

**MINUTES
PARK TOWNSHIP
ZONING BOARD OF APPEALS**

Park Township Hall
52 152nd Street
Holland, MI 49418

Regular Meeting
May 22, 2017
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, Jim Gerard, Sally Pollock

Absent: John Foster (excused), Dan Hendon (excused)

Staff: Ed de Vries, Community Development Director

APPROVAL OF AGENDA:

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

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

APPROVAL OF MINUTES:

Motion by Eade, supported by Pollock, to approve the minutes of the March 27, 2017 Regular Meeting as presented.

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

BUSINESS ITEMS:

Item #1 – A request by Ann Clark to construct a deck on a new dwelling that will leave a rear yard of 44 feet where 50 feet is required per Section 38-276(3) of the Park Township Code of Ordinances. Said land and premises are located at 225 Cougar Court, Holland, MI 49424. (Parcel #70-15-21-400-082, R-3)

As background, de Vries explained that the home, which is currently under construction, is located on approximately one acre near the south end of Cougar Court. The private road and four lot split was approved in 2003. The lot does include some of the private road easement. Lots are served with municipal water and private septic systems. The building permit for this home was issued on January 11 of this year. The site map matches closely the approved plan for the street and lots.

The permitted building envelope is 50 feet deep. The front of the garage was placed at the front building line, the rear of the house is six feet from the rear line of the building envelope. The plans for the building permit showed an intended 12' x 12' deck, but indicated the deck is not included at this time.

This home is currently under construction on a lot created in 2003 well after the current ordinance requirement. The Zoning Board of Appeals must consider that the “practical difficulty or unnecessary hardship” is being described as “wanting a deck at the main floor level to eliminate steps which will put us 44' to the back of deck from rear yard, the deck to be approximately 60” off the ground.” The Park Township Zoning Ordinance defines the building setback as:

“The distance between the adjacent lot line and the nearest wall projection or structural component of any building as measured along a straight line at a right angle to the lot line. Certain exceptions or additional restrictions to building setbacks can be found in Sections 38-494, 495, 496, 497, 483 and various other parts of this ordinance regulating the location of buildings or structures. 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. A deck over 30 inches above grade on a waterfront lot must comply with Section **38-495**.”

de Vries said the Zoning Board of Appeals would have to find for all four standards to approve the request as this is a dimensional variance.

Ann Clark spoke to her application. The building envelope is very narrow and the road is part of the envelope. For resale value she wants two bedrooms upstairs. The neighboring homes are newer by comparison and a smaller home could reduce their resale value. She also mentioned she had pictures showing the visual effect of the house from the neighbors' viewpoint. This request will improve the appearance of the home. She has bad knees and has hip issues so walking downstairs is difficult. Another 7 steps or 30” would be a personal burden.

Dreyer asked why Clark eliminated the deck on the original building permit.

Clark said the contractor removed it because it was a quote for another customer. To get the building process started he dropped it from the plan.

Dreyer explained keeping the deck would have been helpful. If it had been left on the plan she would have found out from the Township that she could not build the deck. He suggested that perhaps this house plan shouldn't have gone on this lot.

Clark said the lot sat for 12 years because of the lot size issue and the envelope for the house is small – only 1600 square feet.

Pollock said there is space on either side so why couldn't the deck be built on the north or south side. A walkway could be added to access the deck from that side. She thought there could be another option for the site plan.

Clark pointed out on the site plan that it was not feasible. She said the master bedroom was on one side.

Pollock asked for the rationale of allowing a 30" height, how that figure was derived.

de Vries said he could only guess that perhaps the reasoning was that a height more than 30" would be intrusive to neighboring properties.

PUBLIC HEARING

Chair Dreyer opened the Public Hearing at 6:42 P.M.

There was no comment.

He closed the Public Hearing at 6:42 P.M.

Board Discussion:

Gerard asked about the house to the north and the structure close to the property line in the neighbor's backyard.

de Vries said it was an accessory building and they are allowed because of the setback rule for those buildings. The rule is dependent on the size of the building.

Dreyer asked about the private road.

de Vries said the private road is on a 66' wide easement. There is more of a burden for this lot than for the others.

Gerard moved to approve, and Pollock supported, the variance for the deck.

Gerard reviewed the four 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 would be burdensome for the applicant because of her physical problems.

de Vries noted the burden has to be a condition of the property in relation to the ordinances, not to the applicant.

Gerard added that the narrow lot would be a property burden.

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 the request would provide justice to the applicant and improve the appearance of the property which would do justice to the neighboring properties.

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 lot size is too narrow.

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

Due to the unique lot size the problem is not self-created.

Pollock added that this would be an attractive addition to the area. At present the neighbors see the back of a schoolyard.

Dreyer said he could not support the request. It is not an older lot established before the ordinance was written.

Eade agreed he can't justify approval because it doesn't meet the standards and it would set a precedent. Perhaps the Planning Commission should look at the ordinance and review the rationale for the rule of 30". The applicant could delay construction until the ordinance could be reviewed.

Pollock said the applicant has looked at many plans to fit the building envelope and chose the best one to meet her needs. She felt the rule was arbitrary.

Roll Call Vote:

Fleece, nay; Pollock, nay; Dreyer, nay; Eade, nay; Gerard, aye.

Ayes 1, Nays 4. Motion denied.

Item #2: A request by Cory and Sarah Dangler to allow an addition to a residence that will leave a front yard of 20 feet where 40 feet is required on a double frontage lot per

Section 38-496 of the Park Township Code of Ordinances. The property is located at 1649 Waukazoo Drive, Holland, MI 49424. (Parcel #70-15-27-298-017, R-3)

de Vries provided the following information. This application is a request to allow two additions to a residence that does not meet the front yard requirement of 40 feet. The closest part would be approximately 20 feet from the property line along S. 160th Ave. This is a triangular shaped lot of 15,900 square feet located at the intersection of Waukazoo Dr. and S. 160th Ave. The legal description is lot 64 of the Elm Grove Park Subdivision #1, platted in 1941. The current home was constructed in 1990. There was a past variance approval to allow the home to be built 31 feet from the 160th Ave. right-of-way. In 1997 a 16' x 17' wood deck was added. The current owners purchased the home in March of 2004.

In the diagram provided in the Staff Memo, the required building envelope is within the red triangle. The red dashed line indicates the setback permitted by the 1990 variance.

de Vries noted that as a dimensional variance it has to meet the four standards.

Dreyer asked why front yard averaging is not relevant here.

de Vries explained that front yard averaging was extended to 300' – the average of the four properties to the north was over 40' so it didn't apply.

Cory Dangler addressed his application. He said his family has lived in the residence for 13 years. With a growing family they are out of space and need an addition. They would like to remain in the house. There is no basement. He has planned a conservative addition.

Fleece asked for the dimensions of the deck.

Dangler said it was 16' x 17' and it was less than 30" high.

PUBLIC HEARING

Chair Dreyer opened the Public Hearing at 6:59 P.M.

Pat Nowak lives on Waukazoo Drive and noted that the house is like a stage. It has no natural borders and the owners need to enclose some space with two children. It's all open with no fencing or shrubbery and they need more containment on the rear side. He supports the request.

de Vries said one e-mail comment from a neighbor was supportive.

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

Board Discussion:

Pollock said it looks as if the mud room will be at the corner and it won't take up more footprint than a deck. She noted it's a strange shaped lot. She confirmed the new addition is on top of the deck.

Dangler said it was.

Dreyer said it is a unique neighborhood. The 40' front yard requirement is difficult for this area.

Pollock moved, supported by Gerard, to approve the variance request for the addition.

Pollock reviewed the four 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.***

They are on a corner so if they tried to fit the standards they can't. We need to encourage young families to stay in our community.

Dreyer asked about the northeast part of the house. Dangler said that is the location of the dining room. The kitchen is located there so it would be difficult to add to that part of the house. The shape of the lot with two road frontages is burdensome.

- 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.***

There are no neighbors to the south, and to the north two garages are closer to the road than the addition. The neighbors have no objection. They layout of the house does not permit the addition to be moved north so a lesser variance is not practical.

- 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 stream or a wetland) and not due to general conditions of the zoning district.***

This is triangular lot with two road frontages makes it difficult to meet the setback requirement.

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

The shape and size of the lot is not self-created.

Eade added this is a heritage area in the Township zoning district which needs to be protected.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

Item #3 – A request by Philip and Gayle De Vries to allow an addition to a residence that will leave a front yard of 10 feet where 40 feet is required on a double frontage lot per Section 38-496 of the Park Township Code of Ordinances. The property is located at 351 Big Bay Drive, Holland, MI 49424. (Parcel #70-15-27-336-004, R-3)

de Vries provided additional information. This application is a request to allow an addition to the side of the residence that will be 10 feet from the Birch Street right-of-way, which is a platted unimproved right-of-way. The structure is currently 14 feet from the property line. The property description is lot 151 of Chippewa Resort subdivision platted in 1915. The house was built in 1977, a deck and greenhouse was added in 1984, siding and trim in 1999, and in 2016 it was reroofed and some interior work was done. The current owners purchased the property from family in February of this year. There was a past variance in 1977 to build the residence closer to the Birch Street right-of-way than what is permitted by ordinance.

de Vries said this request would have to meet all four standards.

Doug Gritter of Pine Creek Construction spoke first. His company was hired for renovation to construct additional storage area in the garage. This is a narrow site so there is no building envelope, with a few feet left. Leaving a 10' side yard they will expand the main floor bath for medical reasons and for a laundry area. The expansion is where the sidewalk is located. The front yard is in compliance due to averaging. They are asking for 4' and will leave 10'. 10 feet is what would normally be required for a side yard.

Dreyer asked how many homes are less than 10' from the front yards.

Gritter said most of them. He also noted the survey shows the road is on an angle.

Phil De Vries spoke to his request. He wants to add the bathroom because his wife has heart problems and they need a main floor bathroom and laundry for her assistance.

PUBLIC HEARING

Chair Dreyer opened the Public Hearing at 7:18 P.M.

There was no comment

Dreyer closed the Public Hearing at 7:18 P.M.

Dreyer noted there was no correspondence related to this request.

Board Discussion:

Fleece asked if this property is still considered a corner lot on an unimproved roadway.

de Vries confirmed it was.

de Vries said it's a likelihood the Road Commission won't improve the road and the Township won't pay to improve it.

Dreyer said the road is a dead end and is more like a pathway. The public can use it to access the lake but the activity is limited in the area.

Fleece moved, and Pollock supported, to approve the request for the addition.

Fleece reviewed the four 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 lot is burdensome because it leaves only two feet of buildable area. Granting 4' is reasonable which still leaves 10' for the side yard. It will preserve the side yard.

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 addition would do justice to neighbors – they are staying with 10' side yard. It is not impactful to the neighboring properties. Many of the properties on these unimproved roads do not have the required 40' setback. Front yard averaging makes the property in compliance in relation to Big Bay Dr.

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.

There are unique circumstances: The narrow lot adjacent to a platted unimproved road.

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

The narrow lot is not self-created, it was platted 100 years ago.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

ANNOUNCEMENTS:

de Vries introduced Kathy Grimm as a new alternate member of the Zoning Board of Appeals.

The next regular meeting is June 26, 2017. This meeting will include the election of officers.

PUBLIC COMMENT

Dreyer opened Public Comment at 7:27 PM

No comment.

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

Dreyer said he wanted to clarify his rationale regarding the first application. The Zoning Board of Appeals is obligated to apply common sense as it applies to complying with the requirements of the ordinance. In this case, the applicant wanted to build too large a house for the size of the lot and there are options for building on that envelope. It is fair to remove the personal side from the request.

de Vries supported this position and noted the difficulty must be based on the property not the person.

ADJOURNMENT

Pollock moved, supported by Eade, to adjourn the meeting at 7:40 P.M.

Voice vote:

Ayes 5, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall, Recording Secretary
May 24, 2017

Approved: