

**MINUTES
PARK TOWNSHIP
ZONING BOARD OF APPEALS**

Park Township Hall
52 152nd Street
Holland, MI 49424

Regular Meeting
March 26, 2018
6:30 P.M.

DRAFT COPY

CALL TO ORDER:

Chair Doug Dreyer 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: Doug Dreyer, Dennis Eade, Dave Fleece, John Foster, Jim Gerard

Staff: Ed de Vries, Community Development Director

APPROVAL OF AGENDA:

Motion by Foster, supported by Eade, to approve the agenda as presented.

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

APPROVAL OF MINUTES:

Motion by Eade, supported by Gerard, to approve the minutes of the February 26, 2018 Regular Meeting as corrected.

Dreyer noted a number on page 3 should be corrected –from “654” to “464.”

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

BUSINESS ITEMS:

de Vries noted that both requests are for a dimensional variance which pertain to setbacks in the R-2 Lakeshore Residence District so the applicable ordinance is listed for both.

Item #1 - A request by Jeremy vanEyck on behalf of Daniel C. & Julia A. Drier Trust to allow rebuilding of a structure using the existing 15.7 foot front yard where 40 feet is required per Section 38-246 (1) of the Park Township Zoning Ordinance. Property is located at 2441 Cardinal Ln., Holland, MI 49424. (Parcel #70-15-28-341-010, R-2).

As background, de Vries pointed out that the applicant is proposing to remove and rebuild the existing residential structure utilizing the same front setback of 15.7 feet. The existing two story home with attached single stall garage has a footprint of 1,756 square feet, containing 1,976 square feet of living area. The three bedroom, one and one-half bath, home is estimated to have been built around 1971. Permit records show a porch was added in 1983, a second story added in 1986, and the house was re-roofed in 2003. The current owners purchased the cottage in 2008. The property consists of lot 108, and parts of lots 107 and 106 of Eagle Crest Park.

Zoning Board of Appeals Considerations:

All of Eagle Crest Park lies on a regulated Critical Dune. The lot is non-conforming in area, .2924 acre where one acre is required. The private roads within the development are single lane, hilly and curvy. Municipal water and sewer are not available. The proposed residence appears to have a footprint of slightly over 3,000 square feet. It also appears that an existing 10' x 12' shed will be either moved or removed.

de Vries noted that Eagle Crest Park is one of six areas designated as a Neighborhood Heritage Preservation District in the Master Plan. The Planning Commission is in the beginning stages of crafting an overlay ordinance to address the NHP Districts.

Dan Drier spoke to his application request. His family has owned this property since 1971. He retired last year and wants to live there on a permanent basis.

Builder, Jeremy vanEyk of Cottage Home Builders, described the project. He pointed out the proposed structure designated in green on a map for the members of the Board of Appeals. He tried to maintain the setback as best he could, but there is a steep slope in the rear which creates the reason for the variance request.

Two letters were submitted to the Township in support of the proposal.

Dreyer opened the Public Hearing at 6:39 P.M.

John McDonald, a neighbor on the west side of the applicant, said he has no problem with the setback request. The neighbors support the proposal and would like the project to be approved.

Foster said he visited the property and noticed the shed. He asked if the shed would be removed.

vanEyk confirmed the shed would be removed.

Foster noted there is water available in front of the house.

vanEyk confirmed there is a private water system for Eagle Crest. The owner will use a private well.

Eade asked about the footprint for the new house.

Dreyer confirmed the front yard will be the same as the existing structure. The measurement is 15'7" for both structures. The footprint does go back to the dune. There is no problem with the side yards. He liked the way the house has been placed on the lot

The builder commented the new house is in line with the other homes in the area.

Gerard moved, supported by Foster, to approve the variance request.

Gerard reviewed the four 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.

It is a nonconforming lot. It's a larger home and will have the same front setback. The allowed footprint would be very small.

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.

It would do substantial justice to the applicant as an updated home, and it does not impact on other homes. It keeps the front setback which fits in with adjacent homes.

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 is up against a steep slope at the rear, therefore, the structure can only go so far back.

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

This is not self-created.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion to approve passed.

Item #2 – A request by William Sikkel on behalf of Paul Clippinger to rebuild a structure with a 10 foot front yard where 40 feet is required, and a 34 foot rear yard where 50 feet is required per Section 38-246 (1) & (3) of the Park Township Zoning Ordinance. Property is located at 133 Michigan Ave., Holland, MI 49424. (Parcel #70-15-28-180-011, R-2)

de Vries provided information on this request. The applicant proposes to remove an existing single story 24' x 30' 720 square foot residence and replace it with a larger residence containing parking in the lower level and living space in two floors above. The current home is said to have been built in the 1950's. The assessing record lists it as 1¼ stories. Permit records show windows were replaced in 2005 and the roof in 2008. A variance request for a taller fence was denied in 2010. The applicant has a conditional offer to purchase the property. Property consists

of lots 31 and 39, and a vacated portion of Fern Dale Walk in the Idlewood Beach Subdivision, platted in 1925. Lots 31 and 39 were amended in 1985 to include the vacated right-of-way.

Zoning Board of Appeals Considerations:

The property is non-conforming for the R-2 Lakeshore Residence District in both size, .52 acre instead of one acre, and width, 93.2 feet instead of 100 feet. The existing residence is nonconforming in size and setbacks. Minimum square footage requirements are 1,000 square feet for a single story residence. The existing home does not meet the required front yard or side yard setbacks. MDEQ will regulate the distance from the crest of the dune, and a permit will be required from MDEQ prior to a building permit being issued. Although the property is larger than many in the subdivision, the buildable area is a small area of the lot considering the restrictions posed by MDEQ requirements. Municipal water and sewer are not available.

As in the previous application, Idlewood Beach is one of six areas designated as a Neighborhood Heritage Preservation District in the Master Plan. The Planning Commission is in the beginning stages of crafting an overlay ordinance to address the NHP Districts.

It was noted that eight letters were sent to the Township: one was in support of this request and the others were not.

William Sikkel, attorney for the applicant, spoke to the request. The request is for a rear yard variance from 50' to 34' and for a front yard variance from 40' to 10'. He referred to the allowance for front yard averaging. The neighbor at 155 Michigan Avenue has a zero foot front yard setback and the other neighbor at 123 Michigan Avenue has an 18' foot setback. If you average the two it works out to the minimum of 9.' That supports how he came up with the 10' setback.

de Vries confirmed only the rear yard requires the variance. No variance is necessary for the front yard.

Sikkel referred to a map of the property which is an irregular shaped lot and pointed out the property does not have a conforming structure in the cabin that is currently on the property. It does not have a garage or the required two off street parking spaces. The front yard normally requires 40' and is between 7' and 8'. The rear yard is currently 40' where 50' is typically required. The existing septic is original to the house from the 1950s. Because of its age it will have to be replaced. Health Department regulations required that the septic will have to go on the east side which limits the concept of the layout of house. Also, the property is in the critical dune area. It complies with the 30 year but not 60 year setback from the crest. The next step will be to obtain approval from MDEQ.

A number of challenges confront the property owner: age of the house, the septic system, and the numerous nonconformities, the applicant wants to build a new structure which would be 10' off the front yard, it will be 2 ½ stories with two car garage and no living space on first floor. All the living space will be on the upper floors. Off street parking will be provided in the relocation. The house will maintain a 10' side yard and allow the septic to the east side of the house. An advance treatment septic system will allow reducing the footprint of septic field. Moving the house to the west will allow the septic system to be located to the east. The well would be located to the west of the house.

Sikkel said he is aware that several neighbors are concerned about expanding the footprint. He addressed the reason for moving the house. A number of factors warrant explanation: the house to the east (155 Michigan Avenue) submitted a request to have a 40' rear yard setback instead of 50' which was required. The original house met the footprint. The request also asked to build a deck in the front with a zero front setback. There was also a 6' expansion of the house on the south. His point is meeting the standards is important, but there is a situation in that request that the expansion of the footprint was allowed. This request is also 6' similar to the property owner to the east and his former request.

Sikkel reviewed the standards and argued that #1 is met as there is no allowed building envelope, #2 actually creates less of an impact by moving the footprint because of the present nonconformity, #3 considers the unique circumstances of the shape of the lot, the dune and the steep slope, and, #4 is justified because the situation is not self-created. Therefore, he asked for approval of the rear yard setback.

Foster asked about the location of the well.

Sikkel said it is in front toward the crest for its new location. Foster asked if that is feasible.

Adrienne Peterson, an Environmental Consultant involved in the building project, explained the well's location in light of it being out of the way of construction. It won't be over the crest of the dune and it meets the requirements to protect the dune. It also meets the setback requirement. The house will meet the 30 year setback requirement as a moveable structure.

Foster asked if there is any significant erosion on that side.

Peterson explained the well is not in the erosion area and referred to the map for its location.

PUBLIC HEARING

Dreyer opened the Public Hearing at 7:10 P.M.

Jim Baar, a neighbor and president of the Idlewood Beach Association, had several concerns regarding this property and submitted a letter. Several years ago when the water was very high this property was close to the edge of dune. On the lot across the street one of the septic tanks was exposed and there was significant erosion. He is also concerned with the well on that side if high water should reoccur. He also noted the arrangement for the house is very tight and will have a major impact on the entire community. There are construction vehicles located in the area and there is a lot of congestion. The last concern he has is how a two stall garage can be located so near the road.

A resident shared pictures of the high water which occurred several years ago.

Joe Zobkiw, a neighbor, has had experience with handling MDEQ applications. He referred to the 155 Michigan Avenue house. He had several variance requests to submit to the Township on this house knowing zoning requirements were not being met and wanted to keep the original footprint. He had to move the house 2' to the east. He was asked by the

Zoning Board to reduce the width of the house to maintain the setback. The original house was 32' x 40'. As they went through the planning process in discussion with MDEQ, they learned they would have to have steel pilings installed. They backed the house down four feet away from the dune. This was his personal experience. His concern is the footprint for 133 Michigan Avenue. They are moving the house up against the existing dune wall. He questioned how they can do this without putting in a steel retaining wall. This was not an option years ago – he had to do it. Another concern was in regard to the water and sewer since there is an issue with moving the footprint to the west to allow the septic tank location. What was required in the past was to maintain a significant setback from the existing home's foundation. However, in this case, the new footprint is increasing. Will the MDEQ allow building on this footprint to be increased by 66%? He observed this is a mistake. The original footprint should be maintained.

Lynn Hendricks lives at 155 Michigan Ave. She asked how many letters were sent to the Township.

de Vries said a total of 9 (one in favor, 8 against).

She observed that the issue is environmental based on the history of the past. There is no room for construction trucks to build in this community. It's a difficult area because the streets are so narrow. Her house starts to shake as a result of the construction activity and installation of concrete. She noted the example of Macatawa Park pile driving which impacted neighbors by cracks appearing in walls and foundations. She added that other neighbors having improvements done have maintained their footprints. Also, Idlewood does not have fire protection in that neighborhood. The fire chief says they don't have equipment to extinguish fires in that area. She asked the Board of Appeals to consider the impact to the neighborhood.

Mark Hofmeyer grew up in Idlewood. He is in favor of seeing this property improved. He is less concerned about water and septic – the county will deal with that. He appreciates the setback retention on the front and side of this property. However, his greatest concern is moving the footprint. He assumed the MDEQ will be involved and monitor this.

Dreyer closed the Public Hearing at 7:30 P.M.

Sikkel spoke to the concerns about the setbacks and retaining wall. He stated the applicant intends to comply with MDEQ requirements

Foster asked Greg Windemuller, the builder, if he has built homes in Idlewood.

Windemuller confirmed he has and used to build in the area with his father.

Foster asked if Windemuller has a plan to alleviate this problem.

He said they try to minimize difficulties. He isn't always on the site to monitor activity, but he tries to avoid difficulties. They won't interfere with summer traffic and will begin construction in the fall.

Joe Zobkiw noted the Board should be aware of the erosion that occurs in this area. He pointed out the home on the map where the septic tank was lost in the past. The prevailing wind area created wave action that carved out the beach area. It's just not the water level but the wave action that creates the problems. There will always be a serious concern as the water in the lake rises in the future.

Board Discussion:

Gerard asked how past Boards of Appeals responded to similar variance requests.

de Vries said it's difficult to generalize. Each one presents its own set of circumstances.

Dreyer said where the property owners have improved their setbacks that's how the Board has responded favorably.

Fleece said he recalled the critical dune area off Lake Macatawa has been a concern in previous instances.

Foster asked Sikkel about the plan for a two stall garage, if the garage was taking up the entire front width of the home?

Sikkel said the final plans haven't been drawn up, but he doesn't think it will be 40' wide across the entire front of the house.

Dreyer observed the two stall garage will result in less cars parking on the road.

Dreyer advised that the issue before the Board of Appeals is the rear yard variance. The well, septic and dune are not a Board of Appeals problem. Instead of 50' we are looking at the 34' rear yard variance.

Gerard noted this situation underscores the need for the overlays for these areas should be completed as soon as possible by the Planning Commission to facilitate Zoning Board of Appeals considerations.

Foster asked what is considered the rear yard in relation to the dune.

de Vries said the dune is part of the rear yard to the south of the property.

Fleece moved, supported by Eade, to approve the variance request.

Fleece reviewed the four 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.

This is an odd lot with different angles. It will improve the footprint regarding the front yard setback, keeping the 10' side yard.

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.

It will do substantial justice to the applicant. Improving the side yard to the east and improving parking in the front of the property does justice to the neighborhood.

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 unique circumstances are having a dune on two sides with steep slopes.

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

This is not self-created given the shape of the lot.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion to approve carried.

ANNOUNCEMENTS:

de Vries will check on the reason why Dreyer and Gerard are not receiving Township e-mails.

The next regular meeting is April 23, 2018.

De Vries said two applications have been submitted for the April meeting.

PUBLIC COMMENT

Dreyer opened Public Comment 8:00 P.M

No comment.

Dreyer closed Public Comment at 8:00 P.M.

ADJOURNMENT

Foster moved, supported by Eade, to adjourn the meeting at 8:01 P.M.

Voice vote:

Ayes 5, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall
Recording Secretary
March 28, 2018

Approved: