

Scott County Board of Adjustment
December 21, 2005
1st Floor Board Room Administrative Center

Members Present: Hittle, Jenkins, Vollbeer
Members Absent: Dittmer, Scheibe
Staff Present: Huey and Kelly
Others Present: 7 Others

1. **Call to order.** Vice Chair Vollbeer called the meeting to order at 4:00 p.m.
2. **Minutes** – Jenkins made a motion to approve the minutes of the October 26, 2005 meeting. Hittle seconded the motion. All Ayes (3-0).
3. **Variance Tabled at November 16, 2005 Meeting** –

Vollbeer read the public notice and asked for staff's review. Huey showed the air photos of the property and gave a case history. Huey said this request was tabled at the October 26, 2005 meeting to allow more information to be obtained on the homes along Spencer Road and the distances from the road right of way. Huey showed site photos of the applicant's property and the other homes along Spencer Road pointing out the distances those homes set back from the road right of way.

Vollbeer asked if the applicant would like to speak. Gerald Ketelsen presented to the Board a letter from his Doctor stating he should not do stairs. Ketelsen explained the deck was built without a permit as he was not aware one was needed. Ketelsen said at some point he may need a wheelchair ramp and the deck would allow him to build one if necessary.

Vollbeer asked if anyone from the public had any comments. No one spoke.

Vollbeer asked for staff's recommendation. Huey said staff recommends denial of the variance request based on the lack of hardship or special circumstances that would warrant approval of this request.

Board discussion took place. Jenkins made a motion to approve the variance to allow the deck to remain as constructed with the condition that the front steps be removed and the applicant obtain a building permit and pay any fines associated with the building of the deck without a permit. Hittle seconded the motion.

Vote: All Ayes (3-0)

4. **Public Hearing- Appeal of Interpretation**-LuAnn Baetke, Section 6, Lincoln Township

Huey showed site photos of the property and gave the history of the original ag exemption and the explanation of how the plat of survey for the two acre parcel came to be recorded. The affidavit filed with the plat of survey stated that this two acre parcel had no development right. Huey said the Board tabled the request at the October 26, 2005 meeting at the applicant's request and then again at the November 16, 2005 meeting due to lack of quorum.

Vollbeer asked if the applicant would like to speak. Steve Schalk, attorney representing the applicant addressed the Board. Schalk said an ag exemption was granted but due to a divorce proceeding Mr. Huey does not believe Ms Baetke now qualifies. Schalk said it is a legal interpretation whether or not a divorce should cause the loss of a farm exemption. Schalk said he has some apprehension to have only three members hear the case. Schalk said he feels it is the wrong request. Discussion took place whether to table the request or withdraw the request. Schalk asked that the request be withdrawn and resubmitted.

Vollbeer asked if anyone from the public had any comments. No one spoke.

Jenkins made a motion to acknowledge the withdrawal of this request. Hittle seconded the motion.
Vote: All Ayes (3-0)

5. **Public Hearing-Variance-** David and Kris Rood-Section 8, Buffalo Township.

Vollbeer read the public notice and asked for staff's review. Huey showed air photos and a plat of the property. Huey explained the three front yard setbacks of this property and the three and one half foot requirement for a fence in the front yard. Huey showed site photos of the property and explained that the fence was constructed approximately five feet into the road right of way and will have to be moved. This request is to allow a six foot fence in the front yard setback in lieu of the three and one half foot requirement said Huey. Huey explained the road easement on 70th Avenue is approximately one hundred feet where as most road easements in the county are approximately sixty six feet.

Vollbeer asked if the applicant would like to speak. Kris Ion Rood said she didn't realize the height requirement for a fence in the front yard was three and one half feet and she hired a fence contractor who should have known that.

Vollbeer asked if anyone from the public wanted to speak. No one spoke.

Vollbeer asked for staff's recommendation. Huey said staff would recommend that the variance to allow a six foot fence in the front yard adjacent to the north and west side of the property be approved based on the existing situation with the road easement on three sides of the property.

Board discussion took place. Hittle made a motion to approve the variance to allow a six foot fence in the front yard due to the special circumstances of three front yard setbacks. Jenkins seconded the motion.

Vote: All Ayes (3-0)

6. **Public Hearing-Variance-** Harry Tuttle, Section 11, Lincoln Township

Vollbeer read the public notice and asked for staff's review. Huey showed air photos and the plat of the property explaining the location of the original road easement. Huey said this request is to reconfigure lots 31 and 32 and record an easement where the road was constructed. Huey gave the history of Willow Streams Estates that was originally platted in 1979. Huey said by platting the easement centered on the location of the existing road would appear to result in a portion of the existing garage to encroach into the easement. Therefore, said Huey, staff would recommend that the road be offset within the easement but that a full fifty feet of width be retained.

Vollbeer asked if the applicant would like to speak. Tuttle said when he bought the property he was not even aware that the triangular portion was even his property. Tuttle said he is only trying to fix what has been wrong for forty years.

Vollbeer asked for staff's recommendation. Huey said staff recommends that the variance to allow the replatting of lots 31 and 32 of Willow Streams Estates that will result in a non conforming front yard setback be approved based on the exceptional existing situation and that granting of this variance would appear not to impair the purpose of the Development Plan nor would the public health, safety and general welfare be impaired.

Board discussion took place. Hittle made a motion to approve the variance as outlined by staff. Jenkins seconded the motion.

Vote: All Ayes (3-0)

With no new business to come before the board the meeting was adjourned at 5:50 p.m.