

ZONING BOARD OF APPEALS  
Regular Meeting  
September 24, 2019

Present: Chairman Steve Haberkorn, Vice-Chairman Russ Boersma, Members Jack Vander Meulen and Ross DeVries. Also present were Community Development Director John D. Said, Assistant Community Development Director Corey Broersma and Recording Secretary Laurie Slater.

Absent: Elliott Church

The meeting was called to order by Chairman Haberkorn at 5:30 p.m.

There were no public comments.

The Minutes of July 23, 2019 were approved with one correction.

Chairman Haberkorn explained the Public Hearing process to the audience.

**Hearing declared open to consider** a petition to extend a nonconforming use submitted by William and Kristen Paarlberg for property located at 522 Howard Ave., known more specifically as parcel number 70-16-30-176-014. Petitioner is requesting to extend the nonconforming use by replacing an existing deck that does not meet the required Macatawa Waterfront Setback. The subject property is zoned R-1 Low Density Residential.

Present for this request was William Paarlberg. He explained that the current deck was built in 2004. The existing deck is 148 square feet. He would like to replace it due to unsafe conditions. When he built the house in 2004, his intent was to someday build a larger deck. The proposed addition would extend the existing deck out five feet, along with a proposed deck to the west of 15' x 17'. The railing that is proposed is an open railing with small spindles so as not to block the view of the lake.

Mr. Paarlberg presented a power point showing the view of the proposed deck from the property owners from both the east and the west. From the west there is no visual impairment to the lake. From the east there is landscaping that blocks the view of the deck. He also had letters and text messages from Bryan and Stacy Huffman of 516 Howard Avenue (property owners to the east) and Alyce Bareman of 526 Howard (property owner to the west) in support of Mr. Paarlberg's request.

Present in the audience to speak to this request was Bryan Huffman of 516 Howard Avenue. Mr. Huffman had no objections to Mr. Paarlberg's request. It does not impede his view of the lake in any way. The proposed railing is okay as well.

Mr. Huffman did have questions about the traverse line and why the people living along the lakeshore were not notified of the change which took place in 2010 creating a 90' setback. He further stated that everyone living there is now nonconforming and asked if it is true that if he wants to do anything to his house even if it is not on the lake side, he has to get a variance? Why do some properties have a 50' setback and some a 90' setback?

Community Development Director John Said stated that the size of the lots determined whether it would be a 50' setback or a 90' setback; deeper lots have a 90' setback. Mr. Vander Meulen stated that topography also played a role in determining the setback. Assistant Community Development Director Corey Broersma explained that when there is an ordinance change that effects several properties notification is published in

the newspaper and posted at the Township per State law. Mr. Said further stated that yes, for any change they want to make, they do need to come into the township and get permission. They are reviewed on an individual basis. One can also apply to change Zoning Ordinance requirements.

\*\* It was moved by Mr. Vander Meulen and supported by Mr. Boersma to close the hearing. Motion carried.

The Board went over the standards to review when considering the extension of a nonconforming use.

**1. *Whether the extension, enlargement, alteration, remodeling or modernization will substantially extend the probable duration of the nonconforming structure, building or use.***

No, the addition of the deck would not substantially extend the probable duration of the nonconforming structure. It is an add on. The house will last longer than the deck.

**2. *Whether the extension, enlargement, alteration, remodeling or modernization of the nonconforming structure, building or use will interfere with the use of adjoining lands or other properties in the surrounding neighborhood for the uses for which they have been zoned pursuant to the provisions of this ordinance.***

It does not appear that it would interfere with the use of adjoining lands or properties in the surrounding neighborhood. The deck has limited visibility to the neighbors.

**3. *The effect of the nonconforming structure, building or use and such extension, enlargement, alteration, remodeling or modernization thereof on adjoining lands in the surrounding neighborhood.***

Mr. Vander Meulen commented that although the landscaping blocks the view of the deck from the east now, it may not always. The railing is see through.

There was further discussion about the stairs and where they intend to place them. It is not indicated on the plan. Mr. Paarlberg stated that the stairs would come off the side of the 15' x 17' deck and be a 180 wrap. The old stairs extend into the setback farther than the purposed ones would.

\*\* It was moved by Mr. Vander Meulen that the applicant be allowed to rebuild the existing deck and the area to the west, instead of coming out 5' they can come out 3' because of the stairs being relocated.

Staff pointed out the 15' x 17' deck would extend further into the setback because of the angle of the lake, not straight across.

Mr. Vander Meulen withdrew his motion.

There was further discussion about the stairs. The ordinance for stairs in the setback was displayed for all to read and consider.

\*\* It was moved by Mr. Vander Meulen and supported by Mr. Boersma to allow the 5' x 15' expansion on the existing deck. The proposed 15' x 17' deck may not extend any further into the Macatawa Waterfront Setback than the southern most point of the existing deck's 5' x 15' expansion. Motion carried.

**Hearing declared open to consider** a petition for nonuse variance submitted by James T. Check on behalf of Farm and Fleet of Janesville, Inc. for property located at 3940 West Shore Drive, known more

specifically as parcel number 70-16-09-100-027. Petitioner is requesting a variance of ninety (90) square feet from the maximum sixty (60) square feet permitted for a portable sign (grand opening), resulting in a 150-square-foot temporary grand opening sign. The property is zoned C-2, Community Commercial.

Present for this request was James Check. Mr. Check explained that Blain's Farm and Fleet is scheduled to have their Grand Opening Event at their new store on the corner of US 31 and Quincy on October 24, 25, and 26. They have a traditional 5' x 30' banner/sign that they hang on the building for this event. It would hang there for those three days only. They will be open prior to this event, but they want to convey to the public that this is their Grand Opening. Mr. Check presented pictures to the Board of the sign that was on the Traverse City store that just opened. That store is the same size as the one in the Township and he believed the banner looked small on that building. The new Blain's Farm and Fleet building is set back quite far from US 31.

There was no one present in the audience to speak to this request.

\*\* It was moved by Mr. DeVries and supported by Mr. Vander Meulen to close the hearing. Motion carried.

The Board went over the standards to review when considering a nonuse variance request.

1. ***That compliance with the Zoning Ordinance would result in practical difficulties due to exceptional, extraordinary, or unique characteristics or conditions of the land or lot of record, including but not limited to:***
  - a. *Exceptional narrowness of the width or depth of a lot of record, or irregular shape.*
  - b. *Exceptional natural or topographic features located on the lot of record, such as steep slopes, water, existing significant trees, or other unique or extreme physical conditions of the land.*
  - c. *Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional land features.*
  - d. *Other exceptional or extraordinary dimensional conditions or characteristics of land or lot of record.*

The building is off the main drag. It makes sense where the building is located because of the size of it. It is not the standard location right on the road.

2. ***That the unusual circumstances do not apply to most other lots of record in the same manner or to the same extent to other lots of record in the same zoning district.***

The banner/sign would only be up for three days.

3. ***That the variance is necessary for the preservation and enjoyment of a substantial property right. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.***

The banner/sign has no bearing on the financial return. People have been watching this building go up. They will be curious about when it is opening. After the Grand Opening it will be word of mouth.

4. ***That the granting of the variance will not be of substantial detriment to adjacent and nearby land uses and properties.***

There is not a lot out there. There would be no adverse effect on adjacent or nearby lands.

**5. That the applicant shall not have created the problem for which the variance is being sought.**

The applicant created the problem in that they decided to place the building there. The banner/sign would only be up for three days. They are off the main drag.

**6. That the granting of the variance will not be contrary to the public interest and that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done for both the applicant and other property owners in the district.**

Granting this request would not affect others. It is to inform the public of the Grand Opening and it is for three days.

\*\* It was moved by Mr. DeVries and supported by Mr. Vander Meulen to approve the request as presented limiting the banner/sign to be there for three days as asked for. Motion carried.

Other Business – None.

The meeting adjourned at 6:35 pm.

Respectfully submitted,

Laurie Slater  
Recording Secretary