

**MINUTES
PARK TOWNSHIP
ZONING BOARD OF APPEALS**

Park Township Hall
52 152nd Street
Holland, MI 49424

Regular Meeting
July 23, 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, Jim Gerard, Kathy Grimm, Sally Pollock

Absent with notice: Dave Fleece, John Foster

Staff: Ed de Vries, Community Development Director

APPROVAL OF AGENDA:

Eade moved, supported by Gerard, to approve the agenda as presented.

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

APPROVAL OF MINUTES:

Eade moved, supported by Grimm, to approve the minutes of the June 25, 2018 Regular Meeting as presented.

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

Pollock recused herself from the first agenda item.

BUSINESS ITEMS:

Item #1 - A request by Thomas Burgess to allow construction of a residence with a front yard of 10 feet where 40 feet is required per Section 38-306 (1) of the Park Township Zoning Ordinance. Said land and premises are located on four parcels to be combined on North Park Avenue north of Auburn Street, Holland, MI 49424. (Parcels 70-15-33-274-001, 70-15-33-274-002, 70-15-33-274-003, and 70-15-33-274-004, R-4)

de Vries reviewed the application request noting the applicable ordinance is Sec. 38-306 (1) Area regulations, Front yard. There shall be a front yard of not less than 40 feet.

The property is platted on North Park Avenue. The property description is Lots 51 through 54 of Nieuwsma's Supervisor Resubdivision of West Michigan Park replatted in 1942. There are currently four separate 40' x 80' 3,200 square foot parcels which are to be merged together to form one 12,800 square feet parcel. Thomas Burgess has owned lot 52 since 1999 having purchased it from a relative. In February of this year he purchased lots 53 and 54 from the estates of other relatives. Lot 51 is currently owned by Ron Klamt with Mr. Burgess having an option to purchase.

As noted, the lots in question front on a public right-of-way platted as North Park Avenue. This right-of-way is no longer under the jurisdiction of the Ottawa County Road Commission, but was turned over to the Ottawa County Parks Department as part of the agreement with the "Park 12" settlement. The County Parks Department has jurisdiction on the use of the right-of-way. The applicant had planned on building a driveway with permission of the Road Commission until it was discovered to be under the Parks Department. The Parks Department staff indicated they would permit a sidewalk in the right-of-way, but the applicant will have to work with the West Michigan Park Association to gain two parking spaces.

The applicant will also need permits from MDEQ for constructing the home as well as a sidewalk as this property is part of the critical dune area. He will also need permits from the County Health Department for well and septic permits.

The R-4 zone district requires an 8,500 square foot lot if municipal water and sewer are available, 10,000 square feet if water only, and 15,000 square feet without water and sewer. The plan is to have a well and septic. The ordinance does allow for using a lot or lots of record without Zoning Board of Appeals approval if the property is at least 6,500 square feet and the required setbacks are met.

Tom Burgess spoke to his application. The lots have been in his wife's family for 60 years. He noted on the map, the reason for the variance is that the front and rear yard setbacks leave him only a 15' wide envelope. Building on that space would create a long and narrow building. He doesn't need a side or rear yard so he moved it further away to the north. Thus, the reason for the variance. He tried to be practical in this approach. He met with MDEQ and he is in the process of applying for a permit. Before approval he needs to know where the building envelope will be and where the driveway will be located. That is the reason for the 10' variance request.

Gerard asked Burgess if he will still have a garage since he can't have a driveway.

Burgess said no and explained that the map sent to the County Parks Department doesn't show a driveway. Parks and Recreation are looking at the property to see what they require. He will be given two spaces in the lot off Auburn, but there will be no garage. There will be a structure for only storage.

PUBLIC HEARING

Chair Dreyer opened the Public Hearing at 6:48 P.M.

Dreyer noted that three letters were received from neighbors regarding this request.

Tom Postmus said this property is behind his house. He is concerned about the septic. There is water and sewer and he would like for the Township to make a recommendation that the applicant hooks up the water and sewer which will take the septic concern away. Regarding the critical dune, he hasn't heard from MDEQ about what is happening with their requirements. The dune is close to Mt. Pisgah which is a critical dune area. We can't stop the building but he would like it to be required to hook up to water and sewer. There is no road which is a stipulation. He would like to delay approval until all reports are submitted.

Dreyer said the Zoning Board of Appeals has no control over water and sewer. We base all decisions on the land use. We have no power over MDEQ regarding the dune areas. We evaluate the lots in question based on the criteria and standards established by the Township.

de Vries confirmed that was the case and he knew Burgess explored hooking up to water and sewer. This is under the control of the County Health Department. In order to get his building permit from the Township the applicant will have to show he obtained permits from MDEQ and the Health Department.

Arthur Wood said he owns a couple of lots across from the applicant. With regard to the square footage of this proposal, does the applicant qualify without water and sewer.

de Vries explained the applicant does qualify because the ordinance allows that a lot of record of at least 6500 square feet may be used without ZBA approval. If this had never been a platted lot of record the Township would require 15,000 square feet if he was going to build without water and sewer from the municipality.

Wood said his other concern is the site plan. It won't have a driveway or a garage which is shown on the site plan. He would like to table the approval until there is a correct site plan submitted. What's going to happen regarding the roadway as opposed to a walkway?

Bob Garlinghouse said he submitted a letter. He noted this is such a critical dune and these four lots are part of the slope near Mt. Pisgah with proximity to everyone's backyard in that area. All lots have gone to city water because it is a very compact neighborhood. Is the discussion regarding the County Health Department allowing septic in a critical dune area? The applicant is moving the envelope away from the dune area which he agrees with.

Dreyer said if the residents are concerned about the septic as a possibility they should contact the County Health Department.

Burgess responded to the concerns. Regarding water and sewer vs. septic, he is looking at both. He may use the water main and sanitary sewer. He's looking at all of the options. Should it be tabled? Before he works with MDEQ he felt it best to seek approval from the Township. If the ZBA ruling changed the site plan he would have to resubmit to the DEQ otherwise. He explained that where he wants to build most of the property is fairly level. It's an open area. He will have to replace trees if any have to be removed, and he is trying to be mindful of all of the requirements.

Diana Garlinghouse wanted to clarify that two of the lots were purchased recently. And she challenged the concept the property is level; in her opinion, it is a sheer drop if you walk the area. How can the applicant obtain the variance if he doesn't have a site plan?

Chair Dreyer closed the Public Hearing at 7:04 P.M.

Gerard asked about the four similar sized lots located to the northwest of the Burgess property. Are they future building sites?

de Vries said Mr. Wood owns five lots in that area. He noted that County Parks and Recreation owns one.

Dreyer clarified the Board of Appeals is dealing with a variance for a setback only.

de Vries said it would be fair to clarify the reference to a garage. Is it to be used for storage only? If the applicant chooses to build what he explained, as an accessory building, it can't be used for living space. He advised the Board of Appeals should understand where it will be located and what it will be.

Burgess said where it is on the map is where he wants it to be. It fits where it is. He wants it to be a secure building, and he would like it to be attached. He may use it as a workshop.

Dreyer noted it is difficult to ask for a complete site plan if MDEQ has not approved it.

de Vries said this approval is only for the relaxation of the front yard setback so long as the applicant doesn't come any closer to the front yard.

Grimm asked if the MDEQ will have the final say for this plan. de Vries said yes.

Gerard moved, supported by Eade, to accept the variance for a 10' setback from North Park Avenue based on the request meeting the four standards.

Gerard 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 way the property was platted in the past, coupled with the current ordinance creates a burden. Dreyer added that it is a buildable 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.

It would do substantial justice to the applicant. He has moved it as far north as he can to provide benefit to other property owners.

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.

By virtue of the size of the platted lots it creates unique circumstance, together with the dune requirements.

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

This is not self-created.

Roll Call Vote:

Eade, aye; Grimm, aye; Dreyer, aye; Gerard, aye.

Ayes 4, Nays 0. Motion carried.

Pollock joined the meeting for the second agenda item.

Item #2. A request by Thomas Slikkers on behalf of Big Sky LLC to allow construction of a residence with a rear yard adjacent to Lake Macatawa of 45 feet where 50 feet is required per Section 38-276 (3) of the Park Township Zoning Ordinance. The Zoning Board of Appeals may authorize a lesser rear yard setback on Lake Macatawa considering standards listed in Section 38-495 (2). Said land and premises are located in the 2060 block of Lakeway Drive, Holland, MI 49423. (Parcel #70-15-34-352-004, R-3).

de Vries provided the background for this request. The applicable ordinances are Sec. 38-276 (3) Area regulations, Rear yard. There shall be a rear yard of not less than 50 feet, and Sec. 38-495 (2) Rear yard abutting a body of water – Lake Macatawa. In an area of nonconforming lots abutting Lake Macatawa, the Zoning Board of Appeals may authorize a lesser rear yard setback. In establishing the setback, the Zoning Board of Appeals shall consider the required six standards.

The subject property is described as lots 7 and 8 of the Scott's Macatawa Grove Subdivision, and is located to the east of the Tiara Yachts Corporate Center abutting Lake Macatawa. The property is approximately .25 acres in overall area, measuring approximately 137 feet in length and 80 feet in width. The property is presently vacant – a house and garage were demolished on the site in 2004.

The rear yard (abutting Lake Macatawa) is proposed to be 45 feet, which is five (5) feet less than the required rear yard. There is an area designated as floodplain along the subject property's boundary with Lake Macatawa. The subject property is approximately 11,040 square feet, which is less than the required 15,000 square feet for the R-3 zone. A variance is not required since this is an existing lot of record and is a minimum of 6,500 square feet.

While this application is specifically requesting a reduced rear yard, it should be noted that the front yard is less than the required 40 feet. The applicant is utilizing front yard averaging, and will not require a variance for this.

Dreyer asked if we review rear yard averaging only for sight lines and not setbacks.

de Vries explained if you look at the standards for this ordinance they allude to that. The building is set further back from the lake than the former sight line requirement. Rear yard averaging did not work out because of the irregular shoreline.

Tom Slikkers spoke to his request. The 5' variance is greater than the averaging of the properties on either side, which is 41'. He is asking 45' which he thinks is reasonable.

PUBLIC HEARING

Chair Dreyer opened the Public Hearing at 7:23 P.M.

Rich Dirkse observed that 22 years ago it was different - it was line of sight. He asked why an exception would have to be made in this case. There is adequate room to build the house.

Dreyer explained the new rule is 50'.

Chair Dreyer closed the Public Hearing at 7:25 P.M.

Pollock asked Slikkers if he needs the extra 5' for the proposed building.

Slikkers said he is trying to fit with the neighborhood. He isn't asking for anything different than what is already in the neighborhood.

Grimm asked if he has contacted MDEQ.

Slikkers said he had not.

Gerard asked if any part of the house will be in the floodplain.

de Vries said the house wouldn't be in the floodplain.

Eade moved to approve, supported by Pollock, for the variance for a 5' rear yard setback. .

Eade reviewed the six standards:

a. The location of buildings on adjoining properties;

Dreyer noted the location won't affect the adjoining properties because the side yard setbacks meet the requirements and it won't affect the sight line.

b. The effect of construction on the lot in question on the view from adjoining properties;

Same as in a.

c. The potential effect of erosion and flooding from high water on the lot in question;

The applicant notes that the property has an existing seawall, and will comply with the Ottawa County Water Resources Commissioner (OCWRC) requirements. A soil erosion permit will need to be obtained from OCWRC. He has met that requirement.

d. The effect, if any, of the proposed building and any related improvements on existing

seawall or other flood control or erosion devices located on adjoining properties;

There should be no impact to existing neighbors or their seawalls, and the proposed construction will be compliant with recommendations from OCWRC. Dreyer added there will be permits required for this.

e. The relative proximity of the proposed building to adjoining properties, specifically including proximity to occupied dwellings; and

The proposed home is similar to those in the surrounding neighborhood and does not appear to negatively impact occupied dwellings more than a home built to the required rear yard setback.

f. The effect of the proposed building on adjoining properties and the surrounding neighborhood.

The applicant has tried to minimize the impact on soil erosion, flooding, adjoining properties and surrounding neighborhood.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

PUBLIC COMMENT

Dreyer opened Public Comment at 7:33 P.M

There was no comment.

Dreyer closed Public Comment at 7:33 P.M.

ANNOUNCEMENTS

de Vries said two applications will be on the agenda for the August meeting.

de Vries said Meghann Reynolds will attend the next month's meeting.

The next meeting is August 27, 2018

ADJOURNMENT

Eade moved, supported by Gerard, to adjourn the meeting at 7:33 P.M.

Voice vote:

Ayes 5, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall
Recording Secretary
July 25, 2018

Approved:

DRAFT