

**PARK TOWNSHIP  
ZONING BOARD OF APPEALS**

Park Township Hall  
52 152<sup>nd</sup> Street  
Holland, MI 49424

Regular Meeting  
October 4, 2018  
6:30 P.M.

**MEETING MINUTES  
APPROVED COPY**

**CALL TO ORDER:**

Vice Chair Dave Fleece 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: Dennis Eade, Dave Fleece, John Foster, Jim Gerard, Kathy Grimm

Absent: Doug Dreyer, Meghann Reynolds

Staff: Howard Fink, Township Manager

**APPROVAL OF AGENDA:**

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

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

**APPROVAL OF MINUTES:**

Gerard moved, supported by Foster, to approve the minutes of the August 27, 2018 Regular Meeting as presented.

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

**BUSINESS ITEMS:**

**Item #1 - A request by Nancy DeYoung** for a dimensional Variance to construct a new home with a front yard of 35 feet, where 40 feet is required; and, a rear yard of 19.5 feet where 50 feet is required per Sections 38-246 and 38-483(b) of the Park Township Zoning Ordinance. Said

land and premises are located at 17236 North Street, Holland, MI 49424. (Parcel #70-15-09-384-023, Zoned R-2 Lakeshore Residence District).

Howard Fink provided background for the application. The property is described as Lots 44, 45, 46 and 47 of Heneveld's Supervisors Plat 4 of Edgewood Beach. The property is approximately 19,092 square feet in overall area and is bound to the north by North Street right-of-way, to the east by Lakeshore Avenue right-of-way, and by private single-family residences to the west and south. The house on the property has been demolished.

The property in question is located within the R-2, Lakeshore Residence District and is located on the corner of North Street (private road) and North Lakeshore Avenue. The R-2 District requires a minimum lot area and width of 3 acres and 200 feet, respectively. The property, which is 19,092 square feet in overall area, does not comply with the minimum lot area. However, pursuant to Sec. 38-483 (b) (see above), the property is permitted to be used for a single family structure provided that the property is at least 6,500 square feet in overall area and complies with the required setbacks in the R-3, Low Density One-Family Residence District.

Following a thorough review of the average front and rear yard setbacks, it was determined that a rear yard variance is not required. In accordance with Sec. 38-494, Front and Rear Yard Averaging, the average front and rear yard setbacks may be established by determining the setbacks of at least 2 adjacent structures within 300 feet of the subject property and within the same block on the same side of the street. However, in no case may the front or rear yard setback be reduced to less than 10 feet. The front and rear yard setbacks of the two adjacent properties to the east revealed that the average front yard setback is 57 feet and the average rear yard setback is 4.5 feet, which is less than the minimum required setback of 10 feet.

The applicant's proposal does not comply with the required front yard setback. The applicant is requesting a dimensional variance of 5 feet; resulting in a front yard setback of 35 feet where 40 feet is required.

Nancy DeYoung spoke to her application. The property was her parents' home which she purchased several years ago. She wants to rebuild on the same footprint. The reason for the variance is they can't accommodate the setback in the area they are in. All the properties share the same setback limitation on the front and the back.

## **PUBLIC HEARING**

Foster moved, supported by Gerard, to open the Public Hearing at 6:37 P.M.

Susan DeYoung said the property is part of an association and confirmed she has a similar setback situation. There are about 30 cottages in the association.

James DeYoung added the area has a one lane road, and most of the homes date to 100-120 years ago. There have been new homes built and the owners have had to deal with the same nonconforming problem because of the new ordinances.

Vice-Chair Fleece asked three times for comment.

Foster moved, supported by Gerard, to close the Public Hearing at 6:41 P.M.

Gerard asked if the planned home is 35' from the front setback and will be on the same foundation.

DeYoung said they are adding a basement, but it will be on same footprint.

Gerard asked if they can move it 5' back in order to solve the problem so they would be in compliance.

DeYoung said they didn't think they could.

Foster noted rear yard averaging is allowable for 20'.

DeYoung said she didn't think the neighbors would appreciate that. They would be too close.

Foster asked if they are on septic.

DeYoung said they were. The well is on the east side and the septic is on the left side of the home.

Fleece asked if the jog on the north side as shown on the plan is part of the new proposal.

James DeYoung said it is a walkway.

Foster explained that the ordinances must be followed unless there is an exception burden on the property owner. The averaging is used to help meet the variance requests when it is possible to do so. He visited the property and said it appears there is a buffer that would not be disturbed by moving back 5 feet. There is quite a lot of buffer space on the side.

Fleece said the Zoning Board of Appeals has to meet the ordinance.

Gerard agreed that if the applicant used the same foundation it would make sense. However, moving the foundation changes the ordinance requirement. Allowing this would set a precedent.

DeYoung said moving the house back 5' will interfere with a berm that would have to be removed including the removal of two huge maple trees which they don't want to do.

Foster asked if it is the berm was built for drainage.

DeYoung said it was placed there for landscaping purposes.

Fink advised if the Board of Appeals granted the variance it would create a precedent for 5' for future applicants. There is no rationale for granting a variance for the 5'. He suggested on the side of the house they could make up for the loss of the 5'. If this were granted the Board of Appeals should identify the reason for that 5'.

Fleece said there is an issue regarding the berm and the rear yard which adds to the complication in granting the request.

Fink asked if the applicant could remove the 5' off the dimensions of the house because the issue is a self-created hardship. He asked if the site plan could be modified relative to that 5'. He noted Edgewood Beach, where this home is located, is a preservation area in the Township.

Foster asked the applicants if they had plans for the berm.

The DeYoungs said it will remain as part of the landscaping.

Eade said based on the requirements of the ordinance he would have to deny the request.

Foster said since 35' is typical for front setbacks in that neighborhood he could justify the request. Is it not a lesser relaxation? Could there be changes made to avoid the self-created problem? He could justify three of the standards.

Gerard said not building on the same foundation presents a problem.

Grimm asked if the applicant had discussed this with staff.

DeYoung said she had told de Vries and Reynolds they were maintaining the same footprint. de Vries they were moving the foundation.

DeYoung said she had used the term "footprint" not "foundation". There was no discussion about moving 5' in the back.

Fink asked if the applicant had a time constraint issue.

James DeYoung said they need to move forward and get the foundation in by winter. He asked if the Board of Appeals could postpone action to allow the Board members to look at the berm.

Foster suggested the builder could modify the design to make the required 40' possible. The other option is to move it back.

James DeYoung said asking the architect to change the plans will entail considerable cost to make the necessary changes. Any delay will move their plans into cold weather. He didn't think moving back 5' would be that helpful.

Fink observed the berm element is a major issue in the resolution of this request.

Fleece asked the applicant to review the berm issue and the members of the Board members will also look at the property. He recommended tabling the decision until the next meeting.

Foster asked Fink if we can have a finding of fact regarding the berm issue for the record. Fink confirmed that could be done.

Foster moved, supported by Eade, to table a decision on this request.

**Voice Vote:**

Ayes 5, Nays 0. Motion carried.

**Item #2 - A request by Jeff Mooney for a larger detached accessory structure** submitted for permission to construct a detached accessory structure with an overall area of 1,045 square feet where 729 square feet would be permitted, per Section 38-491 of the Park Township Zoning Ordinance. Said land and premises are located at 16398 James Street, Holland, MI 49424. (Parcel #70-15-22-200-028, Zoned R-3 Low Density Single-Family Residence District). The subject property is located on the south side of James Street between 160th and 168th Avenues.

Fink described the request. The property is approximately 36,450 square feet overall area, excluding the road right-of-way. The home has an attached two-stall garage. There is one detached accessory structure on the property which is approximately 104 square feet. The applicant intends to remove the existing detached accessory structure if the variance is approved.

Pursuant to Sec. 38-491 (b) (see above), the maximum allowable size for a detached accessory is 2% of the lot size, or 729 square feet. The applicant is seeking to construct a 1,045 square foot accessory structure, which is 316 square feet larger than allowed. Therefore, the applicant is seeking authorization for a larger building.

The applicant has provided five letters of support for this request.

Mooney spoke to his request. He wants to build a larger structure in his backyard. It is located in a dense woods with no impact on view or air flow to neighbors. He wants to store a trailer and other storage and he added that he has the support of the neighbors.

## **PUBLIC HEARING**

Fleece opened the Public Hearing at 7:39 P.M.

Christine Mooney said they plan to add some trees as an additional buffer.

Fleece closed the Public Hearing at 7:40 P.M.

Grimm asked what kind of trees will be added to the property.

Mooney said they would be pines or maples.

Foster visited the property and noticed some trees have been taken down and asked if that was the location for the proposed structure.

Mooney said there are some sick pine trees in that area. He wasn't planning that far back on the property. He will build closer to the current shed that is already in place.

Eade noted that, in his opinion, the applicant has satisfied the criteria.

Eade moved, supported by Foster, to approve the request.

Authorization for Larger Accessory Building Standards Review:

The ZBA must consider the following standards prior to approving a larger accessory building.

Eade reviewed the 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;**

The applicant said the height will be 20' and the structure satisfies the yard ordinance requirements.

**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;**

The structure will be half the size of the principal building on the property. The height will be less than the principal building.

**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 there are no other near buildings on the lot. The structure will be 65' away from the principal building.

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

The structure will be in the wooded area and the location will not affect light and air circulation.

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

This standard is met. There will be no blocking of the view by the proposed structure. The neighbors are in support.

**Roll Call Vote:**

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

Ayes 5, Nays 0. Motion carried.

**Item #3 – A request by Rick Cassel for a dimensional variance** for permission to construct an addition onto an existing home with a front yard setback of 26.2 feet where 40 feet is required, but an established setback of 29.5 feet is allowed based on front yard averages, per Sections 38-276 and 38-496 of the Park Township Zoning Ordinance. Said land and premises are located at 1884 South Shore Drive, Holland, MI 49423. (Parcel #70-15-34-451-011, Zoned R-3 Low Density Single-Family Residence District).

As background, Fink said the subject property is located on the southwest corner of South Shore Drive and Saunders Avenue. It is unknown when the home was originally built. Permit records indicate that home was remodeled in 2003 and the roof was completely replaced in 2006. The property is described as Lot 12 of Heneveld's Supervisors Plat No. 26 and Lot 1 of Harrington's second addition to Heneveld's Supervisors Plat No. 26 and Harrington's second addition.

The proposed project involves the addition of a garage onto the east side of the existing home, which impacts the required front yard setback on Saunders Avenue. The average front yard setback for the properties is 29.5 feet, however, the proposed addition is setback only 26.2 feet. Therefore, a non-use (dimensional) variance is being requested.

Applicant, Rick Cassel, spoke to his request. He explained it is a cottage home and he wants to make it a family home. He spoke to de Vries and Reynolds about the proposal because it has two front yards on a corner lot. The variance is about the back corner - he is 3.3' off. This creates a burden when adding a two car garage. If he removes 3' off Saunders Avenue there is a row of trees that would have to be removed and it puts him closer to the corner at Saunders.

Greg Steenwyk, contractor for the project, said they are staying within the sight line of the neighboring homes.

## **PUBLIC HEARING**

Fleece opened the Public Hearing at 7:52 P.M.

There was no comment.

Fleece closed the Public Hearing at 7:52 P.M.

Foster asked Cassel if he is living in the home. Cassel said he was.

Foster asked if the present garage space is going to remain on the property.

Cassel said he doesn't want to keep the building that is there. He has four cars so two cars will be parked to the side.

Foster asked if the two structures could be pulled together.

Cassel said the problem is the angle at which the house is on the lot. The 3.3' allowance from Saunders Avenue is the issue.

Foster observed that because the lot is angled and the way the house sits on the lot it is not self-created.

Grimm asked where the approach is located for the driveway.

Steenwyk said the approach to the property is better from South Shore Drive because of the angle.

Foster moved, supported by Gerard, to approve the variance.

Non-Use (Dimensional) Variance Standards Review:

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 size of the lot and the way lot is situated creates a burden. It will enhance the property.

***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.***

Granting a variance does justice to the owner and the neighborhood.

***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 lots are reasonably shaped in the neighborhood and there are no wetlands in the area. The way the property is shaped with a lot of trees to the south, the garage can't go past the front of the house. There are no other options for the owner.

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

This was not self-created. The corner lot with two front yards creates difficulty in averaging.

**Roll Call Vote:**

Foster, aye; Fleece, aye; Grimm, aye; Gerard, aye; Eade, nay.

Ayes 4, Nays 1. Motion carried.

**Item #4 – A request by Scott and Natalie Bernecker for a lesser rear yard setback** for a property abutting Lake Macatawa for permission to construct a new home with a rear yard setback of 32 feet where 50 feet is required per Sections 38-276 and 38-495 (2) of the Park Township Zoning Ordinance. Said land and premises are located at 2043 and 2047 Lakeway Drive, Holland, MI 49423. (Parcels #70-15-34-352-008 and #70-15-34-352-007, Zoned R-3 Low Density Single-Family Residence District).

Township Zoning Ordinance. Said land and premises are located at 2043 and 2047 Lakeway Drive, Holland, MI 49423. (Parcels #70-15-34-352-008 and #70-15-34-352-007, Zoned R-3 Low Density Single-Family Residence District).

Fink provided a description of the property. The subject property is located on Lakeway Drive, abutting Lake Macatawa. The site is comprised of two separate parcels and single-family structures. The two properties combined are approximately 80 feet wide and 115 feet deep. The properties are described as Lots 12 and 13 of Scott's Macatawa Grove Subdivision.

The applicant is proposing to demolish the 2 existing single-family structures and construct a new single-family home. The property is located within the 100-year floodplain and has a seawall constructed along Lake Macatawa. It is standard practice to measure the setback to the edge of the seawall. As you will note, the applicant's seawall is set further into the property as compared to neighboring properties. The rear yard abutting Lake Macatawa is proposed to be 32 feet where 50 feet is required (it should be noted that the application states 37 feet in some instances, this measurement did not include the deck; therefore, the request was revised to accommodate the deck). An authorization for lesser rear yard setback is requested.

Despite the applicant's comment to the contrary on Page 1 of 3 of the variance request, it is staff's understanding that they are working with the MDEQ to obtain the necessary permits to allow construction within the floodplain and/or elevate a portion of the property to remove the floodplain designation. If an approval is considered, it should be under the condition that all required permits are obtained from MDEQ prior to issuing a building permit.

The adjoining properties have seawalls. A natural drop-off to the lake is preferable. The seawalls extend over half of the property.

Natalie Bernecker explained there are two homes on the property and with the improvement to the property they want to enhance the neighborhood. Both of their neighbors have existing seawalls. They don't plan to do this immediately. They want to focus on growing family and providing room.

Scott Bernecker said they are building where the house is located now and adding two feet.

Natalie Bernecker added they have worked with the neighbors.

## **PUBLIC HEARING**

Fleece opened the Public Hearing at 8:18 P.M.

Mark spoke as the builder. The location of the house is 32' from the lake. He described where the proposed deck is located. It is another 5' out.

Fleece asked for clarification where the deck was on the plan.

The builder said the proposed plan is that the patio is an extension of the main level.

Eade asked about the elevation of the deck.

Mark said it will be 10' off the ground and the roof will be over the major portion of it.

Fleece closed the Public Hearing at 8:26 P.M.

Bernecker explained if they come closer to the street the driveway will get steeper.

Foster asked if it was necessary to get a DNR permit.

Mark said there is a retaining wall in place.

Fleece observed that the new home is in a flood plain.

Bernecker said there will be a flood plain permit.

Fleece said this MDEQ permit will be a condition of granting the variance.

Foster said he agreed with the staff comments. This will enhance the surrounding area.

Gerard moved, supported by Eade, to approve the variance request.

Lesser Rear Yard Setback on Lake Macatawa Standards Review:

Gerard reviewed the standards:

***a. The location of buildings on adjoining properties:***

It will improve the adjoining properties

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

It will not affect the view.

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

The applicant will work with the MDEQ and obtain a permit.

***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 will be no negative effect

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

It will be improved.

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

It will be a positive effect. He noted there were two letters of support from neighbors.

**Roll Call Vote:**

The members of the Board of Appeals voted to approve the variance with the condition the applicant obtain a MDEQ permit.

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

Ayes, 5; Nays 0. Motion carried.

**PUBLIC COMMENT**

Fleece opened Public Comment at 8:37 P.M

There was no comment.

Fleece closed Public Comment at 8:37 P.M.

**ANNOUNCEMENTS**

The next meeting is October 22, 2018.

**ADJOURNMENT**

Eade moved, supported by Fleece, to adjourn the meeting at 8:37 P.M.

Voice vote:

Ayes 5, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall  
Recording Secretary  
October 6, 2018

Approved: October 22, 2018 (with corrections)