

**MINUTES
PARK TOWNSHIP
ZONING BOARD OF APPEALS**

Park Township Hall
52 152nd Street
Holland, MI 49418

Regular Meeting
March 6, 2017
6:30 P.M.

DRAFT-APPROVED COPY

CALL TO ORDER:

Acting Chair John Foster called to order the regular meeting of the Park Township Zoning Board of Appeals at 6:30 P.M., held in the Township Hall at the Park Township Office.

ATTENDANCE:

Present: Dennis Eade, Dave Fleece, John Foster, Jim Gerard, Dan Hendon

Absent: Doug Dreyer

Staff: Ed de Vries, Zoning Administrator

APPROVAL OF AGENDA:

Motion by Fleece, supported by Hendon, to approve the agenda as presented.

Voice Vote: Ayes 5, Nays 0. Motion carried.

APPROVAL OF MINUTES:

Motion by Gerard, supported by Hendon, to approve the minutes of the January 23, 2017 Regular Meeting as presented.

Voice Vote: Ayes 5, Nays 0. Motion carried.

BUSINESS ITEMS:

Item #1 – A request by James Cook on behalf of William Lambright for additions to a single family dwelling that will leave a rear yard of 7.5 feet where 25 feet is required, and a side yard of 4.5 feet where 5 feet is required by Section 38-306(3) and 38-483(b)(1)b of the Park Township Code of Ordinances. Said land and premises are located at 701 Lakeside Road, Holland, MI 49423. (Parcel #70-15-33-382-014, R-4)

de Vries introduced the application request. As background, 701 Lakeside Rd. is lot 43 of Heneveld's Supervisor's Resubdivision of Macatawa Park, platted in 1935. It was formerly known as lot 31 of Macatawa Park platted in 1888. Only the lot number changed in the resubdivision, the dimensions of the lot remained the same. Like most lots in this area, it is non-conforming due to size, 2,800 square feet where 8,500 square feet is required, and due to width being 40 feet where 85 feet is required. The original home is estimated to have been built around 1928. Assessing records reflect a building permit in 1977 for a 10' x 16' addition to the rear of the house. In 1988 a 3' x 7' overhang was added at the side door. No record of previous variances was located.

The applicant is seeking to remove the 1977 10' x 16' single story addition, and replace it with a two story addition. The ground floor will use the existing footprint, however, the second floor is proposed to cantilever out two additional feet to the rear. The existing addition was built without a proper foundation on a slab and has experienced "settling and heaving" per the applicant.

Considerations: The typical setback requirements for the R-4 zoned district requires a 40 foot front yard, 25 foot rear yard, and a total of 20 feet of side yard, with a minimum of 7 feet on one side. Section 38-494 allows for front and rear yard averaging, using structures located within 300 feet of the property in question, on the same side of the street in the same block. The minimum for a front yard is 10 feet, which this home appears to meet. No data was provided for rear yard averaging. Staff did estimate an average rear yard of 23 feet using the Ottawa County GIS, so rear yard averaging will not be a benefit for this request.

Section 38-483(b)(1)b does allow for a reduced side yard on non-conforming lots. This lot would be allowed side yards of 5 feet, the minimum allowed under this ordinance. The drawing submitted by the applicant shows the house as having a 4.5 feet side yard on the south, and 5.25 feet on the north. As the addition to the rear is on the southeast side of the home, extending it along the existing side yard, the standards of 38-483(e) can be used in considering the expansion.

The height of the expansion falls within the requirement for a reduced height for a non-conforming lot. The roof is not a 3/12 pitch, but it is not the main roof of the residence so it is not an issue.

de Vries suggested considering the variance request in two parts: 1) the dimensional variance for the rear yard, and 2) the side yard extension using the standards from 38-483e. If there is agreement for the rear yard the request for the side yard should be a moot issue. The side yard extends along the existing side yard and a review of the standards of the ordinance could allow this variance.

Eade asked if the applicant plans on a foundation. de Vries confirmed there will be a foundation.

Fleece asked about correspondence from the neighbors.

de Vries said the Township has received three e-mail letters all stating they had no objection to the proposal.

Gerard asked how near to this home were the residents who wrote letters.

de Vries said one correspondent lives next door to the applicant, one resides in the near vicinity, the third is the owner east of the applicant's property. Foster noted that owner is at the corner property.

Foster observed the proposed addition would be on the property line which is closer than allowed.

de Vries said the Zoning Board of Appeals could use the more recent ordinance to justify this. There is an upward expansion component and two feet to the back yard. With regard to the side yard consideration should be given to the percentage of the portion of the main wall which is being projected.

Lisa Cook of James Cook Builders spoke to the application on behalf of William Lambright. There is a change in the plan. She said the applicant wants to add a second level to the house and the original plan shows a cantilever of 24" to the rear property. The new design eliminates the east cantilever which represents an encroachment to the property line. The new plan has the cantilever to the north with a 42" measurement. This change eliminates encroachment of the property line. She shared copies of the new plan, but she did not have the elevation. Therefore, the new request is to comply with the property line requirements given the change of plans for the cantilever design.

Foster asked de Vries for clarification regarding the cantilever change.

de Vries said the new ordinance 38-483e regarding projections covers this change in plan so we don't have to deal with the standards regarding the dimensional variance.

PUBLIC HEARING

Foster opened the public hearing at 6:50 P.M.

There was no comment.

Foster closed the public hearing at 6:50 P.M.

Hendon moved, supported by Eade, to approve the variance request for the side and rear yards based on the new plan.

de Vries suggested addressing standards 2 and 3 of 38-483(e) since the first standard is not applicable.

Dan Hendon reviewed the following standards that apply to the variance request:

(2) The proportion of the main wall which has been altered by the projection;

The alteration is small in comparison to the building. It will not affect the view of the neighboring properties. The rear yard is a hill and will have no negative impact.

(3) The overall effect of the proposed projection on adjoining properties and the surrounding neighborhood.

This will not affect any adjoining properties and the foundation will be improved.

Roll Call Vote:

Gerard, aye; Hendon, aye; Foster, aye; Fleece, aye; Eade, aye.

Ayes 5, Nays 0. Motion carried.

Item #2: (continued from October 24, 2016) A request by Michael Baker to allow construction of a single family residence on a non-conforming lot that is less than 6,500 square feet, to allow a building height of 33.4 feet where 32.3 feet is allowed, and a rear yard of 5 feet where 18 feet is required. The applicable ordinances are Section 38-483(b), 38-483(b)(1)a, and 38-494(b) of the Park Township Zoning Ordinance. The property is located at the 2300 block of Crescent Walk, Holland, MI 49423. (Parcel #70-15-33-392-002, R-4)

de Vries presented the application request. As background, the appeal was first brought to the Zoning Board of Appeals on October 24, 2016 requesting authorization to build on a non-conforming lot of less than 6,500 square feet, requesting a variance from the reduced building height requirement of Section 38-483(b)(1)a, and a variance from the rear yard requirement as allowed by averaging in Section 38-494(b). A copy of the meeting minutes of October 24, 2016 is included. The Zoning Board of Appeals authorized the use of the lot to build a residence. Following discussion on the size and placement of the home, the other two requests were postponed pending a review by the MDEQ for construction on the critical dune.

The applicant has been given guidelines by the MDEQ on what will be allowed, and amended the application. The height variance is no longer needed. The plan moves the home to the allowed front yard minimum, and the house was redesigned to need less of a rear yard variance. Where the request in October was for a 5 foot rear yard, it has been increased to a request for a 10 foot rear yard where rear yard averaging would allow for an 18 foot rear yard.

The appeal was heard by Dreyer, Fleece, Foster, Hendon and Toscano. The Michigan Zoning Enabling Act, and Township Ordinance requires that an alternate member called to serve on a case, shall serve on that case until the Zoning Board of Appeals makes a final decision. Hendon was serving for Eade, and should hear this case in this meeting. Toscano, originally serving as the Board representative, has now been replaced by Gerard with the recent election. Upon checking with the Township attorney it would be permissible for Gerard to hear the case in place of Toscano. If the three members who first heard the appeal all agree, there should not be an issue.

Mike Baker spoke to his request and the amended application. He reviewed the change in his plan since last October when he first appeared before the Zoning Board of Appeals. There are two parking spaces as part of an easement that will be used by the neighbor across the street.

These were designed to be on an angle. He also added a connection to the garage from the street which allowed him to move forward on the lot. With regard to the variance, it is a 10' minimum, but the average is 15' across the back of the lot measured from the rear wall of the house.

Baker explained his rationale with regard to the standards. In his opinion, there are two major issues that warrant the variance: the parking in the front yard up to the front yard setback, and the second is the uniqueness of the angle of the back line which is not square. In order to utilize the back line of the house he tried to square off the shape of the lot.

Gerard asked about the view from the rear of the property. Baker shared an illustration of the area in relation to his property.

Foster said the homes across Crescent Walk are closer than the homes behind his lot. He asked if there will be parking on the street.

Baker said parking will be off the street and in front of the garage.

Foster asked Baker if he has had any further contact with the neighbors as a result of the new plan. He noted the Township had heard from eight or nine of the residents last fall who were not in favor of the original plan.

Baker said he hasn't met with neighbors since the last meeting, nor has he heard anything from them.

Hendon asked about the width of the garage.

Baker said it is approximately 29.5'.

Fleece asked if there were both open and covered decks on the south side.

de Vries said the open deck is more than 30" above ground, so it does have to meet setback requirements.

Baker said the measurement is 10' to the foundation wall.

Foster said he appreciated that the applicant was able to work with the neighbors regarding the parking issue.

Foster asked about the ravine sloping in the rear.

Baker said they are building it up with fill on the high side with a retaining wall. He noted that MDEQ approved this. There will be minimal impact to vegetation.

de Vries noted that a public hearing for the original request was held in October 2016.

PUBIC HEARING

Foster opened the Public Hearing at 7:16 P.M.

There was no comment.

Foster closed the public hearing at 7:16 P.M.

Hendon moved, and Eade supported, to deny the proposed amendment. He said he could justify only one of the standards. It does not meet the requirement of the first standard – it is not “unnecessarily burdensome.” The design plan could be done without a garage. The property is unique but it does have a buildable footprint.

Foster observed that a smaller structure was needed for this buildable lot.

Hendon agreed the request does not meet the standards. The plan still has the same footprint that can't be accommodated on the buildable envelope. He found it difficult to find in favor of the request.

Gerard asked Baker about removing the garage and moving the house forward on the lot, and then it would work.

Foster asked Baker regarding his intention about his plan to live there year-round.

Baker said he hopes to be a year-round resident. He said the majority of the residents are seasonal.

de Vries added that whether the applicant is a year-round or seasonal resident shouldn't affect the decision. It should be based on the ordinances and property.

Foster said the house could be designed without a garage.

Fleece asked for the dimensions of the footprint.

Baker said the footprint is 2,350 square feet.

Fleece said it compromises the setback requirement.

Baker said he could amend the deck encroachment if the plan were allowed.

Foster said if the garage is removed the corner issue would be changed.

Hendon asked if the applicant could return with another plan.

de Vries said the Zoning Board of Appeals could postpone action in order to review a new plan. There is a motion and a second, so both would have to agree to rescind the motion.

Baker says no garage is a hardship for being a year-round resident.

Fleece said the applicant has options to make it work.

Baker said parking is a factor and the angle of the back yard affects the lot's buildability.

de Vries said if the applicant can stay within the envelope he wouldn't have to return for another variance request. He would have to provide another plan.

Foster agreed having to provide two parking spaces is a hardship.

Foster asked Baker what he wanted to do. He asked him if he wanted the motion to be tabled until his return with another request for a different plan.

Baker asked the Board of Appeals for direction on what would be acceptable. He proposed pulling the back wall of the house further to the rear and allow the deck. He said he had a purchase agreement he would have to extend if he has to change the plan again.

Foster suggested he could offer a lesser relaxation. He explained the language about relaxation is in the second standard.

de Vries said if the request meets the four standards the Board of Appeals could grant a lesser variance.

Hendon reviewed the standards:

- a. That strict compliance with the zoning ordinance regulating the minimum area, yard setbacks, frontage, height, bulk, or density, or other regulation would render conformity with those restrictions of the zoning ordinance unnecessarily burdensome.**

Hendon noted the building envelope is 2350 square feet. This is not unnecessarily burdensome.

- b. That granting the requested variance would do substantial justice to the applicant as well as to other property owners in the zoning district. If a lesser relaxation than that applied for would give substantial relief to the property owner and be more consistent with justice to other property owners in the district, the Board of Appeals may grant a lesser variance provided the other standards are met.**

The other standards are not met; a request for a lesser variance could not be allowed.

- c. That the plight of the property owner/applicant is due to the unique circumstances of the property (e.g., an odd shape or a natural feature like a stream or a wetland) and not due to general conditions of the zoning district.**

The property has a unique shape but a plan could be designed to accommodate it.

- d. That the practical difficulties alleged are not self-created.**

This request is self-created.

Roll Call Vote:

Gerard, aye; Hendon, aye; Foster, aye; Fleece, aye; Eade, aye.

Ayes, 5; Nays 0. Motion carried to deny.

Foster suggested Baker discuss with the Zoning Administrator options for another request. He explained that the Board of Appeals is required to meet the standards.

ANNOUNCEMENTS:

The next regular meeting is March 27, 2017. de Vries noted the deadline for applications has been changed to four weeks. One application has been received for March 27.

PUBLIC COMMENT

Foster opened Public Comment at 7:50 PM

There was no comment.

Foster closed Public Comment at 7:50 P.M.

ADJOURNMENT

Hendon moved, supported by Gerard, to adjourn the meeting at 7:51 P.M.

Voice vote:

Ayes 5, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall
Recording Secretary
March 8, 2017

Approved: March 27, 2017