

**MINUTES
PARK TOWNSHIP
ZONING BOARD OF APPEALS
Holland, MI 49418**

Regular Meeting
Held at the Township Hall and via Zoom Conferencing
April 5, 2021
6:30 P.M.

DRAFT COPY

CALL TO ORDER:

Chair Dreyer called the regular meeting of the Park Township Zoning Board of Appeals at 6:40 P.M., held at the Township Hall and via Zoom conferencing per Executive Order.

ATTENDANCE:

Present: Doug Dreyer, Dennis Eade (via Zoom), Dave Fleece (via Zoom), John Foster (via Zoom), Loran Serne

Staff: Julie Lovelace, Zoning Administrator, Dan Martin, Legal Counsel

APPROVAL OF AGENDA:

Dreyer noted that Item 5 on the agenda has been removed.

Foster moved, supported by Serne, to approve the agenda with Item 5 deleted.

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

APPROVAL OF MINUTES:

Dreyer noted one correction on page 2.

Eade moved, supported by Foster, to approve the minutes of March 1, 2021 Regular Meeting as corrected.

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

BUSINESS ITEMS:

Item #1 – A request by Jim Lamberts to allow construction of a 1,824 square foot detached accessory structure where the maximum permitted is 1,181 square feet per Sections 38-

491(b)(1)b and 38-491(b)(1)b.1, of the Park Township Zoning Ordinance. Said lands and premises are located at 2442 Meadow Creek (Parcel 70-15-13-400-052), zoned R-3 (Low Density One Family Residence District).

Lovelace provided background information for the request. The parcel is on 2.31 acres with a dwelling and a 832 square foot detached structure on the property. Section 38-491.b.1.b restricts the size of a detached structure to 2% of the calculated lot size. Section 38-491(b)(1)b 1 permits property equal to or greater than two acres to split the allowable square footage between two detached accessory buildings. The allowable square footage minus the square footage of the existing accessory structure leaves 1,181 square feet for the second structure. The applicant is requesting 1,824 square feet which is 2.6% rather than 2% of the parcel size and a height of 24 feet. The proposed 38'x48' structure will require a setback for buildings greater than 1,400 square feet.

Jim Lamberts commented on his request. He wanted to add an accessory building and the old one will be used for restoring a boat and additional storage.

Dreyer asked why he wanted the building larger than is allowable.

Lamberts explained he wants to store his cars, work on his hobby which is car restoration, and perhaps in the future purchase a motor home. He showed pictures of his vehicles.

Foster asked if he plans to do any future restoration.

Lamberts said right now he is just working on one car.

Foster asked Lamberts if this will be enough space.

Lamberts said the additional space will be sufficient, but he can't determine what his future needs will be.

PUBLIC HEARING

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

Dreyer said the Township received one item of correspondence which was opposed to the request.

Loren Watson said he and his wife own property across the street and they support the project and said it would be a positive addition for the neighborhood.

There was a chat question on Zoom asking for the size of the building.

Chair Dreyer closed the Public Hearing at 6:52 P.M.

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

Martin clarified the Zoning Board of Appeals that this is not a variance; it is a Board of Appeals authorization akin to a special use to allow a larger and taller accessory building, so long as the standards are met. The motion should reflect this language.

Dreyer requested a new motion.

Eade moved, supported by Foster, to authorize the request for a larger accessory building.

Martin said the ordinance allows the Zoning Board of Appeals to authorize a larger accessory detached building. Under the Zoning and Enabling Act that authority can be granted to the Township Board, Planning Commission or Zoning Board of Appeals. Unless there is a hardship which would be a variance, this is similar to granting a special use. As a matter of right there are some cases such as a special use to allow a large or higher accessory building because the standards are met. The ordinance allows for this provided there is a public hearing and the request meets the standards.

Eade reviewed the standards for Section 38-491(b)(2)h Location and Height Limitations:

- a. The area and/or height of the accessory building in relation to the size of the lot on which it is to be placed;**

The area and height of the accessory building are appropriate on the size of the lot.

- b. The area and/or height of the accessory building in relation to the principal building on the lot on which the accessory building is to be placed;**

Given the size of the lot and distance from the house the request is appropriate.

- c. The location of the accessory building in relation to other buildings on adjoining lots and in relation to the principal building on the lot;**

The location is in the rear yard of neighboring lots. The proposed building in relation to the principal structure on the lot is appropriate.

- d. Whether or not the accessory building will affect light and air circulation of any adjoining property; and,**

There is no adverse effect of air circulation. Foster added there are some trees on the lot that will help screen the view for the neighbors

- e. Whether the accessory building will adversely affect the view of an adjoining property.**

The area between the houses appears to be wooded. He would like to preserve trees as much possible as a condition of approval. The standard can be met.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

Item #2 – A request by Andrew Baer, on behalf of Justin and Kelly Palmer, for a Zoning Ordinance interpretation that Section 38-483(b) of the Park Township Zoning Ordinance applies only to new construction on vacant lots and does not apply to an existing single-family home on a lot of record and, as such, Section 38-483(b)(1)a does not apply. Said lands and premises are in the Macatawa Park Overlay District.

Lovelace noted the parcel is a corner lot on Lakeside and Bluebell Court. The minimum required parcel size is 8,500 square feet. The parcel is 2,450 square feet which is non-conforming. The applicant would like to add a garage and a third floor above the existing second story. The current height is 26' and the proposed height would be 35'. The parcel is located in the Macatawa Park Overlay District. The District standards are silent regarding height, therefore, the Township applies the applicable height restrictions in Section 38-483(b). This section provides some relief for non-conforming parcels for lots less than 6,500 square feet. Nonconforming parcels may be used for single family use with ZBA approval with the provision that the height is reduced by the same percentage of the total area of the parcel bears to 6,500 square feet or 20' whichever is greater. For this parcel it would be a maximum of 20'. The current height of 26' already exceeds the maximum amount allowed.

Lovelace noted in the Staff Memo that Section 38-321(b) states that “where the standards of the Macatawa Park Overlay District are silent, the general regulations and restrictions of this chapter, including, but not limited to, the underlying zoning district, shall control.” The Macatawa Park Overlay District standards are silent with regard to height.

Dreyer explained this is an interpretation whether or not Section 38-483(b) is to be for all new and existing construction. This is a request of the Zoning Board of Appeals regarding that ordinance as it relates to existing structures.

He asked for the applicant to address only this request.

Bill Sikkel, legal representative for the applicant, spoke to the request. It is important to look carefully at what we want here. He cited the ordinance which states “...the mechanism for authorization for single family use.” In Section 38-483(b) it says if a lot of record meets this requirement then the lot can be used for single family use only as authorized by the Zoning Board of Appeals. In the first paragraph, in considering authorization, it says the Zoning Board of Appeals considers the following standards: size, character, or the nature of the accessory building. This is intended to apply to a vacant lot. This lot has been used as a single family lot for years.

In reference to the language in the ordinance he said the standards do not apply to this request.

Dreyer asked Martin for his interpretation.

Martin said when looking at the ordinance you will have certain rules of statutory interpretation that will apply to this ordinance. One of these is the specific controls the general. Specifically, with regard to Mr. Sikkel's statement this lot is in the R-4 district, this property is in the Macatawa Park Overlay District. It was R-4, but it is also in the Macatawa Park Overlay District, which doesn't have height limitations. So you revert to R-4 which has lot size dimensions such as setback and height requirements. Section 38-483(b) addresses substandard lots which don't meet minimum zoning requirements. Macatawa Park Overlay is trying to make the lots and existing structures conforming, because the majority of the lots don't meet minimum requirement or minimum setback requirements. Nonetheless, Section 48-483(b) pertains to substandard lots of record prior to the Overlay District being put in place. That would allow those lots to be used. However, it goes beyond use and specifically deals with area, height and use conditions and exceptions. It deals with authorizing use of those substandard lots for single family use and also refers to limiting height.

The Applicant state that remodeling existing construction is no longer considered new construction. The applicant wants to go from 20' to 35' because that is what the R-4 district allows. Section 38-483(b) doesn't say it is limited to new construction. It looks at small substandard lots of record and the height of the building proportionate to the size of the lot. Because Macatawa Park lots are existing substandard lots of record it doesn't have a specific height limitation. Allowing a building to be built to 35" would be contrary to the intent of the ordinance and to this provision that these small substandard lots should be limited to the height that would be in proportion to the lot itself.

Dreyer said the Township will allow a resident to build on a lot of record but not anything you want. The Zoning Board of Appeals requests to keep it reasonable on a substandard lot of record. This has been his experience in his service of 17 years to the Township.

Fleece asked, with regard to the Macatawa Park Overlay District, if it was fair to say all the lots were developed before the Overlay District was established.

Martin said just about all the lots in that district preceded the Overlay District was established in the last year or two. This existing structure is 26'. Applying the principle, as if there were new construction, it would have been limited to 20'. It would be non-conforming. When the Township looked at the overlay district it didn't put a height limitation in place because there are many lots in that area that are different sizes. The specific rule of dealing with the height limitation for substandard lots is Section 38-483(b) was applied so you have height proportionate to the size of the lot itself. A lot that is bigger would allow for a taller structure than a lot that is smaller. Thus, this section of the ordinance would apply to allow the height to be in proportion to the size of the lot.

Martin asked Lovelace if a Public Hearing was noticed for agenda Items 2 and 3.

Lovelace said it was.

Martin looked at the ordinance to see if a Public Hearing is necessary for an interpretation and confirmed it to be appropriate.

PUBLIC HEARING

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

Zoom participant, Jim Scales, lived behind the Palmer lot. He concurred with the Township Legal Counsel's finding. It is just common sense. Given the scope of this project it is fair to treat it as new construction. He encouraged the Zoning Board of Appeals to support the interpretation of the ordinance.

Dreyer closed the Public Hearing at 7:24 P.M.

Dreyer asked for a motion to uphold the Zoning Administrator's interpretation of the ordinance.

Fleece moved, supported by Foster, to uphold the Zoning Administrator's ruling on the interpretation of the ordinance.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

Item #3 – A request by Andrew Baer, on behalf of Justin and Kelly Palmer, for a dimensional variance from Section 38-483(b)(1)a of the Park Township Zoning Ordinance to allow construction of an addition to an existing residence with a height greater than 20 feet. Said lands and premises are located at 673 Lakeside Road (Parcel 70-15-33-382-060). Zoned R-4 and located with the Macatawa Park Overlay District.

Lovelace provided the background information. The owners purchased the property in December 2014 and received a variance on January 26, 2015 to construct a second floor addition above a non-conforming first floor enclosed front porch. Standards for a dimensional variance applied. It appears that the current height restriction in Section 38-483(b)(1)a was enacted on June 16, 2016, therefore, this height restriction was not in effect and not applied at that time. The house is currently 26 feet in height.

Bill Sikkel spoke for the Palmers. As he already pointed out the Palmers added an addition that is 26' high. They want to build an addition of a bedroom and additional living space. The

Palmers purchased it when they had one child and now have five children. This property has been characterized as a rental. They live in the home six months during the year and rent it 6-8 weeks a year, although last year it was less. They use the property more and more each year. Right now they have one gathering place on the first floor but they need more room with their larger family. Sikkel pointed out that most of the homes in the neighborhood are 30-35' high. Most of the lots are smaller than the Palmers' lot. It is similar to the Point West community where the lots are small. Most of those new homes are 35' high.

With regard to the standards, it would be burdensome to not approve the request and substantial justice would be done to allow the addition to allow the Palmers additional living space. The third standard addresses unique circumstances– everything in the Macatawa District is unique with small lots. They are all small lots that are non-conforming. Finally, whether this request and its circumstances are not self-created, the Palmers purchased the property prior to the development of the overlay district, they have improved the property and the circumstances of the small lot size is not the fault of the Palmers.

Fleece asked about the proportion of the slope to the top of the roof.

Sikkel said 35' is at the top of the roof.

Foster asked for the purpose of building a lower level or garage space when they have storage under the front porch.=

Sikkel replied they want to provide space for storage in addition to adding another floor which is only on one side of the home.

Dreyer noted there were 18 letters submitted to the Township and all were opposed to the request.

PUBLIC HEARING

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

Nikki Arendshorst lives in Macatawa Park and served on the Zoning Board of Appeals and the Planning Commission for many years. She sent a letter to the Township. She is concerned with the quality of life in the community. She pointed out that the applicant rents out this property. There is no space for additional vehicles in the neighborhood and questions the need for a garage that the applicant wants to add. She asked the ZBA to deny this application and follow the ordinance interpretation.

Jack Patterson lives behind the Palmers and has been a resident in the Macatawa Park community for 17 years. His grandfather bought the property in 1951. He would like to support the neighbors, but he has issues with this request. The applicant's attorney compares the cultures of Macatawa Park with Point West I. Point West I is a PUD. This home is a highly rented commercial property. They advertise online. He questions the single family use of this home for the last five years. It is a different zoning in Macatawa Park with a different lifestyle.

Having a garage changes the culture of the community. The height is 26' – 9' is a lot higher – and they are already 30% over what they should be. Given the standard of proportional lot size this is way too large for the small lot size. This is a large home for the small lot. None of the standards are met. There is no justice to the community and the change will impact views. It won't be fair to the neighbors.

John Gronberg said he lived four cottages north of this property. He has lived there since the 1950s. His father built the house. The changes to this lot will impact the view of the neighbors. 35' height is not logical compared to the rest of the homes. It is out of proportion and inappropriate for the community.

John Arendshorst lived three houses east of the Palmer property. He wanted to address the inaccuracies mentioned in Mr. Sikkel's comments. Comparing this house to Point West I is an unfair comparison since that community has different standards. It has large homes with driveways and garages which Macatawa Park doesn't have. That area is a larger neighborhood. No other homes have garages in our community. There is a new construction in the community, but all other homes are on smaller lots. He opposes this request.

Via Zoom Justin Palmer spoke to his request. The reason he is adding a garage is that it is required by the new parking ordinance in Macatawa Park Overlay District. Because of that requirement he is adding the garage. This is the only reason he is raising the house for the garage space.

Martin said the Macatawa Park Overlay District requires a parking area on-site using the minimum area, but not a garage. The alternative is off-site parking or a combination of a parking area. It can be off-site. It depends whether it is an unimproved or an improved lot.

Palmer said originally he was opposed to a garage. He has no problem taking it out of the request.

Martin said the garage was included in the variance request. The plan for a garage was not removed from the request.

Dreyer said Palmer can withdraw his request and return with an alternate request.

Palmer asked if he would have to return for another request. He addressed the rental question. They were there most of last summer during COVID. Whether this is approved or not he isn't changing rentals. They're just adding some extra living space. With regard to height, he is on the smallest lot so need the extra space. Because of the zoning change he feels he doesn't have the same rights as everyone else.

Jim Scales said this construction proposal would block the view for some residents. This request doesn't qualify for a variance. It is important to consider substantial justice. A resident has the ability to use one's property any way you want but the community standards have to be considered. This property has six bedrooms and three bathrooms. No variance is necessary

with this property having this much space. This is one of the larger homes in the area. The unique circumstances have to do with topography and this doesn't apply to this property. He asks for denial of this variance or consideration of a lesser variance.

Brent Cady has lived in Macatawa Park for 28 years. This property is expensive to rent. On numerous occasions he has counted 25+ people occupying this cottage who have rented it. It is one of the smallest properties and can't accommodate a larger size. The community is a special place and is multi-generational. This will change the property values and will raise the number of renters. As current President of the Macatawa Park Association he is against the request as most of the residents in the Macatawa Park community. There is room for only two parking spaces. To maintain the quality of life in this community the Association does not support this request.

Mike Patterson has lived in Macatawa Park his entire life. This request does not do substantial justice to the community. This lot with a home that has a height of 35' is not in the nature of this area. He asked the Board of Appeals to deny this application.

Dreyer closed the Public Hearing at 8:10 P.M.

Two more participants on Zoom requested time to speak.

Dreyer opened the Public Hearing again at 8:12 P.M.

Zac Gordon said this proposal is self-created. It is an imposition on the community. One of his concerns when he purchased his property was the hope that the view would not be impacted in the future. He has a reasonable expectation the viewshed is protected with the ordinance 38-483. He asked for the request to be denied.

Beth Doyle lives across the street from the Palmers. Her parents purchased the land in 1886. The house was built in 1928. Her family built many of the homes on the hill. Property owners need to be careful in changing one's property because of the character and nature of Macatawa Park. The neighbors are concerned about the garage and the plans for renovation. She doesn't support the request.

Dreyer closed the Public Hearing at 8:15 P.M.

Fleece thanked the participants from Macatawa Park for their comments.

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

Fleece reviewed the following standards pursuant to Section 38-483(b)(1) and 38-305.

- a. That strict compliance with the zoning ordinance regulating the minimum area, yard set backs, frontage, height, bulk, or density, or other regulation would render conformity with those restrictions of the zoning ordinance unnecessarily 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;***

This request would provide no justice to the neighbors and property owners as supported by 18 letters in opposition that were sent to the Township including participants from the community during the public hearing.

- 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; and***

There are no unique circumstances on the property as defined by this standard. It is a small lot with limited parking, and the requested addition of height does not conform to the rest of the homes in the neighborhood.

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

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried to deny the request.

Dreyer said he is not in favor of the split format of Zoom and in-person meeting. Can the Board of Appeals meet in person for the next meeting? Everyone agreed.

Martin said the State of Michigan Department of Health and Human Services recently issued an amendment to their order that allows an exemption for public bodies to meet in person so long as the number does not exceed 25 people.

Martin said we don't have to offer Zoom at this point.

ANNOUNCEMENTS

The next meeting will be May 3, 2021. Lovelace said there will be two items on the agenda.

PUBLIC COMMENT

Dreyer opened Public Comment at 8:24 P.M.

There was no comment.

Dreyer closed Public Comment at 8:25 P.M.

ADJOURNMENT

Foster moved, seconded by Serna, to adjourn the meeting at 8:25 P.M.

Respectfully submitted,

Judith Hemwall
Recording Secretary
April 7, 2021

Approved: