

ZONING BOARD OF APPEALS
Regular Meeting
November 23, 2021

The meeting was called to order by Vice-Chairman Ross De Vries at 5:30 p.m.

Present: Vice-Chairman Ross De Vries, Members Jack Vander Meulen and, Robert De Vries. Also present were Community Development Director Corey Broersma and Recording Secretary Laurie Slater.

Absent: Chairman Russ Boersma and Elliott Church

Public Comments: None

The approval of the minutes of October 26, 2021 were postponed until December. One of the three members present was not at the October meeting, leaving only two members to vote on the approval of the minutes - not a quorum.

Vice-Chairman Ross De Vries explained the Public Hearing process to the audience.

Hearing declared open to consider a petition for a nonuse variance submitted by Eric and Carrie DeLaney for property located at 658 Tennis Court, known more specifically as 70-16-30-305-009. Petitioner is requesting a variance from the required Macatawa Waterfront Setback. The subject property is zoned R-1 Low Density Residential and FP Floodplain Overlay.

Present for this request was Eric DeLaney.

Mr. DeLaney explained that they would like to make renovations to the house to make it a year around home for them. They would like to enclose a portion of the deck turning it into a sun room. It would be within the existing deck footprint, which encroaches on the 50' setback. The proposed sun room would be three stories tall with the height matching the current chimney height. They would keep the same roof profile and stay within Township height restrictions.

Mr. DeLaney spoke with the neighbors to the west. The proposed southeastern renovations would not obstruct their view of the lake. Currently there is a deck with a railing that they can see through and their elevation is slightly higher than Mr. DeLaney's property. Building on the western end would take away from the neighbors view of the lake.

When asked why they don't build to the east, Mr. DeLaney answered that the marshland had high water levels in 2020. If those water levels persist, that could cause problems. Also, the flow of the house is better suited with the addition in the proposed location. Board members commented that the water levels have not been that high since 1986. Last year was unusual.

The Board asked Staff what the purpose of the traverse line is. The distance from the water to the house varies, so these setbacks were created to protect the character of the property as well as the view of the lake for property owners along the shoreline. Adjoining properties cannot build out further and obstruct the view of the lake.

Board commented that encroaching into the setback by up to 12' would set a precedent.

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

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

There was discussion among the Board Members. There are other options for the applicant to renovate. If this were approved, there would be others asking to build into the setback. It appears the shoreline residents have lived within the setback requirement pretty well.

The applicant asked how the deck was built there? The deck was probably built before the ordinance that established the traverse line was adopted. Mr. DeLaney asked about deck repairs and if he was allowed to do them. Staff explained that it is a legal nonconforming deck. He could put new decking on, but replacing beams and post would likely need to come before the Board prior to being issued a building permit.

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.***

Slopes probably do exist on the property. However, there is an alternative to building into the setback. They can build on the east side or north side of the house.

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.***

There are no unusual circumstances. They want to deviate from the 50' setback.

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 home is able to be enjoyed the way it is without a variance. It's not a preservation if you're enhancing it.

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

The neighbors to the west are fine with it now. Don't know about the future. They may decide to build up to the traverse line. This would be setting a precedent. This would be detrimental to the spirit of the ordinance.

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

The problem has been created by the applicant's wish build the addition in the proposed location instead of within the building envelope to the east.

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 set a precedent. It would be detrimental to the spirit of the ordinance.

** It was moved by Mr. Robert De Vries and supported by Mr. Vander Meulen to deny the request based on the answers to the standards. Motion carried unanimously with a roll call vote.

Hearing declared open to consider a petition for a nonuse variance submitted by Greg Erne on behalf of Westshore Mall Investors LLC for property located at 12360 Felch Street, known more specifically as 70-16-16-400-048. Petitioner is requesting a variance from the required 66-foot width for a private street easement. The subject property is zoned C-2 Community Commercial.

There was no one present for this request.

Board Members commented that granting this request would create two corner lots and with what that would mean to adjacent properties (creating a greater setback) the applicant would need to have a good argument to support this.

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

** It was moved by Mr. Vander Meulen and supported by Mr. Robert De Vries to close the hearing. Motion carried.

** It was moved by Mr. Vander Meulen and supported by Mr. Robert De Vries to table this request. Motion carried unanimously with a roll call vote.

Next on the agenda was other business – the review of the 2022 ZBA meeting dates and times. Mr. Broersma commented that the Planning Commission had changed their meeting time from 7:00 pm to 6:00 pm and that for consistency, since applicants sometimes have to appear before both Boards, the ZBA could consider meeting at 6:00 pm. There was further discussion about how that would impact members and staff. There were two members absent so a decision on this matter was put off until December to give all members input on a time change.

The meeting adjourned at 6:25 pm.

Respectfully submitted,

Laurie Slater
Recording Secretary