



**MINUTES**

**PARK TOWNSHIP  
ZONING BOARD OF APPEALS**

Regular Meeting  
February 28, 2011  
6:30 PM

**DRAFT COPY**

Chair, John Foster, called the regular meeting of the Park Township Zoning Board of Appeals to order at 6:30 P.M.

Present: John Foster (Chairman), Doug Dreyer, Lu Reyes, Joannie Bouman

Absent: Nicki Arendshorst

Others: Andy Bowman, Township Planner

**MOTION**

A motion was made by Doug Dreyer and supported by Joannie Bouman to approve the agenda as presented.

**VOTE**

Motion carried: 4:0

**MOTION**

A motion was made by Doug Dreyer and supported by Joannie Bouman to approve the minutes for the December 27, 2010 regular meeting as presented.

**VOTE**

Motion carried: 4:0

**Item #1      A variance request by Zahn Builders on behalf of the Lebsters, for a lesser side yard setback than allowed for a proposed residential reconstruction, per section 38-246 (2) of the Park Township Code of Ordinances. Said land and premises are**

**located at 2617 Lakeshore Drive (Parcel #70-15-16-349-018, R-2).**

Mr. Bowman introduced the item. He explained that this is a request to rebuild a cottage on an existing lot, with a nonconforming width of 50' rather than 100' as required in that residential zone. It also has a nonconforming side yard of 7.5' instead of the required 10'. The applicant's proposal to rebuild will keep the 50' width but will increase the side yard from 7.5 to 8'. An existing detached garage will be replaced by an attached garage in line with the new building side yard if the variance request is approved.

Mr. Chuck Posthumus, Architect, 5335 Michigan NE, Ada, showed the Board a series of drawings for the proposed site plan. There is an existing house and detached garage, both of which will be replaced. Existing conditions: The existing house on the north is 7.1' from the property line. The detached garage is 6.7' and 4.8' from the line, and two outbuildings are 1.2' and .9' from the line. What is proposed is to take down the cottage and accessory building and replace them with one building. The new site plan showed a home with an attached garage. The first floor of the house would have an 8' setback. The porch is at a 10' side yard. On the north the closest portion would be at a 10' setback. The garage will have a wider setback to stay away from any encroachment to the north property. What is proposed for the new construction is a two story plan. The upper level would have an overhang to comply with 10' setback. The one story screened porch would have a 10' side yard. The south elevation from east to west is proposed to be at a 8' side yard.

Mr. Posthumus said this proposal is a better solution rather than remodeling the existing structure with its present nonconformities. It is an existing condition we are asking the Board to consider as an existing condition to add on to for the 8' as proposed. He said the 8' is an improvement to the existing situation. What is unique to the property are the encroachments to the north and it is his intent to keep the 10' on the north. He understands the property at 2601 Lake Shore obtained a variance a few years ago to continue its present side yard and build a separate story to enlarge the nonconformities. Chair Foster asked about a basement level. Mr. Posthumus said there is and the basement will be moved in the new construction. He asked if the architect considered a design that would be at the 10' setback on both sides. Mr. Posthumus responded there are some challenges with the second floor and it would present a challenge.

Mr. Bowman asked the architect to describe the challenge. Mr. Posthumus said the extra 2' is important enough to submit this request. Staying within the 7.4' and 7.7' presents a challenge. He confirmed the north side of the building would be at the 10' setback.

## **PUBLIC COMMENT**

Chair Foster said the Township has received four or five letters not in favor of granting this request. The concern is that the Township holds to the 10' setback in that area.

Bill Mills, 2609 Lakeshore Dr. – referred to a letter he submitted expressing a concern about a misrepresentation of the nature of the existing property. The existing home on the site in question was built in 1979; the owners tore down an old cottage and built a one story cottage. He was surprised the property was not 10' from his property – somehow the previous owners had encroached on that area. It is now 7.4' from his side and 12' from the other side. It should have been 10'. Every time he has made additions he has had to comply with setback rules. He rebuilt his cottage and every addition had to comply with the 10' requirement. He wants to be a good neighbor but wants compliance with the rules in the area. He has concerns about the higher elevation and noted the pool in the front yard is another issue. He asked the rules be enforced equally.

Richard Swaney, 2667 N. Lakeshore Dr. – expressed concern that there has been compliance with the 10' side yard rule. The question is a design issue, not a variance issue. Compliance would be appropriate in this case.

Bob Dyskra, 2643 N. Lakeshore Dr.– noted that the surveys in this area do not go straight, rather they tend to run at an angle. He has requested a variance as well as another neighbor and both of them were turned down.

Paul Yhouse, 2679 N. Lakeshore Dr. - expressed concerned about precedent. 10' has been the requirement for other homes in the past and should be for newer building construction.

Public Comment closed at 7:00 PM.

Chair Foster noted after reading the letters from the neighbors of this and reading the comments on the application, these variances are common to Lakeshore Drive. The Board is dealing with competing comments on granting variances.

Mr. Dreyer said he had observed the Board has not granted variances for new construction in this area for a long time. We have granted variances for existing structures but not for second story construction just to get a better view of the lake.

Mr. Bowman asked if any of those circumstances had had current side yards that were too close. Mr. Dreyer said that were others that were similar but they were denied.

Ms. Bouman asked the architect if he could move the building east or west. The architect said he could not make adjustments to the west because of Park

Township guidelines for the lake, however, there is flexibility to the east. Existing power lines and the septic field provide some restriction.

Chair Foster asked about the garage encroachment problem. The architect said there is a hardship on this property with the 40' long encroachment on it, but agreed the driveway would be wide enough for an emergency vehicle to gain access.

### **MOTION**

Ms. Bouman moved and Mr. Dreyer supported to deny the variance request based on the Township standards.

Ms. Bouman reviewed the standards as stated in Sec. 38-246 (2):

1. Whether strict compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would render conformity with such restrictions unnecessarily burdensome.

**Ms. Bouman finds that in this case the architect could comply with the area available to the east.**

2. Whether granting a variance would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property and be more consistent with justice to other property owners.

**Ms. Bouman finds this property to be consistent with the other property owners who have built within the restrictions and to be consistent with the neighborhood, to stay within 30' makes the most sense.**

3. Whether the plight of the owner/applicant is due to unique circumstances of the property and not to general conditions of the zoning district.

**Ms. Bouman finds there is more room on the site to meet the current zoning regulations.**

4. Whether the problem is self-created.

**Ms. Bouman finds the problem is self-created since the applicant can keep the existing structure or remodel it with compliance on both sides.**

### **VOTE**

Motion carried: 4:0

**Item #2      A variance request by Uildriks Construction, on behalf of the Ottawa Beach Inn (Hermina K. Overway Trust) for a lesser front yard setback and a lesser side yard setback than allowed for a proposed enclosure, per section 38-455 (1) and 38-455 (2) of the Park Township Code of Ordinances. Said land and premises are located at 2155 Ottawa Beach Road (Parcel #70-15-33-201-011, C-2).**

Mr. Bowman introduced the second variance issue submitted by Mr. Rick Uildriks on behalf of Ottawa Beach Inn. As background, the applicant wants to enclose a cut out corner of the restaurant, and extend the front and east side walls of the building and extend the substandard side yard setback by 6.3'. The lot is surrounded by R-4 Medium Density One and Two Family Residence District, though it is currently State Park area, used and owned by the State of Michigan.

Rick Uildricks of Uildricks Construction described the plans for the proposed addition to the restaurant. Seating will remain the same although the addition will allow more space for rearranging table space. The concern regarding space for handicapped parking will be accommodated by the addition of two spaces. Another handicapped parking spot could be created on the west side when the parking lot is re-sealed if the 9'.6 spaces were changed to the 9' space allowed by code. The applicant requests the variance for the wall that holds the roof.

Chair Chair Foster appreciated the provision for handicapped parking. He asked about signage for the handicapped and Mr. Uildricks said that would be part of the building permit.

Chair Chair Foster asked for clarification on the proposed enclosed space. Mr. Uildricks said the half the space will be a waiting area and half will be for dining space.

Ms. Bouman asked if the interior layout will remain the same. Mr. Uildricks described the changes to accommodate more wait space.

Mr. Bowman confirmed there will be no increase in seating space. Mr. Uildricks said that was the case.

## **PUBLIC COMMENT**

Skip Mickleworth, 2323 Pavilion – asked if the Board received any letters about this request.

Chair Foster said the Board had received only one letter and that was from the Department of Natural Resources and Environment Recreation Division. The concern was about parking across the road on State property.

Mr. Mickleworth said he was concerned about keeping it a historic district and spoke in favor of the request. The Ottawa Beach Inn is a good neighbor and hopes the Board supports this request.

Public Comment closed at 7:10 PM.

Chair Foster asked Mr. Bowman about the State's concerns regarding parking. Mr. Bowman explained their concern and said we can't address that in this variance request. State parking permits and parking enforcement along highways are not an issue for the Township.

Joel Welch, 679 Bosma – asked to clarify for the Board's information that he understood the property across the street is Ottawa County property not State Park property.

### **MOTION**

Mr. Dreyer moved and Ms. Bouman supported approving the variance as requested. He appreciated the provision of handicapped parking and a ramp for handicapped access.

### **DISCUSSION**

Mr. Dreyer read the variance review standards as stated in Section 38-455 (1) and 38-455 (2) of the Park Township Zoning Ordinance.

1. Whether strict compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would render conformity with such restrictions unnecessarily burdensome.

**Mr. Dreyer finds it would be burdensome because of the size of the lot. The change does not extend the building and closer to the neighboring property to the east, it will upgrade the facility, and provide more space inside for inclement weather.**

2. Whether granting a variance would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property and be more consistent with justice to other property owners.

**Mr. Dreyer finds a granted variance would do justice to the applicant because it allows the applicant to enclose a section of the roofed-in area. A lesser relaxation would not be possible because it is a small addition and to have him back it up a couple feet more to the west would make that corner unusable.**

3. Whether the plight of the owner/applicant is due to unique circumstances of the property and not to general conditions of the zoning district.

**Mr. Dreyer finds it is unique because it is a small commercial lot. There is no other space for expansion. It is also an "R" zone with a 25' side yard requirement as a means to ensure there is minimal impact on an adjacent residential use and won't be developed as residential property.**

4. Whether the problem is self-created.

**Mr. Dreyer finds it is not self-created because the lot is small and the applicant has no other option.**

Mr. Dreyer included that the variance approval include a condition that the applicant is held to provision of handicapped parking as required by the Township and no additional tables for dining will be included in the new space.

#### **VOTE**

Motion carried: 4:0

#### **ANNOUNCEMENTS**

Ms. Reyes will be absent for the March meeting, and possibly in April. Chair Foster asked if the Board had an alternate. Mr. Dreyer recalled that Steve Schaftenaar was named as an alternate at one time. Mr. Bowman will ask Mr. Felix about this so the meetings will be covered to provide a quorum.

#### **MOTION**

Ms. Bouman moved and Mr. Dreyer supported a motion to adjourn.

#### **VOTE**

Motion carried: 4:0

#### **ADJOURNMENT**

The meeting adjourned at 7:26 PM.

Respectfully submitted,

Judith R. Hemwall  
3/3/2011