



PARK TOWNSHIP

ZONING BOARD OF APPEALS

Regular Meeting

August 23, 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, Lu Reyes and Eric Davis, Zoning Administrator

Absent: None

MOTION

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

VOTE

Motion carried: 5-0

MOTION

A motion was made by Dreyer and supported by Reyes to approve the minutes for the July 26, 2010 regular meeting as presented.

VOTE

Motion carried: 5-0

Davis introduced item #1.

Item #1 A variance request by Gloria Gilmer to erect a fence that would be taller than allowed in the front and rear yards of a lakefront lot per section 38-498 (b) of the Park Township Code of Ordinances. Said land and premises are located at 133 Michigan Ave. (Parcel # 70-15-28-180-011 R-2)

Jason Schnelker, attorney on behalf of Gloria Gilmer, stated that a taller fence is being requested to prevent people from coming onto the property. This property is right by the public beach access stairway. There are also two dogs that stay at the property and this taller fence would help to keep them separated from the public.

The public hearing was opened at 6:35 p.m.

Barbara Grissen, 128 Heights Ave., asked for clarification on where the fence would be.

Lynne Hendrix, 155 Michigan Ave., stated that she understands the need for privacy. She stated that, living next door, she has never seen trespassers at the Gilmer's. She stated that she tries to question people who are in the area that are not known to be neighbors. She stated that a fence wouldn't contain dogs because it would be just one piece of a fence. She asked if a DEQ (DNRE) permit had been obtained.

Schnelker stated that this fence would not be in the dune area, but a DEQ (DNRE) permit would be obtained, if needed. He clarified that invisible fencing would likely also be installed to contain the dogs.

Hendrix asked the length of the fence.

Schnelker stated that it would be six feet (6') high and eight feet (8') long.

Peter Deede, 2438 S. Idlewood Rd., asked that the length and type of fence be specified verbally with any approval given.

Ted Du Mez, 98 Michigan Ave., asked if this would set a precedent. Would all the lakefront owners then be able to build a six-foot (6') fence right out to the edge of the bluff? He stated that he felt that many property owners along the lake would like to put fences out toward the bluff.

Arendshorst clarified that each variance stands alone.

The public hearing was closed at 6:55 p.m.

Foster asked if there would be a gate.

Schnelker stated that there would be a gate. He submitted some photographs showing that the fence would look exactly like the fence on the east side of the property.

The Zoning Board of Appeals (ZBA) members went over the four standards (found at the end of these minutes) for a practical difficulty for a dimensional variance.

A question was asked from the audience about what side of the house is considered the "front". Foster clarified that it is the Michigan Ave. side. Dreyer explained that this fence, as proposed, would be placed within the first forty feet (40') of the front yard off of Michigan Ave. so that is why this is a variance for a over-height fence in a front yard.

There was another discussion on the standards.

Dreyer stated that he was not sure how the first standard could be met.

Arendshorst agreed that she also didn't see how the restriction was unnecessarily burdensome.

Dreyer stated that there is an argument for the privacy issue and the trespassing issue. He stated that he does understand the request for an over-height fence for those reasons.

Schnelker asked what another solution would be if this is not unnecessarily burdensome.

After discussion, Dreyer stated that he thought that the four standards have been met.

MOTION

A motion was made by Dreyer to approve the variance as requested; not to exceed the length or height as presented.

There was no support for this motion.

Schnelker asked if the ZBA members had further questions.

Bouman stated that she felt that a three-foot (3') fence would restrict someone from entering the property. It is an adequate deterrent. This area is a close-knit community and strangers are watched.

Reyes wondered if there have been problems in this area. She stated that she felt that a three-foot (3') fence is clearly a deterrent.

MOTION

A motion was made by Bouman and supported by Foster to deny the variance as requested because the first standard cannot be met. It is not unnecessarily burdensome to comply with the ordinance by constructing a three-foot (3') fence.

VOTE

Motion carried to deny: 3-2 (Dreyer, Foster)

Schnelker requested a roll call: Arendshorst, Reyes, Bouman: Yes
Foster, Dreyer: No

Davis introduced item #2.

Item #2 Donald Melvin is requesting a special use per section 38-491 (b) (2) (g) to place an accessory building on a lakefront lot closer to the side and front property lines than allowed. This property is located at 108 Michigan Ave. (Tax Parcel # 70-15-28-135-019 R-2)

Don Melvin, 108 Michigan Ave., clarified that the proposed accessory building would be eighteen feet (18') from the front lot line, not ten feet (10') as submitted. It would be placed approximately one foot (1') from the north property line, tucked into the trees. The proposed building would be 8' x 16'. The building would look like the house.

Dreyer asked the distance of the neighbor's shed from the road.

Melvin stated that it is approximately thirty-three feet (33') from the front property line.

Foster asked the purpose of the accessory building.

Melvin stated that they need storage space for a kayak, lawn furniture, etc.

Reyes asked if any trees would need to come down.

Melvin stated that only some south branches would need to be removed.

Arendshorst asked if they have talked to the neighbors.

Melvin stated that they have, but just briefly. He stated that no one expressed concerns.

The public hearing was opened at 7:27 p.m.

Bob Tuinstra, representing his mother at 104 Michigan Ave., submitted a letter. He stated that they felt that the proposed building would be an "eyesore". It would look like a garage and it would block their view in the front yard.

Lois Tuinstra, 104 Michigan Ave., stated that her cottage is very small. She stated that she had plans in the past to move her shed but they were going to have to move it away from the property line eight feet, so they didn't move it. They have a very small view of the lake and the view to the front would be very limited with this proposed building.

Arendshorst asked Melvin if he had considered putting a building to the south side of the house, up closer to the garage.

Melvin stated that he wants it more nestled in the tress rather than in the middle of the yard.

There was a discussion on options, trees, landscaping, the height and size of the proposed building, alternate locations, existing buildings, etc.

Melvin clarified that the height of the proposed building would be approximately 10'-11' tall.

The public hearing was closed at 7:44 p.m.

Dreyer stated that this seems to be a good location for the building. Arendshorst and Foster agreed.

MOTION

A motion was made by Reyes and supported by Dreyer to approve the special use establishing the location of an 8' x 16' accessory building with the following conditions:

1. One foot (1') from the north lot line
2. Eighteen feet (18') from the east lot line
3. Building height (at peak) to be limited to twelve feet (12')

Reyes went over the special use standards (found at the end of these minutes) used to establish lesser front, rear, or side yard setbacks for an accessory building on lots abutting Lake Michigan or Lake Macatawa.

1. This would be the most obvious location because of the septic system.
2. The applicant has taken this into consideration and would nestle the building in the trees.
3. The building would look like the house and would not be in the middle of the yard by either neighbor.

VOTE

Motion carried: 5-0

ANNOUNCEMENTS

1. Arendshorst encouraged the ZBA members to attend one of the last two Master Plan meetings.
2. Dreyer stated that he had been accused of saying some things at last month's ZBA meeting that he didn't say and because the accusations came at the board meeting he will be clarifying and addressing those statements at the September Board of Trustees meeting.

MOTION

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

VOTE

Motion carried: 5-0

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 standards are used to establish lesser front, rear, or side yard setbacks or the placement of an accessory building between the principal building and the water's edge as a special use on lots abutting Lake Michigan or Lake Macatawa.

1. The location of buildings on the lot or adjoining properties;
2. The effect of the proposed accessory building on adjoining properties in relation to view, light and air circulation, noise, etc.; and
3. The character of the proposed accessory building and the effect on the surrounding neighborhood.