

**MINUTES
PARK TOWNSHIP
ZONING BOARD OF APPEALS**

Park Township Hall
52 152nd Street
Holland, MI 49418

Regular Meeting
October 24, 2016
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, Dave Fleece, John Foster, Dan Hendon, Mike Toscano

Absent: Dennis Eade

Staff: Ed de Vries, Zoning Administrator

APPROVAL OF AGENDA:

Motion by Toscano, supported by Foster, to approve the agenda as presented.

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

APPROVAL OF MINUTES:

Motion by Foster, supported by Fleece, to approve the minutes of the August 22, 2016 Regular Meeting as presented.

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

BUSINESS ITEMS:

1. **A request by Michael Baker** to allow construction of a single family residence on a non-conforming lot that is less than 6,500 square feet, to allow a building height of 33.4 feet where 32.3 feet is allowed, and a rear yard of 5 feet where 18 feet is required. The applicable ordinances are Section 38-483(b), 38-483(b)(1)a, and 38-494(b) of the Park Township Zoning Ordinance. The property is located at the 2300 block of Crescent Walk, Holland, MI 49423. (Parcel #70-15-33-392-002, R-4)

de Vries introduced the agenda item and noted that this request is in three parts. As background, Crescent Walk is a narrow winding single lane private one-way road. The

applicant has a conditional offer to purchase the vacant lot located in the hill section of Macatawa Park. The legal description is lot 170 of Heneveld's Supervisor Resubdivision of Macatawa Park, dated 1938. There is no record of past variance requests, or that a structure was ever built on this lot. The current owner (seller) of the lot also owned a residence across the road at 2385 Crescent Walk, but sold that separately in August of 2008. Both the previous and current owner of 2385 Crescent Walk used an area on this lot for parking as there was no parking space at 2385 Crescent Walk. In this immediate area most of the vacant lots on the south side of Crescent are used for parking space for homes on the north side of Crescent Walk. There is a proposed easement allowing the owner across the street to continue to have two parking spaces on this lot.

The property is listed as being on a critical dune area. Permits from MDEQ will be required before any building permit can be issued, however, this will not be a consideration for the Zoning Board of Appeals.

de Vries pointed out the aerial view of the lot on the Staff Memo. The submitted plan for the residence depicts a structure with a footprint of approximately 2,130 square feet, not including decks and a 144 square foot screened-in porch area. The required setbacks for the lot, using front and rear yard averaging, and the increased side yard allowance for the lot results in a building envelope of approximately 2,300 square feet.

The request for authorization is to construct a home on a non-conforming lot under 6,500 square feet in area, and to allow a building height of 33.4 feet where 32.3 feet is permitted. The recently amended Section 38-483(b)(1) states:

- a. The maximum height of the residential building shall be reduced by the same percentage of the total area of the lot or parcel of land which *bears to 6,500 square feet, or 20 feet*, whichever is greater.
- b. Side yards may be reduced by the same percentage of the total area of the lot or parcel of land which *bears to the minimum lot area requirement of the zoning district*, or 5 feet, whichever is greater.

This lot is 6,007 square feet in area, which would include any parking easement granted to 2385 Crescent Walk. (Note: While the Park Township Zoning Ordinance does require the area of a public or private road or road easement to be deducted from the total lot area, there is not a similar requirement for an easement for parking, so the area for parking may be included.) The zoning district requires a lot area of 15,000 square feet for a single family home if not served with public water and sewer, or 10,000 square feet if served with public water but not sewer. This lot has sewer, but no public water, so it would require a lot area of 15,000 square feet. No provision was listed for lots with only public sewer. Lots with both sewer and water must have an area of at least 8,500 square feet.

Using the maximum height formula in Section 38-483(b)(1)a of the Zoning Ordinance, the lot is 92.4% of 6,500 feet, so the maximum height allowed would be 92.4% of 35 feet, or 32.3 feet.

For the side yard calculation in Section 38-483(b)(1)b, the lot is 40% of 15,000 square feet, so the total side yard would calculate to 8 feet, (40% of 20 feet) with a minimum of 5 feet on one side. (40% of 7 feet is 2.8 feet, however, there is a five foot minimum) Effectively there would be a 10 foot total side yard requirement.

Using front and rear yard averaging, as well as the side yard setback relaxation offered in the Ordinance for a non-conforming lot, this lot does provide a fair size building envelope without any need for dimensional variances. The shape of the envelope may not be desirable, however, it is possible. Staff finds the lot buildable provided MDEQ Critical Dune requirements are met. Additional information should be sought as to the need for the variances for the rear and for the height.

Michael Baker, applicant, spoke to his request. He said he and his wife want to build on the lot with the intent of being year-round residents. The lot will be 6.5' deeper. He said there are similar lots that are smaller in the area.

Regarding his request for additional height he offered the following information. The neighborhood has a lot of unique nonconforming areas in the R-4 zoning. The height variance he is requesting results from the proposed architecture of the house. To keep the height to a minimum he is using shed dormers - the pitch is less and allows an overall building height. The houses across the street are higher. He said he is trying to be harmonious with the neighborhood with this architectural plan. He also noted that the variance is 1.1' which is based on the architect's recommendation, and it is below the district maximum of 35'.

Baker continued with his rationale for the rear yard request. The lot is an old platted lot which has a unique skewed parallelogram shape with an overall average of 75' X 79'. Because of the topography the contours drop toward the house lot from the parking area to the front of the property. He will request an MDEQ permit regarding the dune. The placement of the proposed garage is on the high side to gain access to the parking lot and road. The same setbacks apply to the rear for a deck.

Baker addressed the concerns of resident letters regarding his application. As to the environmental impact, he plans to obtain a MDEQ permit for building on the dune and will replace any plantings and trees that are removed. Since drainage is another concern, he noted that the existing drainage will not be altered or interrupted. He was aware that traffic safety is a concern because of the one way road, but he pointed out that the winding road slows traffic. A benefit is that his plan does not impact the walkway. And, as to the problem of backing out of the garage which could potentially obstruct the roadway, it is his opinion that he has sufficient space to maneuver a car into the street. There is capacity in the road for 5-8 trips per day. One advantage is that his wife is a teacher and her trips would be reduced during the summer which is a peak time for seasonal residents and visitors to the area. This lot has served as parking for the neighboring lot. It is two parking spaces which

is about 6 ½% or 400 square feet, of the parking area which is a small percentage of this land. He proposes to provide an easement across from the house. Fire protection is another concern. The house will be built to code with materials that are fire resistant. Fire Department could bring a pumper truck in and pump water from the lake.

Foster commented regarding fire protection. There is a house behind him but the other homes are not as close in proximity.

Hendon asked the applicant if he was aware of front and rear yard averaging.

Baker said he was not until de Vries provided that information.

PUBLIC HEARING

Chair Dreyer opened the public hearing at 6:53 P.M. There were nine letters and e-mails addressed to the Township, all opposed to this application.

Joel Krissoff, neighbor, has no objections to the application. He has talked with the Baker about his application. He had a question about the public notice which said the application violates rear yard setbacks. What about the front and the side as well?

Dreyer clarified. The applicant meets the side yard requirements, the front yard is actually back from front yard averaging. The rear yard is the area that does not meet requirements.

Krissoff said most of the lots are small. He's lived in the community for 50 years. Most of the homes that have been built have been on multiple lots which has kept the density down. As a result, variances haven't been necessary. Most of the houses are close together and were built in the 1800s. In his opinion, the applicant's rear yard is too close to the neighbor behind him. None of the houses that have been built in the last 40 years have garages because there is no room. If he can move the garage it would be a better plan.

Tom Gijbers, neighbor, lives across the street from the applicant. He sent a letter to the Township regarding this application. The agreement was for a warranty deed with the owner for a 20' X 20' space on that lot if that makes a difference in the easement and the size of the lot. His impression is the construction has followed the guidelines. It is a nice house but the Township rules should be followed. Variances are required to build this home and he objects because this request doesn't follow the rules.

Raleigh Sundstrom is a neighbor who lives south of the proposed house. He asked if the garage could be reconfigured since the rear yard line is too close to his property line. He questioned if it was necessary to have a garage since most of the residents do not due to the lot size restrictions.

Dreyer closed the public hearing at 7:02 P.M.

#1 - BUILDING LOT

Dreyer said the question for the Zoning Board of Appeals to address is if this lot is buildable.

Toscano said, utilizing the new Township ordinances, it is clear with averaging there is a buildable footprint. Without any variances it can be built – but not for this specific house plan however.

Dreyer and Hendon concurred.

Toscano moved, and Foster supported, to approve the lot as buildable lot under the specific ordinance.

Toscano reviewed the standards under Section 38-483(b):

1. *The size, character and nature of the residential building and accessory buildings to be erected and constructed on the lot;*

This is a non-conforming lot, but using front and rear yard averaging with 5' side yards, and a building envelope of just over 2300 square feet, the lot complies with the zoning ordinance.

2. *The effect of the proposed use on adjoining properties and the surrounding neighborhood;*

It conforms to the use of the adjoining properties.

3. *The effect of the proposed use on light and air circulation of adjoining properties;*

There is no impact on the light and air circulation.

4. *The effect of any increased density of the intended use on the surrounding neighborhood;*

There is no adverse impact on density in the community.

5. *All off-street parking requirements are met.*

Off-street parking requirements are met.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

#2 - REAR YARD

The rear yard setback is a dimensional variance request, therefore, the Zoning Board of Appeals must find that the standards listed in Section 38-70 have been met.

If additional information can substantiate meeting all four of the standards, a variance, whether a lesser or full variance requested, might be allowed.

De Vries said the variance is 13' and the average came to 18'.

Foster asked the applicant if there is a well.

Baker said a private well will be installed in front of the house.

Foster asked for the location of the well to be pointed out on the site plan.

Foster asked which corner of the house is the problem with the rear yard variance.

Baker said the rear right corner is 7'.

Hendon observed that the structure is not within the buildable footprint. He feels more work could be done with a lesser relaxation.

Toscano and Dreyer agreed there is no problem with the height but the rear yard setback could be changed if the applicant worked with the architect.

Dreyer said there are four standards to be met. He read the first standard and explained to the applicant that there is no burden in this case because there is a buildable footprint. We can talk about a lesser relaxation but not 5'. We can't meet the other standards. He visited the site and he has trouble agreeing with the request.

Baker said there are reasons that are pushing him out of his building envelope.

Dreyer disagreed and noted the applicant could build into the side of the hill.

Fleece said the envelope grade is what we are talking about. He noted that with regard to relationships in the community, residents have sacrificed by not building their garages. He advised the applicant that sacrificing that element may offer some solutions for his house plan.

Baker noted the diagram with 18' and the possible location of the garage.

Toscano said he understood the problem of the critical dune on the front side of the property. He suggested more discussion with the architect to work on an alternate solution. He suggested tabling this request pending submission of another plan.

Baker said he would discuss his options with the architect.

Hendon said 2300 square feet is not a hardship level – there are other possibilities. It's difficult for him to say anything about the rear yard setback without knowing what the applicant can do about the dune and the front of the lot. It would be premature to consider this before we get additional information and agreed there could be another option.

Toscano agreed the dune presents a hardship.

Hendon asked how much of the dune can be removed.

The applicant said he didn't know. That would be determined by the MDEQ

Foster asked if the garage is a necessity.

Baker said he and his wife intend to live year-round at this location and need a garage. They work full time and use their vehicles, including in the winter months. He noted he is required to have two parking spaces on the street.

Dreyer said the applicant is asking for too much for the size of the lot. This home may not be the dream home the applicant wishes to have. This situation is self-created because the house does not belong on this size of lot. The rules must be followed. He explained to Baker that the ultimate decision is up to him. As Dreyer sees it there are two options: the Zoning Board of Appeals can vote now or we can table it and wait for the applicant to return with a different proposal. He didn't think the request will pass a vote at this point in time. A lesser relaxation may be worth consideration.

Baker said he is asking for 13' for the height so now the architect will have to give him an alternate plan.

Toscano said the applicant has a buildable footprint of 2300 square feet. And the lot is on top of a critical dune. This is what he has to work with for another proposal.

de Vries advised the applicant of the Board of Appeal's rationale behind a decision. There is a critical dune with a critical slope on this lot. He needs to return with data that he can use given the requirements of the ordinance in relation to the nature of the lot. What the MDEQ will allow is an unknown at this point. He will have to work it out with them to see what they require.

Baker said if he returns with another proposal all his points will be the same regarding parking, the dune, maneuvering in his driveway, and other factors. He would rather know,

if there is flexibility, if he can establish what a future decision might be. He admitted he is taking a risk because he's not certain what the MDEQ will say.

de Vries mentioned the other issue is the warranty deed of 400 square feet.

Baker said that's between the resident and the property owner but his proposal is to grant an easement and give the residents use of that property.

Dreyer said without more information he couldn't provide anything specific to the applicant. He suggested tabling the height and rear yard requests because these factors could change with a future proposal after consideration with the architect.

Baker agreed to table both the height and rear yard variance requests.

Toscano moved, supported by Fleece, to table the height and rear yard variance requests.

Voice Vote:

Ayes 5, Nays 0. Motion carried table the height and rear yard variance requests.

ANNOUNCEMENTS:

The next regular meeting is November 28, 2016.

Toscano will be finishing his term as a Township Board member and liaison to the Zoning Board of Appeals. He thanked everyone on the Planning Commission and wished the Zoning Board of Appeals continued success. Dreyer thanked him for his diligence as a member.

PUBLIC COMMENT

Dreyer opened Public Comment at 7:37 P.M.

There was no comment.

Dreyer closed Public Comment at 7:37 P.M.

ADJOURNMENT

Fleece moved, supported by Foster, to adjourn the meeting at 7:38 P.M.

Voice vote:

Ayes 5, Nays 0. Motion carried.

Respectfully submitted,
Judith Hemwall
Recording Secretary
October 26, 2016
Approved: