

**MINUTES
PARK TOWNSHIP
ZONING BOARD OF APPEALS**

Park Township Hall
52 152nd Street
Holland, MI 49424

Regular Meeting
May 20, 2019
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: ~~Planner~~, Howard Fink, Township Manager

APPROVAL OF AGENDA:

Fleece moved, supported by Foster, to approve the agenda as submitted.

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

APPROVAL OF MINUTES:

Eade moved, supported by Foster, to approve the minutes of April ~~16 22~~, 2019 Regular Meeting as submitted.

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

BUSINESS ITEMS:

Item #1 – A request for a dimensional variance submitted by Richard and Kathryn Vander Broeck for permission to allow a 9' tall fence to remain where a maximum of 6' is allowed per Section 38-498(b) of the Park Township Zoning Ordinance. Said land and premises are located at 3335 N. Lakeshore Drive, Holland, MI 49424 (Parcel #70-15-09-385-014, zoned R-2 Lakeshore Residence District).

Dreyer introduced the agenda item. The background information for this request is the construction of a 9' fence which is not supported by the Township zoning ordinance.

Peter Rhoades, Legal Counsel for the applicants, spoke to the request. The fence in question was constructed three years ago. The Vander Broecks wish to keep the fence which is 9' high. He understood the elevations on either side of the fence are a key determining factor. He noted the site plan that was indicated on the Staff Memo and the location of the house adjacent to the applicants' property. The reason for the fence was to minimize the closeness of the lot line and the location of the neighboring house. Rhoades shared photos of the applicants' property and the neighboring homes which show the change in elevations. It is evident the neighboring home was raised. He said the GIS measurements were taken at the incorrect location and therefore are inaccurate. The increase in elevation is an intrusion to the applicants' property as a result.

Rhoades also noted that on the Edgewood Street side of the property of his client there is a fence that is 8' high. There are also other fences that are more than 6' high in the community.

The purpose of the fence is to block the intrusion by the neighboring property which creates a burden to his client. It is not self-created because his client did not raise the elevation of the neighboring home.

Gerard asked what Rhoades meant by intrusion.

Rhoades said it is the light from the neighboring home.

PUBLIC HEARING

Dreyer noted the Township received two letters from neighbors who are in opposition to this request.

Dreyer opened the Public Hearing at 67:50 P.M.

Doug Brouwer owns the property which backs up to the Vander Broecks' lot. When he returned from time overseas in 2017 he discovered a 9' ~~feet~~ fence had been constructed along the southern boundary of the lot line between his property and the Vander Broecks'. He received e-mails from the Vander Broecks expressing concern about the amount of light coming from his home so he turned off his motion sensor light. He tried to improve the landscaping around his home to help the situation.

In November 2018 he contacted Emma Posillico at the Township to ask if the Vander Broecks had communicated with the Township about the fence. There was no record of any intent to build the 9' fence. She consequently sent a letter to the Vander Broecks regarding the 6' maximum fence height requirement and notified them they were not in compliance.

Rich Vander Broeck said he talked with Ed de Vries about his situation. He grew up in the area and has experience a lot of change. He is uncomfortable with the elevation of the neighbors'

house. He said he discussed a trellis with de Vries as an idea to mitigate his view of ~~from~~ the Broewer home. He added that a 6' fence would not serve the same purpose.

Susan DeYoung said her home was built five years ago. She and her husband, Doug Brouwer, had rented it for the past four years for three months during the summer, and just recently moved into it as full time residents. There had been no problem with complaints about light over the past four years. She added that most of the homes in the neighborhood are two stories.

Dreyer closed the Public Hearing at 7:00 P.M.

Foster said he was unable to visit the property and asked for a description of the trees stand between the Vander Broeck and Brouwer properties.

Fleece said he visited the property and observed the neighboring property was very level. He could see through the trees. He saw no deck.

Foster asked about growth on the fence in question.

Fleece said there was none.

Dreyer observed that the Vander Broeck house is not mostly windows on the back of the structure. Perhaps there is window coverage of about 20%. The light is at an angle and does not affect the back of the house. It does not appear there is a privacy problem.

Fleece asked if there is a violation with regard to the setbacks.

Fink said no.

Foster moved, supported by Eade, to deny the application for a variance on the fence height.

Foster 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.***

The fence was constructed out of compliance, the property is far enough away from the neighboring home, and there is no apparent privacy problem. A 6' fence would serve the same purpose.

- 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.***

We cannot allow the lesser variance based on the ordinance. The neighbors do not support the 9' fence and there is no justifiable need for a higher fence that is in non-compliance.

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 plight of the applicant is they constructed too tall a fence. We cannot verify they had permission from the Township. There are no natural features on this property to justify the variance request.

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

The fence is in non-compliance with the requirements of the ordinance. It is self-created. The applicant did not request a variance at the time of construction. Dreyer added that a neighboring deck is far more intrusive than the Brouwer property which is 300' away.

ROLL CALL VOTE:

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

Ayes 5, Nays 0. Motion carried to deny the request.

Fink advised the applicants and the neighbors to meet with each other and try to reach some resolution.

Gerard observed that there are other fences in this neighborhood that are higher than 6' and as a matter of fairness perhaps this should be addressed.

Fink said he will follow up on this

ANNOUNCEMENTS

The next meeting is scheduled for June 24, 2019. Dreyer said he may have a conflict and will be unable to attend.

PUBLIC COMMENT

Chair Dreyer opened Public Comment at 7:14 P.M.

There was no comment.

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

ADJOURNMENT

Foster moved, supported by Gerard, to adjourn the meeting at 7:16 P.M.

Voice Vote:

Ayes 5, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall
Secretary
May 21, 2019

Thanks to Danielle Dykens for recording the minutes in my absence.

Approved: