

**MINUTES
PARK TOWNSHIP
ZONING BOARD OF APPEALS**

Park Township Hall
52 152nd Street
Holland, MI 49424

Regular Meeting
July 6, 2020
6:30 P.M.

FINAL COPY

CALL TO ORDER:

Chair 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 Conference Room.

ATTENDANCE:

Present: Doug Dreyer, Dennis Eade, Dave Fleece, John Foster, Kathy Grimm (Alternate)

Absent with notice: Jim Gerard

Staff: Emma Posillico, Zoning Administrator

APPROVAL OF AGENDA:

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

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

APPROVAL OF MINUTES:

Dreyer noted two minor errors on pages 1 and 9.

Foster moved, supported by Eade, to approve the two sets of minutes of April 20, 2020 Regular Meeting as corrected.

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

BUSINESS ITEMS:

Item #1 - A request by Diane DeVries, to allow an addition to a residence with a side yard of 6 feet where no less than 10 feet is permitted per Section 38-276(2) of the Park Township

Zoning Ordinance. Said land and premises are located at 1718 Waukazoo Drive, Holland, MI 49424. (Parcel 70-15-27-296-010, Zoned R-3 Low Density One Family Residence District)

Posillico provided the background for this agenda item. The property is 0.20 acres, approximately 8,773 square feet, lot 28 of Elm Grove Park. There is an existing residence on the property, about 2,500 square feet, which was constructed in 2002. In 2017 a porch was added to the rear of the property, and in 2018 the porch was enclosed. The existing residence is constructed 10 feet from the eastern property line.

The applicant has submitted two variance applications, both of which are additions to the eastern side of the home, and would encroach into the side yard setback by 4 feet resulting in a side yard of 6 feet. The site plan submitted by the applicant shows two red boxes on the east side of the home. The southern box is 10 feet long by 4 feet wide and represents the proposed first floor bedroom addition that would result in a 6 ft. eastern side yard. The northern red box is 12 feet long by 4 feet wide and represents the proposed lean-to addition to cover trash containers which would result in a 6 foot eastern side yard.

DeVries explained the reasons for her request. She noted that the eastern building line of the existing residence is actually constructed with a 12 foot eastern side yard setback, rather than the 10 feet that is noted in the Staff report. The edge of the bedroom she would like to add is 6 feet wide, so it would encroach only 4 feet. She would like to have a cover for the trash can for the second request.

Foster asked how close the trees would be in the side yard where DeVries plans the additional 6 feet for the bedroom.

DeVries said they are on the neighbor's property. They are not a factor in the request. They will not have to be cut down or even trimmed. DeVries noted that the window on her neighbor's house that would look out at the proposed addition is a laundry room window.

Grimm asked if the house can be reconfigured.

DeVries said there is no room.

PUBLIC HEARING

Dreyer opened the Public Hearing at 6:40 P.M. He noted there was one letter of correspondence related to this variance request, neither for nor against the request.

There was no comment.

Dreyer closed the Public Hearing at 6:41 P.M.

Fleece observed there is some encroachment/non-conforming structures in the surrounding neighborhood properties.

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

Eade 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.***

Based on proposal and staff analysis it appears there is limited area on the property for an addition that would conform to the setback requirement.

- 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.***

A first floor bedroom would allow the owner to age in place and would provide substantial justice to the applicant. The addition would not distract the view to the lake.

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

The narrow size of the lot provides challenges for constructing an addition, and many of the nearby homes are either non-conforming or have been granted variances.

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

The practical difficulties aren't self-created. The applicant's desire to age in her residence is becoming more prevalent in the Township population that is statistically aging.

Roll Call Vote:

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

Ayes 5 Nays 0. Motion carried

Item #2 – A request by Diane DeVries to allow an open air addition to a residence with a side yard of 6 feet where no less than 10 feet is permitted per Section 38-276(2) of the Park Township Zoning Ordinance. Said land and premises are located at 1718 Waukazoo Drive, Holland, MI 49424. (Parcel 70-15-27-296-010, Zoned R-3 Low Density One Family Residence District)

Posillico noted the applicant has submitted two separate variance applications, both of which are additions to the eastern side of the residence and encroach into the side yard setback by 4 feet, resulting in a side yard of 6 feet. The proposed open air lean-to addition is intended to provide cover for trash containers, that would result in a 6 foot eastern side yard. As noted in the Staff Memo of June 23, 2020, Section 38-483(e) of the Park Township Zoning Ordinance

provides for allowable building setback exceptions, however, roof overhangs are only permitted to project two feet into the required setback. Since the applicant is proposing a 4 foot overhang a variance is required.

DeVries said she wants to stay in her house and thanked the Township for consideration of this request.

Fleece asked the applicant about the plan for supporting the lean-to roof.

DeVries said the builder wants to install pole supports with a wood roof.

PUBLIC HEARING

Dreyer opened the Public Hearing at 6:50 P.M. He noted there was no correspondence.

There was no comment.

Dreyer closed the Public Hearing at 6:51 P.M.

Foster observed there will be no further encroachment onto the setback as a result of this variance request, given that the ZBA authorized Item #1 for a side yard setback of 6 feet.

Foster moved, supported by Eade, to use the same responses to the standards for approval of this request.

- 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.***

There is a limited area on the property to construct the overhang that meets the setback requirements. Allowing the roof overhang will be less burdensome for the applicant

- 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 would not affect any change in view for the neighbor and there is no opposition to the container covering. Granting the variance will provide substantial relief to the applicant

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

The size of the lot is unique because it is only 50 feet wide.

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

Heavy snow in the winter creates the need for a cover.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

Item #3 - A request by Steve Witte, of Nederveld, on behalf of Ryan Essenberg, to allow construction of a residence with a rear yard of 39.2 feet where no less than 46 feet is permitted per Section 38-494(b) of the Park Township Zoning Ordinance. Said land and premises are located at approximately 1741 South Shore Drive, Holland, MI 49423. (Parcel 70-15-34-425-021, Zoned R-3 Low Density One Family Residence District)

Posillico addressed the applicant's request. The property is described as lots 25 and 26 and the westerly half of lot 24 of Macatawa Park Grove. The property is 0.37 acres or approximately 16,052 square feet in size. There was a residence on the property until it was demolished in 2017. The current property owner purchased the land in 2019.

The property owner wants to construct a new residence on the property which would require both front and rear yard setback variances. The proposed rear yard setback of 39.2 feet is less than the average of the rear yards surrounding residences at 46 feet.

While the 100 year floodplain mark does traverse the subject property, and a construction permit will likely be required from EGLE, the existence of the floodplain does not affect the required rear yard setback.

Posillico noted that this is a conforming lot so the standards for non-conforming lots do not apply to this property.

Essenberg addressed his request. The lot is close to being square in shape so with setbacks it is difficult to build a "nice" house on it. To lend some character to the house plan he would like to add an overhanging patio with a stairway on the Lake Macatawa side of the property. He noted that in the immediate neighborhood the house to the west is 30' from the water. The house to the east has a structure 10' from the water. Several garages in the neighborhood are located between the residences and South Shore Drive. He also has to deal with the slopes on his property. With four children he and his wife want to make it livable with space for two attached garages.

PUBLIC HEARING

Dreyer opened the Public Hearing at 6:57 P.M. He said two items of correspondence were sent to the Township and both were in opposition to the rear yard variance request.

There was no comment.

Dreyer closed the Public Hearing at 6:58 P.M.

Dreyer asked about the rear yard averaging.

Essenberg said he is allowed a 46 ft. rear yard setback, utilizing rear yard averaging, without a variance.

Essenberg said that the portion of the house that encroaches into the rear yard setback is the elevated deck, that it is the distance from the bottom of the stairs to Lake Macatawa that requires the variance. Only a couple of feet of the enclosed living area of the house is located within the 46 ft. rear yard, and thus part of the variance.

Posillico said the distance is 39.2 feet from the northeast side of the patio to Lake Macatawa, and is 44 feet from the enclosed living area of the house to Lake Macatawa.

Essenberg said he just wants a bit more space than what is allowed by current setback requirements.

Foster asked about the letter that mentioned concerns about drainage and runoff.

Dreyer said EGLE will deal with that – it's not the ZBA's issue. We don't have authority over any potential drainage problems.

Grimm asked about the driveway and will it be necessary for him to back out onto South Shore Drive.

Essenberg said there are two stalls in each garage, and with the large area between the two garages there is enough space to turnaround.

Fleece asked if he could alter the elevated deck area.

Essenberg said he could change the size of the patio and elevated deck.

Dreyer noted the sightlines to Lake Macatawa should be considered.

Posillico said the setback is measured to the elevated deck, because it is greater than 30 inches above grade. The distance of 46 feet to the house would include the rear yard averaging.

Dreyer noted there must be no visual blocking of the sightline to the lake.

Dreyer asked the Commissioners what they supported in the request.

Eade agreed that the enclosed living area of the residence should be brought back to 46 feet. If the applicant agrees, then the elevated deck could remain with a rear yard setback of 39.2 ft.

Grimm, Fleece and Foster were in support.

Foster moved, supported by Fleece, to approve with the variance request with a 46 foot rear yard setback for the enclosed living area of the residence, and the elevated deck can be located 39.2 feet from the water's edge without blocking any visual sightlines.

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;

Strict compliance with the zoning ordinance is burdensome, given the reduced depth of the lot (compared to adjacent properties). As the applicant has agreed to increase the distance from the enclosed living area of the residence to Lake Macatawa, to 46 feet, this standard has been met.

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;

Requiring the enclosed living area of the residence to be located 46 feet from the water's edge conforms with the rear yard averaging requirements, and allows the applicant to have a home that is comparable to the size and scope of other residences in the area. It won't encroach on the neighbors' line of sight due to the requirement to use materials that do not block the view.

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 wetland) and not due to general conditions of the zoning district;

The property is on Lake Macatawa and is less deep than the other lots in the area. The structure will stay within the side yard setback requirements of the R-3 Zoning District.

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

The size of the lot is existing. The applicant is trying to work with the size of the lot which he didn't create. The structure is within the setback of rear yard averaging.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

Item #4 – A request by Steve Witte, of Nederveld, on behalf of Ryan Essenberg, to allow construction of a residence with a front yard of 26.9 feet where no less than 40 feet is permitted per Section 38-276(1) of the Park Township Zoning Ordinance. Said land and premises are located at approximately 1741 South Shore Drive, Holland, MI 49423. (Parcel 70-15-34-425-021, Zoned R-3 Low Density One Family Residence District)

The applicant noted when discussing Item #3 of the agenda that there are several detached garages located between residences and South Shore Drive, which represent reduced front yard setbacks. Posillico clarified though that the front yard setback is measured from the house not the garage. Further, detached accessory buildings often have front yard setback requirements that are less than those for principal structures.

As noted in the Staff Memo, utilizing front yard averaging is not applicable to this request as the front yards of neighboring residences are greater than the 40 foot front yard setback of the R-3 Zoning District.

PUBLIC HEARING

Dreyer opened the Public Hearing at 7:15 P.M.

Dreyer noted there were two items of correspondence with no opposition to the front yard request.

There was no comment.

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

Posillico noted the applicant provided a combined application for both and front and rear yard setback variances.

Fleece questioned the variance request that was granted in 2017 for the property, asking if the front yard setback was proposed to be greater in 2017.

Posillico explained that in 2017, a variance was granted for a 41.1 foot front yard. Since the current request is for a 26.9 foot front yard, the current request is approximately 17 feet closer to the right-of-way of South Shore Drive.

Fleece asked how the elevation of the garages compare to the elevation of Lake Macatawa.

Essenberg responded that the garages will be approximately 4 feet lower than the elevation of South Shore Drive, and Lake Macatawa is approximately 4 feet lower than the elevation of the garages.

Dreyer said the Zoning Board of Appeals has given other setback variance approvals for properties along Lake Macatawa. The Board should consider the unique circumstances of building on waterfront property, particularly on smaller lots.

Fleece moved, supported by Eade, to approve the front yard 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 building envelope, given the size and shape of the property, is limiting for the applicant and the restrictions make it unnecessarily burdensome.

- b. That granting the request 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 to add garages that require a front yard setback variance.

- 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,***

The elevation change is a unique circumstance associated with this property.

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

The applicant did not create the size of the lot.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

Item #5 – A request by Henry Voetberg, to allow construction of a residence with a front yard of 22 feet where no less than 23.5 feet is permitted per Section 38-494(1) of the Park Township Zoning Ordinance. Said land and premises are located at 1384 Linwood Avenue, Holland, MI 49424. (Parcel 70-15-35-205-025, Zoned R-3 Low Density One Family Residence District)

Posillico described the request. The property is 0.44 acres, or approximately 19,166 square feet. There is an existing residence on the property that the applicant wishes to demolish to construct a new residence. The existing garage, which acts as the front building line, is approximately 6-7 feet from the front property line along Linwood Avenue. While the current residence is a nonconforming structure, once it is demolished, the new structure must conform to the requirements of the Zoning Ordinance. The applicant has proposed rear and side yard setbacks that comply with the requirements of the R-3 Zoning District, but has proposed a front yard of 22 feet which does not comply with these requirements or with the provisions of Section 38-494 of the Zoning Ordinance regarding front yard averaging.

Posillico noted that after the public hearing notice was published advertising a proposed 22 foot front yard setback, the applicant notified Staff his request was actually for a front yard setback of 14 feet, 7 feet closer to Lake Macatawa than the current residence is located. Staff advised the

applicant that the request would have to be re-noticed, but the applicant asked to discuss the matter at this meeting.

Voetberg spoke to his request. He noted that when he met with Staff previously, it was explained that there are not Zoning Ordinance requirements pertaining to sightlines. However, sightlines were referenced frequently during consideration of Items 1-4 on the agenda. Voetberg asked for clarification.

Posillico explained that while there are not requirements in the Ordinance pertaining to sightlines, when a variance is requested, the Board of Appeals has the authority to consider additional aspects of a building site.

Dreyer asked the applicant for clarification of his request. Is the actual request 14 feet? If so, he agreed with Staff the request would have to be re-noticed.

Foster said he observed when visiting the property that there is a separate parking area in front. Is it on the road or on the property?

Voetberg said it's on the right-of-way. He needs to move it back and obtain permission from the Road Commission.

Voetberg said the variance request is to push the house back from the street approximately 6-7 feet from its current location.

Dreyer asked for the exact measurement to be re-noticed.

Voetberg said it is 13.6 feet.

Dreyer asked for a motion to table action on this item until the next meeting.

Foster moved, supported by Eade, to table action of this agenda item until the August meeting.

Voice Vote:

Ayes 5, Nays 0. Motion carried.

PUBLIC COMMENT

Dreyer opened Public Comment at 7:30 P.M.

Dean Achterof is a neighbor of Mr. Voetberg and expressed concern about the sightline. He wanted to know how much the footprint would be changed in the Voetberg request.

Voetberg said the footprint would be expanded about 20 feet to the northwest.

Achterof said he had remodeled his house three years ago and requested an addition to the backyard on his small lot. He received no cooperation from the Township. It was his opinion the attitude of the Board is now changing. He noted that there are a lot of people who do not

live on the lake and should receive the same treatment. He also asked about a layout of the plan from Voetberg. Could this be made available?

Dreyer asked for a drawing of the building envelope to be shared at the next meeting.

Dreyer closed Public Comment at 7:42 P.M.

OTHER BUSINESS

A. Election of Officers for July 2020-July 2021

Foster nominated Doug Dreyer to continue as Chair. Fleece seconded the nomination.

Dreyer said he was willing to serve another term as Chair

Voice Vote:

Ayes 5, Nays 0.

Dreyer nominated Dave Fleece to continue as Vice Chair. Foster seconded the nomination.

Voice Vote:

Ayes 5, Nays 0. Motion carried.

Dreyer nominated John Foster to continue as Secretary. Eade seconded the nomination.

Voice Vote:

Ayes 5, Nays 0. Motion carried.

Posillico clarified that officer terms are for one year periods, but generalized terms on the Zoning Board of Appeals are for three years.

ANNOUNCEMENTS

A. The next scheduled meeting date is August 10, 2020.

ADJOURNMENT

Fleece moved, supported by Foster, to adjourn the meeting at 7:45 P.M.

Voice vote:

Ayes 5, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall
Recording Secretary
July 8, 2020

Approved: August 10, 2020