

MINUTES

PARK TOWNSHIP ZONING BOARD OF APPEALS

Regular Meeting
October 24, 2011
6:35 PM

DRAFT COPY

Chair, John Foster, called the regular meeting of the Park Township Zoning Board of Appeals to order at 6:35 P.M.

Present: John Foster, John Barwis, Doug Dreyer, Sally Pollock

Absent: Joannie Bouman, Dennis Eade

Others: Andy Bowman, Staff Planner, Ed de Vries, Code Compliance Officer

MOTION

A motion was made by Dreyer and supported by Pollock to approve the minutes of the October 3, 2011 regular meeting as presented.

VOTE: Ayes: 4, Nays: 0. Motion Carried.

AGENDA Item #1 A variance request by Keith and Janell Timmer for a lesser side yard setback than allowed for a proposed residential addition, per section 38-276 (2) of the Park Township Code of Ordinances. Said land and premises are located at 1734 Waukazoo Dr., Holland, MI. (Parcel #70-15-27-296-005, R-3)

Bowman introduced the agenda item. The applicant's current dwelling is built right at the 10 foot side yard setback. The proposal is to build an alcove for a gas fireplace at the side of the home. The first issue to be addressed is an interpretation of what is typically a projection on a house such as a bay window, dormer, or in this case, a fireplace. These are considered in many zoning ordinances to not be subject to setback requirements in the same way as a main wall of a building. The Zoning Board of Appeals should first consider whether it wants to use only the main wall of a building to determine setback or to include such a projection in setback determinations thus requiring a variance for the addition proposed by Timmer's.

Bowman also presented a written report from 2006 entitled "*Report of the Park Township Zoning Board of Appeals Regarding Interpretation of Side Yard*"

Setbacks and Building Height Limitations in General and as Applied to Tax Parcel ID# 70-15-04-399-001". The report included an analysis of a similar request and how the ZBA ruled the zoning ordinance should be interpreted. The critical portion of the report read as follows:

"...the preferred interpretation is that a side yard building setback should be measured from the nearest point of the side lot line to the nearest part of the main building, including any cantilevered portion of a building that includes living space. This should not apply to portions of building such as chimney chases, roof overhangs, eaves, etc., that do not include living spaces."

Dreyer said he recalled the application that precipitated the 2006 interpretation. The applicant wanted to construct a 10 foot cantilever on the first floor across the entire width of the home. There was considerable discussion at the time about where the line should be drawn in allowing such large setback intrusions and living area bump outs.

Bowman recommended the Board of Appeals could come up with an overall limitation which could go to the Zoning Administrator for future consideration.

Dreyer suggested allowing the applicant to go ahead with his building permit application since he conforms to the 2006 interpretation..

Barwis questioned if an ordinance amendment can cover every situation.

Bowman suggested that such an amendment could be written allowing some zoning administrator latitude. He recommended obtaining additional input from Township office staff for appropriate language in reviewing such requests.

Pollock pointed out that the key factor is that the bump out or projection cannot extend the living space and that is not relevant in this instance.

MOTION

Barwis moved and Dreyer supported that the applicant's proposal does not follow the definition of a minimum setback and, therefore, an appeal is not necessary in this case.

VOTE: Ayes: 4, Nays: 0. Motion Carried.

Timmer asked about the process from this point.

Bowman said he should continue applying for a building permit and communicate with Jerry Felix for further direction.

Dreyer recommended language to address instances where, for example, a proposal to build a fireplace could be so high or bulky that it would obstruct vision.

Bowman said language could be drafted to apply dimensions or accommodate a judgment that would address such a situation.

ANNOUNCEMENTS

None

ADJOURNMENT

MOTION

Dreyer moved and Pollock supported to adjourn the meeting at 6:55 P.M.

VOTE: VOTE: Ayes: 4, Nays: 0. Motion Carried.

Respectfully submitted,
Judith R. Hemwall
Recording Secretary
October 26, 2011