

CHARTER TOWNSHIP OF HIGHLAND
ZONING BOARD OF APPEALS
APPROVED MINUTES
September 20, 2023

The meeting was held at Highland Township Auditorium, 205 N. John St., Highland, Michigan, 48357.

The meeting was called to order at 7:30 p.m.

ROLL CALL:

David Gerathy, Chairman
Michael Borg, Vice Chairman - absent
Anthony Raimondo, Secretary
Grant Charlick - absent
Peter Eichinger
Robert Hoffman - absent
John Jickling
(Alternate) Mary Michaels

Kariline P. Littlebear, Zoning Administrator

Visitors: 8

Mr. Gerathy, Chair, welcomed those in attendance and reviewed the procedures for addressing the Board. He stated that 4 affirmative votes are required to approve a variance. If a variance is approved then the applicant has one year to act upon the variance.

NEW BUSINESS:

1. CASE NUMBER: 23-21
COMPLAINT:
ZONING: R1.5 (RPUD) –Residential Planned Unit Development
PARCEL #: 11-28-251-010
PROPERTY ADDRESS: 349 Nairn Circle
APPLICANT: Phillip Maggee
OWNER: Karl Murphy & Lisa Carter
VARIANCE REQUESTED: An 18-foot 2-inch variance from the required 40-foot rear yard setback to 21-feet 10-inches provided.
(Sec 7.02.C.5.)
This request is for a reduction of the rear yard setback for a 24-foot 2 ½-inch by 27-foot 2-inch three season room.

Mr. Gerathy introduced the case and asked if the applicant was present and to step forward if they had anything to add. Mr. Gerathy then asked the Zoning Administrator if she had anything to add. Mrs. Littlebear stated that there is nothing new to add.

Discussion from the Applicant:

The builder and applicant, Phillip Maggee, 209 Astrid St., was present and stated that he had nothing new to add.

Discussion from the Public:

None was offered.

Discussion from the Board:

Mr. Jickling asked Mrs. Littlebear to provide some clarification about approved building envelopes and construction outside of the building envelopes. Mrs. Littlebear explained that when Prestwick went through its initial development the developer worked with the township to establish the building envelope/setbacks for each lot as well as all of the greenspace, trails, roads, etc. This all became part of the master deed and bylaws for the development as a whole as well for each individual lot which is part of the title work for each home purchase in Prestwick. The goal of this development type was to restrict construction to the building envelopes and preserve as much greenspace as possible to enhance the golf course. She further stated that, per the master deed and bylaws, uncovered patios are allowed to be constructed outside of the building envelope by up to 5 feet. She stated that according to the historic aerial views that patio was originally built within a year of the house being built and was then expanded sometime between 2015 to 2017. She noted that both patios were built without permits which is why she does not have exact dates for their construction, and she believes that is why each patio was built outside of the allowed building envelope. Mr. Jickling stated that because of this clarification he does not believe that an unpermitted non-conforming patio should be allowed to have an enclosure built on it. The homeowner, Karl Murphy, asked to speak. He stated that he has gotten approval from the golf course and the homeowners association for this structure, so he was surprised when his contractor tried to apply for a permit and was denied based on the building envelope. Mr. Eichinger stated that it seems that there is some confusion as to where the property line is and that perhaps a survey is required. Mrs. Michaels and Mr. Gerathy agreed that this is the best course of action. Mr. Murphy stated that all of the surveyors are at least 6 weeks out and he didn't want to wait for a survey to start his project, which is why he is requesting the variance. He further stated that he believes that his property line is approximately 20 feet farther back than what the site plan shows. Mrs. Michaels stated that if that is the case then a survey would be a great benefit to him in that he may not need a variance at all and the Board is required to give only the minimum variance necessary. Mr. Murphy asked if there is an appeal if the board votes to deny at this time. Mrs. Littlebear explained that appeals of ZBA decisions go to the Circuit Court and his attorney would be able to advise him as to the best way to proceed. Mr. Murphy stated that he would like to table the case then.

Motion:

Mrs. Michaels made a motion in Case 23-21, parcel # 11-28-251-010, 349 Nairn Circle., to table the case until such time as a certified survey can be obtained. Mr. Eichinger supported the motion. Mr. Jickling-yes, Mrs. Michaels-yes, Mr. Raimondo-yes, Mr. Gerathy-yes, Mr. Eichinger-yes (5 yes votes). The motion carried and the case was tabled.

2. CASE NUMBER: 23-22
COMPLAINT:
ZONING: LV – Lake and Village Residential District
PARCEL #: 11-11-306-015
PROPERTY ADDRESS: 3700 Harvey Lake Rd
APPLICANT: Edward Pociask
OWNER: Holy Spirit Church
VARIANCE REQUESTED: A 4-foot variance from the maximum height of 4-foot to 8-foot provided.
(Sec 14.07.I and Table 14.2) and
A 22 square foot variance from the maximum sign face area of 20 square feet to 42 square feet provided.
(Sec. 14.07.I. and Table 14.2)
This request is for an increase of the maximum height for a freestanding sign in a residential district.

Mr. Gerathy introduced the case and asked if the applicant was present and to step forward if they had anything to add. Mrs. Littlebear stated that the applicant had called a couple days earlier to ask that the case be tabled to the October 4, 2023 meeting.

Discussion from the Applicant:

Applicant not present.

Discussion from the Public:

None offered.

Discussion from the Board:

None

Motion:

Mrs. Michaels made a motion to table Case 23-22, parcel # 11-11-306-015, 3700 Harvey Lake Rd to the October 4, 2023 meeting. Mr. Eichinger supported the motion. Mr. Jickling-yes, Mrs. Michaels-yes, Mr. Raimondo-yes, Mr. Gerathy-yes, Mr. Eichinger-yes, (5 yes votes). The motion carried and the case was tabled.

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| 3. CASE NUMBER: | 23-23 |
| COMPLAINT: | |
| ZONING: | R3 – Single-family Residential District (3acre min.) |
| PARCEL #: | 11-09-351-012 |
| PROPERTY ADDRESS: | 1540 Middle Rd |
| APPLICANT: | Tom & Vickie Jeanette |
| OWNER: | Tom & Vickie Jeanette |
| VARIANCE REQUESTED: | A 10-foot 1-inch variance from the required 40-foot side yard setback to 29-feet 11-inches provided. (Sec 4.15)
This request is for a reduction of the side yard setback for a residential inground pool. |

Mr. Gerathy introduced the case and asked if the applicant was present and to step forward if they had anything to add. Mr. Gerathy then asked the Zoning Administrator if she had anything to add. Mrs. Littlebear stated that there is nothing new to add.

Discussion from the Applicant:

Tom & Vickie Jeanette, applicants and owners, were present. They went over the case as presented. Mr. Gerathy stated that since the board is short a few members the applicants have the option to table their case. The applicant's stated that they would like to proceed.

Discussion from the Public:

None was offered.

Discussion from the Board:

Mr. Jickling noted that this lot is only approximately 99-feet wide but this district's minimum width is 200-feet. Also, the side yard setbacks in this district are 40-feet which leaves only a 19-foot-wide building envelope on this very narrow lot. Mr. Jeanette stated that there are also some power lines running through the side yard. Mr. Jickling asked if the pool was built before the permit was applied for. Mr. Jeanette stated that all of the permits were approved prior to construction. Mrs. Michaels asked Mrs. Littlebear to clarify this situation for the board. Mrs. Littlebear stated that the permit was approved and

issued for a rectangular pool but then a more kidney shaped pool was constructed, and the curve of the pool is what is encroaching into the required side yard. Mr. Jickling stated that if the request for the kidney-shaped pool had been brought before the board in the first place he feels that he may have voted yes because of the exceptionally narrowness and substandard size of the lot. Mr. Jickling asked Mrs. Littlebear about any previous variances on this property. She stated that in 2005 a variance was approved to construct the home and attached garage. She also noted that later that same year a variance was granted to relocate an existing accessory structure on this property. Mr. Eichinger asked if the variance approved in 2005 for the relocating of the accessory structure on the west side of the property would apply to this pool since it is the same side of the property. Mrs. Littlebear explained that each variance granted is only for that particular structure and cannot be applied to any other projects even if it is a lesser request in a similar location. Mr. Raimondo stated that this lot is in the R-3 zoning district which has a 3-acre minimum but this lot is only 2.55 acres, is exceptionally narrow, the request would not harm or alter the essential character of the neighborhood, and that the location of the septic field and overhead power lines do contribute to a practical difficulty on this property.

Motion:

Mr. Raimondo made a motion in Case 23-23, parcel # 11-09-351-012, 1540 Middle Rd, to grant a 10-foot 1-inch variance from the required 40-foot side yard setback to 29-feet 11-inches provided for a residential inground pool per the facts and findings as presented. Mr. Eichinger supported the motion. Mr. Jickling-yes, Mrs. Michaels-yes, Mr. Raimondo-yes, Mr. Gerathy-yes, Mr. Eichinger-yes, (5 yes votes). The motion carried and the variance was granted.

CALL TO THE PUBLIC: Mr. Gerathy noted that there were no audience members present and so moved onto the next agenda item.

MINUTES:

Mr. Eichinger made a motion to approve the minutes of September 6, 2023, as presented. Mrs. Michaels supported the motion, and it carried with a unanimous voice vote.

DISCUSSION:

Mr. Jickling asked if the sign for Case 23-22 was approved at the time of installation, if the proposed location would meet front yard setbacks, and if churches are a permitted use in this zoning district. Mrs. Littlebear stated that the size did meet the requirements at the time it was installed, that the proposed new location meets current requirements, and she believed that churches are a permitted use in all zoning districts, but she would need to double check that. Mr. Raimondo asked if there is sentimental value to the existing sign. Mrs. Littlebear stated that she believed that it does because it was purchased with donations. Mrs. Littlebear informed the board that she would be at the annual Michigan Association of Planning conference during the week of October 1, 2023, so Mrs. Burkhart would be sitting in on the October 4, 2023 ZBA meeting.

ADJOURN:

At 8:10 p.m., Mr. Raimondo made a motion to adjourn the meeting. Mrs. Michaels supported the motion, and it was approved with a unanimous voice vote.

Respectfully submitted,

Anthony Raimondo
Secretary
AR/kpl