

**MINUTES
PARK TOWNSHIP
ZONING BOARD OF APPEALS**

Park Township Hall
52 152nd Street
Holland, MI 49424

Regular Meeting
October 22, 2018
6:30 P.M.

**MEETING MINUTES
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, John Foster, Jim Gerard, Kathy Grimm

Staff: Meghann Reynolds, Zoning Administrator

APPROVAL OF AGENDA:

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

Voice Vote: Ayes 6, Nays 0. Motion carried.

APPROVAL OF MINUTES:

Foster moved, supported by Eade, to approve the minutes of October 4, 2018 Regular Meeting as with corrections.

Voice Vote: Ayes 6, Nays 0. Motion carried.

BUSINESS ITEMS:

Item #1 - (Continued from October 4, 2018) A request for a dimensional variance submitted by Nancy DeYoung for permission 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).

The R-2 District requires a minimum lot area and width of 43,560 square feet (1 acre) and 100 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) of the Park Township Zoning Ordinance (PTZO), 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.

Following postponement of this request at the October 4, 2018 Zoning Board of Appeals meeting, the applicant has provided additional information in a letter dated October 8, 2018. In the letter the applicant states the burden created is placing the structure “too close to the existing earthen wall or berm.” They also point to the need to remove two mature trees, and that this would entail “considerable additional expense.”

As found in court rulings and ordinances, the burden must be created by a condition of the property causing an inability to comply with the ordinance. The fact that complying with the ordinance is more expensive does not meet this criteria.

The letter addresses the fact that the property is in an area designated in the Master Plan as a Neighborhood Heritage Preservation (NHP) district, which is correct. The intent is to review each of the NHP areas and craft new ordinances specific to each to reduce non-conformities if feasible. One area, Macatawa Park, has been completed. A second area, West Michigan Park or Historic Ottawa Beach, is currently in process. Until the Edgewood Beach area is reviewed and a zoning ordinance approved, the property is bound to the requirements of the underlying R-2 zoning district.

The letter also incorrectly interprets language pertaining to zoning district boundaries versus property boundaries. They are two separate issues, with the zoning district boundaries typically following road centerlines whereas property boundaries exclude public and private street rights-of-way.

Fleece reviewed this agenda item since he chaired the meeting on October 4. He asked the applicant to present his proposed changes which were the reason for the postponement of action by the Zoning Board of Appeals.

Chair Dreyer recused himself since he was absent from the October 4 meeting.

Jim Vanderlaan spoke on behalf of his wife, applicant Nancy DeYoung. It was his opinion that the Township memo on this application used the east side for averaging which doesn't comply with the ordinance. The structures are supposed to be adjacent to the property in question. Therefore, he said the averaging comparisons do not apply to the North Street property. If the properties across the street are used by the Board of Appeals for averaging those that are directly across or in proximity to his property would be best suited for this purpose. His second

point concerned the existing berm and the two, 200 year old maple trees located behind the house. He wants to preserve the heritage of the neighborhood and the trees that are there since this is part of the Edgewood Beach Heritage Area. Removal of the berm will require removal of the two maple trees on the property based on the analysis of an arborist. Building the structure further into the rear yard will require a \$5,000 cost for the excavation which will occur within 8 or 9 feet of the tree roots and will adversely affect the life of the trees. He introduced his architect, builder and arborist who were in attendance if the Board of Appeals chose to ask questions.

Foster asked Vanderlaan why he had to go 8 feet back rather than 5 feet.

The builder for the project, Rick Klompaker, said in order to move the structure 5 feet further into the rear yard, grading activities will need to be extended an additional 3 feet to accommodate building the structure. The base of the cone of the trees will be too close to this process and the feeder roots for the trees will be damaged as a result.

Foster asked about the averaging on Lake Shore Drive.

Reynolds explained that no structures on Lakeshore Drive were used for averaging. However, there were three structures on the south side of North Street located to the west of the subject property that were used for averaging. She said the average front yard setback of these properties was determined to be 57 feet.

Vanderlaan stated that one of the structures being used for front yard averaging is actually a garage.

Reynolds recalculated the front yard average omitting the garage structure. The front yard average of the two applicable structures is 39 feet. The applicant is requesting to have a 35 foot front yard setback, which would require a variance of 4 feet.

She also added that the Board of Appeals spoke to concerns regarding setting a new precedent in the area at the previous meeting. She pointed out that Vanderlaan provided many examples in the neighborhood that have front yard setbacks less than 35 feet, so this request would not be setting a new precedent, it would be consistent with the neighborhood. She pointed out as background that this is a heritage neighborhood and the Macatawa Park overlay allowed averaging.

Gerard said he didn't think there would be a precedent since this is a unique neighborhood. Fleece concurred.

Foster appreciated the builder's input regarding building too close to the berm and the effect on the trees due to the construction.

Rick Klompaker added, with regard to precedent, the new foundation will be inside the existing foundation.

Eade said the house is unique as is its location in this neighborhood. The property undoubtedly will be included in the future historic preservation overlay for this area. With that understanding he was in favor of considering the relaxation of the ordinance.

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

Eade 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 depth of the property is the primary reason strict compliance cannot be reached. The property is also located on a corner which requires 2 front yards. The size of the property is non-conforming as well.

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.

Given the letters of support received from adjacent property owners and the applicant, granting this request would provide substantial relief to the property owner and justice to the other property owners in the district. If the building envelope moves 5 feet further into the rear yard, it would negatively impact the neighbors to the south.

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.

With a better understanding of the effect of excavation of the berm and trees, the minimal depth of the parcel, the fact that the property is located on a corner, and including the history of the neighborhood, we can grant this request given the unique circumstances. Foster added the general conditions of the neighborhood allows the applicant the same condition of other homes in the community. Reynolds added that most of the properties do not comply with the R-2 zoning district requirements.

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

It is apparent the building cannot be moved, and given the averaging requirements, it is not self-created. Also, the applicant is retaining the same footprint.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

Dreyer rejoined the meeting.

Grimm recused herself for this agenda item.

Item #2 - A request by Nickolas & Jennifer Doornbos for a dimensional variance submitted for permission to construct a detached accessory structure (garage) with a rear yard of 3 feet

where 25 feet is required, and a side yard of 2 feet where 10 feet is required per Section 38-491 of the Park Township Zoning Ordinance. Said land and premises are located at 138 South 160th Avenue, Holland, MI 49424. (Parcel #70-15-27-298-019, Zoned R-3 Low Density Single-Family Residence District).

The applicant is proposing to remove an existing single-stall detached garage, and replace it with a detached 2 ½ stall garage. The current occupants purchased the house and property in March of 2016. Records indicate the lot was split from a larger parcel in 2000, where one larger lot was split into three smaller lots. The current lot contains the original home for the property. The lot does meet the area requirements of the R-3 zoning district. According to assessing records the 1 ½ story home is estimated to have been built around 1950, no record as to when the existing garage was erected. The split in 2000 appears to have partially caused some of the hardship encountered with an irregularly shaped lot. It would appear the split resulted in the existing garage to become non-conforming in the side yard setback.

A better site plan or survey should be presented as it appears the request may also need a variance from the setback from Shelby Lane. That was not included in the request or published notice. In our ordinance, the requirement is 60' from Shelby Lane and 160th Avenue. The buildable area for a structure this size, the footprint, is very small which is occupied by the current residential structure. The variance for the setback on Shelby Lane will need to be considered in a separate application.

If there needs to be a variance for Shelby Lane Reynolds said staff will work with the applicant.

Doornbos addressed his application. Doornbos said he plans to tear down the existing garage and install a 2 ½ stall garage. It will conform to the standards of the neighborhood and update the look of the house. The house was built in the 1950s.

Dreyer asked about the setback on Shelby Lane. He asked him if he would work with staff on this issue. He pointed out that the Board of Appeals can address the first two requests and the applicant may have to return for the Shelby Lane setback. He asked the applicant if there was a time restraint. Doornbos said there was not and he would be happy working with staff since he also missed the need for a variance in this location.

Foster asked for the location of the septic system.

Doornbos said the septic system was underneath the garage when he moved to the property. That system failed and the new septic was moved to the side yard on the north side of the lot last spring, which further limits the ability to construct anything on that side of the property.

PUBLIC HEARING

Dreyer opened the public hearing at 7:16 P.M.

There was no comment.

Dreyer said one letter in support was sent to the Township.

Dreyer closed the public hearing at 7:16 P.M.

Eade asked if the structure will be too close to Shelby Lane.

Dreyer explained the Township did not provide legal notice for this issue since it wasn't on the application. Dreyer recommended the applicant can return and recommended the fee be deferred.

Fleece asked if there is any space on the property for a lesser variance.

Doornbos said it would need to be located closer than 10 feet to the house, which would violate the ordinance.

Dreyer said the only place to go is where it is proposed now.

Fleece asked for the dimension between the house and the garage.

Doornbos said it will be 15'.

Foster moved to approve, Fleece supported, to approve the variance request.

Foster reviewed the standards:

Roll Call Vote:

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

Ayes 5, Nays 0. Motion approved.

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 required setbacks cannot be adhered to due to the location of the home, size and shape of the lot, location of septic system, and having two road frontages severely limit the area in which a detached accessory structure can be placed.

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 this request is appropriate because there is no other location possible. It will do justice to other property owners by having equipment and personal items being stored inside thereby improving the appearance of the 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.

The property is unique in that it is triangular in shape. Also, when the land was permitted to be divided in this manner it created the problem with non-conforming setbacks for the garage.

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

This is not self-created. The applicant purchased the property in 2016 after the property was split and the garage needs to be replaced to be usable for the storage or equipment and vehicles.

Roll Call Vote:

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

Ayes 5; Nays 0. Motion carried.

Dreyer asked the applicant to work with Reynolds and staff on the Shelby Lane issue. He reminded the applicant the Township must have advance preparation in order to provide sufficient legal notice for the public.

PUBLIC COMMENT

Dreyer opened Public Comment at 7:27 P.M.

Jerry Hunsberger thanked the members of the Zoning Board of Appeals on behalf of the Park Township Board and the residents for their excellent work on behalf of the Township.

Dreyer closed Public Comment at 7:28 P.M.

ANNOUNCEMENTS

Reynolds said there are no applications received for the November meeting.

The next meeting is December 22, 2018.

ADJOURNMENT

Eade moved, supported by Gerard, to adjourn the meeting at 7:28 P.M.

Voice vote:

Ayes 5, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall
Recording Secretary
October 24, 2018

Approved: