

**MINUTES  
PARK TOWNSHIP  
ZONING BOARD OF APPEALS**

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

Regular Meeting  
August 22, 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, Dan Hendon if needed as alternate

Staff: Ed de Vries, Zoning Administrator, Bill Cousins, Interim Township Manager

**APPROVAL OF AGENDA:**

Chair Dreyer offered an amendment to the agenda to introduce the Interim Township Manager to the ZBA prior to the approval of the minutes.

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

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

**INTRODUCTION:**

Chair Dreyer introduced Interim Township Manager, Bill Cousins. Cousins said his professional career has been in local government on several levels since 1988. He offered his assistance to the Zoning Board of Appeals during his interim tenure until the end of the year.

**APPROVAL OF MINUTES:**

Dreyer noted a correction on the last page of the minutes under Announcements. "Planning Commission" should be replaced by "Zoning Board of Appeals."

Motion by Eade, supported by Toscano, to approve the minutes of the July 25, 2016 Regular Meeting as corrected.

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

**BUSINESS ITEMS:**

- 1. A request by John McClure II** to allow a lot line shift that will result in a lot width of 77 feet where 90 feet are required per Section 38-306(4) of the Park Township Zoning Ordinance. The lot is non-conforming due to a width of 80 feet. Property is located at 1016 Butternut Drive, Holland, MI 49424. (Parcel #70-15-12-499-019, R-4)

De Vries introduced the agenda item. As background, the receiving property for the proposed lot line shift is 3305 Butternut Drive, the adjacent lot to the west. There is an existing blacktop second driveway for 3305 Butternut, which is partially on the lot at 1016 Butternut.

The present owner, John McClure II, purchased this lot in July of last year. He also desires a second driveway to run to the rear of his property. In earlier conversations with him, staff offered recommendations of a shared driveway that would branch out to the respective lots of his and his neighbor, giving each other easements to allow both property owners to use the driveway. Because McClure could not get a commitment from the neighbor, Aaron Slagh, to not block the drive next to the homes with parked vehicles, they could not reach an agreement. He did not wish to cause issues with the neighbor by blocking the portion of driveway that was on his property so he wishes to sell a small triangular portion of the lot that contains the existing driveway to Slagh, then construct his own adjacent driveway on his remaining portion of the lot.

Zoning Board of Appeals Considerations:

The lot is currently non-conforming as the existing width of 80 feet does not meet the requirement for a width of 90 feet for a lot that does not have water and sewer. (This lot has water only, sewer is not available.) A lot in the R-4 district that has both water and sewer would be allowed a width of 85 feet. The zoning ordinance defines the lot width as being measured at the front of the building line. As seen in the diagram to the left, staff estimates that the proposed shift would narrow the lot approximately 3 feet at the building line from 80 feet to approximately 77 feet. The figure is an estimate as the survey did not reflect this information.

The shift would still leave at least 85 feet of road frontage as is required by ordinance, and there is not a side yard setback issue with the proposal.

McClure addressed his application request. He has owned the property for a year. He explained this request appears to be the only option to build a driveway on his property because of the lack of agreement with his neighbor. His neighbor wanted a shared driveway but there have been parking issues with the neighbor's vehicles. In the applicant's

opinion, having separate driveways would alleviate these problems as well as eliminating liability issues. The surveyor states the driveway in question is on his property. He also noted that the Ottawa County Road Commission has approved the layout of a separate drive to run alongside what is currently there. McClure said a variance would satisfy his needs and will avoid further problems with his neighbor. Selling 5.5' will alleviate the difficulty of sharing the driveway. He stated he wants a driveway of his own. More parking would be nice, and he feels it would make both properties more saleable. He indicated that "gifting" him a variance would be cleaner.

Toscano asked for clarification of the measurement of the property McClure plans to sell.

McClure said the total area would be 256 square feet in the triangle to be sold.

Eade asked McClure if he intends to install a new driveway upon the sale of the other one.

McClure said that it is intent.

Foster asked if there will be a strip of grass to define the property line.

McClure said he is considering installing a fence, perhaps a split rail fence. There is some space between the two driveways.

Toscano asked if he plans a new road cut on Butternut Drive.

McClure said it would be some sort of right-of-way that he would want to discuss with his neighbor. It might be a better plan to widen the area at the sidewalk rather than have two separate drives.

Toscano asked for clarification on this plan and what the Road Commission would allow.

De Vries said Butternut Drive is considered a primary arterial road. The applicant would have to have a permit from the Road Commission.

Dreyer noted he didn't think this was pertinent to the application request.

## **PUBLIC HEARING**

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

Aaron Slagh said he was the neighbor of the McClures. He stated his driveway is 5.5' on the McClure property at the road. He and McClure have gone back and forth regarding the parking and maintenance of the driveway. His driveway is about 50 years old and needs repairs. If there was an easement agreement they would have their own driveway. He will be the one possibly purchasing the property. This will give him what he wants and give McClure what he wants. It's been that way for a long time. His driveway will remain where it is now. He has no objections to the plan.

Fleece asked Slagh, since he says his driveway is in disrepair, if there is a way to resolve the matter to avoid being just a few feet from McClure's property with a new driveway.

Slagh said, realistically, he could move his driveway. He could take that 5.5' and move it to the other side of his lawn. Currently his drive is like a horseshoe. He can drive into his garage stall, do a loop, and go out my secondary driveway. By shortening it closer to his main driveway to the garage it would create a three point turn. Other implications include the irrigation system which could be easily taken care of. Slagh said he had the room to make that happen.

Chair Dreyer closed the public hearing at 6:48 P.M.

Board Deliberation:

Dreyer explained this is one of those situations where it does not appear to meet the requirements of the law as stated by the Township ordinance. In his opinion, the application doesn't show a hardship. We have to consider the four standards that would hold up in a court of law in the event of a lawsuit. The Zoning Board of Appeals needs more than what has been presented.

Toscano said it is important both property owners are present. He understands that there is an alternative to solve this problem, as inconvenient as it may be to have a narrower drive on the neighbor's property. This is a lesser variance. He pointed out to the applicant that it is not incumbent to sell the property to accommodate his neighbor. The driveway is on the applicant's property. He sees it as a neighbor to neighbor issue that needs to be solved between them. He cannot vote in favor of the variance because it would break the law. Asking for a variance is a high benchmark for this situation.

McClure spoke to the easement. When he sought legal advice he was told not to settle for an easement and sell the property parcel by the driveway.

Dreyer said the Zoning Board of Appeals has to have a good reason for supporting the variance request for a nonconforming property as this would increase the non-conformity. The burden is on the neighbor and he's not the applicant. He added if there was no other choice the Board of Appeals might consider the issue but there is a choice here.

Toscano reiterated there is an alternative solution. It may not be desirable for the neighbor but it relieves the applicant's burden. He asked if there is a lesser variance to consider.

Eade said he cannot support the variance.

John McClure, Sr. requested to address the ZBA. He said it would help to resolve this issue so the property is saleable in the future. There is a piece of the roadway that is on the McClure property and his son wants to access it. It is Mr. Slagh's position that the situation has been there a long time so it's fine. However, he is encroaching on his son's property. He asked if the application is denied does his son have to live with the drive as it is. When he sells it in the future will it be grandfathered?

Toscano says the property line is in the driveway. Is there anything to prevent building a fence on that property line?

McClure said he doesn't want a court issue on his hands.

Toscano said if there is not an easement for it the applicant has every right to claim the property. Nothing prevents the applicant from claiming his property. It is clear the neighbor is encroaching on the applicant's property.

Dreyer said his advice was for the applicant and the neighbor to try to resolve the issue themselves. There is an alternative for the neighbor since it is he who is encroaching on the applicant's property. The best solution is to solve the problem in an amicable manner. A lesser relaxation cannot help in this case. There is nothing the Zoning Board of Appeals can do in this situation.

Toscano moved, supported by Eade, to deny the request because it does not meet the four standards.

Roll Call Vote:

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

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

De Vries said he would mail a copy of the Zoning Board action to McClure.

**ANNOUNCEMENTS:**

The next regular meeting is September 26, 2016.

Everyone will be available.

**PUBLIC COMMENT**

Dreyer opened Public Comment at 7:08 PM

Dan Hendon concurred with the decision of the Zoning Board of Appeals given the difficulties in the situation.

Dreyer closed Public Comment at 7:10 P.M.

**ADJOURNMENT**

Toscano moved, supported by Eade, to adjourn the meeting at 7:10 P.M.

Voice vote:

Ayes 5, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall  
Recording Secretary  
August 24, 2016

Approved: October 24, 2016