

**MINUTES
PARK TOWNSHIP
ZONING BOARD OF APPEALS**

Park Township Hall
52 152nd Street
Holland, MI 49418

Regular Meeting
March 27, 2017
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, John Foster, Jim Gerard, Sally Pollock

Absent: Dave Fleece-excused

Staff: Ed de Vries, Zoning Administrator

APPROVAL OF AGENDA:

Dreyer noted an error in the ordinance referenced for the first agenda item. It should be 38-276 instead of 38-306(3).

de Vries confirmed that was correct.

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

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

APPROVAL OF MINUTES:

Motion by Gerard, supported by Foster, to approve the minutes of the March 6, 2017 Regular Meeting as presented.

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

BUSINESS ITEMS:

Item #1 – A request by Michael and Mary Veele for an addition to a single family dwelling that will leave a rear yard of 36 feet where 50 feet is required per section 38-276 of the Park Township Code of Ordinances. Said land and premises are located at 2184 Brighton St., Holland, MI 49424. (Parcel #70-15-21-445-025, R-3)

de Vries introduced the first item on the agenda. As background, the home is on a corner lot, lot 38 of Parkwood Commons Subdivision No. 2. This was platted in 1987 when current zoning was in effect. The plat includes larger corner lots to allow for the front yard requirements on two sides, unlike the older plats. Typically the plat will designate the narrower side of the lot as the front to allow for the rear yard requirement.

As illustrated in the Staff Memo, lot 38 had the side adjacent to Sheffield Court designated as the front. Interestingly, lots 14 and 31 had the wider sides designated as the front, for reasons unknown. The home was built in 1988, and was allowed to be constructed with the front facing Brighton Street.

The survey submitted with the building application is shown in the Staff Memo. It shows a 40 foot front yard on Brighton Street, 50 foot rear yard, a 40 foot side yard to the east, and 55 feet plus to the side facing Sheffield Court. Neither the building permit nor survey show a deck added to the rear of the home. The deck does not appear to be over 30 inches in height so it likely is not in violation of the setback rule. The second floor was also allowed to cantilever 2 feet into the required rear yard. There is no record of variances on the property.

The current owners purchased the house from the builder.

On January 27 of this year an application was submitted for a 14' x 14' sunroom and deck at the rear of the home. The application was denied as it did not meet the rear yard setback requirement. The request for a variance was subsequently applied for.

Zoning Board of Appeals Considerations: On non-conforming older plats it has been the practice to allow a corner lot to have both sides not facing a road to be considered side yards. This practice was not extended to newer plats as they took the corner lot requirements into consideration when designing the plat. Park Township's zoning ordinance is silent on how corner lots are treated, other than the requirement that any side of the lot adjacent to a public or private street meet the front yard requirements. While the placement of the house on this lot does meet all setback requirements, it left no room for expansion to the front or rear. There is space on both sides.

Mary Veele spoke to the application. She and her husband moved into the home in December 1988. The deck was already on the house but they wanted to convert it to a three-season porch. They received two quotes to put it either on the east and west side. The quotes were cost-prohibitive. It made sense to put the addition on the west side and enclose it for a porch because of the orientation of the house on the lot and the location of the main living area. They were originally told they were within the setbacks so it was not a problem. They submitted the application and were told it wasn't allowed.

Pollock asked about the 14' x14' deck.

Veele said the original deck is there. They do not plan to add to it; they just want to enclose it.

PUBLIC HEARING

Chair Dreyer opened the public hearing at 6:43 P.M.

There was no comment.

Dreyer closed the public hearing at 6:44 P.M.

Dreyer asked that the record note that nine neighbors signed a statement circulated by the applicant in favor of the application.

Foster asked de Vries regarding the request for the project. Was it acceptable before the ordinance changed?

de Vries said the ordinance has not changed. Older plats that predated the ordinance were allowed two side yards and two front yards because the lots were small. Because plats designed after the ordinance was in effect there was a feeling that it would not be allowed. He advised that it could be clearer if this were addressed in the ordinance.

Foster asked if the existing deck is considered to be on the south side. Is it considered the rear yard, therefore it is out of compliance?

Dreyer said the deck is not over 30" so it is allowed.

Gerard asked if the ordinance is based on how the house is originally platted or how it is built.

de Vries said the Zoning Board of Appeals could make an interpretation, however it could have implications in other scenarios. He said you could go by what the building envelope is for the house.

Dreyer said the orientation of the house is the problem.

Foster asked because of the new ordinance and because the house is older, does this present a hardship?

de Vries said the ordinance change affected the 50' rule for a waterfront lot which does not apply to this request.

Dreyer said we can look at the standards; the hardship is the corner lot as well as the corner lot location. If the Zoning Board of Appeals reviews the standards a hardship could be justified.

Eade asked if a variance would be required if the deck was placed on the east side of the house.

Dreyer said no because that is the official side yard. The ordinance in this case applies with two front yards, one side and one rear yard. Although the house is on a corner lot, and despite the extra square footage, the applicant has to have 40', but that is a lot of space given the orientation of the house on the lot. He saw this as a hardship.

Eade said he can't make a case for the request.

Gerard said the problem for the applicants is not self-created.

Pollock asked where the exit is from the house to the deck.

Veele said the exit is from the main living room.

Gerard asked for the location of the family room.

Veele said it's one room – combined living and family room areas.

Foster asked if placement of the house makes it unique.

Gerard asked if it is unique because the house was rotated 90°. Have we ever considered this before?

Dreyer didn't think so.

Pollock asked about placing the deck on the east side.

Veele said it would be cost-prohibitive to put the deck on that side. They had two bids, both of which were too expensive for their budget (one was \$45,000 and the other was \$55,000).

Gerard moved, and Pollock supported, 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.***

Strict compliance is unnecessarily burdensome because of the corner lot requirements, and due to the house rotated 90 degrees from the way the lot was platted.

- 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.***

Granting the variance would do substantial justice to the applicant. There would be no adverse effect to other property owners. Additionally, the rear yard justifies a lesser relaxation for the setback requirement.

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 stream or a wetland) and not due to general conditions of the zoning district

The unique circumstances are the corner lot requirements with the unusual rotation of the house on the lot.

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

The practical difficulties were not created by the homeowner but by the builder.

Foster asked if consideration of a lesser variance applied in this case.

Dreyer said it does not apply in his opinion. If we were to consider that side of the house as a side yard it is not close to the 10' setback requirement.

Dreyer wanted to add an interpretation of rear yard for a lesser relaxation. Add in b or d.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried to approve the variance request.

Item #2: A request by Yacht Basin Partners, LLC, to erect a building with a height of 39 feet where 35 feet is allowed per Section 38-454 of the Park Township Code of Ordinances. The property is located at 1862 Ottawa Beach Road, Holland, MI 49424. (Parcel #70-15-27-328-004, C-2)

de Vries introduced the item.

Yacht Basin Marina (formerly Bay Haven Marina) is a business that has existed since the 1950's on Lake Macatawa. Over more recent years the operation has expanded to include land once occupied by The Hatch restaurant. They added a multi-use building in 2007 and replaced other older buildings. As part of this request they removed one of the last remaining original buildings which was no longer safe, and will be removing the garage/repair shop building. They are proposing to replace it with a 120' x 240' heated storage building 39 feet in height.

Matt DenHerder spoke to the application. His father has been involved in the marina business for over 25 years, and he and his father have jointly owned the marina for 10 years. The marina has been in place in the Township for 50 years. The renovation project

has been approved by the Planning Commission. A 25 year old building on the site was originally built to code, but it is 6' higher (4' high) than the current ordinance allows. They tried to plan the replacement of this building to the 35' height requirement, however, it can't meet the height requirements of the marina for large heavy objects like boats. There is a safety factor involved in the preferred height for handling and lifting large boats. The request for the 39' is necessary for the large door and for adequate clearance. He added that no neighbors will be affected by the size of the building.

Eade asked de Vries what the intent is in limiting the height. Is it sight lines and visual appearance that are involved?

de Vries explained it is part of the zoning requirements for all zoning districts. The ordinance doesn't take into specific account the nature of a marina operation as opposed to another type of business.

Eade noted that this is a business that has been here a long time and is in competition with other marinas. It needs this variance to keep the business viable and competitive. He encouraged the Board of Appeals to look favorably upon the request.

PUBLIC HEARING

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

There was no comment.

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

Dreyer asked if the 35' height was because of the fire department requirements.

de Vries said that may have been a consideration but did not know. Currently the Fire Department has mutual aid agreements with surrounding departments which include aerial tower trucks.

Foster asked if the Township does a fire inspection as a part of the construction.

DenHerder said it is – there will be an inspection on Thursday

Foster noted it is rather unusual since the Zoning Board of Appeals ordinarily deals with residential property and not commercial.

de Vries agreed the marina does present unique requirements.

Eade moved, supported by Gerard, to approve the variance.

Eade 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.***

The building height of 35' would not permit the use of the equipment that is standard and used in the industry. Relaxing the requirement would be appropriate. It is a hardship because in commercial use the extra height is important for the use of the building and for safety. The uniform height requirement for all zoning districts does not address different needs.

- 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 Zoning Board of Appeals may grant a lesser variance provided the other standards are met.***

The justice to the applicant is allowing replacement of the old, structurally unsound building with one that is new and more appropriate to the use of the marina. The older building has been an eyesore and removal will be a positive step to the property. It is also a benefit to the neighboring properties and the customers who utilize the marina resources.

- 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 stream or a wetland) and not due to general conditions of the zoning district.***

The unique circumstances of the property are described as being the current use of the marina with its specific requirements.

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

Not self-created. The applicant wants to create an appropriate facility for his marina business. He now has equipment that is more compatible with the proposed structure and the level of need of the customers who use the facility.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

ANNOUNCEMENTS:

Dreyer suggested changing the word "absent" in the attendance section with another term to distinguish between members who are excused because of advance notice to the Township and those members who just do not show up without an excuse.

Dreyer also requested a list of Zoning Board of Appeals members' phone numbers, for the use of the board only in the event of the necessity for contact outside the meeting.

de Vries said to this date there are no applications for the April 24 meeting.

PUBLIC COMMENT

Dreyer opened Public Comment at 7:25 PM

There was no comment.

Dreyer closed Public Comment at 7:25 P.M.

ADJOURNMENT

Pollock moved, supported by Foster, to adjourn the meeting at 7:30 P.M.

Voice vote:

Ayes 5, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall
Recording Secretary
March 28, 2017

Approved: