

CLINTON TOWNSHIP BOARD OF APPEALS

REPORT OF MEETING

WEDNESDAY, SEPTEMBER 18, 2019

PRESENT: Michael Deyak, Vice-Chairperson
Robert M. Campbell, Secretary
James D'Angelo
Ronald DiBartolomeo
Thomas Mill
Kenneth Pearl

ABSENT: Francis Marella, Chairperson (Excused)

STAFF: Bruce Thompson, AICP, Director
DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

The meeting was called to order at 6:30 p.m. and the Pledge of Allegiance was recited.

APPROVAL OF AGENDA

Motion by Mr. Pearl, seconded by Mr. Campbell, to approve the agenda as presented.
Motion carried.

Mr. Deyak explained the parameters under which this Board can act and how the public hearing will be conducted. He further explained that, as stipulated in the Township Ordinances, all variances granted by the Board of Appeals are subject to several standard conditions as follows: 1) The petitioner must comply with all applicable requirements of Township ordinances; 2) The project work requiring the variance must be completed within two years of the date that the variance was granted; 3) The project work must be completed substantially in accordance with the plans submitted to the Board of Appeals; and 4) The variance is valid only for the useful life of any structure(s) on the property for which variance is granted.

LOT 170, THORNTON SUBDIVISION, LOCATED WEST OF SCHROEDER, NORTH OF 17 MILE ROAD, ADDRESSED AS 39067 SCHROEDER (PARCEL #16-11-17-381-009)

**- APPEAL: SFR – SCHROEDER, 39067
FILE #19-6899: PETITIONED BY MR. MICHAEL A. SARDELLI,
SARDELLI POOLS, INC.**

Mr. Campbell summarized the variance being requested and read the Planner Review letter dated August 26, 2019 into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 253 owners and/or occupants of property located within 300 feet of the land in question, with 12 of those returned as undeliverable. There were no written replies received in response to the mailing.

Mr. Michael A. Sardelli, of Sardelli Pools, Inc., 31250 Van Dyke, Warren, Michigan 48093, explained they had plans to build the pool correctly, and he does not know if the digger or the homeowner did something after the fact, but they are seeking a variance to straighten out the problem of the pool being 0.61 foot closer to the lot line than permitted.

Mr. Deyak opened the floor for comments from the audience, but there were none.

Mr. DiBartolomeo questioned when the project was started.

Mr. Sardelli recalled it was in 2018, and he replied to further inquiry that it was completed, adding that the homeowners are using the pool and paid his company for the work. He noted that the homeowners received a violation at some point after the final inspection. He claimed he just found out about the violation.

Mr. DiBartolomeo noted that, according to the records, the violation was issued on July 3, 2018. Another violation was issued on June 20 of this year. He questioned what Mr. Sardelli's remedy will be, adding that this comes back to him as the contractor.

Mr. Sardelli reiterated he did not know about the first violation until recently. He replied to inquiry his remedy is to seek a variance; however, he stated he will do whatever this Board determines is necessary.

Mr. DiBartolomeo questioned whether the measurements were taken in an inappropriate way, or whether he was aware that they would need a variance.

Mr. Sardelli confirmed that measurements were taken, but he surmised that someone made a mistake.

Mr. DiBartolomeo reminded Mr. Sardelli that his company is the contractor, and he questioned him once again as to his proposed remedy besides this Board "just granting a variance".

Mr. Sardelli stated the neighbors are present to offer their support. He replied that they will do whatever the Board requires of them to solve this problem.

Mr. Campbell stated the 0.61 foot-variance is the least of his concerns, and he has no problem granting a variance of that size. He pointed out that the violation issued this year on June 20, 2019, with a second violation issued on July 8, 2019, cited the swimming pool is not properly enclosed and the required fence was not installed around the pool. He stressed this is a life-safety issue, which is of a much bigger concern to him.

Mr. Sardelli agreed and assured that they install a temporary fence around each of their pools. He explained that if the homeowner takes that fence down after the pool is complete, he is not aware of that nor can he be held responsible.

Mr. Campbell stated as of Monday morning or early afternoon this week, there was no fence in place around the pool.

Mr. Sardelli assured he can have a fence up around the pool tomorrow. He stated they have temporary fences and put them around pools every day. He stressed he firmly believes in the ordinance that a pool must have a fence around it at all times. He assumed the homeowner had taken down the temporary fence, and he assured he did not remove it. He explained he does not remove the temporary fence until a permanent fence has been installed.

Mr. Campbell noted that the pool was installed in 2018, and he questioned whether the pool has been without a fence since that time.

Mr. Sardelli replied he does not know that, and if the fence has not been there all this time, that is news to him.

Mr. Campbell stated he is not inclined to grant a variance where people are not in compliance with other regulations of the Township ordinance requirements. He pointed out one of the conditions under which a variance can be granted is the requirement that all other Township ordinances are met.

Mr. Sardelli once again assured he will have a fence up around the pool tomorrow morning.

Mr. D'Angelo stated he spoke with the homeowner's wife this afternoon and requested the homeowner be present this evening. He complained that when he walked into the backyard, he could walk right into the pool.

Mr. Sardelli assured that is also a concern to him.

Mr. D'Angelo stated he cannot support the variance at this time because he does not know the pool's location. He felt it appears to be closer than five feet to the lot line.

Mr. Sardelli estimated it should have been about six feet from the lot line.

Mr. D'Angelo stated he did not take measurements because he did not want to go beyond the fence line, but from the edge of the pool to the white solid fence seemed less than six feet. He requested to know the exact location of the pool, and he would like to see the homeowner cited for not having a fence.

Mr. Pearl stated he would like to postpone this pending a permanent fence being installed. He could see no reason to give a variance on a temporary fence that can be taken down. They should also submit an as-built drawing showing the location, either surveyed or measured.

Mr. Sardelli assured that he will put up a temporary fence tomorrow morning, and the homeowner can make arrangements to install a permanent fence.

Mr. Pearl agreed that a temporary fence should be put up to protect children in the area. He did not feel this should come before the Board of Appeals again until a permanent fence is installed.

Motion by Mr. Pearl, seconded by Mr. D'Angelo, with reference to File #19-6899 and application from Mr. Michael A. Sardelli, of Sardelli Pools, Inc., 31250 Van Dyke, Warren, Michigan 48093, for variance to Clinton Township Planning and Zoning Code, Chapter 1258.02-(r)-(5), R-0 through R-5 One-Family Residential Districts, Principal Uses Permitted, Swimming Pools, concerning Lot 170, Thornton Subdivision (Section 17), generally located fronting the west line of Schroeder, north of 17 Mile Road, addressed as 39067 Schroeder, that further consideration of request for variance to permit the continued existence of a swimming pool in the R-5 One-Family Residential District, located 5.39 feet from the side lot line, which is 0.61 foot less than the minimum required 6-foot side yard setback, be postponed until the required permanent fence is installed around the pool, and the exact measurements of the distance from the pool to the lot line are submitted and confirmed by the Building Department. Discussion ensued.

Mr. DiBartolomeo inquired as to whether there is an ordinance that specifies the length of time the permanent fence is required to be installed.

Mr. Deyak replied that it is quick, although he noted there is a shortage of aluminum.

Mr. Pearl pointed out they are currently in violation of the ordinance.

Mr. Sardelli stated he knows people in the fence business and they could get it right away. He again assured he will have the temporary fence up immediately. He stated when he sells electric covers, some cities will allow installation of the electric covers

with no fence, but he does not go along with that, pointing out if they forget to close the cover, a child can walk into the yard and drown. He stressed he puts fences around every single job he does.

Mr. D'Angelo confirmed that he observed a temporary fence, similar to a snow fence, but it can be walked over to access the pool.

Mr. Campbell stated as of Monday afternoon, there was not any type of fence there.

Mr. Hajgato, 39067 Schroeder, Clinton Township, Michigan 48038, owner of the subject property, stated there is a temporary fence around the perimeter.

Mr. Campbell reiterated there was no sign of any fence on Monday when he visited the site.

Mr. Hajgato claimed it was taken down because his wife was trying to "look after the pool". He assured they have to take care of the pool or "it's going to get bad".

Mr. Campbell claimed that on Monday afternoon, there was no sign of anyone doing any work or any cleaning of the pool, but there was total unrestricted access to walk in off the street to the pool.

Mr. Hajgato claimed that his wife possibly went at that time to get chemicals and stepped away from the house.

Mr. Campbell emphasized that is not a way to leave a pool.

Mr. Hajgato explained there is an issue that needs to be resolved with regard to drainage, and he needs to be able to get a machine in the back. He talked with the Building Inspector and indicated that before he puts up the permanent fence, he needs to know what is going on. If something needs to be torn out, he cannot have the fence in the way.

Mr. Pearl did not anticipate that there will be a problem with the variance as requested, but he did feel they have a problem with the fact that there is no permanent fence. He indicated this Board cannot issue a variance until there is a permanent fence. He did not anticipate that this Board will make him rip out the pool.

Mr. Hajgato explained there were other issues that the Water Department has indicated, noting he will have to install some type of drain. He tried to resolve it by putting in a drain between the two lots, but he claimed the Water Department did not agree to that, so he claimed there is supposed to be a swale going toward the back drain on the lot. There are two drains in each corner of the lot.

Mr. Pearl suggested since it is the end of the season, the homeowners can put whatever chemicals they need to in the pool, drain it, put a temporary fence around it,

fix the other problems and come back before this Board in the spring when they can put in a permanent fence and request the variance.

Mr. Hajgato did not feel that will be a solution because he may need to access the pool with some type of machinery.

Mr. Pearl stated they can cover the pool and put a temporary fence around it so that it is safe.

Mr. Deyak advised that the drainage issues need to be resolved and a permanent fence needs to be put around the pool. He indicated they cannot vote on the variance this evening because the owner is not in compliance with all other ordinance requirements. He anticipated that, based on the feelings expressed by some members of the Board, they would probably be inclined to grant the variance as requested, although he added they cannot guarantee anything, but he reiterated that they are not in compliance with Township ordinances so they need to close the pool, put up a temporary fence, fix the drainage issue to satisfy the requirements of the Water Department, put a permanent fence up and then come back.

Mr. Sardelli noted that they can put up a permanent fence with a double gate so they still provide access to get machinery in the back yard.

Mr. Deyak stated the motion is to postpone this request for variance, and the petitioner can come back once these items are completed and inspected by the Township.

Mr. Hajgato stated he will put up the permanent fence.

Mr. Deyak stressed the temporary fence needs to be put up immediately until he can have the permanent fence installed.

Mr. D'Angelo stated he would like to know the location of the swimming pool in relation to the property line. He also felt the temporary fence should not be something that can be pushed over in such a way that someone can walk into the pool. He claimed it was laying down the day he visited the site. He stressed that is a safety issue.

Mr. Campbell commented that a motion to postpone generally includes a time frame in which the matter is to come back to this Board. He did not feel a permanent fence will be installed by next month or even the month after that.

Mr. Sardelli stated when Mr. Hajgato is ready to “push the button”, he can make a phone call and it can be done quickly.

Mr. Hajgato assured he is ready to “push the button” but did not know what had to be done.

Mr. Campbell felt it is better for the petitioner and the neighbors if they specify tonight when this is going to come back to this Board. He questioned whether one month will be sufficient.

Mr. Hajgato and Mr. Sardelli indicated that a month is sufficient time.

Mr. Pearl **amended his motion**, and Mr. D'Angelo **amended his support**, to include in the motion that this item is postponed until the October 16, 2019 Board of Appeals meeting. Discussion ensued.

Mr. Deyak inquired as to whether Mr. D'Angelo's request to have the measurements submitted was part of the motion.

Mr. Pearl replied that was part of the original motion.

Roll Call Vote: Ayes – Pearl, D'Angelo, Deyak, DiBartolomeo, Mill, Campbell. Nays – None. Absent – Marella. Motion carried.

**LOT 57, COULON FARMS SUBDIVISION, LOCATED NORTH OF WHITE OAKS,
WEST OF MORAVIAN, ADDRESSED AS 20275 WHITE OAKS (PARCEL #16-11-16-
452-026)**

**- APPEAL: SFR – WHITE OAKS, 20275
FILE #19-6900: PETITIONED BY MR. MATTHEW DiMAGGIO**

Mr. Campbell summarized the variance being requested and read the Planner Review letter dated August 26, 2019 into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 34 owners and/or occupants of property located within 300 feet of the land in question, with none of those returned as undeliverable. There were no written replies received in response to the mailing.

Mr. Matt DiMaggio, 20275 White Oaks, Clinton Township, Michigan 48036, stated he would like to construct a covered patio in his rear yard; however, he is running into setback issues due to the fact that his property line runs at a diagonal. He explained there was a Florida room located in the exact spot where they are proposing to put in the patio. The Florida room has been there since 1977, a date that was confirmed by his neighbors who recalled it being there when they moved in. He informed that all three neighbors surrounding his property wrote letters of support for the requested variance, and he understood those letters were part of the agenda packages that were sent to the Board of Appeals members.

Mr. Campbell questioned why they are getting rid of the existing sunroom.

Mr. DiMaggio replied it does not fit with the house, and they do not like it. He complained that it leaks and has lasted a long time. They want to freshen up the home

and put some money into their home and the neighborhood. They would like to tie in the roof of the proposed covered patio with the existing roof.

Mr. Campbell stated he asked the question about the sunroom because he has a sunroom, constructed in 1984, that leaks.

Mr. Pearl drove by the site today, and he agreed there is practical difficulty with the fact that the property line runs at a diagonal. He added if the property line was straight, the petitioner would have had sufficient room to construct the covered patio without a variance.

Motion by Mr. Pearl, supported by Mr. D'Angelo, with reference to File #19-6900 and application from Mr. Matthew DiMaggio, 20275 White Oaks, Clinton Township, Michigan 48036, for variance to Clinton Township Planning and Zoning Code, Chapter 1292.01, Land Use Regulations, Schedule of Regulations Limiting Height, Bulk, Density and Area, concerning Lot 57, Coulon Farms Subdivision, generally located fronting the north line of White Oaks, west of Moravian, addressed as 20275 White Oaks (Parcel #16-11-16-452-026), that variance be granted to permit construction of an 18-foot by 22-foot 7-inch covered patio in the rear yard of a single-family home in the R-2 One-Family Residential District, located 25 feet from the rear lot line, which is 15 feet less than the minimum required 40-foot rear yard setback; further, this grant of variance is based on claimed practical difficulty being the diagonal angle of the rear property line; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call: Ayes – Pearl, D'Angelo, Campbell, Deyak, DiBartolomeo, Mill. Nays – None. Absent – Marella. Motion carried.

**3.551 ACRES OF LAND AT THE SOUTHEAST CORNER OF GARFIELD AND DOVE,
ADDRESSED AS 44250 GARFIELD ROAD (PARCEL #16-11-05-100-022)
- APPEAL: REAL ESTATE ONE @ NORTH GROVE OFFICE BUILDING II
FILE #19-6901: PETITIONED BY MS. TRICIA BIZER, REAL ESTATE ONE
& CAPITAL TITLE
REPRESENTED BY MESSRS ANDREW KOHLMANN & JOHN NAGEL,
IMAGE 360**

Mr. Campbell summarized the variance being requested and read the Planner Review letter dated August 26, 2019 into the record. Mr. Campbell advised that notice of this public hearing was issued by regular mail to 37 owners and/or occupants of property located within 300 feet of the land in question, with 3 of those returned as undeliverable. There were no written replies received in response to the mailing.

Mr. John Nagel, of Image 360, 2150 Pless Drive, Brighton, Michigan, representing Real Estate One, explained that Real Estate One is looking for a directional sign to direct people into their main entrance. They have a channel-letter sign on Dove Street, which is more of a marketing-type sign and meets the square footage requirements of the Ordinance. He claimed the hardship for needing a sign on Garfield is that the Garfield

entrance does not provide them much visibility. They would like to put a circle logo above their main entrance to their building to identify the location of their entrance. Motorists on Garfield would then be able to identify their location. He informed that Real Estate One has about ninety employees, along with a title company and all of their agents. They hope to obtain approval for a lighted sign at that location because they have a lot of evening hours with meetings. They are seeking a variance for about 10 square feet of signage, as well as a second sign that would identify the main entrance to their building.

Mr. Campbell stated this Board receives many requests for multiple wall signs, mainly for commercial buildings rather than office buildings. He estimated that in about 90% of the requests, the total combined square footage of the signage is within the limit authorized by a single wall sign. In this case, they are proposing a second wall sign that will put them over the allowed square footage by ten feet. He admitted this could be because it is office zoning, and forty square feet in a commercial zoning district would be a small sign, so in that respect, it is not a large variance. He commented, however, that he drove up and down Garfield three times and he could not see where the proposed sign will help Real Estate One. When traveling south on Garfield, which would be the only direction where the sign may help, the proposed sign would not be visible. He claimed he caught the sign out of the corner of his eye when he was already at Dove Street.

Mr. Nagel explained that is the 37-square-foot channel-letter sign on the Dove Street side of the building, which he claimed is not a large sign for that building. He stated that is their only marketing sign they have for that building. They are seeking a variance for a ten-square-foot sign above the door that faces Garfield, and that is to let people know where to go.

Mr. Campbell suggested they take the sign facing Dove Street, which he claimed no one can see, and scale it down in size to meet the ordinance. He expressed his opinion that if the request was to have two signs with the total combined square footage within what would be allowed for one sign, he would not have a problem with granting the variance. He could not see the point of authorizing excessive signage when they serve very little purpose.

Mr. Nagel stated if they did that, it would make their existing sign less important that it already is, considering the amount of traffic in the area. The distance from the center of road to the channel-letter sign is significant.

Mr. Campbell agreed, stating that there is very little visibility, adding that there are trees. He noted that traveling southbound on Garfield, he did not see that sign until the last minute, and at that point, it was too late to get into the left turn lane to turn onto Dove Street. He felt they may be better served by spending their money on the monument sign.

Mr. Nagel replied they have representation on the monument sign but it is very small and there are additional tenants on it, noting that sign serves a lot of people. He felt that sign does not have worthwhile visibility, which is why they are requesting the logo above the door on Garfield.

Mr. Campbell stated that makes sense to him, but what does not make sense to him is the huge channel-letter sign facing Dove Street, and he questioned who will see that sign.

Mr. Nagel replied he does not have a traffic count for Dove Street.

Mr. Pearl stated he is not in the business of telling people where to put their signs. He felt the question is whether the logo sign facing Garfield is acceptable, and he feels it is. He reminded that when the former Nordstrom and Carson's buildings are occupied, there will be more traffic; however, he pointed out there are still ninety stores and 600 apartments that connect to Dove Street. He felt the way the building is situated is a problem because it is facing Dove Street and not Garfield. He stated he does not want to make them change their other sign, but he has no problem with the variance as requested.

Mr. Don Simons, 21250 Hall Road, Clinton Township, Michigan 48038, Manager/Associate Broker of the Real Estate One office, explained they are trying to capture the traffic coming from The Mall at Partridge Creek, as well as the Partridge Creek residential developments, so they can see this location as they are driving on Dove Street. He admitted it is not a major road but stressed there is a significant amount of traffic that comes that way every day. They are currently on Hall Road in Clinton Township now, and they want to make sure people can find them when they make this move. He agreed the monument sign is great, but they are hidden on that sign with other businesses in the building. With the second sign on Garfield, they are looking to identify their brand, which is ninety years old.

Mr. Deyak concurred with Mr. Pearl and does not want to make the petitioner change the sign on the Dove Street side of the building, but he felt the sign over the door will let people know where to park and enter the building.

Mr. Campbell stated if there seems to be an inclination to grant a variance for the sign, it should be on the condition that this it is only in effect as long as Real Estate One is occupying the building, and it is conditioned upon the fact that they have at least 50 or 75 employees at that location.

Mr. Pearl agreed with the condition that the variance would be in effect only as long as Real Estate One is occupying the building.

Mr. Deyak stated he would concur with that condition and compared it to a similar situation for Credit Union One on Garfield years ago. Once the credit union left, the

sign had to come down. He added that he would not want a limitation on the number of employees.

Motion by Mr. Pearl, seconded by Mr. D'Angelo, with reference to File #19-6901 and application from Ms. Tricia Bizer, of Real Estate One & Capital Title, 25800 Northwestern Highway, Suite 100, Southfield, Michigan 48075, as represented by Messrs. Andrew Kohlmann and John Nagel, of Image 360, 1702 Barlow Street, Traverse City, Michigan 49686, for variance to Clinton Township Building and Housing Code, Chapter 1488.02-(e)-(5), Signs, Definitions and Restrictions, "Commercial sign", OS-1 and OS-2 Districts, concerning part of 3.551 acres of land located at the southeast corner of Garfield Road and Dove Street, addressed as 44250 Garfield Road (Part of Parcel #16-11-05-100-022), that variance be granted to permit the installation of a second wall sign for an office building in the OS-1 Office/Service District (Low-Rise), being: 1) A total of two (2) wall signs, which is one (1) wall sign in excess of the maximum permitted one (1) wall sign; and 2) A total combined square footage of 50.2 square feet of proposed wall signage, which is 10.2 square feet in excess of the maximum permitted 40 square feet; further, this variance is granted on the condition that this variance is in effect only as long as Real Estate One occupies this site; further, this grant of variance is based on claimed hardship being the difficulty with visibility on Garfield; further, this grant of variance is contingent upon compliance with all other requirements of Township ordinances. Roll Call Vote: Ayes – Pearl, D'Angelo, Deyak, DiBartolomeo, Mill. Nays – Campbell. Absent – Marella. Motion carried.

REPORT OF MEETING

-- APPROVAL OF AUGUST 21, 2019 REPORT

Motion by Mr. D'Angelo, supported by Mr. Campbell, to approve the minutes of the August 21, 2019 Report of Meeting, as presented this evening. Motion carried (Mr. Deyak abstained).

BOARD OF APPEALS MEETING SCHEDULE

-- CONFIRMATION OF NEXT MEETING'S AGENDA AND ATTENDANCE: WEDNESDAY, OCTOBER 16, 2019 AT 6:30 P.M.

Mr. Thompson confirmed the next Board of Appeals meeting will be on Wednesday, October 16, 2019 at 6:30 p.m.

Mr. Thompson stated there are two applications for consideration at the next meeting:

- Request for a side yard setback variance for placement of a carport for a single-family home on Woodward
- Montclair at Partridge Creek is going through a series of land divisions through the Assessor's Office to have each section of the development on different parcels; therefore, there are a certain amount of setback variances that would be

necessary to accomplish what they would like to do. He replied to inquiry that they are not changing the location of any of their buildings.

Mr. D'Angelo requested to be excused from the next meeting as he will be unable to attend.

ADJOURNMENT

Motion by Mr. D'Angelo, supported by Mr. Pearl, to adjourn the meeting. Motion carried. The meeting adjourned at 7:07 p.m.

Respectfully submitted,

Robert M. Campbell

Robert M. Campbell, Secretary
CLINTON TOWNSHIP BOARD OF APPEALS

ces:09/24/19

ces:09/25/19

Approved 10/16/19