

**MINUTES  
PARK TOWNSHIP  
ZONING BOARD OF APPEALS**  
Park Township Hall  
52 152<sup>nd</sup> Street  
Holland, MI 49424

Regular Meeting  
Via Zoom Conferencing  
August 10, 2020  
6:30 P.M.

**APPROVED DRAFT 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 via Zoom conferencing.

**ATTENDANCE:**

Present: Doug Dreyer, Dennis Eade, Dave Fleece, John Foster (arrived late due to confusion over meeting location), Jim Gerard, Sally Pollock (as alternate)

Staff: Emma Posillico, Zoning Administrator

**APPROVAL OF AGENDA:**

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

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

**APPROVAL OF MINUTES:**

Eade moved, supported by Gerard, to approve the minutes of the July 6, 2020 Regular Meeting as submitted.

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

**BUSINESS ITEMS:**

**Item #1 - A request by Henry Voetberg,** to allow construction of a residence with a front yard of 13.5 feet where no less than 23.5 feet is permitted per Section 38-494(a) 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)

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.

Posillico provided background on this item. This was a request that was initially reviewed at the July 2020 meeting. She pointed out there was a noticing error for the July meeting when this was to be presented to the Zoning Board of Appeals, so the request was re-noticed for the August meeting with the accurate information. The front yard setback is to be 13.5' where no less than 23.5' is permitted. Note, the front yard averaging provisions would provide the applicant with a 23.5' required setback. However, since the applicant is requesting a 13.5' front yard setback for the construction of a new residence, a variance is required.

Voetberg said he had nothing new to add to the discussion that was not explained at the July meeting. He feels this is of benefit to the neighbors.

Dreyer noted there was no new correspondence.

## **PUBLIC HEARING**

Dreyer opened the Public Hearing at 6:40 P.M.

There was no comment.

Dreyer closed the Public Hearing at 6:40 P.M.

Gerard asked Voetberg if the high water level affected the proposed location of the new residence, pushing it closer to Linwood Avenue.

Voetberg said he didn't think so. He just doesn't want to be too close to the neighbors.

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

Fleece reviewed the four standards for a dimensional variance:

- 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 house is to be in line with the neighbors. The required setback would place the house closer to the water which would interfere with the neighbors' views. The plan will be of better benefit to the applicant and the neighbors.

- 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.***

The sight lines are preserved by the requested minimal setback and does justice to all.

Dreyer added that Posillico noted in the Staff Memo that the setback of 13.5' is an increased setback as compared to the location of the current residence on the property.

- 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 homes within 300' are generally nonconforming and have varying setbacks. Granting the requested front yard setback variance preserves the uniqueness for the first three homes on the corner. It is due to the circumstances of the property.

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

Most of the properties in the area are nonconforming which is not self-created. The applicant is improving the situation of the setback at 13.5'.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried

**Item #2 – A request by Dale L. Bird-Cortes** to allow construction of a 768 square foot accessory building where a maximum size of 372 square feet is permitted per Section 38-491(b)(1)b of the Park Township Zoning Ordinance. Said land and premises are located at 22 Western Avenue, Holland, MI 49424. (Parcel 70-15-22-400-060, Zoned R-4 Medium Density One and Two Family Residence District)

Posillico introduced this request. This property is at the end of the street. There is an existing residence with an attached garage. The applicant is seeking to build a detached accessory building to store a boat and camper. The camper is 27' long and the boat is 30' long, which requires a larger building than what is allowed by ordinance.

Cortes said he would be happy to address any questions.

Fleece asked if the access to the proposed accessory building would be along the north side of the property.

Cortes said yes.

Dreyer asked where the neighbors' accessory building is located in relation to the proposed building.

Cortes said to the northwest.

Dreyer asked for the size of the neighbor's building near Cortes' property.

Cortes said he thought it was about 36'x42'.

Posillico said she could provide an aerial calculation. It is 34'x76' feet.

## **PUBLIC HEARING**

Dreyer said there were two items of correspondence - the neighbor to the north approves. The neighbor four houses east says no.

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

There was no comment.

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

Cortes said he obtained signatures from the neighbors – all were in approval. Dreyer confirmed that was submitted with the application materials.

Eade moved, supported by Gerard, to approve the request with the condition the applicant provides appropriate landscape screening around the new accessory building.

Eade reviewed the Authorization for a Larger Accessory Building Standards Review:

**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 applicant proposes an oversized building that meets the setbacks. Staff confirms the height will not exceed 20' as required, so this standard can be met.

**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;***

Staff confirms the height of the building won't exceed 20' and, based on the applicant's statement, the area and height will be in proportion to the principal building on the lot. This standard is met.

**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;***

There are trees around the proposed building area that can provide screening from the neighboring property. Additional landscaping is an option since the applicant wants to remove trees to clear an area for the proposed building.

The Zoning Board of Appeals could condition additional landscaping being provided to ensure proper buffering.

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

Staff provided information in the Staff report there will be no negative effect to the adjoining properties.

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

Trees provide screening. The Zoning Board of Appeals can require additional landscaping to provide buffering, but the standard can be met at this point.

Dreyer said the applicant has left the Zoom meeting and hopes he returns for the addition to the motion regarding landscaping.

In his opinion, Dreyer said the applicant should provide appropriate screening – this should be added as a condition in the motion. If he takes the trees down to allow for the new building, he should provide some buffering.

Posillico said if the applicant does not return to the Zoom meeting, and disagrees with the requirement to provide landscaping, he can come back before the Zoning Board of Appeals.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

Fleece recused himself from the third agenda item since he is the applicant. Foster joined the meeting at this time to provide full attendance of the Board.

**Item #3 - A request by Dave Fleece,** to allow construction of an addition to a residence with a front yard of 34.4 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 713 West Lakewood Boulevard, Holland, MI 49424. (Parcel 70-15-24-286-010, Zoned R-3 Low Density One Family Residence District)

There is an existing residence on the property that was constructed in 1903. There is also an accessory building on the property. The eastern wall of the residence, because it faces Home Avenue, is considered a front yard, so the front yard setback is required to be met in that location, so that is the reason for the 40' setback requirement and associated variance request.

The applicant applied for a dimensional variance in 2012 for a nearly identical proposal, except the breezeway was proposed to be enclosed, and the garage addition was set back approximately three feet behind the face of the existing residence. The Zoning Board of Appeals approved the variance in 2012, which has since expired.

Posillico noted there is an error in the Staff Memo. On page 10, the dimensions given are 26' x 30' for the size of the addition, but Fleece clarified the dimensions are actually 30' x 32'. This doesn't affect the variance request or the ability of the proposed addition to meet the size and rear yard setback requirements.

Fleece explained his situation with the setback line. He would rather have the face of the existing residence align with the face of the proposed addition, which is shown on the site plan. He also has a septic system behind the area of the proposed addition, so there is no way to shift the proposed garage back (to the west).

## **PUBLIC HEARING**

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

There was no comment.

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

Dreyer noted a signed letter of support by three neighbors and they were all in agreement with the variance request.

Gerard moved, supported by Foster, to approve the request.

Gerard reviewed the Building Setback Exception Standards:

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

The main wall of the existing residence, which would be extended for the addition, will extend the line of the house but it won't move the house any closer and won't alter the existing setback.

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

There is no adverse effect on the neighboring properties and the neighbors support the addition.

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

It meets this standard.

### Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

Cortes rejoined the meeting. He said he lost power and couldn't continue on the Zoom meeting on his computer until the power came back on. He was using his phone.

Dreyer informed Cortes about the condition for the landscaping buffer that the Board of Appeals added to the motion for approval.

Cortes said he was okay with the condition in the motion for approval.

Posillico explained the provision for landscaping around the building to protect the view from the neighbors.

Cortes said that can be met.

## **ANNOUNCEMENTS**

- A. The next scheduled meeting date is September 14, 2020, which is later because the 7<sup>th</sup> is Labor Day.

## **PUBLIC COMMENT**

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

John Daniel, co-owner of the Waukazoo Farmers' Market, joined the meeting. In the process of filing for a Special Use Permit to continue operating the Farmers' Market, Township Staff has informed Mr. Daniel that there are several variances that are required. The Zoning Ordinance requires that commercially zoned properties have paved parking, be connected to public water, and that all business be conducted within an enclosed structure. Mr. Daniel will be seeking variances from these requirements at the October ZBA meeting. He then elaborated on why he believes he should not be required to meet these ordinance requirements.

The Township said there was a requirement for a paved space for parking, however, he has decided to not do any paving. It would cost him between \$25,000 and \$35,000 to pave the parking area. He noted another commercial use operated by David Dirkse, allows parking on grass near the State park. He checked with the Township Fire Marshall who reportedly said paved parking was not necessary. The variance request for paved parking will cost \$350 and he questioned if he had to pay it. He also mentioned the enclosed building requirement which he feels is unnecessary. The market is conducted in popup tents and is orderly. He doesn't intend to enclose the space. He said he explained this to Greg Ransford, the Township Planner. He emphasized this is a temporary condition for the market. This would cost him an additional \$350 to appear before the ZBA to appeal. There is also the matter of the requirement for public water on the site. He doesn't intend to provide customers public water service. Everything is on two self-contained trucks. If he wants to speak to a variance for all three of these requirements, he will have to pay \$1,050 in application fees. He can't afford this. He has already paid \$1,200 for the Special Use application. He is asking for consideration for a reduction in application fees.

Dreyer asked if Daniel was extending the market beyond the Visser Farms vendor.

Daniel said he plans to expand to a maximum of seven vendors.

Dreyer said this is new information to the Zoning Board of Appeals, so recommended it be a formal agenda item for a later meeting.

Gerard asked if this is just about the fee reduction or the variance request.

Dreyer said the Zoning Board of Appeals could make a recommendation at the current meeting regarding the fee.

Fleece asked if the decision could be one one fee or all three variance requests.

Posillico said there is a fee for each application, but typically we usually don't deal with three requests for the same property at one time.

Daniel said he would like a complete exemption from the fees. It's the principle of the matter in that two of the ordinances are ludicrous in his opinion.

Posillico explained that Ransford reviewed the ordinance requirements with the applicant. Legal Counsel advised the three variances are required in order to move forward with the Special Use as proposed.

Foster asked if the Zoning Board of Appeals can make decisions on fee assessments.

Posillico said Legal Counsel advised it has been considered in the past – not necessarily granted, but considered.

Pollock suggested combining the fees into one fee. It's a positive use of the property.

Foster doesn't recall a ruling on fees as a long-time Zoning Board of Appeals member and felt it sets a precedent.

Dreyer agreed on not waiving the fees but combining the fees into one application fee of \$350.

Posillico said they can't be combined as one issue/variance, however, the Zoning Board of Appeals may combine the fees into one fee, if they were in agreement.

Foster moved, and Pollock supported, to approve assessment of one fee to consider all three variance requests.

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

Ayes 6, Nays 0. Motion carried.

Dreyer closed Public Comment at 7:35 P.M.

## **ADJOURNMENT**

Foster moved, supported by Fleece, to adjourn the meeting 7:39 P.M.

Voice vote:

Ayes 6, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall  
Recording Secretary  
August 12, 2020

Approved: September 14, 2020