

PROPOSED MINUTES
LAKETOWN TOWNSHIP
ZONING BOARD OF APPEALS
4338 BEELINE ROAD
ALLEGAN COUNTY
HOLLAND, MI 49423
(616) 335-3050

November 30, 2016

ARTICLE I. CALL TO ORDER

Chairman David Weishaar called the regular monthly Zoning Board of Appeals meeting to order at 7:00 P.M. Mr. Weishaar introduced the members of the board and staff to the audience.

MEMBERS PRESENT: David Weishaar, Bob Slikkers, Casey Kimes, Jim Johnson, Richard Swanson, Carl Blauwkamp

MEMBERS ABSENT: Ed Stielstra (filled in for by Richard Swanson; Casey Kimes served as the alternate)

STAFF PRESENT: Al Meshkin – Township Manager
Ron Bultje – Township Attorney
Diane Ybarra – Recording Secretary

ARTICLE II. APPROVAL OF MINUTES

The Zoning Board of Appeals members reviewed the minutes of the August 24, 2016 meeting. **A motion was made by Slikkers and seconded by Johnson to approve the minutes as submitted. Chair Weishaar called for a vote on the motion. UNANIMOUS DECISION – MOTION APPROVED.**

ARTICLE III. OLD BUSINESS - None

ARTICLE IV. NEW BUSINESS

A. RPE TRUST VARIANCE REQUEST (Lot #179)

RPE Trust, owner or agent of property located at 797 Lakeside Drive, Lot #179 of Macatawa Park, that being tax parcel #0311-340-179-00, requests variances from Section 38-242 and Section 38-63 of the zoning code. Section 38-242 requires minimum front, rear and side setbacks. Section 38-63 prohibits parking in the first 25 feet of the front yard. RPE Trust would like to construct a new cottage on this parcel that would not meet these minimum setback requirements, and that would allow parking in the first 25 feet of the front yard.

Garth Everhart represented Nancy Everhart and provided an aerial photo of the property noted above. Everhart explained that he is again applying for the variance without the condition of municipal water. Everhart also noted that the debate regarding the land ownership previously noted in the prior application was confirmed in a court of law to be owned by Everhart. The parcel is one of the largest in the area. There was a house on the lot until the fire of 1927. Neighbors use Griswold Avenue for access. Other lots in the area routinely provide parking in their front yards. The home will be oriented toward the lake, but the front yard will front Griswold Avenue. To date the Planning Commission has approved the special use, and DEQ and Erosion Control permits have been obtained. The Zoning Board of Appeals approved variances in 2014 and 2015 for this lot and the other lots in the area owned by Everhart. The cottage has been positioned to maintain 10 feet from Mishawaka Walk and also kept the view intact on Griswold toward the lake for neighbors. As previously mentioned, parking will be in the front yard with the only access from Griswold, a one-way road that goes up around Crescent Walk. The applicant cannot meet the standards for this lot because it is too small and the lot was created in 1888, before the standards were created. The front and rear setbacks are consistent with neighbors as is the parking. The applicant believes approving this variance would be consistent with what other neighbors enjoy as a property right.

Johnson asked for clarification of the street name as noted on the aerial photo. Everhart explained that Google Earth has labeled it incorrectly but it is Griswold and not Mishawaka. Swanson asked on the east side of lot #179, is there a water or sewer easement? Everhart said it is a public utility easement.

Chairman Weishaar opened the public hearing.

Chairman Weishaar noted for the record letters received from Kyle Hubbel of 2450 Nahant Path in opposition to the requested variance; and from Jean Wortman of Tucson, Arizona with no opposition but construction should be contained within the specified lot and parking and exiting should only use that property or community roads without encroaching or using private property in the area.

Bill Sikkel of 42 E. Lakewood Blvd represented the Porters, owners of lots #180 and #181. Sikkel referred to a letter submitted on the Porters' behalf earlier in the week. The Porters do not have an objection to the desire to construct a cottage but have concerns with parking, specifically in the front yard. This creates potential safety concerns. Sikkel noted there are alternatives available such as the eastern side of the property. Griswold is only 8 feet wide, so it is not adequate for pedestrian and vehicular traffic. Another concern is the limited space to maneuver pulling in and out of the driveway which would cause more interaction with pedestrian traffic and also the likelihood of encroaching on the Porter property, which currently happens when people do not realize they have reached a dead end. Sikkel then reviewed the criteria needed to approve a variance and claimed this request does not meet the standards. Sikkel stated the lot is not unique for the neighborhood; there is no substantial property right to park in the front yard; the variance would create a safety concern; parking is a typical problem in the area; and the desire to park in the front yard is a self-created problem because an alternative location exists.

Swanson asked for clarification of the street name and Sikkel responded that it is Griswold but has

historically been referred to as Crescent Walk. Slikkers asked where Griswold narrows to 8 feet and Sikkell responded at the start of lot #179. Everhart said it is 8 feet wide all the way down to South Shore Drive. Slikkers questioned if the concern is about parking in the front yard or that drivers would be driving on the Porters' property. He does not necessarily agree front yard parking is a safety issue. Slikkers noted the alternative parking area suggested by the Porters is also in the first 25 feet of the front yard. The benefit to the parking area requested by the applicant is that traffic is not moving fast here where there is not a clear line of sight. He asked where do the Porters park and Sikkell explained that they have two lots, one of which is vacant and used for parking and turn around. Slikkers said people do park in their front yards in this area. Johnson said he would have considered the elevation facing the beach the front. Meshkin said the front yard is the portion facing the road, but there are three roads facing the property (Mishawka, Lakeside and Griswold). Johnson said having gone to see the site, Griswold is extremely narrow and very steep and agrees it will take several maneuvers to navigate the driveway oriented as it is proposed. Swanson asked how construction vehicles will get into the area. Everhart said the contractors bring pick-up trucks and trailers, not large vehicles. Everhart said where the Porters want to put the driveway is the steepest area of the lot. The parking lot that the Porters have serves 4-6 cars and Everhart has never seen anyone turning around in it. Their driveway is a blind spot with bushes. Everhart said his request works because there is on grade parking. The car shown on the Nederveld drawing is a 19 foot vehicle, not a standard sized car. The applicant's intent is that drivers will pull down and back in, which is what most people do. Where the applicant wants to put the driveway is the flattest area. A 20 foot driveway gives a lot of maneuvering. Everhart says the Porters don't dispute the front yard parking variance but want the applicant to park someplace else. Nothing in the Nederveld drawing guarantees safety. Swanson said in regards to safety, people are walking slowly and cars will not be moving at great speeds; he asked is there really a safety issue or is it a straw man? Everhart said the safety issue is that he proposes no landscaping in his driveway like the Porters have, which makes Everhart's drive safer. Everhart also suggested realigning the Porter driveway but they would not agree to that.

Following discussion, a motion was made by Slikkers and seconded by Swanson to close the public hearing. Chairman Weishaar called for a vote on the motion. UNANIMOUS DECISION – MOTION APPROVED

Slikkers asked for confirmation from Bultje that all standards have been reviewed in the prior approval, and that only the condition of public water is now in question. Slikkers added that the Planning Commission reviewed and approved the special use permit without public water. Bultje said that previous variances had been granted when public water seemed likely to be extended, but that is now uncertain but not because of the applicant. The Planning Commission just eliminated the public water requirement. As for the parking, there are three roads along the property lines and to eliminate 25 feet from each road is not feasible if parking is to be provided on the lot, as required by the zoning code. The solution proposed by the Porters would require the same variance. There is a practical difficulty present.

Bultje reviewed the five points for a non-use variance. He noted it is a unique lot (not a unique lot in Macatawa but a unique lot in the Township); there is a substantial property right for parking on the lot as required by the zoning code; from a safety perspective, the opponents are certainly not trying to keep cars from a thoroughfare and given the conditions, there is no need to keep cars 25 feet from

the roadway; numerous other lots have the same or similar conditions; and this is not a self-created situation because the lot has been in existence for many decades.

Swanson asked if each variance must be voted on separately. Bultje explained that the variance request is for the parking and setbacks. Meshkin said this can be considered for approval with either a motion or resolution and report prepared by Bultje. Slikkers feels a report and resolution should be done due to the complexity of the request. Bultje said the Planning Commission requested a report and resolution for the special use request.

Following discussion, **a motion was made by Slikkers and seconded by Johnson to request that Bultje prepare a report and resolution to address the setback and parking variances requested by RPE Trust for this lot (#179). Chairman Weishaar called for vote on the motion. UNANIMOUS DECISION – MOTION APPROVED**

Further discussion determined that no more than five members of the Zoning Board of Appeals may participate in the vote with Swanson serving as the most senior alternate. Bultje suggested scheduling a public hearing regarding the variance addressing the parking as it was not published in the initial public hearing notice and would eliminate the possibility of a potential appeal. Meshkin will issue the public hearing notice for the next meeting.

B. RPE TRUST VARIANCE REQUEST (Lot #190, #191, and #221)

RPE Trust, owner or agent of property located at 2244 Griswold Avenue, Lots #190, #191, #221 of Macatawa Park, that being tax parcel #0311-340-190-00, requests variances from the setback requirements of Section 38-242 of the zoning code. This Section requires minimum front, rear and side setbacks. RPE Trust would like to construct a new cottage on this parcel that would not meet these minimum setback requirements.

Casey asked if the association dictates what can be done there or if the Township overrules. Bultje said neither can overrule the other but the Township ordinance requirements must be followed.

Garth Everhart represented Nancy Everhart regarding parcels #190, #191 and #221; he explained that the proposed cottage would be on a lot larger than the surrounding lots in the area. There are municipal utilities with the exception of water. Everhart provided an aerial photo of the lot and surrounding cottages. The lots are contiguous and in the shape of a boomerang. A neighbor, Roy Welton, filed a claim on the applicant's title for the pedestrian easement. The cottage will be entirely on parcel #190, although the preference was to build on #191 and #221 but the issue with Welton could not be resolved. The DEQ has granted permission to build on a slope and the erosion control permit has also been obtained. This was all approved in 2015 and the only change is the wall along Griswold was moved in 4 feet for the water project. Since the water didn't happen, this change will not occur but the applicant is open to it in the future. The proposed structure is consistent with neighboring properties so therefore the applicant believes the variance is warranted.

Johnson asked who will utilize the proposed cottages. Everhart said it is uncertain at this time.

Chairman Weishaar opened the public hearing.

Chairman Weishaar noted for record letters received from Kyle Hubbel of 2450 Nahant Path in opposition to the requested variance; and from Jean Wortman of Tucson, Arizona with no opposition but construction should be contained within the specified lot and parking and exiting should only use that property or community roads without encroaching or using private property in the area.

Following discussion but no public comments, **a motion was made by Slikkers and seconded by Swanson to close the public hearing. Chairman Weishaar called for a vote on the motion. UNANIMOUS DECISION – MOTION APPROVED**

Following discussion, **a motion was made by Slikkers and seconded by Johnson to request that Bultje prepare a report and resolution to address the setback variances requested for these lots. Chairman Weishaar called for vote on the motion. UNANIMOUS DECISION – MOTION APPROVED**

C. RPE TRUST VARIANCE REQUEST (Lot #219 and #220)

RPE Trust, owner or agent of property located at 2411 Griswold Avenue, Lots #219 and #220 of Macatawa Park, that being tax parcel #0311-340-219-00, requests variances from Section 38-242 and Section 38-63 of the zoning code. Section 38-242 requires minimum front, rear and side setbacks. Section 38-63 prohibits parking in the first 25 feet of the front yard. RPE Trust would like to construct a new cottage on this parcel that would not meet these minimum setback requirements, and that would allow parking in the first 25 feet of the front yard.

Garth Everhart represented Nancy Everhart in regards to the variance requests for lots #219 and #220. As noted above, the proposed structure is similar to that of neighboring properties, including the setbacks and the front yard parking. This cottage would be a two-story over a two-car garage. The Planning Commission approved this in November 2016 and also in 2015 with the condition of public water. The cottage has been moved to meet the side yard setbacks but does not meet the front and rear setbacks. The DEQ and erosion control permits have been obtained.

Chairman Weishaar opened the public hearing.

Chairman Weishaar noted for record letters received from Kyle Hubbel of 2450 Nahant Path in opposition to the requested variance; and from Jean Wortman of Tucson, Arizona with no opposition but construction should be contained within the specified lot and parking and exiting should only use that property or community roads without encroaching or using private property in the area.

Following discussion but no public comments, **a motion was made by Slikkers and seconded by Blauwkamp to close the public hearing. Chairman Weishaar called for a vote on the motion. UNANIMOUS DECISION – MOTION APPROVED**

Following discussion, **a motion was made by Slikkers and seconded by Johnson to request that Bultje prepare a report and resolution to address the setback and parking variances requested**

for these lots. Chairman Weishaar called for vote on the motion. UNANIMOUS DECISION – MOTION APPROVED

Bultje noted that a public hearing notice to address the front yard parking should be done on this request as well as the request for lot #179. Meshkin responded that he will schedule the meeting and the public hearings for December 28, 2016.

ARTICLE V. CITIZENS COMMENTS – No comments.

ARTICLE VI. ADJOURNMENT

A motion was made by Slikkers and seconded by Blauwkamp to adjourn the meeting at 8:13 P.M. Chair Weishaar called for a vote on the motion. UNANIMOUS DECISION – MOTION APPROVED