



PARK TOWNSHIP

ZONING BOARD OF APPEALS

Regular Meeting

July 26, 2010

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, Doug Dreyer, Joannie Bouman, Nicki Arendshorst, Dan Martin, attorney, and Eric Davis, Zoning Administrator

Absent: Lu Reyes

MOTION

A motion was made by Arendshorst and supported by Dreyer to approve the agenda as presented.

VOTE

Motion carried: 3-0

MOTION

A motion was made by Dreyer and supported by Arendshorst to approve the minutes for the June 28, 2010 regular meeting as presented.

VOTE

Motion carried: 3-0

Davis introduced item #1.

Item #1 A variance request by Thomas Connolly to build an accessory building addition that would have a front setback that would be closer than allowed per section 38-491 (b) (2) (e) of the Park Township Code of Ordinances. Said land and premises are located at 1717 S. Shore Dr. (Parcel # 70-15-34-425-023 R-3)

Thomas Connolly, 1717 S. Shore Dr., stated that he would like to build an addition on their detached garage that is currently too close to the front lot line.

Arendshorst asked if they had considered moving the garage further back from the street before adding on.

Connolly stated that the existing garage has living space on the second story so it would be a hardship to move it.

Arendshorst asked about the roofline of the proposed garage addition.

Connolly stated that there would be no living space over the new garage addition.

Rylen Flieman, builder, stated that the roofline would come straight down to a single-story garage addition if that works. Otherwise, it would be a lean-to type.

Dreyer stated that now that he knows there is living space in the garage it makes it a safety issue to allow it to expand that close to the road. The township's goal is always to bring things into compliance.

Foster asked if two cars would be there on a regular basis.

(Bouman arrived.)

Connolly stated that they need a place for two cars. His wife currently parks down the street.

Foster asked about building the addition towards the back of the existing garage rather than on the side.

Connolly stated that that would be their second plan if the variance is not granted.

There was a discussion on options.

Arendshorst stated that this was a difficult decision because there is plenty of room to do something else.

Flieman pointed out that there is a grade difference on the lot that would make it difficult to build to the back.

A discussion ensued.

Bouman stated that she was concerned about safety with the traffic on S. Shore Dr.

The public hearing was opened at 6:48 p.m.

Randy Rifkin, 1722 S. Shore Dr., stated that this garage is directly across from his front porch. He stated that even though he knows that a view is not protected, he wanted to point out some points from the ordinance. He read about strict compliance and substantial justice. He stated that he thought that a lesser relaxation would be a better idea. He stated that if the variance were granted he would have a large wooden wall across the street from his porch. He reminded the members that this building would never be allowed to be built today this close to the street, so allowing the variance to be granted would not provide substantial justice to him, the neighbor. He stated that he would like to see the garage expanded to the north (or back).

Steve Ratliff, 1714 S. Shore Dr., stated that he understands the difficult position of all parties. If the garage were moved back the required forty feet, it would create a “view issue” for him. If the addition were built on the north, it would not create a view issue for him.

Connolly stated that building to the north would obstruct the view from the neighbor’s garage apartment.

The public hearing was closed at 6:58 p.m.

MOTION

A motion was made by Arendshorst and supported by Dreyer to deny the request to build an addition on the garage.

Arendshorst went over the four standards (found at the end of these minutes) for a practical difficulty for a dimensional variance:

1. Strict compliance would not be unnecessarily burdensome because the applicant has other ways to accomplish this garage space.
2. Granting a lesser relaxation would do substantial justice to the applicant and to other property owners in the district.
3. The lot is not unique in the district.
4. This is not self-created.

The first three standards cannot be met.

VOTE

Motion carried to deny: 4-0

Davis introduced item #2.

Item #2 A variance request by Thomas Connolly to build a house addition that would have a side setback that would be closer than allowed per section 38-276 (2) of the Park Township Code of Ordinances. Said land and premises are located at 1717 S. Shore Dr. (Parcel # 70-15-34-425-023 R-3)

Rylen Flieman, builder, stated that they would like to build an addition onto the existing house that would be too close to the side property line.

Foster asked about any tree removal.

Flieman stated that there would be a beech tree removed.

The public hearing was opened at 7:09 p.m.

No one spoke.

The public hearing was closed at 7:09 p.m.

Dreyer asked about adding a garage stall onto the house.

Flieman stated that that would be difficult from a design aspect.

MOTION

A motion was made by Dreyer and supported by Arendshorst to approve the addition as requested.

Dreyer went over the four standards (found at the end of these minutes) for a practical difficulty for a dimensional variance:

1. Strict compliance would be unnecessarily burdensome because the applicant doesn't have another place to expand and this makes it easier to blend in with the existing architecture.
2. Granting the variance would do substantial justice to the applicant and is consistent with other properties in the neighborhood. A lesser relaxation is not possible.
3. This is a lakefront lot.
4. This is not self-created.

VOTE

Motion carried: 4-0

Item #3 An interpretation of Ord. No. ZM-44 Section 2 (A) as it relates to the menu items at 2233 Ottawa Beach Rd.

Davis introduced the item.

Foster asked the public to keep their comments to the interpretation of the ordinance language.

The public hearing was opened at 7:15 p.m.

Mike DeVries, 2226 Ottawa Beach Rd., stated that during the original approvals for this business he was against it. He stated that he now knows that he was wrong. He stated that he felt that "Smitty's" has proven to be a good neighbor and all promises have been kept, with class. He stated that he felt that it shouldn't matter what the business sells.

Bruce Blakeman, 283 Portchester Rd., stated that times change. He stated that the definition of "snack foods" has changed through the years and now means "food for light meals or for eating between meals". He stated that "Smitty's" has a long way to go before providing all snacks.

Dwight Berens, 2226 Ottawa Beach Rd., stated that he would like to see the board do what they can to help this business succeed.

Molly McVay-Walters, 1919 Poplar St., stated that this is a wonderful business that is doing a great job. "Let him go."

Rod Mudge, 2250 First Ave., stated that it is "interesting" that the term "language" has been used. He stated that in the beginning it was the "language" that assured him that this would be a small venture. As

“Smitty’s” exists now in the neighborhood, it is not a problem. However, how will this grow if the “language” is changed? Where does it stop? He stated that he is uncomfortable with the thought.

Sally Pollock, 2285 Ottawa Beach Rd., stated that she felt that this was a “slippery slope”. She feels that the concept of conditional rezoning is being broken. This makes a mockery of the term “conditional”. She asked that the ZBA vote against this interpretation.

Jan Walters, 679 Bosma Ave., stated that the wording in the ordinance should be clearer. There should not be words like “such as”. The board has an opportunity to “set the record straight”. She asked that the ZBA remember that this business is in a residential neighborhood.

David Lind, 2411 Lake Michigan Ave., stated “What I’m starting to learn is, and what I have been told is an avenue of Park Township that has happened before, is if you really want to do something you just go ahead and do it and then ask for forgiveness later.” He stated that he feels that that is what has happened in this case. “The administration of the township is recommending that you approve what he has already done.” This process affects future property owners that would come before the ZBA for similar requests.

Joel Welch, 679 Bosma Ave., supplied a handout. He stated that he felt that this was at the ZBA due to a poorly worded state law and a poorly worded ordinance. He stated that Dan Martin, the township attorney, in two separate meetings, offered his opinion that the owner was in violation of the conditions of the rezoning. He stated that while Davis has the right to issue an interpretation, he felt that the interpretation is wrong and should be reversed. This will result in self-interpretation on the part of the owner and/or a constant return to the ZBA for interpretation.

Karen Schaner, 16719 Ashley Lane, asked if the ZBA got a lot of letters supporting Smitty’s. (Foster stated that they received approximately twelve letters total.) She stated that she didn’t think more and more items would be added to the menu because the building doesn’t have that much space. She stated that if this is turned down, Holland won’t be known as the “Happy City” anymore. She stated that only a few people are opposed.

Kimberly Smith, 15860 Fendt Farm Dr., owner, stated that she wanted to correct a misstatement by a previous speaker. When they came before it was for menu changes, hour changes and season changes.

Mike DeVries wanted to clarify that he does not know the owners.

The public hearing was closed at 7:39 p.m.

Arendshorst reiterated that this meeting is for the interpretation of the ordinance language that has already been written. She stated that when this came before the planning commission (PC) she felt that the intention of “chips and similar items” meant “things in a bag”. She is not opposed to the selling of these items, but expansion of the menu should be through an application to the PC.

Foster stated that he agreed with some of the points made by Arendshorst. He stated that he felt that the original intention of the owner was to keep this a small venture. He stated that he also felt that the applicant should go to the PC. It is a matter of procedure.

Bouman clarified that they have been charged with interpreting the ordinance written for the conditional rezoning.

Martin clarified that that was true.

Bouman stated that she felt that these menu items are similar.

Dreyer stated that he believed that the administrative interpretation was well done. He stated that he wished “this” could get beyond “snacks”. He stated that he would like to see this energy put to something positive. He stated that he doesn’t understand how a certain snack can be so upsetting to the neighbors. He stated that he felt that they should uphold the Zoning Administrator’s (ZA) interpretation. Any future items can continue to be interpreted by the ZA.

MOTION

A motion was made by Dreyer and supported by Bouman to uphold the administrative interpretation of staff regarding Ord. No. ZM-44 Section 2 (A).

VOTE

Motion carried: 3-1 (Arendshorst)

ANNOUNCEMENTS

MOTION

A motion was made by Dreyer and supported by Arendshorst to adjourn at 7:55 p.m.

VOTE

Motion carried: 4-0

Meeting adjourned.

Sandy Brodie
Recording Secretary

The following briefly states the standards used for finding a practical difficulty for a dimensional variance:

- a. 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.
- b. 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.

- c. Whether the plight of the owner/applicant is due to unique circumstances of the property and not to general conditions of the zoning district.
- d. Whether the problem is self-created.

The following briefly states the standards used for finding an unnecessary hardship for a use variance:

- a. That the property cannot be used for any of the uses permitted in the district in which it is located. This means none of the uses (by right or special use permit) allow a reasonable economic return on the use of the property.
- b. That the plight of the property owner is due to unique circumstances peculiar to the property (i.e. odd shape or a natural feature like a stream or wetland) and is not due to general neighborhood conditions.
- c. That the proposed use would not alter the essential character of the area.
- d. That the problem was not self-created.