

**MINUTES
PARK TOWNSHIP
ZONING BOARD OF APPEALS**

Park Township Hall
52 152nd Street
Holland, MI 49424

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

DRAFT-APPROVED 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: Ed de Vries, Community Development Director

APPROVAL OF AGENDA:

Motion by Fleece, supported by Eade, to approve the agenda as presented.

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

APPROVAL OF MINUTES:

Motion by Gerard, supported by Fleece, to approve the minutes of the December 21, 2017 Regular Meeting as presented.

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

BUSINESS ITEMS:

Item #1 - A request by Wade Eldean on behalf of Gator Properties, LLC for authorization for a building setback for additions within the existing non-conforming setback of 20 feet from the road, but not conforming to the required setback of 83 feet from the centerline per Section 38-497 of the Park Township Zoning Ordinance. The exception is permitted under conditions set forth in Section 38-483(e) (2) & (3) of the Park Township Zoning Ordinance. Property is located at 2225 South Shore Drive, Macatawa, MI 49431. (Parcel #70-15-33-480-023, C-2)

de Vries provided some background for this request. He noted the variance standards that must be considered by the Planning Commission. These were referenced in the Staff Memo of January 15, 2018.

Eldean's Marina is in the process of converting space from the former Piper Restaurant into three residential living units. As part of that process they received a variance on December 28, 2015 for work within the required 83 foot setback from the centerline of South Shore Drive. They have amended their plan to slightly enlarge a room by six (6) feet on the third floor, and add a small deck off that room. The room extension and deck are within the building footprint, above a deck on the second floor.

The graphic on the Staff Memo shows the setback lines submitted in 2015. The blue shaded areas were the proposed expansions at that time. The red rectangle added on the area marked with the number 2 is the approximate area for the current request for the deck and added room. The green line shows the current setback, and the yellow line refers to the road.

From the 2015 staff memo, "South Shore Drive is listed in the Park Township Master Plan, and Ottawa County Road Commission map as being a primary road." Sec. 38-497 requires an 83 foot setback from the centerline of the road. In this case, it allows a structure closer to the road than the requirement listed in Sec. 38-455 for a front yard setback in the C-2 zoning district.

As noted above, either measurement puts a greater portion of the existing building within the required setback area, which makes this a non-conforming structure. The setback leaves virtually no building envelope in this area of the parcel.

Pages 6 and 7 of the application show the scope of the expansion in relation to the building. The roof of the expanded room appears not as tall as the tallest part of the structure.

de Vries reminded the Planning Commission that there are two standards to consider under the variance standards review.

Wade Eldean addressed his request. This will be a deck and bedroom on the top floor to allow a nicer living space and lake view for future renters of the space. The addition will not encroach on the road side. The request is for additional space on the lake side.

PUBLIC HEARING

Dreyer opened the Public Hearing at 6:39 P.M.

There was no comment.

Dreyer closed the Public Hearing at 6:39 P.M.

Dreyer said there was one e-mail that referenced this agenda item but the author did not address the variance request with any specific pros or cons.

Foster asked for clarification that the issue is the expansion of the setback and the footprint will not change.

de Vries confirmed that was correct.

Foster asked Eldean if the deck and added room will face west or north.

Eldean said the deck faces west but the best view is to the north with a room window which faces the lake.

Eade noted the applicant is not encroaching on the road and the footprint stays the same.

Eade moved, supported by Fleece, to approve the request for a variance.

Fleece reviewed the two relevant standards:

(1) The proportion of the main wall which has been altered by the projection; and

The room and deck expansion are above the 2nd floor deck. The expansion angles away from the road and remains within the existing footprint. Therefore, it appears to be a minimal expansion above the previously approved 2nd floor deck expansion so it is justifiable.

(2) The overall effect of the proposed projection on adjoining properties and the surrounding neighborhood.

The application points to the property across the street owned by Herb Eldean with no impact on the view from this property. Other properties are the parking and facilities located on the marina.

There is no impact on any of the other properties in the area and it meets this standard. Foster added that the building does not encroach on the road so it is acceptable.

Fleece also noted that the addition dimension is an alignment that is held.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

Item #2 – A request by Ed and Linda Lindenmayer to allow an addition to the residence with a rear yard of 38 feet where 50 feet is required per Section 38-276(3) of the Park Township Zoning Ordinance., Property is located at 465 Olde Deer Trail, Holland, MI 49424. (Parcel #70-15-24-202-006, R-3)

de Vries introduced the agenda item.

The property is lot 54 of the Olde Hunters Crossing #2 subdivision, which received final plat approval in April of 2002. The home was constructed in 2003. The permit application did not show a deck, but rather an area for a future deck. While the home was under construction a second permit was pulled to finish the lower level and add the deck. No additional permits were

recorded. The deck had either been replaced, or not built according to the submitted plan. The plan was for a deck that extended 20 feet toward the rear, and would be 42 inches in height. The applicants are the second owners of the home, having purchased it in January of 2016. There is no record of previous variance requests.

The applicant proposes to build a screened-in porch on the existing deck.

Considerations include the fact that the existing deck does extend into the required rear yard, however it is under 30 inches in height so it is conforming per the definition of Building Setback as found in the Park Township Zoning Ordinance which states, "A deck or raised patio may be located within the building setback only if it is not more than 30 inches above the average surrounding grade." Staff confirmed the height of the deck as being 25 to 27.5 inches on a site visit on January 3, 2018. Therefore, this will be a Non-use Dimensional variance request, not an approval of an existing non-conforming setback.

There are differing renditions of the actual distance from the rear lot line. A site plan submitted with the application, prepared in 2003 by Holland Engineering, shows the home at an angle to the rear lot line, with the closest point being 53.8 feet. There is a notation on the plan indicating, "This is not a Certified Survey Map and is not suitable for recordation per Act 132 of Public Acts of 1970 as amended." This would indicate a 15 foot deep deck which would be approximately 38 feet from the rear lot line.

The site plan in the Staff Memo references the building permit for the house which shows a rear yard lot line of 57.2 feet, which would leave a rear yard of 42 feet. This would assume the house was built where planned, which is not always the case. The rear of the home was planned to be parallel with the rear lot line.

A GPS image shows the rear of the home is mostly parallel to the rear lot line leaving a rear yard of 39 feet. All of the scenarios would require a variance from the rear yard setback.

A review of the standards that apply are referenced in the Staff Memo.

Dreyer asked if there had been previous permission for a 42" deck. de Vries said there wasn't a variance and the building permit was allowed.

Applicants Ed and Linda Lindenmayer spoke to their request. They have lived in the house for two years. The deck is a little less than usable because of its position on the property. There is a lot of material that falls on the deck because of the trees overhead so a covered screened in deck would be preferable. The neighbors have no problem with the proposed addition. The applicants said this change for the deck will add value to their house and to the neighborhood.

Dreyer asked if they have looked at the four standards the Zoning Board of Appeals has to meet. He explained the first standard is a problem because a stated desire is not considered "burdensome." Could the tree problem be elaborated on to justify the "burden."

Linda Lindenmayer said a family member has an allergy to bees and despite the beauty of the spot they have to continually clean the deck because of the tree droppings. The screened-in porch will add comfort and value. It provides justice to the neighbors.

Eade asked if they propose to remove any trees. He also asked how many trees would have to be removed if they opened up the tree cover on the deck.

Lindemayer say no trees would be removed. They would have to remove quite a few trees to open up the deck if it were not covered. They have had the trees trimmed but it's expensive.

Foster asked if the height of the deck will change.

Lindemayer said it would not.

de Vries said it is an upward structure.

PUBLIC HEARING

Dreyer opened the Public Hearing at 7:00 P.M.

Bill Monhollon, the builder said he was working on this project for the Lindenmayers. He explained if the deck were moved to the rear of the garage it would necessitate more tree removal and open it up to the neighbors' view. The covered deck would solve the problem created by the tree canopy overhead.

Dreyer closed the Public Hearing at 7:01 P.M.

Dreyer mentioned that there were four letters from neighbors in support.

Gerard asked if the homeowners' association allows the residents to cut down trees if the variance were not granted.

Linda Lindenmayer said trees over 4" in diameter can't be removed without permission.

Dreyer asked if the Association had granted permission for this request.

The Lindenmayers said they have permission from their homeowners' association to build the deck.

Foster supported granting it, but was hesitant about the "burden" requirement by the standard. When you have trees it comes with the property and the responsibility of general maintenance. He understands the practical plan for the covered deck.

Foster asked about justifying the uniqueness of the property.

Dreyer noted it is the large mature trees but is that enough to meet the standards.

Fleece noted the hardship is the size of the deck and its location in regard to the trees.

Gerard said while he would like to approve, but in fairness we have said no to previous applicants.

Fleece moved, supported by Foster, to deny the variance.

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 statement on the application states that the deck area could not be enclosed without a variance, to “create the room we desire.” Dreyer said it is just not burdensome – the burden is self-created. This is reason enough to deny the request for a variance.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion denied.

ANNOUNCEMENTS:

de Vries mentioned the county training seminars for the Zoning Board of Appeals and Planning Commissions. He will send the dates to all the commissioners. The first date is February 22, an overall introduction for planning and zoning, the second is for Planning Commissions on March 6, and the third on March 15 is essentials of being a ZBA member. All seminars occur at the county building on Fillmore Street.

Foster asked if some of the points mentioned in the letter that was sent to the Township regarding the Eldean agenda item should be checked out by the Township. Is it an Ottawa County Road Commission issue? de Vries questions the major road classification. Where does the public road end and private road begin?

de Vries said the next regular meeting of the Zoning Board of Appeals is February 26, 2018.

Dreyer said he will be absent. Vice Chair Foster will chair the meeting.

de Vries said there are three applications for the February meeting.

PUBLIC COMMENT

Dreyer opened Public Comment at 7:20 P.M

No comment.

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

ADJOURNMENT

Fleece moved, supported by Gerard, to adjourn the meeting at 7:20 P.M.

Voice vote:

Ayes 5, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall
Recording Secretary
January 24, 2018

Approved: February 26, 2018