

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

Regular Meeting  
Held at the Township Hall and via Zoom Conferencing  
August 2, 2021  
6:30 P.M.

**CALL TO ORDER:**

Chair Dreyer called the regular meeting of the Park Township Zoning Board of Appeals at 6:36 P.M., held at the Township Hall and via Zoom conferencing per Executive Order.

**ATTENDANCE:**

Present: Doug Dreyer, Dennis Eade, Dave Fleece, Loran Serne, Kathy Grimm (Alternate)

Absent: John Foster

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

**APPROVAL OF AGENDA:**

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

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

**APPROVAL OF MINUTES:**

Dreyer noted one correction on page 3.

Eade moved, supported by Fleece, to approve the minutes of June 7, 2021 Regular Meeting as corrected.

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

**BUSINESS ITEMS:**

**Hearing #1 – A request by Yacht Basin Partners, LLC** to appeal the Zoning Administrator's decision denying food trucks to be used for a nonprofit fundraiser on the basis that food trucks are not a use included as part of the Special Land Use issued to Yacht Basin Partners LLC. Said lands and premises are located at 1862 Ottawa Beach Road, Parcel 70-15-27-328-004, zoned C-2 (Resort Service District).

Lovelace provided background information for the request. The Park Township Zoning Ordinance does not specifically address food trucks; therefore, they are not a permitted use. The applicant seeks relief from the Zoning Board of Appeals to overturn the Zoning Administrator's decision and allow three food trucks to be present on the property for a one-day public event on August 14, 2021 from 4:00 to 8:00 P.M.

The Yacht Basin most recently amended their Special Land Use in 2017 to remove two existing storage buildings, construct one new storage building, and approve a restaurant with outdoor seating. The Planning Commission (PC) approved the Special Land Use request as amended at that time with eight conditions – those conditions applicable to this request are: 1) They were approved for 610 parking spaces where 750 are required, and 2) No parking will exist along Ottawa Beach Road in the County right-of-way.

The applicant will not rent space in the conference center during the event. Bayshore Yacht Club, located on the property, will close their facility for the day.

Chairperson Dreyer asked Township Attorney Dan Martin, why the Zoning Board of Appeals (ZBA) has to follow the legality of the ordinance.

The ZBA has to comply with the zoning ordinance. Martin said the Township ordinance does not specifically allow food trucks as a temporary special use, and the approved special use did not include any food trucks. This is, however, a commercial use in a commercial zone, not a commercial use in a residential zone. But, it is still subject to the zoning ordinance and the special use the PC previously approved. When the Township PC approved the special use for the Yacht Basin, it allowed for joint parking for the various commercial uses, so when you add an additional use for food trucks it can impact parking even though it is on a temporary basis. On Ottawa Beach Road, given the fact this is a high traffic area with already existing parking issues, this doesn't follow the zoning ordinance or the Special Land Use. The Zoning Administrator has the authority and obligation to deny the request so the applicant appealed to the ZBA.

Dreyer asked if the owner decides to bring a caterer to the event how is that different.

Martin said if it's catered people aren't paying for food themselves, the host is paying for the food.

If the food trucks were serving in the role of a caterer, then no money would be exchanged between the attendees of the event and the food trucks; rather the host would pay the food trucks for all food consumed. In this case, it is understood that the people who attend the event will be paying for food consumed on the property, not the host.

Dreyer asked the representative for Yacht Basin to speak to the request.

Matt Denherder, representative for the Yacht Basin, said this is the 11<sup>th</sup> year they have planned this event on behalf of Hospice of Holland. They thought the food truck idea was a good thing to do due to COVID. He has talked with staff about having the food trucks. They found out it wasn't permitted so they are appealing. He was aware of the Ottawa County Fair having food trucks. They have used their green space for parking and he hasn't been aware of issues.

Eade asked if food truck businesses will be collecting money from the patrons.

DenHerder said people have to pay a \$20 admission fee to go to the food trucks. The area will be fenced so people who do not pay the admission fee cannot access the food trucks. The Yacht Basin is paying for the food truck vendors, but patrons will buy their own food from the food trucks, and the food trucks will donate a portion back to the nonprofit organization.

Serne asked how many trucks will be on the property.

DenHerder said three companies are serving from trucks. There will actually be two trucks and other vendors who will serve ice cream and pizza. The food vendors will provide a kickback to Hospice of Holland.

Dreyer said the Township received correspondence regarding this issue, eleven in support and two not in support.

## **PUBLIC HEARING**

Chair Dreyer opened the Public Hearing at 6:43 P.M.

Mark Lazarock of Hospice of Holland said this event has raised over a million dollars for the organization. They depend on this event and lost this type of funding last year due to the COVID Pandemic. He has a committee who work every year for this event. For many of the people who attend it is a way to honor their loved ones. He had moved ahead with advertising before they heard it may not happen. He asked for the support of the Zoning Board of Appeals.

Diane Ruth Bailey lives 2/10 of a mile from this event. She is a Hospice volunteer and helps with this event. It has been approved by the State Liquor Commission. She is in favor of it. The Hospice of Holland organization has planned this since they missed last year due to COVID. There is a lot of care that has gone into it.

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

Eade said everyone on the Zoning Board of Appeals empathizes with this fundraising opportunity in support of Hospice of Holland. Food trucks on Ottawa Beach Road issues with traffic for safety reasons. He suggested a special Pandemic variance approval in order to consider this request. He asked DenHerder if he could consider this as a solution.

DenHerder said if he could consider this as a one-time arrangement he had no problem. He could find an alternative to the event in the future. He added that the admission price goes to Hospice.

Dreyer asked if everyone attending this event would have to pay the admission.

DenHerder said yes.

Dreyer said this request has to pass by a 2/3 vote and pass the four standards for a variance. In essence, it can't be used for something new based on the ordinance. We would have to vote against the ordinance.

He looked at the first two standards the Zoning Board of Appeals would have to approve: The first can't be supported for something new, and the second refers to unique circumstances related to the property.

There could be an argument for the first and the COVID situation could possibly justify the second. He explained the Township would have to explain any deviation in Court.

Martin said the zoning standards are for a long-term use, although the applicant said it would be short term. The applicant says this will be a one-off event. The actual impact of COVID does not relate to this or any property and the standards. You can't justify a decision to grant a variance based on this rationale. This time, however, because of timing of the event, along with the impact of the COVID pandemic, when interpreting the zoning ordinance, and considering this as a one-time, one-evening event, the ZBA could overrule the Zoning Administrator. For this one-time event the Township ZBA could overrule the Zoning Administrator and allow it, but note or add a condition that in the future we will not allow a repeat event with food trucks based on the zoning ordinance. We hope that food trucks will be addressed in a future ordinance. We do not want to set a precedent.

Dreyer thanked Martin for his legal advice in allowing consideration of this one-time event.

Dreyer asked for a motion to overrule the Zoning Administrator's decision.

Grimm asked about the food trucks – will they be parked where they wouldn't be seen?

DenHerder said the trucks will not be out on the road, they will be half-way down on the property.

Fleece moved, supported by Eade, to overrule the decision of the Zoning Administrator. This will be a one-time event on this date only, August 14, 2021, as a special privilege.

Dreyer said the standards for Section 38-70(2) did not have to be reviewed.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

*Martin asked to leave the meeting at 7:01 P.M.*

**Hearing #2 – A request by Beata Ladysz** to permit construction of an addition to a dwelling with a front setback of 25 feet where 40 feet is required, a side setback of 7 feet where 10 feet is required, and a rear setback of 35 feet where 50 feet is required per Section 38-276(1), (2) and (3) of the Park Township Zoning Ordinance. Said lands and premises are located at 1994 Forest Dr., Parcel 70-15—27-381-002, zoned R-3 (Low Density One Family Residence District).

Lovelace provided the background information. According to the Assessing Department, this house has existed at least since 1972. The exact build date is unknown. It is considered built to the legally established setback line at that time.

This parcel has two front yards along Forrest Drive (north) and Pine Street (east). The current front setback requirements are 40 feet, side setback of 10 feet (south), and a rear setback of 50 feet (west).

The property is nonconforming in lot size. The minimum required lot size for this district is 15,000 square feet. This parcel is 8,000 square feet. Given that the property is only 100 feet deep there is no way it can meet the front and rear setbacks without a variance. The site plan shows the building envelope that would meet current setback requirements.

Lovelace noted the ordinance provides administrative relief in Section 38-494 with front and rear yard averaging, however, the calculation requires the average depth of at least two front yards of existing adjacent buildings within 300 feet of the lot in question and within the same block on the same side of the street. This parcel is NOT bordered by two parcels within the same block and, therefore, this section does not apply.

Beata Ladysz spoke to her request. This property has been in her family for 42 years. She would like to make the property larger and more comfortable with changes made only to the south side of the house. They want to expand toward the back of the property. The garage will be where the carport is now located.

**PUBLIC HEARING**

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

Dreyer noted there were two items of correspondence, one for and one against.

Eric Geurnic, a neighbor, said the applicant has lost her husband this past year, and it is her intent to enlarge the property for her family. He supports the request.

Chair Dreyer closed the Public Hearing at 7:07 P.M.

Eade moved, supported by Fleece, to grant the variance.

Eade reviewed the standards of Section 38-276(1), (2), and (3):

***a. The proportion of the main wall which has been altered by the addition;***

The proposed addition doesn't impose on the east front lot line, keeps the existing 25' and 7' setback to the south. . The garage does not exceed 75% of the footprint of the usable floor area of the dwelling unit to which it is attached.

***b. The overall effect of the proposed addition or adjoining properties and the character of the surrounding neighborhood, and,***

This is a modest size renovation. This is the minimum necessary to grant relief. It doesn't impact the neighbor's parcel, as this abuts the rear yard of the neighbor to the west. This standard can be met.

***c. The addition shall not be less than 5" from the side and rear lot lines, and shall not be less than 10' from the front lot line.***

The proposed addition respects the setbacks greater than the minimums required above. The standard can be met.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

**Hearing #3 – A request by Tim Johnson** to permit construction of a 526 square feet addition to an attached garage with a side setback of 6.4 feet where 10 feet is required per Section 38-276(2) of the Park Township Zoning Ordinance. Said lands and premises are located at 429 Big Bay Dr., Parcel 70-15-27-384-001, zoned R-3 (Low Density One Family Residence District).

Lovelace said the dwelling was built in 1965 and is considered built to the legally established setback limit at that time. The current side setback line required in the R-3 district is 10'. The applicant requests a side setback of 6.4'. He proposes a front setback of 66.2' where 40' is required and the north side setback of 21.3' where 10' is required.

The footprint of the usable floor area is 1,816 square feet, 75% of that is 1,362 square feet. The existing garage is 836 square feet which leaves 526 square feet additional attached garage space permitted.

Tim Johnson said he has two children and the family has a lot of activity on the water. The neighbor affected has endorsed the addition. His number of vehicles is one reason for the request, bikes for the children, and the items for water activities since the house is on the water. He wants inside access to car since his wife doesn't like cold weather for accessing her car. He has 21 endorsements supporting the request.

## **PUBLIC HEARING**

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

Dreyer noted there were 21 items of correspondence in support and four against.

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

Phil Lanuk, a neighbor, spoke about the garage space and the size. He lives in the house across the street. He asked about the utility lines.

Dreyer said the Zoning Board of Appeals has no jurisdiction regarding gas lines, power lines and water. The ZBA's jurisdiction is in regard to issues setbacks and size only.

Johnson said he has called the utility companies. The gas line will be moved under the road. The sewer is to the north and there is a fire hydrant, power line and cable. All companies have been contacted. If the variance is granted the utilities will be moved.

Lynn Dykstra asked about the curve in the road where the outbuilding will be.

Johnson explained the shed that exists today violates the code. He won't build there.

Dreyer closed the Public Hearing at 7:21 P.M.

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

Fleece reviewed the standards for Section 38-486(e)(2):

***a. The proportion of the main wall which has been altered by the addition;***

Since the house was built at a slight angle to the lot line the distance will increase slightly with expansion from 5.1' to 6.4' on the southwest side.

***b. The overall effect of the proposed addition or adjoining properties and the character of the surrounding neighborhood, and,***

There will be no blocking of the sight line from Forest Drive and Chippewa Drive, and is in harmony with the neighboring properties.

***c. The addition shall not be less than 5" from the side and rear lot lines, and shall not be less than 10' from the front lot line.***

The proposed addition will not exceed the minimum setbacks.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

**ANNOUNCEMENTS**

The next meeting will be September 13, 2021.

Eade said he will be unable to attend the September meeting. Grimm can attend as Alternate.

**PUBLIC COMMENT**

Dreyer opened Public Comment at 7:26 P.M.

There was no comment.

Dreyer closed Public Comment at 7:26 P.M.

**ADJOURNMENT**

Fleece moved, seconded by Eade, to adjourn the meeting at 7:27 P.M.

Respectfully submitted,

Judith Hemwall  
Recording Secretary  
August 3, 2021

Approved: September 13, 2021