

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

Regular Meeting
Via Zoom Conferencing
September 14, 2020
6:30 P.M.

~~DRAFT COPY~~ **APPROVED**

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 according to Executive Order of the Michigan Governor.

ATTENDANCE:

Present: Doug Dreyer, Dave Fleece, John Foster, Jim Gerard, Kathy Grimm (Alternate)

Absent: Dennis Eade (with notice)

Staff: Emma Posillico, Zoning Administrator

APPROVAL OF AGENDA:

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

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

APPROVAL OF MINUTES:

Foster moved, supported by Fleece, to approve the minutes of the August 10, 2020 Regular Meeting as submitted.

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

BUSINESS ITEMS:

Item #1 - A request by Jeremy VanEyck, on behalf of Jefra Groendyk, to allow construction of an addition to a residence with a side yard of 8 feet where no less than 10 feet is permitted per Section 38-246(2) of the Park Township Zoning Ordinance. Said land and premises are located

at 2502 Eagle Lane, Holland, MI 49424. (Parcel 70-15-28-340-032, Zoned R-2 Lakeshore Residence District)

Posillico introduced the item. The property is described as Lot 16 of Heneveld's Supervisor Plat No. 9 of Eagle Crest Park, and is 0.13 acres, or approximately 5,660 square feet in area. There is an existing 816 square feet residence on the property that was constructed in approximately 1940. The applicant wishes to construct a 9 ft. (135 sq. ft) addition to the southwestern corner of the residence.

The proposed 9 foot addition is 8 feet from the western property line. It also extends 9 feet into the rear yard which is permitted through rear yard averaging. This is a nonconforming structure.

The applicant has obtained a Soil Erosion and Sedimentation Control permit from the Ottawa County Drain Commission and has applied for a permit from EGLE for construction within the critical dune area. Any zoning and building permits issued for the property would require an EGLE permit prior to issuance.

The applicant, Jefra Groendyk, said she purchased the property in 2003. The project will maintain the integrity of the neighborhood.

Jeremy vanEyck spoke to the application. He has been working with the Township and the Zoning Administrator to be certain they are meeting requirements. The house does not currently conform to the side yard setback. Extending the structure into the rear yard area requires the side yard variance. The house layout is within the other required setbacks and there is no encroachment on the road.

Fleece asked if the proposal is part of a two story addition.

VanEyck said yes. It is a two story and they are expanding the upstairs.

Foster asked whether this could have been built away from the existing deck area, on the east side of the existing residence, without encroaching into the rear yard.

VanEyck explained that they cannot extend to the east side of the house because that is where the septic system is located. It has been checked by the Ottawa County Health Department and it is in good shape so they want to keep it where it is. Thus, extending in that direction is not an option.

Fleece asked why it was necessary to bring this request to the Zoning Board of Appeals.

Dreyer said it is still a variance that has to be approved by the Zoning Board of Appeals because it is adding to an existing nonconforming wall.

Foster asked if there will be a living area included in the extension.

VanEyck said the entry way is to be extended and opened out to add more space on the main floor. The upstairs bedroom will also be expanded.

PUBLIC HEARING

Dreyer opened the Public Hearing at 6:44 P.M.

There was no comment.

Dreyer closed the Public Hearing at 6:44 P.M.

Dreyer noted there were three letters submitted to the Township which were in support of the request.

Fleece moved, supported by Foster, to approve the variance as requested.

Fleece reviewed the three standards for Building Setback Exception (Sec. 38-483(e)(2):

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

It appears the applicant is building an addition which blends with the existing home, and the intent is to keep the existing structure intact.

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

The Eagle Crest community has smaller lots and consists of nonconforming structures which have required variances to be modernized. Given the western property line abuts a driveway for the residence to the west, the proposed addition won't block airflow or light. The addition will have minimal effect on neighbors.

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 is greater than 5' from the side and rear lot lines. It meets the standard.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried

Item #2 – A request by Gerald Degraeve, to allow construction of a 391 square foot accessory building where a maximum size of 360 square feet is permitted per Section 38-491(b)(1)b of the Park Township Zoning Ordinance. Said land and premises are located at 248 Sea Esta Avenue, Holland, MI 49424. (Parcel 70-15-27-301-026, Zoned R-3 Low Density One Family Residence District)

Posillico provided the background for this request. The property is approximately 0.42 acres in area, or about 18,037 square feet. There is an existing residence on the property, about 2,027 sq. ft., a single level constructed in approximately 1970, with an attached garage.

The maximum allowable size for a detached accessory building is 2% of the lot size which would be approximately 360 square feet. The applicant is seeking to construct a 391 square foot accessory building which is 31 square feet greater than allowed. The reasoning for the variance request is the storage of two pieces of outdoor equipment, and so that the applicant does not have to order building materials in fractions of an inch.

The applicant, Gerald Degraeve, spoke to his request. The problem is the size of a boat and trailers that he wants to store inside. He needs to build the structure 17' wide to make this possible. He is asking to extend 1'-4" wider to fit the trailers inside.

Foster referred to the drawing of where the building would be located. He asked the applicant if he planned to clear a lot of the trees in the area behind the building.

Degraeve said the canopy of trees is smaller and wouldn't have to be cleared. He doesn't think he would have to cut down any of the trees.

Gerard asked Posillico about the size of the lot. Some of the square footage is omitted because it is in the public right-of-way. Is this correct?

Posillico explained that any time someone proposes an accessory building it is based on the property size that Ottawa County has. In different districts, the property line either goes to the center line of the road or will be at the right-of-way. This is often a 30' difference across the property. In this case, part of the yard is in the right-of-way. We can't include that amount of property to determine the size of an accessory building since it is not technically part of his legally described property. It is not part of the computation.

Foster asked Degraeve where he has been storing equipment without a shed on his property.

Degraeve said he has been storing his equipment in his backyard and in the driveway, so the accessory building would allow the equipment to be stored indoors.

PUBLIC HEARING

Dreyer opened the Public Hearing at 6:56 P.M.

There was no comment.

Dreyer closed the Public Hearing at 6:56 P.M.

There was no correspondence submitted to the Township.

Foster asked if the height of the building is within the code limit.

Dreyer said it was.

Foster asked for a description of the building.

Dreyer referred to the last page of the application where there was a rendering of the proposed building.

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

Foster 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 size of the building is meant to be larger due to the items the applicant wishes to store. His lot size is compromised by the fact that part of the yard is in the right-of-way and is not included in the lot size used for accessory building computations. It is also generally a smaller 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;**

The accessory building will be behind the main house and will not be taller than the house, or will not be seen from the road given the location.

- 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;**

Other than the main house there are no other buildings on the lot. The proposed change will be compatible with the neighborhood.

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

The circulation of light and air is not a problem. The building is well back behind the adjoining residences and there is no other home behind it.

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

This is not a problem given the size of the building and its location on the lot. It will not affect the view of the neighbors.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

Item #3 - A request by Karin Kapteyn, to allow construction of a deck with a rear yard of approximately 17.5 feet where no less than 25 feet is permitted per Section 38-306(3) of the Park Township Zoning Ordinance. Said land and premises are located at 142 Bower Street, Holland, MI 49424. (Parcel 70-15-27-177-016, Zoned R-4 Medium Density One and Two Family Residence District)

The property is described as lot 2 of Wind Stream Subdivision No. 1. It is 0.23 acres or approximately 10,019 square feet. There is an existing residence of the property, approximately 1,014 square feet in size, excluding an attached garage. The existing residence was built in 1995 with the existing 10x10 ft. rear deck.

The applicant requires approval for the variance because the proposed deck change will encroach on the rear yard setback with this request.

Staff has been advised by the Township Attorney that if a non-conforming deck is being replaced exactly to the existing footprint it may be approved by Staff. However, the applicant proposes to increase the footprint of the non-conforming area toward the rear property line, expanding beyond an established setback. Staff believes that a variance is required for the rear yard setback of the proposed deck. Extending the deck 2.5' toward the rear property line would result in a rear yard setback of about 17.5 ft. where a 25 ft. rear yard is required.

The applicant, Karin Kapteyn, spoke to her application. The backyard is unusable and they would like to add more space on the deck for entertaining. The backyard area is wetland and no residences are behind their property.

Grimm asked the applicant to explain the situation with the backyard, and if there was any other space in the yard that was usable.

Kapteyn said it is wetland. It's usually dry but because of the rain this year it is wetter than normal. They have had no water issues with the house and the drainage is appropriate. There is a firepit in the backyard but that can't be extended without effort.

Foster asked if the deck is in bad shape or does she just want to expand the size of the deck.

Kapteyn said she just wants to enlarge the deck for more space.

Foster asked if there isn't room now for a table and chairs. Kapteyn said it doesn't allow more than a small table and a couple of chairs.

Fleece asked about putting the deck stairs on the east side rather than the back.

Posillico said stairs aren't counted in the setback configuration (they are exempt), so just the deck area is applicable to the variance request.

PUBLIC HEARING

Dreyer opened the Public Hearing at 7:11 P.M.

There was no comment.

Dreyer closed the Public Hearing at 7:11 P.M.

There was no correspondence.

Gerard recalled a couple of years ago the Zoning Board of Appeals had an application when someone wanted to enlarge a deck with no property behind them. He recalled not granting the variance. How do we balance this request with that one?

Foster said we look at each application on its merits. This rear yard is compromised with a floodplain and/or wetland fairly close to the house. Having a regular yard that could be used would be different. He considered this is a burden for the applicant.

Fleece asked for clarification whether the applicant's backyard is considered a wetland or a flood plain.

Posillico confirmed the applicant's backyard is a wetland per the EGLE wetland maps, but is not a floodplain according to FEMA's 2011 floodplain maps.

Fleece asked if there is a concern regarding construction. Does the applicant have to apply to EGLE for permission to complete construction in a wetland?

Posillico said in her experience, if hand tools are used in construction and no heavy equipment is brought to the site, the applicant will not require an EGLE permit.

Foster asked, to clarify, if there is a motion to deny, can the applicant rebuild a deck similar to what is there now.

Posillico confirmed that was correct, the exact footprint of the existing deck could be replaced without a variance.

Dreyer said the applicant could potentially build a longer deck if denied, utilizing the variance standards for constructing an addition along an existing non-conforming setback. He reminded the Commissioners that approval has to meet all four standards for a non-dimensional variance.

Gerard moved , supported by Fleece, to deny the variance request.

Dreyer advised Gerard that only one standard requires justification for denial.

Gerard reviewed the first standard:

- 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.***

Gerard said this standard has not been met. There is the option that the deck can be constructed lengthwise to the back of the house so the applicant can get the desired space. The yard is being used in other ways as well. Consistent with past applications the standard has not been met.

Roll Call Vote:

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

5 ayes, 0 Nays to deny request.

Item #4 – A request by Thomas Selvius, to allow construction of an accessory building on a vacant parcel, where a principal structure is also required per Section 38-491(b)(1)a of the Park Township Zoning Ordinance. Said land and premises are located on the eastern side of North Lakeshore Drive, north of Ransom Street. (Parcel 70-15-04-200-014, Zoned R-1 Rural Residence District)

Posillico summarized this request. The property is a vacant parcel approximately 1.15 acres, or 50,097 sq. ft. in area. The applicant intends to use the proposed accessory building for storage of vehicles without a principal building on the property. The applicant does own the residence on the western side of the street, located at 4541 N. Lakeshore Drive. Section 38-491(b)(1) of the zoning ordinance states accessory buildings are not allowed on lots that do not have a principal structure also on the lot. The applicant is seeking to construct a 7,500 square foot accessory building to hold a car collection. This request is for a non-use variance.

Posillico noted Agenda Item 5 is in regard to the size of the proposed accessory building. The Zoning Board of Appeals will only consider that item if they approve this variance request to allow an accessory building without a principal structure.

Thomas Selvius, the applicant, spoke to his request. When he bought the property on the west side of Lakeshore, he didn't know the lot on the east side of the street was not formally incorporated into the western property, and he didn't plan to build anything on the east side of the street. He thought he had built a garage at his residence with space he would need, however, he has started to collect cars and now needs extra space. The lot across the street is wooded and the trees would not be touched. He would like to construct the building there. It wouldn't be seen except during the winter but it would be well hidden. On his property on the lake side, the only place to build is in front of the residence. He is willing to place a deed restriction on the property on the east side of the street to state that the property could not be sold as a separate parcel, but would have to be sold with the residence on the west side of Lakeshore.

Grimm asked if he considered adding onto his garage.

Selvius said his garage sits between the house and pool house so it would not work. He has two garages now and they are both full. He would like to have the car collection on his property.

Foster asked about the property on the east side of Lakeshore. He noticed some large trees on the property where the proposed accessory building is located. It appeared the applicant will have to cut down a few trees to accommodate the proposed building. He walked onto the property and made the observation.

Selvius proposes to build the building as far to the northeast as possible. The tree stand is more dense around the perimeter but the center is lighter. It won't affect visibility. He admitted he would have to cut down some trees. He could move the proposed building closer to the center of the woods.

PUBLIC HEARING

Dreyer opened the Public Hearing at 7:30 P.M.

Lindsey Johnson, a neighbor, asked about the lighting on this building. It was her opinion that the current volume of 24 hour daylighting at the main house would transfer to this additional building. It impacts the view shed in the evening from the main house. She assumed that security lights would be similar to those at the main house.

Selvius said the lighting would not mimic the main house. It's just a storage building. Perhaps he would install a mercury light, however, he doesn't want to draw any attention to the building.

Caroline Genners had concerns in granting approval to this request. It would be setting a precedent to allow accessory buildings without a principal building. If the Zoning Board of Appeals says yes to this request it will have to say yes to all requests and would change the construct of Lakeshore Drive and the community. This is a historic community and should be respected as residential only.

John Lee owns property in the neighborhood. He said this would certainly set a precedent for allowing storage buildings in a residential area. He commends the Zoning Board of Appeals for upholding the standards which should be met. Using residential space for storage runs counter to the purpose of a residential district. He believes the concept of having a building only for storage on a residential parcel would set a precedent from Ransom Street to New Holland Avenue. He is concerned about this – it runs afoul of the zoning ordinance.

Catherine Heldt was in agreement with her neighbors.

Gail Schaumann lives a few doors south of Selvius. She was concerned about the size of the footprint. This is a residential area and the minimum building area is two acres. This lot is just one acre. It's not buildable at all based on this size requirement. She pointed out the property on the east side is under different ownership from the property on the west side of the street.

Posillico said the lot is a buildable lot. If a lot that is existing is nonconforming, it may be buildable for a single-family residence if it meets certain requirements. The owner could build a single-family residence.

Schaumann understood the lot was sold with the intent to have property that wasn't buildable.

Dreyer said it was platted before the current zoning and Master Plan. Now it can be built on.

Fernande Pruden said an accessory building without a residence is a storage building. She supports the other residents' comments. Her family has been on her property for over 100 years. The generation following her is growing up on property that her grandparents bought. It would be a shame for the character of the neighborhood to be adversely affected in this case. The neighbors recognize the importance and care of the properties along the lake shore.

Christine Pruden owns lots on the east and west side of Lakeshore Drive and is concerned what a commercial building would do aesthetically to the neighborhood.

Barb Lee enjoys being on the lake shore. Being a gardener, she doesn't want trees cut down which is bad for the environment. When the leaves fall that's a long time to see a big building sitting there as an eyesore on Lakeshore Drive.

Michael Leonard repeated the importance of not allowing commercial buildings on residential lots. It will establish a bad precedent to allow this.

Marie Martinall lives down the street from Selvius. She is afraid the neighborhood will become commercial. It's a poor precedent and she is opposed to the approval of this request.

Robert Schaumann owns approximately 40 acres surrounding the Selvius property on the east side. He encouraged the Zoning Board of Appeals to maintain the zoning restrictions. This proposal does not fit into the cultural history of the lakeshore. The integrity of this property is important to him. He is opposed to the request.

Dreyer said there were four letters against the request that were sent to the Township.

Dreyer closed the Public Hearing at 7:49 P.M.

Foster said he could not recall an instance where this type of situation was involved. He knows along Lakeshore Drive there have been a couple of instances where people wanted to build an outbuilding for storage. However, the requests included buildings located on the residential property, but not on a separate lot.

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

Foster said that Standards c and d can't be met. In addition, he concurred with the public comments that granting approval would set a precedent. The zoning standards are very clear about not allowing this request.

Posillico said a brief summary of the standards that the ZBA believe can't be met would be appropriate in lieu of reviewing all the standards.

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.

Foster provided a brief summary: There are no wetlands on this property, so there are not unique circumstances to the property. It would not do justice to the property owners nearby and this type of building is not allowed without a residence on the same property. It isn't allowed in the residential zoning district.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion to deny approved.

Selvius asked if he attached a small residence on this lot would the storage use be allowed.

Posillico said that was feasible to construct a residence with an attached garage, so long as he met the requirement that the garage is no larger than 75% of the footprint of the residence.

Item #5 – A request by Thomas Selvius, to allow construction of a 7,500 square foot accessory building where a 993 square foot accessory building would be permitted per Section 38-491(b)(1)b of the Park township Zoning Ordinance. Said land and premises are located on the eastern side of North Lakeshore Drive, north of Ransom Street. (Parcel 70-15-04-200-014, Zoned R-1 Rural Residence District)

For the record, this item was deleted from the agenda. Further consideration was moot because the previous related request (Item #4) was denied.

Item #6 – A request by Pine Creek Construction, on behalf of Bob and Carol Fewless, to allow construction of an addition to a residence with a front yard of approximately 17 feet where no less than 40 feet is permitted per Section 38-306(1) of the Park Township Zoning Ordinance. Said land and premises are located at 2247 Second Avenue, Holland MI 49424. (Parcel 70-15-33-279-004, Zoned R-4 Medium Density One and Two Family Residence District)

The property is described as Lot 49 and the western half of Lot 50 of Bosma's Addition, and is 0.13 acres, or approximately 5,632 square feet in area. There is an existing 690 square feet residence on the property that was constructed in approximately 1969. The applicant wishes to construct a 240 square foot addition along the eastern side of the residence.

The addition meets the required side and rear yard setbacks but extends the existing nonconforming front yard setback of about 17 feet. Front yard averaging is not feasible in this case because there are no other residences within 300 feet on the same side of Second Avenue, and the 40 foot front yard setback requirement of the R-4 District prevails.

Carol Fewless said she and her husband have owned the cottage for over 22 years. Its location is unique in that it is surrounded by the Holiday Havens and Dune Dogz parking lots. The State Park is on the other side. The requested additional 8' would allow her to add a queen size bed in the bedroom and expand the living space. All homes are nonconforming in the community with small front yards.

Doug Gritter of Pine Creek Construction said the front yard setback will remain the same. They are staying within the building envelope, keeping the front yard the same, and just adding 8' to the residence. There will be no effect on the neighbors and the roof line will be the same.

Gerard asked if the addition is on the east side or the south side.

Gritter said it is actually on the south side, or lake side, to be correct. The front yard is on Second Avenue.

Posillico clarified that 17 ft. is the distance from the face of the house to Second Avenue.

Gritter confirmed the addition is on the south side, the side towards Lake Macatawa, by the driveway.

Dreyer explained that it is an extension of a nonconforming wall.

PUBLIC HEARING

Dreyer opened the Public Hearing at 8:04 P.M.

There was no comment.

Dreyer closed the Public Hearing at 8:04 P.M.

Gerard moved, supported by Fleece, to approve the variance.

Gerard reviewed the three standards for Building Setback Exception (Sec. 38-483(e)(2):

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

The main wall has been altered but keeps the same distance of the front of the house from Second Avenue. It is not imposing on the front yard.

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

The neighborhood is composed of mostly nonconforming lots. This will conform with what is already there. It's one of the smaller properties in the community.

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.

It meets the standard.

Roll Call Vote:

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

Ayes 5, Nays 0. Motion carried.

PUBLIC COMMENT

Dreyer opened Public Comment at 8:07 P.M.

There was no comment.

Dreyer closed Public Comment at 8:08 P.M.

ANNOUNCEMENTS

- A. The next scheduled meeting date is October 5, 2020. Posillico said the Daniels' farmers' market item is on the agenda.

ADJOURNMENT

Fleece moved, supported by Foster, to adjourn the meeting at 8:08 P.M.

Voice vote:

Ayes 5, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall
Recording Secretary
September 16, 2020

Approved: