

**Vergennes Township
Zoning Board of Appeals Minutes
March 22, 2007**

Draft Until Approved

A meeting of the Vergennes Township Zoning Board of Appeals was held on March 22, 2007 at the Township Offices. Chairman Gustafson called the meeting to order at 7:02 pm. Also present were members Schreur, Baird, and Jernberg. Alternate member Doug Wester was going to replace Roger Odell, but had a family emergency so both members were absent.

Approval of August 15, 2006 minutes: Jernberg motioned, Baird seconded, to approve the minutes as presented. Carried 4-0.

Lighting Nuisance Determination:

Chairman Gustafson explained that the lighting ordinance has two sections to it, an existing part in which lighting is prohibited from being a nuisance to the traveling road public and to neighboring property and a new section regulating new lighting. The ZBA is authorized to make such a determination if a complaint is received (210.413 A & C). Vandersloot gave a brief history of the additional lighting ordinance section and why it was added. She said that Mr. Potter called her and was opposed to this situation and stated that he would not be attending the meeting, that the lighting was not a nuisance. The members regretted that he would not be there for questions.

Peggy Covert, owner of 982 Washington, said that this was long term family property, about 60 years, and she came back to live there about 10 years ago. This area is primarily a dark area except for Mr. Potter's lights. There are two of them; one on the garage and one along their shared boundary line and this one is the most offensive. It is very bright and shines directly in your eyes when you look to that direction and lights up the rooms on that side of her house. She has talked to the neighbor many times and he said he would do something about it but never did. When she spoke to him in January, he stated that with the new lighting ordinance he would not make any changes to the lights, as he would be grandfathered.

She said the trees used to be thicker but with a storm a few years ago, a lot of them came down and now the lighting is more offensive. She called some lighting people and for about \$5.00 the lighting case can be painted to shield light direction and various dark sky friendly lights can be purchased for \$40-60. Reflector shields can be bought for minimum money to add onto an existing light. Her father and Mr. Potter were good friends years ago, 30 +/- years, and let Mr. Potter put his drainfield on their property. She thinks he should reciprocate in kind by shielding the lights. She handed out a letter from another neighbor noting the lighting is very bright.

Her friend John Shelton is staying in the bedroom facing the light, he had a family death and is staying with her temporarily. He said the light looks like a spotlight pointing right

at you, shines in the windows, is a nuisance, don't think it is right to light up some other people's property. It also shines on the neighbor across the street too; don't see why he wants the property so lit up and Mr. Potter is a decent person otherwise.

Peggy said he did not need to remove it, just shield it from lighting her property, the garage light could be a motion type and then not on all night. The pole light is actually on a tree, not a pole..

Steve Platt, member of the Open Space Committee, lives at 11171 McPherson, handed out some lighting information from the Internet. He also visited the property, thought it may be a 200 watt bulb, either mercury vapor or metal halide, expensive to run, is wasting money and causing light pollution to the area. He thought the complaint was valid, could see it from across the river too, very bright.

The Chairman asked if there were any other public comments, being none, turned the issue over to the members for discussion. Schreur noted that it is not that expensive to change this light to not be a nuisance, feels the glare is too much toward the neighbor's property. Possibly something could be added to the garage light, it was fairly bright also. The members noted that her complaint was on both lights so both need to be considered.

Steve Platt said that the garage light is not so bright, but the pole light is very bright, a white light glare, like a headlight.

Jernberg asked what role the zoning administrator would have in a determination of nuisance. Vandersloot said she would send a letter to Mr. Potter with the ZBA's decision and give a time limit to fix the light, if it is not done, then a ticket could be issued for noncompliance. The Chairman said it was unfortunate that Mr. Potter was not there to defend himself. Peggy said she has talked to him for a year on this issue.

There was a general consensus that the pole light was indeed a nuisance but the garage light was not that different from most garage lights.

Gustafson made a motion, based on the information received, that the ZBA interprets section 201.413A that Ron Potters property, 985 N Washington, is a nuisance and should in a reasonable prompt time place a screening device/180 degree shield on the boundary pole/tree light to prevent light from going onto the Covert property. Nothing in this decision is intended to alter the grandfather status of the pole/tree light under section 201.413 A 6. Jernberg suggested that Vandersloot send a copy of the lighting handouts to Mr. Potter. Platt noted that in the US southwest area, the sky obscuring lighting really works. Schreur seconded the motion. Motion carried 4-0.

Gee Variance Request:

Mrs. Gee is back from the last August meeting with new information and request. She has sold the older home that she proposed moving to the 853 Montcalm property and has purchased a 1996 home from Preferred Mobile Homes that will meet the minimum roof pitch and square footage. The home is about 1680 square feet of 28' by 60'. She brought

pictures of the newer home. She is requesting to place this home on the property, will clean up the trash and scrap there and fix up the garage and reside it to match the home.

The Chairman asked if the property is still in Paula Livingston's name? Mrs. Gee said that it was and they plan to close on it in 2 weeks, they have a valid signed purchase agreement and are approved for a home loan. They will fix the garage and match the siding with the house. Vandersloot handed out the new site plan in which she and Mrs. Gee measured on Friday for the 28 by 60. There does seem to be a size of lot discrepancy with the lot dimensions from the legal description and the parcel mapping from the County. The lot seems to be somewhat larger than the legal description. Mrs. Gee said they have ordered a survey to be done on the property.

John Forsburg, lives at 850 Montcalm, is president of the Fallasburg Historical Society, has concerns about meeting the ordinance requirements for mobile homes such as foundation, repair of garage, the trash and junk there for over a year.

The Chairman said the Gee's probably couldn't clean it up until they own it. Mrs. Gee said she would get a dumpster right away if that helps. She is so anxious to move out there with her children.

Mickie Dawson, lives at 705 Montcalm, why has it been a year with the property being so much trash and junk? The Chairman said that was not a ZBA issue. He said that cleaning up the property could be a condition of approval.

Ron Dawson, lives at 705 Montcalm, been there for 27 years, the current owner has not done anything to fix the problems, bad tenants over and over, has been a bad place for years, should not give a variance until the property is cleaned up and they own the property, do not allow if they rent it, that will just make the same problem prolonged again.

The Chairman asked if there were any more public comment? Chuck Gee said they would start cleaning up the property before purchase if that will please the neighbors. Ron said that Chuck was the person hired to tear down the trailer, why didn't he finish the junk clean up (not hired for that, just trailer removal per court order).

Mrs. Gee said that Preferred Mobile Homes is ready to start; she has her current house sold and needs to move on this fast to have a place to live. Baird noted the inspection sheet from the Building Inspector on what needs to be done to repair the garage – the Gee's have a copy. Platt asked if there was any concern that Livingston may not go ahead with the sale? Mrs. Gee said that Mrs. Livingston wants to sell it, they have a purchase agreement.

Schreur said they should do the home issue first, needs to be 50' from a well to the septic system; the house and garage should match. Mrs. Gee said the Health Department is coming out to look at the existing system. The well is inside of the little building, may be in the way for the house unless moved to an angle or closer to the garage or filled and

a new one dug. The Health Department can assist in this issue. They plan on a poured foundation with a crawl space underneath. The chairman noted that there is a consensus to grant the variance, now setbacks only, with conditions attached.

He motioned to grant the variance to the applicant/prospective owner buyer of 853 Montcalm to locate a manufactured home of 28' by 60' as shown in the submitted photos form Preferred Mobile Homes with a 3:12 roof pitch, poured foundation with crawlspace in location depicted on the site plan submitted, subject to the following conditions:

1. Variance is granted to applicant and not current owner by purchasing the property within 120 days
2. Contemporaneously with the home purchase and placement do the following:
 - a. Clean up the property
 - b. Remove the lean-to on the garage
 - c. Add a new roof and siding on the garage

Vandersloot said that "as depicted on the site plan" may have to change depending on what the Health Dept says and the survey results. The home may need to be angled to miss the well or move it closer to the garage or move it forward or backward. Side setbacks should not be a problem. Schreur asked if they should be able to meet he setbacks that are in the R-2 district? Vandersloot said yes.

Gustafson added to the motion as:

3. That applicant shall obtain the necessary Health Department permits and zoning administrator may adjust placement of home as needed but to meet the R-2 district setbacks. Jernberg seconded. Motion carried 4-0.

Chairman summarized motion to applicant stating that the variance was granted, do in a reasonable time to fix the garage, close on the property, move the house in with some flexibility for placement. The decision form was filled out and signed, a copy made for the applicant.

Baird motioned, Jernberg seconded to adjourn the meeting at 8:32 pm.

Respectfully submitted,
Jeanne Vandersloot, Recorder