



PARK TOWNSHIP ZONING BOARD OF APPEALS MINUTES

Draft until approved at next meeting

August 25, 2008

DRAFT COPY

Chairman David Clark called the regular meeting of the Park Township Zoning Board of Appeals to order at 6:00 p.m.

Present: Doug Dreyer, Skip Keeter, David Clark, Jim Hertel, Nicki Arendshorst, Dan Martin, attorney and Eric Davis, Zoning Inspector

Absent: None

MOTION

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

VOTE

Motion carried: 5-0

MOTION

A motion was made by Hertel and supported by Keeter to approve the minutes for the July 28, 2008, regular meeting as presented.

VOTE

Motion carried: 5-0

Item #1 Bill Monhollon on behalf of Geralyn Plakmeyer is requesting variances from sections 8.04 (c) (rear yard setback) and 8.03 (height regulations) of the Park Township Zoning Ordinance to construct a house that would be closer than 50' to the rear property line and be greater than 2 ½ stories. Said land and premises are located at 17291 South St. and are more specifically described as tax parcel number 70-15-09-384-013. (R-2)

Bill Monhollon, builder, presented the variance request. He stated that the applicant is asking for a rear setback variance. It is difficult to do rear yard averaging because a corner lot is involved. Regarding the second part of the request they are not asking for a building higher than thirty-five feet, but for an interpretation of the 2 ½ story regulation.

The public hearing was opened at 6:12 p.m.

Al Elders, 17295 South St., stated that the proposed house looks like a three-story house. He asked for clarification on what the ordinance requires. He stated that he had no objection to the proposed rear setback.

Kenneth Breese, 17279 North St., stated that his concern is that this area is very congested already. He stated that he felt that there is nothing about the lot that makes it unique. He stated that he didn't see a practical difficulty that wasn't there when the lot was purchased. He stated that the variance should not be granted because there is no practical difficulty.

Ken Cuyler, 17292 South St., stated that he doesn't think the proposed house fits into the neighborhood. He stated that the current house is used as a rental and making it bigger would only add to the congestion.

The public hearing was closed at 6:20 p.m.

Davis stated that, in his interpretation, the main part of the house is three stories.

Keeter stated that he agreed that it seemed like a three-story house. Arendshorst and Hertel agreed.

Clark asked for the legal interpretation of 2 ½ stories.

Martin stated that the ordinance doesn't define a "story" or a "story above grade". He stated that it is defined in the residential building code and should be clarified in the Park Township ordinance. He stated that typically you look at the grade and see how many stories are above grade.

A discussion ensued.

Dreyer stated that even from a square footage standpoint, this "third" floor is over fifty percent of the square footage of the lower floors.

Monhollon stated that they could make the second floor larger.

Keeter stated that three stories are three stories.

Hertel and Arendshorst stated that they agreed with Keeter. They stated that they felt that this is too much house for the size of the lot.

There was a discussion on how to proceed.

Dreyer stated that he felt that this doesn't fit into the character of the neighborhood because it appears to be a three-story house.

Clark asked for consensus on whether this is a two-story structure or a three-story structure. All members, except Clark, stated that they felt that, as proposed, this would be a three-story structure and would need a variance.

Clark read a copy of an email in opposition from Linda Engelhard, 3378 Maple Ave.

Clark went over the four standards (found at the end of these minutes) for a practical difficulty for a dimensional variance regarding the 2 ½ stories:

1. It would not be burdensome. The house can be redesigned.
2. The proposed house is not consistent with the other houses in the neighborhood. Granting this variance would not do justice to the neighbors.
3. The lot is small and the only way to get a larger house is to build up.
4. This would be self-created.

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MOTION

A motion was made by Dreyer and supported by Hertel to deny the variance as requested because it cannot meet the four standards.

VOTE

Motion carried: 5-0

Regarding the rear setback Clark stated that there would only be a five foot (5') building envelope if the ordinance was adhered to.

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

1. This would be unnecessarily burdensome. The lot is small. The applicant was denied being able to build the third floor.
2. A lesser variance is not possible. The request is consistent with the neighborhood.
3. Many of the lots in the area have been combined with neighboring lots to create larger lots. This one has not, so that makes this one unique.
4. The lot was platted before the ordinance.

MOTION

A motion was made by Dreyer and supported by Keeter to approve the rear setback variance as requested because it can meet the four standards.

VOTE

Motion carried: 5-0

ANNOUNCEMENTS

1. It was determined to move the next meeting to September 29, 2008 so that more members could be in attendance.

MOTION

A motion was made by Dreyer and supported by Hertel to adjourn at 6:55 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.PRIVATE
- 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 in the area.
- 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.PRIVATE
- 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.