

**MINUTES
PARK TOWNSHIP
ZONING BOARD OF APPEALS**

Park Township Hall
52 152nd Street
Holland, MI 49418

Regular Meeting
September 25, 2017
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, Jim Gerard, Kathy Grimm

Absent: John Foster (with notice)

Staff: Ed de Vries, Community Development Director

APPROVAL OF AGENDA:

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

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

APPROVAL OF MINUTES:

Motion by Eade, supported by Gerard, to approve the minutes of the August 28, 2017 Regular Meeting as presented.

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

BUSINESS ITEMS:

Item #1 - A request by Gary Clements for an administrative approval to allow a second accessory building bringing the total square footage to 4,000 where a maximum 2,500 square feet is permitted per Section 38-491 (b) (1) b of the Park Township Code of Ordinances. The property is located at 16400 New Holland St., Holland, MI 49424. (Parcel #70-15-03-100-032, R-1)

de Vries provided background information on this request. The property at 16400 New Holland St. is approximately 5.75 acres in size after a recent property line adjustment. On 7/31/2017 a building permit application was received for a 20 x 60, 1,200 square foot addition to an existing 2,400 square foot building, bringing it to 3,600 square feet. The application was denied for exceeding the allowable square footage. The owner has now filed for an Administrative Approval to allow the additional square footage. The plan has changed as they are now applying for a second 40'x 40', 1,600 square foot building, which will result in a total square footage of 4,000 square feet.

Zoning Board of Appeals Considerations: Recently enacted Section 38-491(b)(2)h allows the Zoning Board of Appeals to authorize as “one or more accessory buildings in excess of the square footage limitations or in excess of the height limitations as an Administrative Approval.”

The original building permit request was to add 1,200 square feet to the existing building which would also widen the existing building by 20 feet. This proposal adds a separate building of 1,600 square feet, placing it directly behind the existing building.

Gary Clements said he was accompanied by Curt Brower, the builder, if there were questions about the construction plan.

Dreyer asked Clements if he had received the September 15, 2017 Staff Memo by deVries and if he was prepared to address some of the unanswered questions regarding his request for the variance.

Clements said he had seen the memo and could answer those questions. He has several pine trees on the property which he could transplant to shield the building. Although the lot is narrow, it is deep. He owns 40 acres east of his property which is also wooded.

Dreyer said when he visited the property it was apparent to him that the building would be visible to the neighbors. He observed that it would affect the property to the west. Dreyer asked Clements if he would agree to the condition of a buffer by adding trees on the west side.

Clements said he could create a buffer by transplanting trees.

PUBLIC HEARING

Chair Dreyer opened the Public Hearing at 6:37 P.M.

There was no comment and he noted there had been no correspondence regarding this item.

Dreyer closed the Public Hearing at 6:38 P.M.

Board Discussion:

Fleece observed this request could be allowable based on most of the five standards.

Dreyer noted the trees would provide a buffer and the applicant is in agreement.

Eade said he was in support if the applicant agreed to the provision of the tree buffer.

Grimm asked if the buffer would be mature trees.

The applicant said he had trees that were about 5' and taller.

Dreyer asked Clement if he would be willing to extend the berm 30-40'.

Clements said ownership of the berm area is shared with a neighbor but he could do this with no problem.

Eade moved, supported by Fleece, to approve the variance request with the conditions that the applicant extend the berm, plant trees of a minimum 5' in height, and at 12' intervals to the rear of the building.

Eade reviewed the five standards from Section 38-491(b)(2) h.

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.

The applicant states the second building will have the same width and height as the existing building, and will be built in line with it. Using the 2% formula the lot would support the building.

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.

It is not as tall as the principal building and is further away in distance.

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.

The applicant states the building would be behind the existing accessory building. The applicant agrees to provide a buffer and a berm. He also owns the property to the east which provides a wooded buffer. It will be no closer to any current existing buildings on the lot.

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

This will be met as the applicant indicates the building will be set back 824 feet from the road.

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

The applicant pointed out the woods which are located on the property. The applicant is willing to plant appropriate size trees and extend the berm to satisfy the conditional approval.

Roll Call Vote

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

Ayes 5, Nays 0. Motion approved.

Item #2 – A request by Jon and Lyn Veldman for a variance to allow construction of a residence with a setback of 10 feet from a platted unimproved road, where 40 feet is required by Section 38-496 of the Park Township Code of Ordinances. The property is located at the 2340 block of Eagle Drive, Holland, MI 49424. (Parcel #70-15-28-420-011, R-2)

de Vries introduced the item. The applicants are proposing to build a residence of approximately 1,787 square feet on a vacant lot located at the dead end of Eagle Dr. The legal description of the property is: ***“Lots 47 & 48 Heneveld's sup plat 9 of Eagle Crest Park, platted in 1932.”*** The north edge of the lot abuts Hill Avenue, a street which was platted but never improved. The applicant is asking to have the north yard treated the same as a side yard taking into consideration the unimproved road.

Considerations for the Zoning Board of Appeals: Though never improved, Hill Avenue remains a right-of-way unless abandoned. Therefore, any structure must meet the minimum yard requirements from both Eagle Drive and Hill Avenue. The property is also within a critical dune area. The lot is non-conforming in that it is approximately 12,100 square feet in area, where R-2 zoning requires one acre (43,560 square feet). This is in an area of non-conforming properties, and is slated for review as part of the Neighborhood Heritage Preservation areas listed in the most recent Master Plan. The graphic included in the Staff Memo which shows the area was taken from Ottawa County's GIS. The allowed building envelope is depicted by the blue dashed rectangle. The total area of the allowed building space is approximately 1,800 square feet, but is angled and would likely result in less than that.

Ed Zwyghuizen, architect, and Jon Marvin, buyer of the property, addressed the request. The architect explained that Eagle Drive is the only access. Hill Avenue is considered the front yard. The variance process is based on the location of the road and the probability it will not be developed. DEQ doesn't allow building on the "toe" of the hill and they have to ensure the 50' setback will be met. As a result of meeting these obstacles, the lot is not a square box, it's more trapezoidal. He has had to make adjustments to build a one story house because of the odd shape of the lot. He can stretch out the house with a 10' setback.

Dreyer asked if he has any assurance and/or documentation that the hill and woods will not be developed.

Zwyghuizen said currently it is a private drive. He assumed the Association would have to provide assurance but he has no verification of that. He understands the DEQ will not allow any building on the slope.

Fleece asked if a letter from the Neighborhood Association could be provided stating that nothing can be built there.

Zwyghuizen said that if there is any improvement to the private road it would probably be a footpath.

PUBLIC HEARING

Chair Dreyer opened the Public Hearing at 6:56 P.M

Dave Yonker reminded the Zoning Board of Appeals there is an ordinance regarding a 40' setback, and this should be enforced. It is his opinion that if a house can't fit on a lot the person needs to find a lot somewhere else.

Ken O'Rourke has the adjoining lot to this property. He questioned how a home that size can be built on the lot in question. There are seven homes in that block. He has no idea of the house plan since he and his fellow neighbors have not been contacted by the applicant. He looked at the plan in de Vries' office. The neighborhood does not want a rental property. He explained there is only one road into the community. The Township should follow the ordinance. The owner is lobbying the homeowners in the upper level of the community, but the lower level neighbors have no idea what's going on.

Dee Kramer said the gas service comes down Hill Street which is used as the utility easement for the first level of Eagle Crest.

Greg Tenbrink lives on Eagle Place. He noted there is a purpose to the current Township ordinance. Seven people live in this neighborhood year-round. They are concerned about this unknown construction plan and its impact on the community.

Lois Veldman said her son owns the lot in this application. He lived there as a child and is familiar with the area. She pointed out that the prospective owner has the option to enter Hill Street via Lakeshore instead of using Eagle Drive.

Dreyer commented it would be very expensive to pave that road and bring it up to County standards.

Veldman asked if it could it be used as a driveway.

Dreyer said he doubted it, however, the Neighborhood Association might have to approve it.

de Vries confirmed that the County Road Commission and the Association would have to approve it as a right-of-way.

Dreyer closed the Public Hearing 7:07 P.M.

Board Discussion:

Fleece said he cannot support the variance request since he does not know what future development plans are for the hill area near this lot.

Gerard asked about the outline of the property lines in the GIS photograph.

de Vries said the property lines on GIS may not be exactly accurate. They may be close, but a survey is needed to determine the exact property lines.

De Vries said in the absence of a survey it is difficult to determine – many of these homes were built before the current ordinance was written. There are a lot of older homes in the plat that do not meet the setback requirement.

Fleece said, in his opinion, the Neighborhood Association should be approached regarding the setbacks before any decision can be made.

Fleece moved, supported by Eade, to deny the variance request.

Eade said he was uncomfortable with the lack of prior communication with the neighborhood and the Association on the part of the applicant. Additionally, the Planning Commission has not yet completed the process for the future plan for this Neighborhood Heritage area.

Fleece 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.***

This standard is not met. There is an adequate building envelope.

- 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.***

There would be no justice to the other property owners. Dreyer added that assurances are lacking regarding the future development of the hill adjoining this 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.***

There are unique circumstances with the critical dunes on the west and the double front yard setbacks required because of Hill Drive and Eagle Drive. This standard is met.

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

The difficulties are self-created with regard to the requested footprint for a modest site.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion to deny approved.

ANNOUNCEMENTS:

de Vries reported on the work being done on the NHP districts. He said Macatawa Park on the south side is the first one to be addressed. There is a meeting this week with the Township Planner and Manager and himself to work on new language. Once approved, the

committee will move forward with work on the other areas. They aren't as complex and the process should go faster.

The next regular meeting is October 23, 2017.

de Vries has one application for the October meeting.

PUBLIC COMMENT

Dreyer opened Public Comment at 7:20 PM.

There was no comment.

Dreyer closed Public Comment at 7:20 P.M.

ADJOURNMENT

Eade moved, supported by Fleece, to adjourn the meeting at 7:21 P.M.

Voice vote:

Ayes 5, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall
Recording Secretary
September 27, 2017

Approved: