

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

June 27, 2018

ARTICLE I. CALL TO ORDER

Vice Chair Jim Johnson called the regular monthly Zoning Board of Appeals meeting to order at 7:03 P.M.

MEMBERS PRESENT: Jim Johnson, Marcia Perry, Casey Kimes, Richard Swanson
MEMBERS ABSENT: David Weishaar, Carl Blauwkamp, Ed Stielstra
STAFF PRESENT: Al Meshkin – Township Manager
Diane Ybarra – Recording Secretary

ARTICLE II. APPROVAL OF MINUTES

The Zoning Board of Appeals members reviewed the minutes of the March 28, 2018 meeting. **A motion was made by Kimes and seconded by Perry to approve the minutes as written. Vice Chair Johnson called for a vote on the motion. UNANIMOUS DECISION – MOTION APPROVED.**

ARTICLE III. OLD BUSINESS - None

ARTICLE IV. NEW BUSINESS

A. VAN ACKER VARIANCE REQUEST

Ted Van Acker, owner or agent of property located at 2215 Griswold, lot #179 of Macatawa Park, that being tax parcel #0311-340-179-00, requests a variance from section 38-242 of the Zoning Code. This section requires a minimum front, rear and side yard setbacks. Mr. Van Aker would like to construct a new cottage on this parcel that would not meet these minimum setback requirements.

Chuck Posthumus represented Van Acker and explained it is somewhat of a repeat request that was presented on January 25, 2017 in that the project has stayed similar to the original plan. The Planning Commission reviewed and approved the site plan earlier this month. The neighbors are aware of the

project and have no objections. There is a DEQ permit standing on the parcel but will expire prior to completion of the new construction so a new permit has been applied for by the new owner. Swanson expressed concern about the placement of the seawall and Posthumus responded it is planned to be within one foot of the neighbor's to the south. Posthumus explained the request is necessary because the home is now 5' wider than the previously approved request but will maintain the 8' setback from the south. The parking has shifted 5' to the south and the carport structure has been reduced in size. Meshkin advised board members to follow the standards taking into consideration the conditions present in Macatawa and the fact that this parcel has roads on three sides so the 40' setback is not feasible. Johnson reiterated that most of the lots were platted in the 1800's and do not meet the zoning ordinances. Meshkin explained the land division process that must come before the township and said the parcel is within the buildable size of a lot. Kimes asked if it is homeowners association in Macatawa and Meshkin advised it is an association that is voluntary and most guidelines in its by-laws address aesthetics and it is the ZBA's role to address ordinance compliance. Posthumus said the owners are very sympathetic and anxious to be good neighbors so will reasonably amend their plans if necessary. Posthumus provided information on the traffic and Johnson asked if Lakeside is a walk or a legal road. Posthumus said a title search was done for the platted Lakeside Walk and found none. The carport is 11' x 22' and a traffic review was done resulting in the removal of a column in the southwest corner and a prepared surface will be installed to allow for emergency vehicle access. Perry asked if the permeable surface has been tested for use on a sand dune and Posthumus said there is a sand base and gravel used for stabilization. Posthumus reviewed the standards applicable to the request defending the conditions having been met.

Johnson asked about the tree by the patio and Posthumus said the height of the area will have to be raised so the tree will be removed.

Vice Chair Johnson opened for public comment.

Don McDaniel of 2259 Crescent Walk said it is a very odd lot commenting that the parcel should not have been split to these sizes. These lots of odd shape do not have a use except to the adjacent property owner. He disagreed with the previously approved lot divisions. These were camp site lots platted in 1880.

Merrill Tutton of 2456 and 2418 Griswold spoke in opposition of the request and feels that the hardship was self-created. Tutton stated the larger lots are being subdivided and sold for millions of dollars changing the character of the area adding that the original request was approved in the winter when most of the residents are not here. He stated that the guy knew what he had when he bought it and there is a deed that someone has a non-road easement that should not be encroached upon. He thanked the board for serving.

Yvonne Holtz of 2224 Crescent Road said she feels she was misled by the original owner and hopes the board will require them to adhere to what is approved. Holtz expressed concern about safety on the roads and walks noting there is an easement on the property of which she has a copy of the quick claim deed from the Everharts that was done in 1941.

Bill Arnold of 2257 Crescent stating he has lived in Macatawa for 64 years noting that the property

had never been built on because it was too small. He hopes that everything that is done here is strictly by the books regarding setbacks and total height as this changes the look and feel of the area.

Cindy Gay a cottage renter for the last 60 years and expressed concern that the charm of the area is being changed noting that the property was a camp site as was much of the area. It is an odd lot and cannot see any type of building fitting in unless it is very small to fit in with the area. Gay expressed concern about the walk down to the beach and the safety hazard with traffic.

Meshkin reported correspondence noting opposition was received from Campbell of 2462 Crescent; Porter who lives across the street; Holtz; Baldwin and Dodd.

Following discussion, **a motion was made by Perry and seconded by Swanson to close the public hearing. Vice Chair Johnson called for a vote on the motion. UNANIMOUS DECISION – MOTION APPROVED**

Kimes stated the concern of the residents should be taken seriously as should the previously approved variance. Swanson commented that the hardship may be considered self-imposed and feels the owners should consider the neighbors' concerns. Kimes asked if the previous approval would hold if this request is denied. Meshkin said it would and the difference is the 5 foot increase in the size of the house but the setbacks are no different. Johnson said the ZBA deals with the setbacks and not the site plan. Perry said the standards must be met and feels it may have been self-created. Johnson asked Posthumus how important the extra 5 feet are to the applicant. Posthumus said the deed restriction allows for up to a 32 x 45 size home and the plan is for 27 x 45. Posthumus said the request could be tabled until the next meeting and he would go back to the owners to discuss the concerns brought forward. Kimes said he would like to take time to better understand approval versus denial in the process. Perry said there has been reference to the deed restriction which has nothing to do with the ZBA. Meshkin said he could have Township Attorney Ron Bultje generate documentation to address the standards.

Following discussion, **a motion was made by Perry and seconded by Swanson to table the item to obtain a legal review by the Township Attorney Ron Bultje. Vice Chair Johnson called for a vote on the motion. UNANIMOUS DECISION – MOTION APPROVED**

B. MALIN VARIANCE REQUEST

Malin Trust, owner or agent of property located at 6710 Bryant Street, Holland, MI that being tax parcel #0311-380-005-00, request a variance from section 38-242(2) and (3) of the Zoning Code. These sections require a minimum side and rear setbacks. The Malin Trust would like to construct a new cottage on this parcel that would not meet these minimum setback requirements. correspondence.

Drew De Meester of Troxel Homes represented the applicant and explained the existing cottage will be removed down to the main floor deck (foundation to remain) and a new cottage build back up. The new cottage will include the current screen porch into the new living area and then there will be an addition added to the north side of the cottage extending 15' toward Bryant (leaves an 83' setback).

The addition will not encroach any further into the side setbacks that are currently at approximately 6'. The new extended addition and deck have been given approval by the DEQ. De Meester said the home will be extended 15' lengthwise.

Meshkin said it is essentially a new cottage with the original foundation and setbacks left intact. Perry argued that a new structure would not be grandfathered and current setbacks would apply.

Johnson reviewed the parcel and noted that there were approximately 30 letters of support and 1 of opposition with the general consensus being that the project would be a great improvement. Meshkin said the foundation was replaced in 1993.

Vice Chair Johnson opened for public hearing.

Rick Lyons of 6712 Bryant Avenue expressed concern when the owners removed trees and nothing was done to restore the dune. Lyons also expressed concern about the location of the five foot window well for an egress from the lower level which would be right next to his property. Lyons stated that he had contacted the owners asking if they would reconsider the egress and size of the deck along with foliage screening but the letters of agreement were rejected. Lyons asked that the request be denied and the standards be followed.

Johnson asked if the window well must be used and De Meester said they want to use the space as a den with natural light. The egress point was intended to make sure they would be able to walk along that side of the home. Meshkin said the window well is not considered in the setback. Swanson confirmed that there is no door there. Meshkin questioned there are two lower bedrooms and a den but there is no intention of using the den as a bedroom. De Meester said they would like to have a usable deck that goes across the front of the house as do others in that area.

Bill Sikkel represented the Lyons as legal counsel and noted the application is asking for two variances and asked that each one be addressed separately when considering the request. There is not a situation that there are exceptional circumstances, simply a request to have a larger home than would reasonably fit on this parcel. Sikkel reviewed the standards and defended that the request would be detrimental. Sikkel also asked for clarification of whether it is being considered a new or an existing structure.

Susan Wray of 6716 Bryant said they are taking the existing house that has been there 90 years and nothing is changing in the original footprint. This house has been neglected and rundown and this would improve the neighborhood and the fact that 30 letters of support were submitted should hold some weight in the decision.

Following discussion, **a motion was made by Kimes and seconded by Perry to close the public hearing. Vice Chair Johnson called for a vote on the motion. UNANIMOUS DECISION – MOTION APPROVED.** Meshkin noted that approximately 30 letters of support and 1 letter of opposition were received.

Kimes said he was hopeful that it would be an easy decision but the one letter of opposition notes that

it does fall within the additional violation of what has been grandfathered. The one letter with legal justification must be considered. Johnson agreed with Kimes that the legal side that was raised. Meshkin said there have been 6-foot setbacks in place for many years and the decision either way could be legally correct. Johnson asked if there is willingness to reduce the deck as a compromise.

Following discussion, **a motion was made by Johnson and seconded by Swanson to approve the Malin Variance Request maintaining the existing footprint but the new deck be reduced in size to meet the side yard requirement on the west and the window well be removed, standards of section 38-242(2)(3) of the zoning ordinance being met, compliance with the application and compliance with all federal, state, county and township laws and ordinances and the verbal representation provided at this meeting and in the minutes.**

Vice Chair Johnson called for a vote on the motion. 3 to 1 MOTION APPROVED

C. VAN DAM VARIANCE REQUEST

Brian Bredeway, owner or agent of property located at 6445 145th Avenue, Holland, MI that being tax parcel #0311-010-046-00 request a variance from section 38-478(a) of the Zoning Code. This section requires that a parcel not be diminished below the minimum required street frontage throughout the parcel. Mr. Bredeway would like to split this parcel creating a new parcel that would be less than 200' wide at a certain part of the parcel.

Brian Bredeway of 6445 145th Avenue explained the intention was to live in the existing house and retain the existing barn. The split would diminish the east parcel less than 200' throughout the depth of the parcel down to 184 feet. Bredeway asked why this parcel is not held to the same standards as surrounding parcels. Meshkin stated that it was at an earlier time but the barn location presents an issue.

Swanson suggested putting the request on hold until it is known if the adjacent property can be purchased. Kimes supported the suggestion as did Johnson and Perry.

Vice Chair Johnson opened for public comment.

Sandy Slager of 6435 145th Avenue provided some background on the neighborhood. If the request is approved, the barn encroaches on lot A and B. It really is not a matter of working out with the neighbors but there are buildings on the property that should be considered and she does not object to the split request.

Keith Becksvoort of 4468 64th Street said his property abuts to the back of the property in question and stated he does not have a problem although does not like to see splits in the township. He is fine with the split as requested but nothing more.

Following discussion, **a motion was made by Johnson and seconded by Kimes to close the public hearing. Vice Chair Johnson called for a vote on the motion. UNANIMOUS DECISION – MOTION APPROVED**

Swanson said knowing there is a building on the property, it is unlikely that the additional parcel can be purchased so would support the request. Kimes clarified that the request is to make determination on lot C and Bredeway confirmed.

Following discussion, **a motion was made by Swanson and seconded by Johnson to approve the Bredeway Variance Request for the east parcel only finding the standards and requirements stated in Section 38.478(a) have been met, compliance with the application and compliance with all federal, state, county and township laws and ordinances and the verbal representation provided at this meeting and in the minutes. Vice Chair Johnson called for a vote on the motion. UNANIMOUS DECISION – MOTION APPROVED**

ARTICLE V. CITIZENS COMMENTS - None

ARTICLE VI. ADJOURNMENT

A motion was made by Johnson and seconded by Kimes to adjourn the meeting at 9:40pm. Vice Chair Johnson called for a vote on the motion. UNANIMOUS DECISION – MOTION APPROVED