

STAFF REPORT

CASE: BZA011-2014

APPLICANTS: Ralph and Rebecca Evans

LOCATION: 2185 Stewart Road
5.22 acres

ZONED: A-1 (Agricultural) District

REQUEST: Area/dimensional variance from Section 7.04 B. 1. of the Sugarcreek Township Zoning Resolution to allow for the construction of a 5' fence in the front yard

DATE: October 23, 2014

DESCRIPTION OF REQUEST

Property Location: The subject property is 2185 Stewart Road located in the A-1 (Agricultural) District. It contains a single-family dwelling constructed in 1986.

Applicant Proposal: The applicants are requesting an area/dimensional variance from Section 7.04 B. 1. of the Sugarcreek Township Zoning Resolution to allow for the construction of a 5' fence in the front yard.

Zoning of Adjacent Parcels: The parcels to the north, south, and west (all single family residential uses) are zoned A-1 (Agricultural) District. The parcel to the east (an agricultural use) is located in Spring Valley Township.

Subject Site:



Applicant Proposal:



Applicable Articles and Findings of Fact:

- Section 7.04 B. 1. of the Sugarcreek Township Zoning Resolution regulates fences in the front yard.
- Section 7.04 B. 1. a. of the Sugarcreek Township Zoning Resolution states, ***“Fencing and walls in the front yard shall not exceed 42 inches in height, except as permitted in Section 7.04 C. 4.”***
 The applicant is requesting approval to construct a 5’ ornamental aluminum fence in the front yard (42.9% taller than the permitted height of 42”). The fence is proposed to be located on the inside perimeter of the wooded area in the front yard (the side closest to the house). The fence is also proposed on the inside of the tree lines running parallel to both side property lines. The proposed fence would be in compliance with all other sections of Section 7.04 B. 1.
- Section 3.07 D. differentiates between area/dimensional variances and use variances. Per Section 3.07 D. ***“Area/dimensional variances are where an applicant requests a variance of a dimensional or quantitative standard in this Resolution (i.e. setbacks, height, landscaping requirements, etc.). Use variances are where an applicant requests that the BZA approve the use of a property, structure, or building that is***

not otherwise permitted in the applicable zoning district.”

The applicants’ request is for an area/dimensional variance.

- Area/dimensional variances are subject to the standards established below pursuant to Section 3.07 D. 1.:

1. Area/Dimensional Variances

a. The following factors shall be considered and weighed by the BZA to determine if a practical difficulty exists that would justify an area/dimensional variance:

- 1) Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions;***
- 2) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;***
- 3) Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;***
- 4) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;***
- 5) Whether the variance would adversely affect the delivery of governmental services such as water, sewer, trash pickup;***
- 6) Whether special conditions or circumstances exist as a result of actions of the owner;***
- 7) Whether the property owner's predicament can feasibly be obviated through some method other than a variance;***
- 8) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and***
- 9) Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.***

- The applicants have submitted statements relative to the foregoing standards.

- b. Decisions should take into consideration all applicable factors, however, not all factors may necessarily apply to a particular case. No single factor shall control.*

Staff Comments:

Staff notes that the location of the proposed fence is such that it will be virtually invisible from Stewart Road with very limited visibility from the adjacent properties to the north and south. The applicants' request is tailored to be the minimum necessary given the safety issues presented. The applicants are asking to fence in the grass yard area only and not the entire front yard out to the right-of-way. The BZA will need to determine if, owing to special conditions, a literal interpretation of the Zoning Resolution will result in practical difficulty with respect to the applicant's request using the standards outlined in Section 3.07 D. 1. as a guide.

Cara K. Tilford, AICP
Township Planner/Zoning Official