

**MINUTES  
PARK TOWNSHIP  
ZONING BOARD OF APPEALS**

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

Regular Meeting  
December 17, 2018  
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, John Foster, Jim Gerard

Staff: Emma Posillico, Acting Zoning Administrator

**APPROVAL OF AGENDA:**

Posillico requested an addition to the Announcements section of the agenda, the proposed 2019 schedule of meetings.

Fleece moved, supported by Eade, to approve the agenda as amended.

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

**APPROVAL OF MINUTES:**

Fleece noted one correction on page 6.

Fleece moved, supported by Gerard, to approve the minutes of October 22, 2018 Regular Meeting as corrected.

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

**BUSINESS ITEMS:**

**Item #1 - A request for a larger detached accessory structure submitted by Kirk Garvelink** for permission to construct a detached accessory structure with an overall area of 480 square feet where 351 square feet would be permitted, per Section 38-491 of the Park Township

Zoning Ordinance. Said land and premises are located at 1696 State Street, Holland, MI 49424. (Parcel #70-15-22-479-011, Zoned R-4 Medium Density One & Two Family Residence District).

The applicable ordinance is Sec. 38-491 (b) (1) (b) (part), Detached accessory buildings. Only one accessory building will be allowed on any lot, provided that the accessory building does not exceed the greater of 200 square feet or 2% of the calculated lot size, up to a maximum accessory building size of 2,500 square feet.

Posillico provided background information for this application. The subject property is located on the south side of State Street, west of 160th Avenue. The property is approximately 17,556 square feet overall area, excluding the road right-of-way. The home has an attached two-stall garage. There do not appear to be any other accessory structures on the property.

Pursuant to Sec. 38-491 (b) (see above), the maximum allowable size for a detached accessory building is 2% of the lot size, or 351 square feet. The applicant is seeking to construct a 480 square foot accessory structure, which is 129 square feet larger than allowed. Therefore, the applicant is seeking authorization for a larger building.

Kirk Garvelink spoke to his application. He is asking for a building that is 4' wider and 2' deeper than what the Ordinance allows.

Dreyer said the Zoning Board of Appeals has to make a decision that follows the Ordinance requirements which will stand up in court. If there is anything the applicant can add to his rationale in asking for the variance the members of the Board of Appeals would like to consider it.

Foster asked the applicant if the reason for the large size was to store his car.

Garvelink said he wanted to park and store his car trailer inside during the off season.

Mrs. Garvelink said the trailer is too long for a smaller building.

Foster suggested the applicant could reduce the size of the building for his car and leave the trailer outside.

## **PUBLIC HEARING**

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

Dreyer said the neighbor adjacent to the west submitted a letter in favor of the request.

There was no comment

Chair Dreyer closed the Public Hearing at 6:36 P.M.

Fleece said he was struggling with the large size of the building and asked why it can't be smaller in order to comply with the ordinance requirements.

Eade said he can't justify the request and noted the ordinance is in place for a reason. He has a boat and acquired storage space to store it since he doesn't have space on his property. If the trailer needs to be stored the applicant should consider storage off his property.

Foster asked if the applicant has stored the car and trailer elsewhere. Are there other cars parked on the property or is it just for the car?

Garvelink said the request is for his car. He wants to restore the car.

Fleece moved, supported by Eade, to deny the variance request since it does not meet all the standards.

Fleece said he can't justify the first standard. The size of the proposed building is too large for the size of the lot.

**Roll Call Vote:**

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

Ayes 5, Nays 0. Motion to deny carried.

**Item #2. A request for a dimensional variance submitted by Kirk Garvelink** for permission to construct a detached accessory structure with a rear yard of 15 feet where 25 feet is required per Section 38-491 of the Park Township Zoning Ordinance. Said land and premises are located at 1696 State Street, Holland, MI 49424. (Parcel #70-15-22-479-011, Zoned R-4 Medium Density One & Two Family Residence District).

This dimensional setback variance request is based upon Item #1 (dimensional size variance) being granted. If the applicant is not granted Item #1, Item #2 becomes unnecessary. If the applicant requests a dimensional setback variance for a smaller building, they should return with a new application based upon a revised building size.

Posillico explained to the applicant he could return if he should choose to apply for another dimensional setback. She noted though that based on the Township's calculations, it is possible for an accessory structure to meet the setbacks in conformance with the ordinance requirement.

**Item #3 - A request for a dimensional variance submitted by Nickolas & Jennifer Doornbos** for permission to construct a detached accessory structure (garage) with a front yard of 18 feet, 6 inches where 60 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).

Posillico described the request. 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 2015. Records indicate the lot was split from a

larger parcel on 10/26/2000, and split into three smaller lots. The current lot contains the original home for the property.

At the October 22, 2018 Zoning Board of Appeals meeting, variances were granted for the rear yard setback (3 feet) and the side yard setback (2 feet). It was noted at the meeting that the applicant may need to apply for another setback variance from Shelby Lane, which was not noted at the time of the original application or in the published notice. The applicant has now returned for the front yard setback variance from Shelby Lane, which was appropriately published.

Posillico noted the lot does meet the area requirements of the R-3 zoning district. According to Assessing records, the 1½ story home is estimated to have been built around 1950, but includes 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 the creation of an irregularly shaped lot. It would appear the split resulted in the existing garage to become non-conforming in the side yard setback

There is also an existing 168 square foot detached accessory building on the property. The property allows for 307 square feet for an accessory building, plus an additional 576 square feet if there is not an attached garage. This permits a total of 883 square feet. The proposal is for a 715 square foot 2 ½ stall garage. This would bring the total square feet to the allowed 883. The applicant provided a better site plan with their current application indicating that the proposed garage would be 18 feet, 6 inches from Shelby Lane. It should be noted that per Section 38-496 of the Zoning Ordinance, "Buildings or lots having frontage on two intersecting or nonintersecting streets or private roads, or combination of streets and private roads, shall comply with front yard requirements on both such streets or roads." As such, the frontage of the subject property along Shelby Lane is considered a front yard and requires a 60 foot minimum front yard for an accessory building of the proposed size.

Applicant Doornbos described his reason for requesting the dimensional variance. He confirmed that the 168 square foot building will be taken down. He will have only one garage, which was a misrepresentation in the staff report. This is the Shelby Lane front yard variance request that was identified as being necessary at the October meeting.

## **PUBLIC HEARING**

Chair Dreyer opened the Public Hearing at 6:50 P.M.

There was no comment.

Chair Dreyer closed the Public Hearing at 6:50 P.M.

Dreyer said there was no other place to build on this lot that would meet the setbacks contained in the ordinance. He noted the former request from the applicant that was approved in October.

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

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.***

The setback is unnecessarily burdensome. Granting this would allow applicant to build the garage. Dreyer added that the property split and placement of residence on the lot creates the problem.

***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 allows the owner to store items in the garage, which would do substantial justice to the applicant and other property owners. Dreyer added that a lesser variance would not allow relief to the property owner.

***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 shape of the property is unique. Foster added the septic system decreases the buildable area.

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

This is not self-created. The Township allowed the split without a variance added Dreyer.

**Roll Call Vote:**

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

Ayes 5, Nays 0. Motion carried.

**Item #4 – A request for a dimensional variance submitted by Rick Alderink** for permission to construct a principal dwelling with a side yard of 9 feet, 3 inches where 10 feet is required per Section 38-276 of the Park Township Zoning Ordinance. Said land and premises are located at 2065 Lakeway Drive, Holland, MI 49423. (Parcel #70-15-34-352-004, Zoned R-3 Low Density One Family Residence District).

The subject property is located on the north side of Lakeway Drive, between 53rd Avenue and Jenison Avenue, fronting on Lake Macatawa. The property is approximately 11,232 square feet overall area, excluding the road right-of-way. There are no structures on the property currently.

Sec. 38-276 (2) of the Zoning Ordinance states that “No building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following yard, lot area and building coverage requirements: (2) Side yard. No side yard shall be less than 10 feet.” The applicant is proposing a side yard of 9 feet, 3 inches from the edge of the proposed structure to the western property line. A variance was previously granted for the rear yard setback of this proposed structure, being within the required 50 feet. At the time of that variance request, the proposed structure was located 10 feet from the western property line and did not require a side yard variance. Since that time, the foundation was poured for the residence, and was too close to the western property line. The applicant is now requested a variance of 9 inches, resulting in a side yard setback of 9 feet, 3 inches where 10 feet is required. The applicant’s proposal does comply with all other yard and height requirements (given the rear yard variance and front yard averaging). The proposal does comply with all other requirements.

Applicant Alderink spoke to his application. He said the foundation is in since he mis-measured, but is a little too close to the neighbor. He is asking for 5” on the west side. He said he was told he didn’t have to include the brick ledge which would allow 5”. He added the neighboring property owner to the west has no problem with the extra 9”.

Dreyer asked how this situation can comply with the ordinance since it’s self-created and is a standard that cannot be met. The Zoning Board of Appeals has to justify all the standards. In his judgment, Dreyer said they have no alternative in this situation.

Posillico said if the property line is adjusted to the left it will create a nonconforming parcel to the left.

Foster asked if the property was surveyed.

Alderink said it was after the fact when the applicant and property owner discovered the error.

Foster said there are often other circumstances such as the size of the lot and the way it’s platted that the Board can take into consideration. Unfortunately, in this case there is no other reason to consider allowing the variance.

Fleece asked if the brick is accounted for as the edge of the structure.

Alderink said he was told he didn’t have to count the brick ledge.

Posillico noted that solution would still not remove the variance for the neighboring property, as it would only remove 5 inches of area. The structure would still be within the 10 foot setback requirement.

Fleece asked if he could pour another wall alongside the existing wall. There would be a double foundation wall.

Alderink said no, that was not possible.

## **PUBLIC HEARING**

Chair Dreyer opened the Public Hearing at 7:05 P.M.

Tom Slikkers rents the home next door, but owns the subject property, and his family owns the property immediately to the west. He agreed with the applicant. He isn't concerned about transferring a couple of inches of property from the lands to the west in order to mitigate the problem.

Posillico said it would still have to come before the Board of Appeals because it would create a nonconforming situation. It may be a side yard setback issue.

Dreyer said it would be easier to grant a variance to increase a nonconformity on the existing building to the west, as opposed to a variance for a new structure as submitted.

If the Zoning Board of Appeals granted this request without any arguments except that the situation was self-created, we would be liable in court. The board has to have a rationale for why the applicant broke the rule. This would impose a nonconformance to a new house that doesn't exist yet.

Eade said we cannot set a precedent for a new building.

Foster said the unique circumstance isn't there and that the issue is self-created.

Slikkers asked if he would have to submit a request to modify the parcel line with land from the property to the west.

Posillico said the Assessor would need to sign off on this. The applicant would still need a variance for the property to the west.

Slikkers could not understand what the viable options would be since the board cannot establish a precedent.

Slikkers asked what his options are.

Dreyer said, in his opinion, he had two options: tear it down and move it over or buy some property and ask the Township for a variance.

Posillico said he would have to have the property surveyed again to include the lands to the west.

Dreyer asked the Board of Appeals for comment.

Foster said it seems to be a reasonable solution.

Posillico agreed that it is a possible solution. She could share this with township staff and see if there are flags as to what is proposed. She said the Assessor has the final say in this situation.

Foster asked Posillico to share something in writing with Slikker regarding her follow-up on this issue.

Chair Dreyer closed the Public Hearing at 7:17 P.M.

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

The Alderinks asked what they could do at this point. Could they table the request?

Dreyer concurred that the Board of Appeals could table the request until the next meeting, when the applicant could return with a request for a variance for the property to the west.

The applicant agreed to table the item.

## **ANNOUNCEMENTS**

Posillico presented the schedule of meetings for 2019.

Eade moved, supported by Fleece, to approve the meeting schedule.  
The next meeting is January 28, 2019.

## **PUBLIC COMMENT**

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

There was no comment.

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

## **ADJOURNMENT**

Foster moved, supported by Gerard, to adjourn the meeting at 7:22 P.M.

Voice vote:

Ayes 5, Nays 0. Motion carried.

Respectfully submitted,  
Judith Hemwall

Recording Secretary  
December 20, 2018

Approved: