

**MINUTES
PARK TOWNSHIP
ZONING BOARD OF APPEALS**
Park Township Hall
52 152nd Street
Holland, MI 49418

Regular Meeting
July 25, 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, Sally Pollock, Mike Toscano

Absent: Dave Fleece, John Foster

Staff: Ed de Vries, Zoning Administrator

APPROVAL OF AGENDA:

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

Voice Vote: Ayes 4, Nays 0. Motion carried.

APPROVAL OF MINUTES:

Motion by Toscano, supported by Eade, to approve the minutes of the June 27, 2016 Regular Meeting as presented.

Voice Vote: Ayes 4, Nays 0. Motion carried.

BUSINESS ITEMS:

1. Cancelled. The application was handled by the Office of the Zoning Administrator under the new ordinance.

2. **(Postponed from June 27) A request by Ed TerVoort** to allow construction of a 1,207 square foot accessory building with a 10 foot side yard where 25 feet is required per Section

38-491(b)(2)e of the Park Township Zoning Ordinance. Property is located at 172 Black Berry Ct., Holland, MI 49424. (Parcel #70-15-26-176-032, R-3)

De Vries introduced the agenda item. TerVoort was at the Zoning Board of Appeals meeting last month. Due to the pending change in the ordinance which uses a different set of standards he requested to postpone consideration of his application until this meeting.

This application is within the Blackberry Estates PUD project. The project contains 17 single family condominium buildings on 6.5 acres, and 3 metes and bounds parcels on the remaining 3.5 acres. The 3 individual parcels each had a building envelope indicated on the site plan for the development. The applicant submitted a building permit for the 1,207 square foot accessory building which would be 10 feet from the south side lot line, which was within the building envelope on the site plan. However, the Conditions of Approval for the PUD paragraph I) states in part, "All accessory buildings to be included as part of the Project shall be subject to all restrictions and requirements contained in the Zoning Ordinance Section 4.11 (now section 38-491) for residential zoning districts."

Section 38-491 has a new list of standards and lists a table of setbacks which increase as the size of the building increases. Buildings up to 1,050 square feet require a 10 foot side yard. From 1,050 up to the maximum 2,500 square feet a 25 foot side yard is required. So, for the variance standards review, this is an administrative approval request pertaining to accessory buildings, the applicant must satisfy the five standards found in Section 38-491(b)(2)h of the Park Township Zoning Ordinance.

TerVoort addressed his application request. He would like to angle the building slightly, proposing a 10' side yard on the southeast and 15' on the southwest. He sees this as a compromise.

Dreyer asked if this presented a problem for the septic.

TerVoort said it would not.

Eade asked if the septic and drain field are installed.

TerVoort said both are in place. He asked the Health Department if he could move the septic but was told he could not due to the pond location.

Pollock asked what will be stored in the shed and if it could be smaller thus avoiding the variance request.

TerVoort said the resident has a lot of items that require storage.

Dreyer noted that there was no correspondence received by the Township regarding this application. The Public Hearing was held last month.

Toscano asked about #3 of the ordinance standards with regard to the “location of the accessory building in relation to other buildings on adjoining lots and in relation to the principal building on the lot.”

Granted the retention pond is there which limits the drain field. Keeping the building to the 1050 square footage means #3 can be met because the adjacent south property hasn't been sold. In his opinion, it would create setback issues for that property if we grant this one. He has concern about relaxing to 10' given we don't know how the south lot will be configured for drainage. Will that lot owner have to ask for a variance in the future?

Dreyer noted this building is within the established building envelope and the residence could have been built there. The pond creates the special or natural feature for this lot. This is a consideration.

Toscano didn't think it was considered as the special feature of the lot.

Pollock asked if the accessory building could be configured east and west instead of its present design as L-shaped.

Toscano asked if it could be made longer.

Dreyer said, in his opinion, the applicant is not building outside the envelope.

Toscano agreed it was a good point.

Dreyer asked if the solution could be to make the building on the east-west orientation wider and you would still have same square footage.

TerVoort said the resident needs to fit a trailer in that space.

Toscano would be comfortable with 15'. Dreyer supported that.

TerVoort concurred that this could be an acceptable compromise.

Toscano moved, Eade supported, to approve the variance request to allow for a 15' south property line setback.

Toscano reviewed the five standards:

- 1. The area and/or height of the accessory building in relation to the size of the lot on which it is to be placed.***

This would be within the property line envelope so it would fit.

- 2. The area and/or height of the accessory building in relation to the principal building on the lot on which the accessory building is to be placed.***

There is sufficient space between the principal building and the accessory building. The location of the accessory building needs to be adjusted because of the location of the drain field.

- 3. The location of the accessory building in relation to other buildings on adjoining lots and in relation to the principal building on the lot..*

Allowing lesser relaxation should be an adequate adjustment to allow for placement of the accessory building on the south line.

- 4. Whether or not the accessory building will affect light and air circulation of any adjoining property.*

The reduction of 5' from the original request will allow sufficient light and air circulation between properties.

- 5. Whether the accessory building will adversely affect the view of any adjoining property.*

The request will not adversely affect any views.

Roll Call Vote:

Toscano aye; Pollock aye; Dreyer aye; Eade aye.

Ayes 4, Nays 0. Motion carried.

3 - A request by Chris and Kristin Mumford to allow construction of a residence that will have a front yard of 65 feet instead of the required 83 feet from the centerline of the primary arterial road, and a rear yard of 46 feet instead of the required 50 feet per Section 38-497 and 38-495(2) of the Park Township Zoning Ordinance. Property is located at 1789 South Shore Dr., Holland, MI 49423. (Parcel #70-15-34-425-016, R-3)

De Vries provided background information. The applicants purchased this home in December of 2014. Property records reflect this is lot 36 of Macatawa Park Grove. It is a Lake Macatawa waterfront lot 49.5 feet wide and approximately 185' deep. The lot is nonconforming due to the width which should be at least 90 feet for the R-3 Low Density One Family Residence District, and in area as it is approximately 9,047 square feet instead of the required 15,000 square feet. There is no record of a previous variance request. The existing home was built around 1940 according to the assessment records.

In June of this year a demolition and building permit application was filed, proposing to remove the existing home, and replace it. The application assumed they could use the historical setback from the waterfront side, and use front yard averaging for the street side. The building permit application was denied for not meeting the required 50 foot setback from the water, and the required 83 feet from the center line of a primary arterial road.

De Vries noted the ordinance was updated. The waterfront setback was updated last year which deleted the historical and averaging issues. The front yard averaging, because of the wording in the arterial road setback ordinance, omits the rest of the ordinance. The ZBA may consider the front yard averaging as part of the variance, but he could not rule on it.

What is not reflected on the submitted drawing is that the proposed home has been moved a short distance further from the water because the historical ruling does not apply. The new house will be further from the lake than what the existing house is. Also, the detached garage which protrudes into the road right-of-way will be removed and a new attached garage will be built. That would free more front yard than what is there now. The proposed house will meet both side yard setbacks.

The application shows a request for a 1,998 square foot residence with attached garage. The applicants are proposing a 46 foot setback from the lake, which puts it in line with the existing homes on both sides, and about 4 feet further back than the existing home. They are asking for 65 feet from the centerline of South Shore Drive. They propose to remove the existing detached garage which is just over the front property line onto the right-of-way. Their application also shows a "Scheme B" for a home that meets the setback requirements, provides for 2,280 sq. feet, but would leave the existing detached garage (page 5 of the application).

There are *two* sets of standards for this request. The variance from the lakefront must meet the requirements listed in Section 38-495 (as amended last year). The variance for the front would need to meet the standards found in Section 38-70 for a dimensional variance. The ZBA may wish to consider two separate motions and address each one to avoid confusion.

Variance Standards Review: Section 38-495(2) states:

"In an area of non-conforming lots abutting Lake Macatawa the Zoning Board of Appeals may authorize a lesser rear yard setback."

Chuck Posthumus, architect, spoke to the application. The Mumfords purchased the house some years ago. He showed a drawing of the property and what could be built on the site. He submitted a plan with 2000 square feet with a new attached garage. The old garage would be demolished. There is no living space above the proposed garage. He moved the house back from where the existing cottage is located - 10' on east and left, with a 33' front setback. The averaging on that side is 20'. An appropriate approach is the one story with a walkout at 2000 sq. feet which fits the cottage style of the neighborhood. He pulled the new house back in line with that of the neighboring homes.

Chris Mumford spoke to his request. He has lived in Park Township since 2011. He and his wife had wanted to purchase the property for some time and were fortunate to buy it. His neighbor supports the plan.

PUBLIC HEARING

Dreyer opened the Public Hearing at 7:05 P.M.

Joel Westmaas, neighbor, said he has been appreciative of the Mumfords as neighbors. They have communicated what is happening on the property and have been considerate of the neighbors. With regard to the frontage from the lake side the sight lines will be maintained which is appreciated.

Dreyer closed the Public Hearing at 7:06 P.M.

Pollock said it appeared to be a good plan in her opinion. It respects the waterfront, sight line for the lake, and the character of the neighborhood.

Eade supported the proposal because it maintains the character of the property and the cottage design of the original home.

Toscano asked Posthumus about the concrete notation on page 5 of the Staff Memo – on the water side.

Posthumus said the concrete refers to a patio. There will be a new concrete patio at the walkout level.

Pollock moved, supported by Eade, to approve the rear setback of 46'. She noted the property is in an area of nonconforming lots.

Pollock reviewed the six standards:

A. The location of buildings on adjoining properties;

The proposed house will be in the sight line of the neighboring properties.

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

The proposal moves the house back 4 feet on the lot which is an improvement.

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

The building site is not in the 100 year flood level area. She asked if a soil erosion and sedimentation permit had been requested.

D. The effect, if any, of the proposed building and any related improvements on existing sea wall or other flood control or erosion devices located on adjoining properties;

No effect.

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

It will be an improvement, meeting the side yard setback where the current building does not.

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

It will be a welcome improvement to the neighborhood.

Roll Call Vote:

Toscano, aye; Pollock, aye; Dreyer, aye; Eade, aye.

Ayes 4, Nays 0. Motion carried.

With regard to the second set of standards and the variance for the road side of the property, Posthumus spoke to the request. He explained moving the house back improved the sight line along the road and the new garage isn't overly large. With regard to the adjacent property, to the average setback is 20'. They are proposing a setback of 33' from the property line.

He said the proposal is a substantial justice to applicant and the neighbors are satisfied with the setback measurement. The narrow lot is unique and the conservative approach to the building is appropriate to the immediate neighborhood.

Mumford addressed the positive change of his building plan. He has met with neighbors and discussed the impact of his proposal. All have been supportive of the one story home proposal and removing the old attached garage. This is the last house for him and his wife. They want to have a convenient one story home and easy accessibility.

Dreyer said he visited the site and supported the proposed plan for the new house.

PUBLIC HEARING

Dreyer opened the Public Hearing at 7:19 P.M.

Joel Westmaas reaffirmed removing the old garage would be a blessing to the appearance of the neighborhood. The curve on South Shore Drive has always been a problem with the location of the old garage. The cottage design will be maintained. The Mumfords are trying to accommodate the neighborhood.

Dreyer closed the Public Hearing at 7:20 P.M.

Toscano said removing the old attached garage is a positive factor for public safety.

Toscano moved, supported by Pollock, to approve the variance for 65' from the center line of the road.

De Vries pointed out that the request for the reduced setback from the centerline is a dimensional variance, therefore, the four standards found in Section 38.70 of the Park Township Zoning Ordinance must be satisfied.

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 from the road is an improvement. It is also a benefit to the property owner, the neighbors, and for public safety.

Dreyer added that this proposal is further back than averaging would be.

- 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 new garage will be a benefit and removal of the old garage contributes to the public safety.

- 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 non-conforming lot.

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

This is not self-created.

Dreyer suggested an amendment to the original motion.

Dreyer moved, supported by Toscano, to amend the motion to include the requirement that the detached old garage has to be removed as a condition of approval.

Roll Call Vote:

Toscano, aye; Pollock, aye; Dreyer, aye; Eade, aye.

Ayes 4, Nays 0. Motion carried.

4. A request by Gary and Peggy Near to allow the extension of a non-conforming deck along the existing rear yard of 46 feet where 50 feet is required per Section 38-276(3) and 38-483(e) of the Park Township Zoning Ordinance. Property is located at 1894 Erin Isle Dr., Holland, MI 49424. (Parcel #70-15-22-133-004, R-3)

De Vries provided the background for the variance request. The legal description of the property is lot 83 of Tiffany Shores Subdivision #5, which was platted in 1994. The home

was completed in 1995. The site plan submitted with the building permit listed the front setback at 50 feet, however, a written notation on the plan shows 60 feet. The plan submitted shows the rear setback scaled at 56 feet without the deck. If the house were placed at 60 feet, whether by design or mistake, this would leave a rear yard of 46 feet without the deck. No explanation on the plan for the discrepancy.

The applicant submitted a building permit application to extend the deck along the rear of the home. The application was denied as the deck did not meet the rear yard setback of 50 feet.

The house and deck are non-conforming due to the rear yard setback not meeting the 50 foot requirement. The application was filled out as a dimensional variance request, however, the newly enacted Section 38-483(e) allows extensions along the existing setback of the structure with the three standards given.

De Vries also noted that the request has an area that will cantilever out 2' which is within the 2' overhang that is allowed in the ordinance.

Near addressed his application. He has lived there since 2014. The house was built with a small deck on the left side of the property. It overlooks neighbor's deck and garage. He planned a deck for the rear of the property and encountered a setback problem. He has checked with neighbors who support the variance request, and it would make it consistent with the other properties, and improve the looks of the property by having the deck on the back rather than the side. He has a bump out from the living room for access to the deck and he plans to have doors installed for that purpose. With the ordinance change, as long as they keep the posts within the setback, it would be permitted with the new ordinance. .

De Vries explained that in the past the decks beyond 50' setback had been allowed as the grade had been measured at the front of the house instead of the location of the structure.

PUBLIC HEARING

Dreyer opened the Public Hearing at 7:32 P.M.

There was no comment. Dreyer noted two e-mail communications and one letter were received by the Township that supported the application.

Dreyer closed the Public Hearing at 7:33 P.M.

Dreyer supported the plan for the deck.

Eade moved, Pollock supported to approve the variance request.

Eade reviewed the variance standards which govern the authorization of any additional projection or component to the existing main wall:

(1) The following projection dimensions:

- i. Bay windows, chimneys, awnings and architectural design embellishments of dwellings that do not house or enclose habitable floor area nor project more than three (3) feet into the required setback.*
- ii. Roof overhangs that do not project more than two (2) feet into the required setback.*
- iii. Steps and small entrance landings or porches, including porticos corresponding to the area of the porch, provided that such porches and porticos do not project more than four (4) feet into the required setback.*

The deck extension will follow the existing rear setback from the southwest corner. There is one area near the center of the home that will cantilever out 24 inches, which is within the two foot overhang allowance cited above in (1)ii. The posts (wall) will remain at the existing setback.

(2) *The proportion of the main wall which has been altered by the projection; and*

The extension will cover approximately 2/3 of the rear of the residence, well within the side yard requirements of the adjoining properties.

(3) *The overall effect of the proposed projection on adjoining properties and the surrounding neighborhood.*

The extension will not obstruct the view of any neighbors and several have supported the proposed project. It also allows the applicants to use their deck space behind the house.

Toscano added the deck will not be enclosed and considered a habitable space.

Roll Call Vote:

Toscano, aye; Pollock, aye; Dreyer, aye; Eade, aye.

Ayes 4, Nays 0. Motion carried.

ANNOUNCEMENTS:

De Vries noted the changes in the e-mail mailing lists for Park Township. There was a system error but it has since been corrected.

The next meeting will be August 22, 2016.

DeVries provided the ~~Planning Commission~~Zoning Board of Appeals with replacement copies of the updated Zoning Ordinance.

PUBLIC COMMENT

Dreyer opened Public Comment at 7:38 P.M.

There was no comment.

Dreyer closed Public Comment at 7:38 P.M.

ADJOURNMENT

Eade moved, supported by Toscano, to adjourn the meeting at 7:39 P.M.

Voice vote:

Ayes 4 , Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall
Recording Secretary
July 27, 2016

Approved: August 22, 2016