



## **PARK TOWNSHIP ZONING BOARD OF APPEALS MINUTES**

Draft until approved at next meeting

**September 29, 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, Nicki Arendshorst, Dan Martin, attorney and Eric Davis, Zoning Inspector

Absent: Jim Hertel

### **MOTION**

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

### **VOTE**

Motion carried: 4-0

### **MOTION**

A motion was made by Arendshorst and supported by Dreyer to approve the minutes for the August 25, 2008 regular meeting as presented.

### **VOTE**

Motion carried: 4-0

**Item #1** Lynne Hendrix is requesting variances from the area regulations for the R-2 zoning district. Ms. Hendrix would like to demolish the existing house and rebuild a house that would be closer to the property lines than what is required in section 8.04 of the Park Township Zoning Ordinance. This property is located at 155 Michigan Ave. in the Idlewood Beach Development (Parcel number 70-15-28-180-003).

Lynne Hendrix and Joe Zobkiw, friend, presented the request. They stated that in order to rebuild the cottage variances are required. The street is very narrow and the parking is very difficult.

The public hearing was opened at 6:10 p.m.

Jim Brown, attorney representing Gloria Gilmer, neighbor to the west, stated that they are supportive of improving this area. Mrs. Gilmer does have two concerns. The septic tanks are proposed to be within 1 ½ feet of Gilmer's property. This poses a concern for the integrity of the foundation and also a concern over what could happen should there be a failure of the septic system. He asked if any thought had been given to changing the location and putting the house closer to Gilmer's and moving the septic system further away. The second concern is regarding access during construction. He wanted to make sure that there were adequate safeguards in place so that access would be assured. He wondered if it was a fair trade off to have the house moved back so far just to gain parking spaces.

Davis stated that, according to the Ottawa County Health Department (OCHD), there is a very limited area where they can place the septic system. They have been working with the OCHD for almost one year.

Zobkiw stated that this is the optimal area that was finally approved by the OCHD for the septic system. A special OCHD board was convened for this approval.

Donna Burgess, 1837 E. Elizabeth Lane, Jension, asked about the parking.

Davis stated that the proposed parking is off street, with two spaces under the house and two spaces in the drive.

Dennis Grylicki, 2352 Central Ave., stated that he is in support of granting the variances.

Ken Perry, 122 Michigan Ave., stated he is in support of the proposal.

Robert Multz, 118 Michigan Ave., stated that he is in favor of granting the variances and is in support of the proposed method of construction.

Randy Bachman, 123 Michigan Ave., stated that he also is in favor.

Jim Brown asked again if it was really necessary to place the septic tanks so close to Gilmer's just to get two additional parking spaces.

Zobkiw stated that the septic system is the first concern. The placement is being driven by the OCHD. They also have to take into consideration the dune and the Department of Environmental Quality (DEQ) requirements.

The public hearing was closed at 6:25 p.m.

Clark clarified that they don't have control over the septic tank placement. It was determined to take all the variances together.

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

1. It would be burdensome because there would be no building envelope. There is also the dune issue.
2. It would do substantial justice to the property owner and the neighbors.
3. It is a small, unusual lot, especially with the dune issue.
4. This is not self-created.

Clark asked the proposed time table.

Zobkiw stated that they hope to be completed by spring 2009, but it may drag on to the end of 2009.

It was made clear to the applicant to make sure to keep the road clear during construction. Complaints would be referred to the Ottawa County Road Commission (OCRC).

#### **MOTION**

A motion was made by Dreyer and supported by Keeter to approve the variances because they meet the four standards. All necessary permits from other agencies must be obtained (DEQ, OCHD, OCRD, etc.)

#### **VOTE**

Motion carried: 4-0

**Item #2** Russell Packard is requesting a variance from the required lot area in the agricultural zone district. Mr. Packard would like to split a 2.25 acre parcel where 10 acres is required by section 6.04(d) of the Park Township Zoning Ordinance. This property is located at 3842 Butternut Dr. (Parcel number 70-15-12-100-016).

Russell Packard, representing his deceased brother (owner of the property), stated that they wanted to split the property into two lots, leaving the house on the ten acre piece instead of the smaller piece.

The public hearing was opened at 6:44 p.m.

Gerald Overway, 3750 Butternut Dr., asked to see the drawing of the proposed split. After seeing the proposal he stated that he did not have any problem with it.

The public hearing was closed at 6:45 p.m.

There was a discussion on the variance request.

Dreyer stated that he is always in favor of splitting lots to preserve the larger parcels from being used.

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

1. Strict compliance would create an unusual shaped lot.
2. A lesser relaxation doesn't work here.
3. It's unique because the house is located in the middle of the lot.
4. It's not self-created.

#### **MOTION**

A motion was made by Keeter and supported by Dreyer to approve the variance because it can meet the standards.

## **VOTE**

Motion carried: 4-0

**Item #3** Donald Heeringa is requesting a variance from the height limitation of fences in a rear yard of a water front lot. Mr. Heeringa would like to construct a fence that is higher than section 4.18(b) of the Park Township Zoning Ordinance allows. This property is located at 173 Oakwood Ave. (Parcel number 70-15-25-179-021).

Don Herringa, 173 Oakwood Ave., spoke for the appeal. He stated that he would like a 48" fence instead of the allowed 36". He stated that he wants to tie into an existing fence. The proposed fence would have a see-through design. There is a twenty-five foot drop off in that area so the neighbor could see over the fence.

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

Scott Petroelje, 958 Sycamore, stated that there are already a lot of obstructions to their view. He asked the ZBA to deny.

The public hearing was closed at 7:01 p.m.

Clark stated that he was not a major proponent of fences.

Keeter questioned if it would be better to have the fence conform to the existing fence.

Herringa stated that his supplier is able to produce a matching 36-inch fence, but it would be at an additional cost.

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

1. According to the applicant it is "Not a burden issue".
2. Is it justice to match it for appearance? What if it was a 6-foot board fence?
3. There is nothing unique about the property.
4. It is self-created.

## **MOTION**

A motion was made by Dreyer and supported by Arendshorst to deny the variance because it can't meet the four standards.

Dreyer asked if the variance can be conditioned on a specific fence.

Martin stated that it could.

Davis clarified that the standards had not been met.

Herringa asked if they could reduce the fence height in one area and get approval for the other area.

A discussion ensued. A lesser variance could be granted, but the standards still have to be met.

### **The motion and support were withdrawn.**

Martin stated that he would have a hard time defending this as the applicant himself stated that there are no practical difficulties.

Davis clarified that the fence only had to drop to 36" between the house and the water's edge.

Clark went over the four standards (found at the end of these minutes) for a practical difficulty for a dimensional variance and again the standards could not be met.

## **MOTION**

A motion was made by Dreyer and supported by Keeter to deny the variance because it can't meet the four standards.

## **VOTE**

Motion carried: 4-0

## **ANNOUNCEMENTS**

1. Arendshorst stated that she had information about two items that the ZBA had asked her to gather:
  - a. The interpretation of "2 ½ stories" is up to the ZBA.
  - b. The idea of a new zoning district or an overlay district has gone to the Master Plan Committee. Some suggestions were given as to how to approach this.

**MOTION**

A motion was made by Arendshorst and supported by Keeter to adjourn at 7:43 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.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.