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: Dennis Eade, Doug Dreyer, John Foster, Jim Gerard, Kathy Grimm as Alternate

Absent: Dave Fleece (with notice)

Staff: Greg Ransford, Planner, Dan Martin, Legal Counsel

APPROVAL OF AGENDA:

Gerard moved, supported by Foster, to approve the agenda as submitted.

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

APPROVAL OF MINUTES:

Eade moved, supported by Foster, to approve the minutes of October 28, 2019 Regular Meeting as submitted.

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

BUSINESS ITEMS:

Item #1 - A request by Thomas Burgess to allow construction of a single-family residence with a front yard of 10 Feet where 40 feet is required per Section 38-306 (1) of the Park Township Zoning Ordinance. Said land and premises are located on four parcels to be combined on the south side of North Park Avenue north of Auburn Avenue, Holland, MI 49424. (Parcels 70-15-33-274-001, 70-15-33-274-002, 70-15-33-274-003, and 70-15-33-274-004, Zoned R-4 Medium Density Single and Two-Family Residence District).
Ransford introduced the item. The property description is Lots 51 through 54 of Nieuwsma’s Supervisor Resubdivision of West Michigan Park replatted in 1942. There are currently four (4) separate 40 ft. x 80 ft. (3,200 square foot) parcels, which are to be combined together to form one (1) 12,800 square foot parcel. Thomas Burgess has owned lot 52 since 1999, having purchased it from a relative. In February of 2018, Thomas & Adam Burgess purchased lots 53 and 54 (western two lots) from the estates of other relatives. Lot 51 (easternmost lot) was purchased by Thomas & Adam Burgess from Ronald Klamt in June 2018.

As background, in July 2018, the Zoning Board of Appeals considered a variance request to construct a single-family residence on a private well and septic system with a front yard of 10 feet where 40 feet is required. Per Section 38-70(3) of the Park Township Zoning Ordinance, the applicant did not take affirmative action (either commencing the use of the structure, or obtaining all necessary construction permits) to exercise the rights granted by the variance. As the 2018 variance expired, the applicant has requested the setback variance again. The applicant did not complete the building within the year time frame of the permit and that is the reason for the request at this time.

The applicant has obtained a permit from EGLE for constructing the home as well as the sidewalk within the critical dune area.

Burgess addressed his request. This is the second request and he explained that it has taken a long time to get all the necessary approvals. He hasn’t applied for the building permit yet. Prior to July 2018 he had approval from the Ottawa County Parks Commission. He has had house plans drawn and has the deed for the layout design which has required the most time for completion. The major reason for delay is the high water table on Lake Michigan. He referred to the 15’ width and 100’ length of the current proposed building space and would like to obtain approval of the necessary 10’ front yard setback.

**PUBLIC HEARING**

Dreyer noted the Township has received three negative and two positive letters regarding this request.

Dreyer opened the Public Hearing at 6:36 P.M.

Bob Garlinghouse supported the request. The property backs up to his house. This setback will position the house further into the hill.

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

Foster asked Burgess about the location of the septic and well.

Burgess said he has converted to City public water and public sanitary sewer. The old drainfield which is shown on the diagram will not be used. He just needs to file for the water and sewer permits. He has decreased the footprint because he will not be using the drainfield. The MDEQ has permitted the plan.
Eade moved, supported by Foster, to grant the variance on condition the four lots are combined with the front and rear setbacks of 10’ where 40’ is required.

Eade reviewed the standards:

\begin{itemize}
\item \textit{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.}
\end{itemize}

Eade said with a lot of depth of 80’ providing an envelope of 15’ creates challenges to meet the required setback. This standard can be met.

\begin{itemize}
\item \textit{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.}
\end{itemize}

The conditions on the property are unique. The only surrounding buildable property is on the rear or side part of the lot line. The area to the north is not likely to be developed.

\begin{itemize}
\item \textit{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.}
\end{itemize}

If all four lots are combined and the property is used for a single family residence, use of the property is in accordance with the surrounding properties.

\begin{itemize}
\item \textit{d. That the practical difficulties alleged are not self-created.}
\end{itemize}

The location of the residence and topography of this lot present challenges and are not self-created.

Dreyer noted that a year ago the Zoning Board of Appeals granted the variance. Since then the applicant has reduced the footprint and will provide City connect to public water and sewer.

\textbf{Roll Call Vote:}

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

Ayes 5 , Nays 0. Motion carried.
Item #2 – A request by Greg and Lynn Tarr to allow construction of an addition to a residence with a front yard of 14 feet where 40 feet is required per Section 38-306 (1) of the Park Township Zoning Ordinance. Said land and premises are located at 2281 Ottawa Beach Road, Holland, MI 49424. (Parcel 70-15-33-275-025, Zoned R-4 Medium Density Single- and Two-Family Residence District)

Ransford gave the background for this item. The property predates the zoning ordinance in the Township. They are keeping the same setback for the proposed addition as the current structure.

Because of this the ZBA may authorize the addition under the same standards provided under Section 38-483(e)(2) in lieu of the traditional standards because the setback line was established prior to July 2016.

Dean Kreps represents the owners. He said the applicants wish to purchase this property. The current owner moved the driveway from the west to the east side of the property in 2014. The old driveway came close to the road where the Pump House is located. The proposed buyers will live there full time. The house will be improved aesthetically to be in line with the historic area if they can build an attached garage. The building won’t be closer to the road than where the current structure is. The height will remain the same and there is a 7’ setback and also a 2’ setback and they wish to be approved for the variance of 14’.

Dreyer had one correspondence item which was not in support of the request.

PUBLIC HEARING

Dreyer opened the Public Hearing at 6:48 P.M.

There was no comment.

Dreyer closed the Public Hearing at 6:49 P.M.

There are three standards that need to be met because of the new ordinance for additions to structures with legally established setbacks.

Foster asked if there will be a drive coming from the garage to Ottawa Beach Road.

Kreps said the driveway is already in place.

Gerard moved, and Eade supported, to approve the building setback exception.

Gerard reviewed the standards for a building setback exception:

a. The proportion of the main wall which has been altered by the addition;

The wall will run the length and width that is there and will maintain the side yard setback.
b. The overall effect of the proposed addition on adjoining properties and r
of the surrounding neighborhood; and

The applicants state they will build to reflect the architecture and keep the historic character of the surrounding neighborhood.

c. The addition shall not be less than five feet from the side and rear lot lines and shall not be less than 10 feet from the front lot line.

The setback on the front will be 14’ greater than 5’ on the side and rear lot lines.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

Item #3 - A request by Brian & Julia Malone to allow construction of an addition to a residence with a side yard of 4 feet-6 inches where 10 feet is required per Section 38-246(2) of the Park Township Zoning Ordinance. Said land and premises are located at 2413 Eagle Drive, Holland, MI 49424. (Parcel 70-15-28-420-019, Zoned R-2 Lakeshore Residence District).

Gerard asked to be recused for this agenda item due to a conflict of interest. Sally Pollock, as alternate, assumed his place for purposes of discussion and voting.

Ransford introduced the item. The lot predates the zoning ordinance. Overall.....

The property is described as lots 31 & 32 in the Heineveld’s Supervisor Plat 9 of Eagle Crest Park Subdivision. The property is approximately 11,000 square feet in overall area and is located on the north side of Eagle Drive, to the west of South Lakeshore Drive, and is bound by private single-family residences to the north, east, and west. There is an 1,800 square foot single-family home on the property. The applicant is proposing to add a 30.2 ft. x 12 ft., 2-story addition to the east side of the residence.

The area that encroaches on the side yard setback could feasibly be reduced in size. Conformity with the regulations does substantial justice to other property owners in the Eagle Crest neighborhood. Additionally, if the size of the proposed addition was slightly reduced, a variance would not be required.

Brian Malone addressed his request. He noted it is a triangle lot. He has lived there 10 years and has performed many upgrades to the house and property. Adding a 12’ addition will follow the same roof line and give him room for a three story home, adding an additional bedroom on the second story and a bath room on each level. Their daughter is returning home to live with them due to a medical condition. She will have a bedroom and bathroom on the main floor. He submitted a layout plan for review.

Dreyer asked the applicant if averaging was considered. Malone said it was not.
Eade asked him if he would reconsider the dimensions about the extension without seeking a variance since the difference is only 6”.

Malone said it be worth a consideration. Currently it’s an equal measurement. It's a 12’ addition so 11’6” is what it is actually. It would put the addition off-dimension.

Dreyer asked Ransford if averaging could be used in this situation.

Eade referred to 38-483(e)(2) as cited by Posillico in her memo. She stated the addition cannot be less than 5’ from the side lot line.

Ransford said he thought Posillico suggested Sec. 38-483(e)(2) cannot be utilized because one of the standards says it cannot be less than 5’.

Martin noted the building was built to the legally established building setback before July 1, 2006. It is considered a required setback from an adjacent lot line that existed at the time. Any additions or enlargements along or within the existing setbacks – one of the arguments is it is no longer within the existing setback. Thus, you can argue a variance is necessary if the applicant were to extend along the existing setback in addition to the 5’. The Zoning Board of Appeals can proceed with the variance because the applicant probably wouldn’t qualify even if it was shortened by 6”. They still aren’t enlarging within the existing setback.

Grimm added under Staff Comments on page 11 Posillico noted that “Additionally, if the size of the proposed addition was slightly reduced, a variance would not be required. As such, a lesser relation than applied for is not applicable.”

Dreyer summarized that according to the new July 2016 ordinance, it allows extension of the walls of the house in a nonconforming area, but it has to be 5’ or greater. He pointed out to the applicant that he is not in the setback now. Unfortunately, the new variance does not apply in this case.

PUBLIC HEARING

Dreyer opened the Public Hearing at 7:06 P.M.

There was one item of correspondence in the affirmative.

John McDonald lives up the hill on the horseshoe from this property. He spoke to the aesthetics of the house and property - the transformation is astonishing. The owners work very hard on the property. He supported the variance request.

Dreyer closed the Public Hearing at 7:09 P.M.

Dreyer noted the Zoning Board of Appeals must apply the non-use dimensional standards:

Pollock observed since it is a back corner the applicant should be allowed the variance.
Pollock moved, supported by Foster, to approve the variance request.

Mrs. Malone spoke to the unusual way the property is laid out. No matter what they try to do there will be a corner somehow in the building. She wanted an addition large enough to accommodate a bathroom and a closet. They designed it for privacy. If you cut the corner the cost of construction increases because you have an angle. If you bring it back the room is shortened and that’s why they aren’t shaving the corner. It’s a corner that comes within the setback variance.

Pollock 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.**

  It’s only a corner which affects what they want to do. It is a burden for the owners considering the reason for their wish to add the additional space.

- **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.**

  The other property owners approve of the request. Dreyer added the variance would give the owners substantial relief.

- **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.**

  It is an odd shaped lot so it is unique.

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

  They have to build the additions to the house because of changing life circumstances. Dreyer added the owners didn’t plat the parcel with the parallelogram-shaped lot. Foster added the corner requirement is not self-created.

**Roll Call Vote:**

Foster, aye; Dreyer, aye; Pollock, aye; Grimm Gerard, aye; Eade, aye.

Ayes, 5; Nays 0. Motion carried.

Gerard joined the Board at 7:16 P.M.
Item #4 - A request by Eric & Kathy Geurink to allow construction of an addition to a residence with a side yard of 5 feet where 10 feet is required per Section 38-276 (2) of the Park Township Zoning Ordinance. Said land and premises are located at 402 Pine Street, Holland, MI 49424. (Parcel 70-15-27-377-009, Zoned R-3 Low Density Single-Family Residence District).

The property is described as Lots 63 and 64 of Chippewa Resort. The property is approximately 8,000 square feet in overall area and is located at the intersection of Forest Drive and Pine Street, and is bound by private single-family residences to the north and west. There is a home and also a shed existing on the property. The home is also on a corner lot.

Eric Geurink spoke to his request. He wants to build a garage – currently they have no garage because it is a corner lot. He would like to build a two story garage 14’ high and this would be 5’ off the lot line. He has no room for storage. The neighbor who can see the area is for the request.

There are two permanent residences near him and the other four homes are rentals.

Dreyer noted there was one positive item of correspondence.

PUBLIC HEARING

Dreyer opened the Public Hearing at 7:20 P.M.

Anna Donkersloot lives adjacent to the property on Pine. She questions the two story size of the garage. The garage would create a wall along her side yard.

Dreyer closed the Public Hearing at 7:22 P.M.

Dreyer addressed a question from the audience about the peak of the garage. He said the roof line would run north and south.

Foster asked about the use of the bonus room. The applicant said the space would be used for a cabinet workshop and storage. He has a shed now which will be removed. He can’t have a basement because of the water table on the property.

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

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.

It is a burden to not have a garage and the extra space. Dreyer noted on this property the owner will require a variance regardless of where the garage is located.
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.

It does substantial justice to the applicant. The owners need storage space which will improve the area. Dreyer added they have no space to build a detached garage. Martin said it would be more difficult to put a detached garage on the property. Ransford said they would end up with two variance requests for each front yard and would violate the ordinance.

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 size of the lot doesn’t allow another placement for a garage. Because of the two front yards it is a unique lot.

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

The owners didn’t create the lot, or build the house, and they want to improve it.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

Item #5. A request by Brian Meiste to allow construction of a single-family residence on a parcel with an area of approximately 3,750 square feet where 6,500 square feet is required per Section 38-483 (b), and 15,000 square feet is required per Section 38-306 (4) of the Park Township Zoning Ordinance. Said land and premises are located on the south side of Second Avenue west of Ottawa Beach Road, Holland, MI 49424. (Parcel 70-15-33-281-004, Zoned R-4 Medium Density Single and Two-Family Residence District)

Ransford noted this request is to authorize the use of a non-conforming lot variance request, and Item #6 requests a setback variance details. The parcel pre-dates Township zoning rules. He pointed out there are additional standards for this request.

The property description is Lot 32 of Bosma’s Addition, and has been under the current ownership since 2010. The property is approximately 3,750 square feet in overall area and is located on the south side of Second Avenue west of Ottawa Beach Road, and is bound by private single-family residences to the east, west, and south. There was a single-family residence on the property until it was demolished in 2010. There have not been any property line modifications since 1975 which is when Ottawa County’s property split history begins.
Martin explained that the Zoning Board of Appeals must review the standards for a request to allow a building on an existing lot of record that does not meet the minimum of 6500 square feet. 

To clarify, Martin said it is the second set of standards for lot of record (1-5) – Sec. 38-483 (b) that the Zoning Board of Appeals is to apply to the request.

Meiste spoke to his request to construct a single family home.

The height of the proposed structure will be 20’, although he would prefer 23’. There was a question about averaging for height. He understands this standard has yet to be adopted by the Township.

Martin said if you were to allow the use, if the Ottawa Beach overlay district is adopted (which currently includes draft provisions for height averaging), they could get a building permit based on the current ordinance, which allows for 20 feet of height. The applicant might not need a height variance if the draft language is adopted. If the applicant wishes to increase the height above 20 feet prior to the adoption of the draft language, or if the language is not adopted, it would require a height variance.

As proposed, 20’ would be compliant under Standard #1, said Martin.

Dreyer noted there has been no correspondence to the Township regarding this request.

PUBLIC HEARING

Dreyer opened at 7:39 P.M.

Bob Garlinghouse spoke to the size of the lot. It is one of the smaller lots and is in keeping with the surrounding neighborhood.

Joel Welch supported the request and said the home adds to the neighborhood.

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

Dreyer said this is a lot of record. He asked Martin for his opinion.

Martin concurred and said it is a buildable lot. We can authorize use for the owner of the property to build a home.

Gerard moved, supported by Eade, to approve the use of this lot for building a home.

Gerard reviewed the standards for a Non-Use (Dimensional) Variance:

1. The size, character and nature of the residential building and accessory buildings to be erected and constructed on the lot;
a. The maximum height of the residential building shall be reduced by the same percentage the total area of the lot or parcel of land bears to 6,500 square feet, or 20 feet, whichever is greater.

b. Side yards may be reduced by the same percentage the total area of the lot or parcel of land bears to the minimum lot area requirement of the zoning district, or five feet, whichever is greater;

The footprint will be 32’ x 30’ which is about 25% of the lot size. It meets the requirement.

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

It will have a beneficial effect on the surrounding neighborhood and meets this requirement.

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

The house will not be any taller than other homes in the area and meets this requirement.

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

The single family home will increase the density but will not have a significant effect on the overall density of the neighborhood.

5. All off-street parking requirements are met.

Parking will be on the east side corner. The plan provides for parking

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

Item #6 - A request by Brian Meiste to allow construction of a single-family residence with a front yard of 17 feet where 40 feet is required per Section 38-306(1), and with a rear yard of 18 feet where 25 feet and premises are located on the south side of Second Avenue west of Ottawa Beach Road, Holland, MI 49424. (Parcel 70-15-33-281-004, Zoned R-4 Medium Density Single- and Two-Family Residence District)

Dreyer asked about front and rear yard averaging in this case.
Ransford said the main premise is the Zoning Board of Appeals should grant the minimum variance possible in the reasonable use of the property. In reference to the building footprint on the property, it is acceptable to approve the minimum variance for reasonable use of the property.

Dreyer asked for the depth of the property.

Meiste said it is only 75’ deep. He has designed the house on a very tight lot considering the setback requirements.

Martin said he is not sure why averaging couldn’t be used. A variance may not be necessary. Martin said he didn’t see why it couldn’t be used in this case so long as there are front and year yards. When you have a nonconforming structure on a nonconforming lot it can be applied.

PUBLIC HEARING

Dreyer opened the Public Hearing at 7:50 P.M.

There was no correspondence on this agenda item.

There was no comment.

Dreyer closed the Public Hearing at 7:50 P.M.

Gerard moved, supported by Eade, to grant the variance as presented. For the record, the front and rear yard averaging setbacks will be 17’ front yard and 18’ rear yard.

Gerard 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.

Because of the lot size it is unnecessarily burdensome. Looking at the front and rear yard averaging, the front yard falls within this allowance.

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.

This is in line with the appearance of other homes and adds to the applicant’s benefit, and the applicant has a lesser relaxation than what appears to be shown in front and rear yard averaging.
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 unique circumstance is due to the small lot size.

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

The lot is not self-created.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

Ransford said the possible language changes (Ottawa Beach overlay district) could occur be reviewed by the Planning Commission in January with a Public Hearing in February, then it would go to the Township Board in March.

Martin said the applicant (Brian Meiste) could start in spring and submit a building permit request at that time. The timing is important. He could apply for a variance for building height at the January 2020 meeting.

ANNOUNCEMENTS

Dreyer asked Board members if they would be available for the December 23 meeting. Everyone said they would be able to attend.

PUBLIC COMMENT

Dreyer opened Public Comment at 8:00 P.M.

There was no comment.

Dreyer closed Public Comment at 8:00 P.M.

ADJOURNMENT

Eade moved, supported by Foster, to adjourn the meeting at 8:01 P.M.

Voice vote:

Ayes 5, Nays 0. Motion carried.

Respectfully submitted,
Judith Hemwall
Recording Secretary
November 27, 2019

Approved: December 23, 2019