resident Michael Zevalkink (7210 Eldred) sent in a letter against rebuilding the structure in the nonconforming footprint. Henry Betten (6986 Kitson) stated that his house is crooked on his lot. In some circumstances the Twp will allow a variance to continue a nonconforming structure along the lot line, but not extending any further into the setback. Lovelace did confirm that she spoke with the neighbor to the South, Keary Sawyer (6961 Goldenrod), and Mr. Sawyer is in favor of Mr. Tittle being allowed to build in the same footprint. Mr. Tittle stated that building the house in the same spot is uncontested by his neighbors.

Public Hearing closed 6:51 p.m.

Pending Business: None

New Business: ZBA 13-5 Jeff Tittle
6967 Goldenrod

1. On May 9, 2013 Builder Chris Gillespie was granted zoning and building permits for repair of a frost wall and a second story addition at 6967 Goldenrod.
2. Also on May 9, 2013 Zoning Administrator contacted Engineer Prein & Newhof as to whether or not a storm water permit was necessary. It was agreed that there would be a minimal earth move and, therefore, a permit would not be necessary. Zoning Administrator did, however, require a silt fence around the frost wall area to be repaired.

3. On July 15, 2013 Building Inspector Doug Hopkins went to the site to inspect the addition and found that the whole house had been torn down and a new foundation had been poured (except for a small section on the road side). The nonconforming garage was left standing. At the point when the builder decided to tear the house down, had he come to the Township first, he would have been required to pull a Demolition Permit, cap the sewer, pull a soil erosion permit from the County, pull a Storm Water Permit, pull New Residential Construction Zoning and Building Permits, and reconnect to the sewer. We would have required that he tear down the garage as well, which would have required a separate demolition permit. His actions are a violation of the Township General Ordinance (2001-9 Storm Water Ordinance) as well as the Building Code rules and regulations R106.4 Amended Construction Documents (Change from Addition to Demolition) and R113.1 Unlawful Acts (Work Without Permit). Both are a violation of the 2009 Michigan Residential Code. The newly-poured foundation also violates the current setback requirements for Lakes Residential zoning (Zoning Ordinance 10.04E1-2).
4. The owner is now requesting a variance from current LR setback requirements to keep the new foundation that was poured in violation of the above ordinances and codes & regulations.
5. The current setback requirements for Lakes Residential (Existing Lots) are:
 - Front yard (lake side) – 35’ from the ordinary high water mark
 - Side yards – 8’
 - Rear yard (street side) – 20’
6. Based on the survey for 6967 Goldenrod (attached):

The current south wall of the foundation sits at an angle 5’ and 6.6’ from the south (side) lot line and the garage sits past the front lot line into the road right-of-way.
7. Based on the survey, the lot measurements are:
 - Front – 45’
 - Sides – 135.8’ (N) and 126’ (S)
 - Rear – 46.1’
8. On July 18, 2013 Township Attorney Doug Van Essen sent a letter to the owner explaining the above violations. While the Township could require the garage be torn down, the Township has agreed to allow the garage to remain if Mr. Tittle brings the home foundation into conformity with current setback requirements.
9. Prein & Newhof visited the site after the fact twice and gave the builder a list of requirements to stabilize the soil as much as possible. Builder Gillespie applied for an after-the-fact storm water permit; however, our standard fee may not cover the entire cost of additional visits that will be necessary to monitor the site. It is the Township’s desire to stabilize this soil as soon as possible.
10. Fines and penalties for the above violations may be forthcoming, but have not yet been applied (see section 25.08 *Violations and Penalties*)

Board Comments: Warmbier stated that his biggest struggle was that the structure was nonconforming. The parcel has only been owned for approximately one year and it became nonconforming in 1996 with the new setback requirements. He stressed that they could not consider the cost. Levan found that this is a unique situation because they did not know what they were getting into. Warmbier stated that all five criteria must be met for relief of the ordinance. He feels the applicant does not meet these criteria.

Move to grant the variance for the south side of the property for relief of 3' and leave everything else as is because

- 1. Exceptional/extraordinary circumstance of the house being on a hill.**
- 2. Unique situation – this was not intended to be a demolition**
- 3. It was not self created.**
- 4. Substantial justice – others have been granted variances since 1996.**
- 5. Minimum variance necessary - They are asking to use the existing footprint.**

MOTION: Levan. SUPPORT: Eslinger. Roll call: Eslinger – Yes, Levan – Yes, Van Keulen – Yes, Warmbier – No. Motion carried 3-1.

Adjournment: 7:12 p.m.

Next Meeting: October 15, 2013

Julie Lovelace
Zoning Administrator

Wade Van Keulen
Chair, Zoning Board of Appeals