



**PARK TOWNSHIP
ZONING BOARD OF APPEALS**
Regular Meeting
November 23, 2009

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Chair John Foster called the regular meeting of the Park Township Zoning Board of Appeals to order at 6:00 p.m.

Present: John Foster, Doug Dreyer, Nicki Arendshorst, Lu Reyes, and Eric Davis, Zoning Administrator

Absent: Joannie Bouman

WORK STUDY SESSION

Item #1 Oath of Office

E.O. Keeter, Township Clerk, administered the oath of office to the Zoning Board of Appeals (ZBA) members.

The ZBA members went over the ZBA meeting procedures and rules.

MOTION

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

VOTE

Motion carried: 4-0

MOTION

A motion was made by Dreyer and supported by Arendshorst to approve the minutes for the October 26, 2009 regular meeting as presented.

VOTE

Motion carried: 4-0

Davis introduced item #2.

Item #2 James Cook on behalf of Gocke Cottage LLC is requesting a variance from section 10.04 of the Park Township Zoning Ordinance to build a two-story addition. Said land and premises are located at 2333 Pavillion St. (Parcel # 70-15-33-275-010 R-4)

James Cook, builder, spoke for the appeal. He stated that the applicant is asking to add on to a non-conforming house. He stated that the house is in dire need of repair and restructuring. He asked for any questions.

The public hearing was opened at 6:34 p.m.

Sally Pollock, 2285 Ottawa Beach Rd., stated that, as a neighbor, she is not opposed.

Lyn Pfent, 2186 Jacobusse Ct., stated that she is against variances in general because once you start to deviate from the rules it is harder to hold to them in the future. She stated that she thinks people should have some personal space. She stated that if this is the result of poor planning then the applicant should re-plan.

James Cook stated that this is not the result of poor planning, but rather due to the age and configuration of the neighborhood.

Arendshorst stated that she agreed that it should not be the norm to approve most variances. However, variance requests that can meet the standards should be approved.

The public hearing was closed at 6:40 p.m.

MOTION

A motion was made by Dreyer and supported by Arendshorst to approve the variance 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 lot is small. The building envelope is small and no improvements would be possible without a variance.
2. A lesser relaxation is not possible. They have the right to improve the cottage and bring it up to code.
3. The property is unique because it is small and narrow.
4. This is not self-created because it was platted and built prior to the ordinance.

VOTE

Motion carried: 4-0

Davis introduced item #3.

Item #3 Leslee Elkins is requesting a variance from sections 3.10 and 9.04 of the Park Township Zoning Ordinance to build a deck. Said land and premises are located at 2210 Bristol St. (Parcel # 70-15-21-476-014 R-3)

Leslee Elkins, owner, spoke for the appeal. She stated that they learned that the building envelope was not exactly what they thought it was and they did not realize that the deck had to be within the setbacks.

Arendshorst asked if the builder informed them about the problem.

Elkins stated that the builder probably knew the rules, but the deck wasn't discussed until later in the process. The plans for the house were changed along the way.

Reyes asked if the deck was in the original plan.

Elkins stated that they knew they wanted a deck, but they didn't define it.

Foster stated that the plans did show a deck.

Elkins stated that they tried different configurations.

A discussion ensued.

Dreyer asked Elkins how to answer the standard of "self-creation".

Elkins did not provide an answer for that question. She stated that she didn't know how anyone else would be able to build on this lot either.

Arendshorst clarified that they could have designed a house that included a deck that would have fit the lot. This variance request wouldn't meet the self-created standard, regardless of why it was built this way.

Davis clarified that the fourth standard is referring to the practical difficulty being self-created. He stated that the applicant is using the odd jog in the lot line as the alleged practical difficulty.

Arendshorst asked about standard two in this context.

Davis stated that, judging from the discussion, the question to consider is: Does the shape of the lot make it difficult to comply with the ordinance?

Dreyer stated that he would allow for certain lesser variances, but there is an envelope for a deck on this property. He described this scenario.

A discussion ensued about a lesser relaxation and ways to place a deck within the building envelope.

The public hearing was opened at 7:08 p.m.

Lyn Pfent, 2186 Jacobusse Ct., stated that the house is on a high dune. She stated that she lives down by the bottom of that dune. She stated that while she would like to see the Elkins be able to enjoy their new house, she wanted the privacy of the neighborhood preserved as well.

The public hearing was closed at 7:11 p.m.

There was a discussion on lesser variances, options, etc.

MOTION

A motion was made by Arendshorst and supported by Reyes to table the item to a subsequent meeting and allow the applicant to design a deck configuration that fits more closely into the building envelope.

VOTE

Motion carried: 4-0

Item #4 2010 Planning Commission Meeting Times

There was a discussion on having one meeting on the “south side”.

MOTION

A motion was made by Dreyer and supported by Reyes to set the Zoning Board of Appeals meeting schedule for 2010 as every fourth Monday, as needed, at 6:30 p.m. Meeting will be held at the Park Township Hall unless duly published to hold a “south side” meeting.

VOTE

Motion carried: 4-0

ANNOUNCEMENTS

MOTION

A motion was made by Arendshorst and supported by Reyes to adjourn at 7:17 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.