

**WESTFIELD TOWNSHIP
BOARD OF ZONING APPEALS
PUBLIC HEARING
July 27, 2009**

PUBLIC HEARING

Chair Schmidt called the public hearing of the Westfield Township Board of Zoning Appeals to order at 7:34 p.m. Permanent Board members Micklas, Oiler, Simmerer and Schmidt were present. Alternate Board member Kramer sat in for a full Board due to the absence of permanent board member Kevin Daugherty. Alternate Board member LeMar was also in attendance later in the meeting as well as Tim Kratzer, Martha Evans, and Mr. Hughes.

MINUTES

May 27, 2009 Meeting Minutes

Mr. Oiler made a motion to approve the May 27, 2009 meeting minutes as amended. It was seconded by Mr. Schmidt.

ROLL CALL-Oiler-yes, Schmidt-yes, Simmerer-yes, Micklas-yes.

June 3, 2009 Meeting Minutes

Mr. Oiler made a motion to approve the June 3, 2009 meeting minutes as amended. It was seconded by Mr. Simmerer.

ROLL CALL-Oiler-yes, Simmerer-yes, Micklas-yes, Schmidt-yes.

VARIANCE REQUEST

John Hughes variance request-6484 Mud lake Rd.

The application read as follows:

Please consider the following zoning variance to to zoning resolution 206a, to allow the opportunity to build single family "Homestead" home, modeled after the original smaller "Greek revival" home style that were a dominant original feature of this township from the mid eighteen hundreds to early 1900's. The home I propose would be built less than 1,000 square feet (800-1,000) in the original style of the settlers to this "Western Reserve" area.

My desire to down size the current square ft. footprint in this township has much to do with the current economy, and the desire to build a more energy efficient, frugal and "green" living space, allowing opportunity for new families, displaced foreclosed families and the elderly to attain a high quality, less expensive, and a far less costly household in a rural setting. I have done this exact style of home locally with success before in Guilford Township. I would like the opportunity to continue this format in Westfield Township.

Reasons to consider this variance:

1. Allows a new housing start, helping a struggling local economy. The contractors would be hired locally and are currently in serious need of finding new work.

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2. Creates a second "prototype" of a style of home that mirrors the original homestead that dominated this area when first settled. Many of these homes still stand after over 170 years +. With metal roofs and hardiboard exteriors, my homes should outlast the originals.
3. The "smaller footprint" allows a smaller mortgage, much lower utility bills and affordability- especially for the people that have lost their homes to foreclosure, the elderly or for a new family's first home.
4. I have successfully built a home this size before. Five years ago I tore down and rebuilt a rotted original homestead to original specifications on Schaub Rd in Guilford Township (pictures attached). The current residents are a couple in their seventies. They rave about the quality design, the low maintenance cost and the ability to enjoy a rural 4 acre they can afford.
5. The home will have many recycled features. One of my hobbies is saving antique architectural salvage from century homes and barns. The home I built on Schaub Rd. features period doors, hand hewn beams, staircase parts from a century home that was salvaged in Berea. The bathroom features a refurbished pedestal sink and toilet from the 1920's. The new home, if approved, will feature hand hewn beams, period doors, and a vintage stone foundation salvaged from a century bank barn. The exterior of the new home I propose will be based upon the design of a "Greek revival" style post office in Seaside Florida (where the Jim Carey movie "Truman" was filmed...(picture enclosed, rough sketch of proposed structure as well).

Please consider allowing quality smaller homes to be built in this fashion. There is much to be said about the original folks that settled this area in the early 1800's. They were very frugal; they built with quality craftsmanship to suit their basic needs. Many of these original homes have withstood the test of time, serving as starter homes for generations of Westfield residents. I would like the opportunity to imitate and improve these original settlers intent in housing. Please consider this variance.

The applicant, Mr. Hughes was sworn in. He began by stating he was before the Board this evening to request an area variance to build an undersized home per the zoning requirements for his property. He stated this was a home to be built on the history of the original homes of the area. The original homesteads similar to those on the corner of Seville and Westfield Rd. were 800-1,000 sq. ft. in size which was based on the efficiency of heating the home. Mr. Hughes stated it did not make sense to have a mind set of a 2,000 sq. ft. home especially for those just starting out or for senior citizens as in reality only about 1,000 sq. ft. of a home is lived in.

Mr. Hughes continued that one of his hobbies was taking down antique structures to be reused or reconstructed elsewhere. He stated he has taken down 7 barns in the area which had hand hewn beams and would use those materials in the construction of this proposed home. This type of home is targeted for the new homesteaders who have not had children yet and do not want to have a 2,000 sq. ft. home especially in today's economy, or for seniors who want to down size but still live in Westfield Township. Mr. Hughes stated his personal home sits on 13 acres on Mud Lake Rd. He added that he knew that he would not want to keep his large home on 13 acres forever, and wanted to take advantage of building this small home now for his future. Mr. Hughes stated he had two lots that he had purchased down from his current residence. Mr. Hughes continued that he realized the size requirements to build a home in Westfield Township was to avoid the building of "shacks" or shotgun homes that would bring property values down. What he wanted to do was to build a home of high quality and be able to live in it in the future and remain in Westfield Township. He added that he has built a similar home like the one he was

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proposing, and has done various projects that restore the integrity of homes built 200 yrs. ago. Mr. Hughes stated that he was looking at the economy, the rate of foreclosure and the need for downsizing and being able to afford to live in this size home and lot. He added that hopefully when he got older he could live in this home next to his children who may then occupy his existing home with their families; and hoped the Board would take all this into consideration.

Mr. Micklas asked about the similar home Mr. Hughes mentioned he previously built. Mr. Hughes responded that home was a bit larger (1,000 sq. ft.) than what he was proposing with this application and was located on Shaw Rd. He added that the purpose of the footprint of the home he was proposing to build was based on the economy and the cost of heating and cooling. The amount of space one really lives in is not that large of an area. Mr. Micklas stated the zoning code requires 1400 sq ft. for single-family residence with a basement; and 1600 sq. ft. without a basement.

Mr. Oiler asked if there would be a garage built with the proposed home? Mr. Hughes stated there are three lots and an existing home next door with a pole barn outback which could be shared to accommodate a vehicle.

Mr. Simmerer asked how big the lot was that the proposed home would be located on? Mr. Hughes stated it was 2.1 acres but was grandfathered. Mr. Simmerer asked where the furnace would be located? Mr. Hughes responded for efficiency, he would build an 8'x 8' structure and put the utilities within that under the main floor with an access door.

Mr. Kramer stated he liked the concept Mr. Hughes was proposing but was concerned if and when the property would change hands and was no longer in the family. Mr. Hughes stated it would be a great starter home that would be quality based and economically efficient to maintain and could be added on to if and when needed. Mr. Kramer stated at 836 sq. ft. the proposed home was really a cottage. Mr. Hughes stated he would rather refer to it as a homestead and brought some literature on what a homestead is and similar structures that were being built down south. Mr. Kramer stated these homes were like those built down at Chippewa Lake. Mr. Hughes stated he was more interested in building a homestead like those that were here originally.

Chair Schmidt stated he commended Mr. Hughes on what he was proposing but added he felt Mr. Hughes should go before the Trustees to see if the minimum floor area requirement could be changed. Chair Schmidt asked how long ago the zoning code was changed to the current figures for a single-family dwelling? Mrs. Evans stated 1997. Mr. Hughes asked what were the square footage requirements before they were changed in 1997? Mr. Kratzer interjected that he believed 1200 and 1400 sq. ft. respectively. Mr. Kramer asked what the reasoning was for the size change? Chair Schmidt responded, home value which is based on square footage.

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Chair Schmidt stated he worked in the realty business, and regarding foreclosure, those who have been foreclosed on are not able to afford a home for at least 3 yrs. due to their credit. Mr. Hughes stated he wanted to build this home for his retirement. Chair Schmidt interjected that foreclosure was one of the reasons stated as to why Mr. Hughes wanted to build this home. Mr. Hughes responded that what he meant was that this type of home may have stopped a foreclosure from potentially happening if that individual had the ability to buy something they could afford from a reasonable size standpoint.

Chair Schmidt asked how much it would cost to build the home Mr. Hughes was proposing to build? Mr. Hughes stated approximately \$60,000. Chair Schmidt stated that figure seemed low based on the materials Mr. Hughes was going to use and put in the home. Mr. Hughes stated he already had the structural components for the home. Chair Schmidt stated the reason for the minimum floor area requirements are to keep up the price of homes in the Township.

Chair Schmidt then went through the Duncan Factors.

1. Will the property yield a reasonable return or a beneficial use without the variance request? Chair Schmidt stated yes there is a beneficial use as the house did not have to be built or the house could be built to the current square footage requirements.
2. Is the variance substantial? Chair Schmidt stated it was quite substantial. The proposed home would be half the size than what is minimally required.
3. Whether the essential character of the neighborhood would be substantially altered or adjoining property owners suffer a substantial detriment if the variance is granted? Chair Schmidt stated he felt the answer was yes because the proposed home would be half the size of what was minimally required. The property was not unique in that it did not have to have a smaller home built on it. The property could accommodate the square footage required for a home in the Township.
4. Will the granting of the variance adversely affect the delivery of governmental services? Chair Schmidt stated no.
5. Did the property owner purchase the property with the knowledge of the zoning restrictions? Chair Schmidt stated yes.
6. Whether the problem can be solved by some other manner other than the granting of the variance? Chair Schmidt stated yes-the home could be built in compliance with the zoning code.
7. Does the granting of the variance uphold the spirit and intent of the Zoning Resolution?

Chair Schmidt stated he applauded Mr. Hughes for what he wanted to do but felt the better course of action would be for Mr. Hughes to go before the Trustee and ask them about what he wanted to build. Chair Schmidt added that yes, coming before the BZA was the proper procedure to consider this variance, but the size of the proposed home was well below what was required per the code. The variance is quite substantial.

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Mr. Hughes asked the Board to give him a square footage to work with. Chair Schmidt stated Mr. Hughes said the house would be between 800-1,000 sq. ft. but the plan submitted shows 836 sq. ft. Mr. Hughes stated he felt coming before the BZA he would have more of a chance to negotiate on the square footage than going before the Trustees. Chair Schmidt asked what was unique to this property that the Board should consider granting this variance request? Mr. Hughes responded, because it makes sense. Chair Schmidt stated that was not one of the factors the Board is to consider. Chair Schmidt stated he thought the concept was a good idea, but did not agree with Mr. Hughes statements about foreclosure because those who are or have gone through foreclosure are not going to be able to afford this home either. Mr. Hughes stated what he was saying was maybe this concept could have stopped a foreclosure from happening.

Mr. Hughes continued that what he was interested in was building this house while he had the means and ability to do and retire and live in Westfield Township. He wanted to downsize. Mr. Hughes asked the Board for a number and he would see if this could work with that figure, but added he would like to stay as small as he could based on his previous comments.

Mr. Simmerer stated he did not feel it was a matter of the Board to pick a square footage as the zoning code calls for 1400 and 1600 sq. ft. respectively to build a home in the Township. Chair Schmidt stated he may consider a different square footage if the lot was unique or had topography issues that it could only accommodate a smaller home. There is no reason to build an 800 sq. ft. home on a two acre parcel. Mr. Micklas agreed and added if there was some geographical restriction such as creek or drop off of the property that a smaller home needed to be built, he could consider the variance but that is not the case.

Mr. Oiler asked if the lot Mr. Hughes was proposing to build the home on could accommodate a septic system and well? Mr. Hughes stated he believed it could. Mr. Oiler stated he went to look at the property where the house is being proposed to be built and questioned if such a home really fit the neighborhood? He added there were farms up and down the road. Mr. Hughes stated he could take Mr. Oiler through the Township and point out 8 similar homes that are in the Township.

Mr. Simmerer stated he agreed that there was really no place in the Township for starter or senior homes, but this is probably the wrong board to make this appeal to. Mr. Simmerer added that the Board of Appeals does not have the authority to re-write the zoning code. The Board is here to allow for slight variations due to circumstance. Since the property can be put to use and accommodate the size home required in the Township, there was really no basis to consider this variance. Economic reasons such as I can't afford to build a home the required size of the community is not a consideration as the Board would be re-writing the zoning code. As long as there are economically viable uses for the property in question, then a variance is not warranted. The Duncan Factors are for the Board to consider a reasonable basis for granting a variance.

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Mr. Simmerer suggested if Mr. Hughes was inclined to do so, he could apply for a text amendment before the Zoning Commission to have the zoning code considered to be amended. Mr. Hughes stated he wished he was given that advice before he applied to the BZA. Chair Schmidt asked if Mr. Hughes received a copy of the Duncan Factors when he applied for the variance? Mr. Hughes again stated he did but wished he would have heard this information prior to him writing a check for the variance application. Mr. Simmerer stated there was no guarantee Mr. Hughes would either be granted a variance or a text change would be adopted to allow for this size home. Mr. Hughes reiterated he wished he had this information prior to wasting his time or the Board's time.

Mr. Micklas stated he appreciated Mr. Hughes goals and added this was something he would like to have on the back of his property for when his in-laws visited. What this house really amounts to is a two bedroom apartment.

Mr. Hughes asked about the process for a text amendment. Chair Schmidt stated it would first go before the Zoning Commission for their recommendation which would be certified over the Trustees. The Trustees would then hold their public hearing and their vote was final.

Mr. Kratzer confirmed the text amendment process and subsequent public hearings and added it takes anywhere from 4-6 months to have a text amendment go all the way through the process. Mr. Kratzer stated that two Trustee positions are open in November and he was not running for re-election so this may not be the best time to pursue such a change until January of 2010 when the two Trustees take office. Mr. Kratzer suggested Mr. Hughes get on the Zoning Commission's agenda, and explain what he wanted to do and see if they were receptive to the concept. Then Mr. Hughes could make a decision if he wanted to pursue other options.

Mrs. Evans suggested possibly Mr. Hughes going before the Steering Committee for them to suggest smaller square footage of homes in the Township in the Comp Plan. It was stated that was a possibility, but Mr. Hughes should pursue being on the Zoning Commission's agenda.

In general, the Board felt it was a good concept but based on the Duncan Factors but did not believe the variance could be granted as there was a viable use of the property without the variance. The variance is substantial and the property owner knew of the zoning requirements, etc. The Board also suggested that Mr. Hughes consider raising the square footage of the proposed home.

Mr. Simmerer made a motion to deny the variance request of 764 sq. ft. for the construction of a single family dwelling to be 836 sq. ft. as submitted by John Hughes for the property located at 6484 Mudlake Rd. based on consideration of the Duncan Factors. The application and all pertinent documents to be attached and submitted as exhibits to the approved minutes. It was seconded by Mr. Oiler.

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ROLL CALL-Simmerer-yes, Oiler-yes, Micklas-yes, Kramer-yes, Schmidt-yes.
The variance request was denied.

RULES OF PROCEDURE

The Board made some minor changes to the Rules of Procedure for the Board.
Mr. Oiler made a motion to adopt the Rules of Procedure as amended 7/27/09. (See attached to approved minutes.) It was seconded by Mr. Micklas.
ROLL CALL-Oiler-yes, Micklas-yes, Kramer-yes, Simmerer-yes, Schmidt-yes.

Area and Use Variance Applications & Notice of Board Action

Mr. Oiler made a motion to adopt the area and use variance applications as modified and the Official Notice of Board Action as amended. (See attached to approved minutes.) It was seconded by Mr. Kramer.
ROLL CALL-Oiler-yes, Kramer-yes, Micklas-yes, Simmerer-yes, Schmidt-yes.

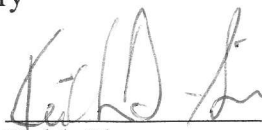
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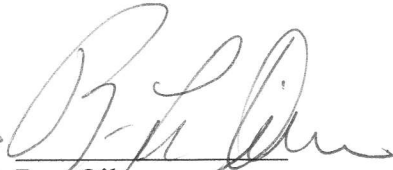
A letter from the Pros. Office was passed out the Board members regarding if motions needed to be made in the affirmative. In sum it stated that motions do not have to be made in the affirmative. Motions must however, be clear and concise as to the action of the Board. (See attached to approved minutes.)

Having no further business before the Board, Mr. Oiler made a motion to adjourn the meeting. It was second by Mr. Micklas. All Board members were in favor. The meeting was officially adjourned at 8:20 p.m.

Respectfully Submitted,
Kim Ferencz, Zoning Secretary


Mike Schmidt


Keith Simmerer


Ron Oiler


Tom Micklas