

**MINUTES  
PARK TOWNSHIP  
ZONING BOARD OF APPEALS**

Park Township Hall  
52 152<sup>nd</sup> Street  
Holland, MI 49418

Regular Meeting  
March 28, 2016  
6:30 P.M.

**DRAFT-APPROVED 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, Mike Toscano

Staff: Ed de Vries, Zoning Administrator, Andy Bowman, Staff Planner

**APPROVAL OF AGENDA:**

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

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

**APPROVAL OF MINUTES:**

Motion by Fleece, supported by Eade, to approve the minutes of the February 22, 2016 Regular Meeting as presented.

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

**BUSINESS ITEMS:**

1. **A request by Dean Achterhof** to allow an addition to a residence on a corner lot that will be 30 feet from the property line instead of the required 40 feet per Section 38-276(1), and 38-496 of the Park Township Zoning Ordinance. Said land and premises are located at 1368 Waukazoo Dr., Holland, MI 49424. (Parcel #70-15-35-202-002, R-3)

de Vries introduced the agenda item. As background, this property recently was approved for a variance for an addition to the front of the residence which followed existing building lines

and did not encroach on the required setbacks any further than the existing house. This was approved at the October 26, 2015 meeting. The applicant is now proposing an addition at the rear of the home that will be set back from Hemlock Ave. further than the existing house, but still within the required 40 foot setback from the road. The following background is from the staff memo for the October 2015 meeting.

The lot is non-conforming due to size, 8,500 square feet instead of the required 15,000 square feet. The lot is situated on the southwest corner of Waukazoo Dr. and Hemlock Ave. The lot description states it is the “northeasterly 85 feet of lot 36 Waukazoo.” The plat was dedicated in 1905. There is no indication of when this lot was split from lot 36 other than it was most likely before the 1970’s.

The assessing records reflect the house was built in 1946. The existing house is non-conforming in that it does not meet the front yard requirements for either side facing the road. There is no record of any previous variances. As there are not any homes on the same side of the street within the same block within 100 feet, front yard averaging is not allowed. There was a permit issued in 1990 to add a garage, shop, and bathroom. In 2004 the roof was replaced.

de Vries referred to the site plan included in the Staff Memo of March 21, 2016 showing what was approved for this property at that time.

As noted in previous similar requests that are expansions along or within an existing non-conforming setback, the Planning Commission is exploring an ordinance change to allow similar expansions outright, or allow these expansions as a special exception with its own set of standards other than the typical “hardship” standards in the current ordinance.

de Vries reminded the Board of Appeals that for this variance the four standards must be met.

Dreyer asked the applicant to address the Board of Appeals regarding his variance request.

Achterhof explained that he decided to put the addition in the backyard after finding out it was considered part of the side yard setback of 10’. Now that he and his wife are retired and spend more time at home, their plan is to extend the roof on the front corner (Hemlock and Waukazoo) to cover the porch, to add the 16’x16’ room, and remodel of the kitchen along with additions of roofing and siding.

Dreyer asked Achterhof to explain the reason the addition needs to go in the proposed location rather than behind the garage. Achterhof said the addition will extend from the main living area. There is a small office in this part of the house so it would be a continuation of this space. Otherwise, the addition would result in entering through the master bedroom area which has a private entry.

Foster said he looked at the property today. He asked if the addition will be further offset to the south. Achterhof confirmed it would. He explained it would be close to the backyard to the south of the house.

**Public Hearing:**

Dreyer opened the Public Hearing at 7:38 P.M.

There was no comment.

Dreyer closed the Public Hearing at 7:39 P.M.

**Board Discussion:**

Foster asked if the deck and screened porch have been there since the house was built. Achterhof said that was added during the first remodel of the house.

Foster asked if the deck required a variance. Achterhof said it did not, however, the first addition required a variance.

Fleece moved, and Eade supported, to approve the variance.

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.***

The burden is created by the small corner lot with two road frontage requirements, and the existing layout of the home.

- 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 relief to the property owner is in the ability to remain in the home and add a small additional living area. The justice to other property owners is the addition will replace an existing patio with covered screened in area, and be located further from the road than the existing house.

- 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.***

This is a small corner lot with two road frontage requirements, platted prior to the current ordinance requirements.

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

The difficulties were not self-created.

**Board Comments:**

Dreyer noted with regard to the second standard that the applicants should be able to enjoy retirement and their hobbies with the additional request for space so they would not have to move from the home. This should justify substantial justice to the request.

Toscano added the size of the home will not be larger with the addition. Rather it will be just a change of configuration. Also, the building envelope is based on the age of the home and is non-conforming by today's standards.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

- 2. A request by Amy Hagood on behalf of Martin and Pirrie Bingham** to reconstruct a non-conforming residence that will have a front yard of 14 feet where 40 feet is required, and a rear yard of 1 ½ feet where 25 feet is required, per Sections 38-306(1) and 38-306(3) of the Park Township Zoning Ordinance. Said land and premises are located at 2375 Crescent Walk, Macatawa, MI 49434. (Parcel #70-15-33-389-011, R-4)

de Vries introduced this item. The applicants propose to reconstruct an existing non-conforming home on its present site. The application states they will use an existing foundation on the north side. They will remove a 12' x 20' rear deck that extends across a paper right-of-way and onto an adjoining property. They will add a side porch that will be further from the front and rear lot lines than the existing residence, but will comply with side yard requirements.

Assessing records estimate the house was built around 1895. There is no recent record of any permits or variances. It was purchased by the current owner in October of 2015. The property description is lot 130 of Heneveld's Supervisor's Resubdivision of Macatawa Park. This plat was dated 1935, or approximately 40 years after the house was built.

The lot is non-conforming due to size, 4,400 sq. ft., and frontage is 80 feet instead of the required 85 feet. No diagram of the building envelope was provided because there is no envelope. The lot is 55 feet deep. With the required 40 foot front, and 25 foot rear, that results in a negative 10 feet. Staff had found a probability that the lot may not need a front yard variance due to averaging and that the applicants had only recently submitted

documentation from a survey showing the front yard variance is not needed since it will meet front yard averaging. The only variance that is necessary is for the rear yard. Using the information provided, staff calculated the average front yard to be 12.8 feet. The two buildings to the west are at an angle to the right-of-way. Calculating using an average setback for those two residences resulted in an average of 14.4 feet. In either case, front yard averaging indicates no variance is needed for the front yard. Rear yard averaging would come to less than the 10 foot minimum requirement, so 10 feet would be allowed.

Amy Hagood, contractor for the applicants, presented the rationale for the request. She explained that three of the foundation walls will be retained but the rest will have to be replaced since it is a 130 year old property. She shared a footprint of the existing structure compared to the proposed. She plans to keep the existing footprint along with the foundation wall that is on the northwest corner. The new foundation wall will be out 2 ½'. New windows and siding will be added. The side setbacks will be maintained.

Foster asked about the well and septic. Hagood said the owners own the property across the street. The well is located there and the property is on city sewer.

Foster said he visited the property and wondered about the purpose of the door at the end of the walk. Hagood said the door at the end of that walk is actually a basement door. The main entrance is to the right side of the house up an exterior stairway.

Dreyer said there is no written correspondence from neighbors.

### **Public Hearing:**

Dreyer opened the public hearing at 6:55 P.M.

Rod Obbink, the applicant's contractor, spoke to the project. It wasn't feasible for renovation because of the age and deterioration of the home. The new additions will be a major improvement to the property. They have applied to MDEQ regarding the foundation changes but they have not heard from them.

Hagood said she expects to hear from MDEQ by the end of March.

Toscano asked Obbink about the stability of the home. Obbink said some of the additions over the years were done haphazardly. The planned improvements will make the home more stable and safe. The replacement of walls and removal of a non-compliant deck will be positive changes in his opinion. However, in the next few years additional changes will have to be made.

de Vries said has been in touch with MDEQ and they have indicated they are waiting on the Zoning Board of Appeal's decision. He asked them about the contractor's decision to use the existing footprint rather than expanding it. MDEQ says this definitely makes a difference since the criteria for using the same footprint is much easier in obtaining a permit.

Dreyer closed the public hearing at 7:00 P.M.

**Board Discussion:**

Toscano moved, and Fleece supported, to approve the variance.

Toscano 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 setback requirements of the ordinance creates a negative building envelope on this lot.

- 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 justice to the applicant is in being able to bring the building up to current building code. The justice to other property owners is decreasing the degree of non-compliance, and enhancing the views of the neighboring property.

- 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 shallow lot, and MDEQ requirements for building on a critical dune, create unique circumstances.

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

This was not self-created.

Bowman suggested the unnecessary burden should include additional detail.

Toscano added the building envelope, in strict compliance, does not allow a new structure which is unnecessarily burdensome.

Dreyer also noted that moving the foundation wall makes it more of a hardship for MDEQ.

Bowman concurred this was a good point.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

**PUBLIC COMMENT:**

Dreyer opened Public Comment at 7:15 P.M.

There was no comment.

Dreyer closed Public Comment at 7:15 P.M.

**ANNOUNCEMENTS:**

The Board reviewed the Annual Report for the Zoning Board of Appeals. Overall they agreed the number of variances approved is supportive of the Township's ordinances in balance with providing some flexibility in understanding the nonconformity of several properties in the community.

The next regular meeting date is April 25, 2016. De Vries noted that to date there are no applications but there is one week remaining for the deadline.

**ADJOURNMENT:**

Toscano moved, supported by Eade, to adjourn the meeting at 7:20 P.M.

Voice vote:

Ayes 5, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall  
Recording Secretary  
March 29, 2016

Approved: April 25, 2016