

Minutes of the Leighton Township Zoning Board of Appeals meeting, held on  
Monday, 4/18/2022, 7:00 p.m.  
at Leighton Township Hall, 4451 12<sup>th</sup> Street, Suite A, Wayland, MI 49348

The meeting was called to order at 7:02 p.m. by Chairman Johnathon Roodvoets

Attendance:

Present: Chairman Roodvoets, Secretary Dave Gould, Steve Shoemaker, Bob Skinner, Rod Alderink, Zoning Administrators Lori Castello and Jason Derry from Professional Code Inspections, and 5 members of the public.

Absent: Ron Schrotenboer

Approval of agenda: Motion by Alderink, support from Gould; motion was approved unanimously

Meeting Minutes 3/3/2022 were read aloud by Castello as printed copies were unavailable to the members. Shoemaker moved for adoption of minutes with support from Alderink; motions was approved unanimously.

**Public Hearing: Variance requests (2) from Dave Herrema, owner of 4533 West Shore Drive, also known as Permanent Parcel 03-13-240-035-00, for relief from Sections 7B.05(a) and(b) of the Leighton Township Zoning Ordinance to construct a principal structure less than 7 feet from the side lot line and less than 8 feet from the front lot line.**

Gould read aloud the notice of public hearing. Castello verified that mailers were sent, and publication occurred in the 3/31/2022 edition of the Allegan County News, meeting all statutory requirements for the variance consideration.

Applicant Dave Herrema presented his case- would like to demolish existing his detached garage and add an attached garage. While the proposed addition still falls within the required front and side setbacks, it is farther from road and side lot line than existing.

Chairman Roodvoets opened the hearing for Public Comment at 7:08 p.m.

Comments:

Amy Boender 4529 W Shore Drive- contiguous neighbor in - will move it farther from her property line.

Carl Sorensen (by Letter) 4528 W Shore Drive- in support (see attached)

Donna Bartholomew 4537 W Shore- support plan- no negative impact foreseen.

Chairman Roodvoets closed Public Comment at 7:12 pm.

Board discussion and comments: Roodvoets suggested the board work through the findings of fact.

Gould proposed going through the findings of fact twice- first for the front setback considerations, then again for the sideyard; Roodvoets suggested going through questions one time, first for front, then for side. Consensus was reached to take Roodvoets' suggestion.

## Section 26.09. Variance (Standards)

*“No variance in the provisions or requirements of this Ordinance shall be approved by the Zoning Board of Appeals unless the Board makes findings, based upon competent material and substantial evidence on the whole record that all of the following standards will be met:*

- (a) *That the enforcement of the literal requirements of this Ordinance would cause practical difficulties.*

**Discussion:** Gould measured several properties from edge of pavement and finds proposed is similar to what is existing for front yard setbacks in the area.

Gould further stated that the garage could be smaller in size or moved to the other side of the home to meet sideyard setbacks.

Shoemaker asked Gould for clarification- agreed that there is a larger area for the garage on the north side of the front porch, but the owner stated that is his bedroom and bathroom on that side so it would be impracticable to add it there, and the well is on the north side as well. Shoemaker agreed that with the well and the bedrooms there, it is impractical.

**Findings:** Front: Easement causes practical difficulties as the parcel has a reduced building envelope due to the utility easement crossing the east side of the lot where the vacated Lake Street right-of-way sits.

Side: The lot is somewhat narrow. The potential of placing the garage within the setbacks by attaching to the north side of the home is impractical due to the placement of the well there, as well as the floor plan which would connect the garage to a bedroom and remove egress windows. The proposed attached garage still meets overall total required setback but does reduce the nonconformity as compared to the current layout.

Motion by Alderink to determine standard (a) is met for both, with Support from Skinner.

Roll call vote: Ayes: Alderink, Skinner, Roodvoets, Gould, Shoemaker. Nays: None.  
Motion passes unanimously

- (b) *That special conditions or circumstances exist which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same zoning district.*

**Discussion:** Shoemaker noted that several parcels along there have the same easement so is it really peculiar? Alderink pointed out that the easement is more egregious on Herrema parcel than it is along other parcels within the area making it more peculiar, as well as the peculiarity of having the easement lakeside instead of along the road which is more typical.

**Findings:** The sewer easement along the lake and narrowness of the lot and building envelope reduce the buildable area on this particular parcel. This creates a unique set of conditions in relation to both the front and side yard setback.

**Shoemaker** moved to find standard (b) is met, with support from Alderink

**Roll Call Vote:** Ayes: Shoemaker, Gould, Roodvoets, Skinner, Alderink. Nays: None. Motion carries unanimously.

- (c) *That the literal interpretation of a provision of this Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zoning district.*

**Discussion:** There was consensus that attached garages up to 832 square feet is a right within the Lake Residential District, subject to meeting setbacks. Skinner noted there may be others out there that the board doesn't know about that are also peculiar, but it does help rectify some of the nonconformity. He went on to state he has reservations about allowing the nonconformity to play a part in the decisions. Alderink agreed that consideration of the reduction of nonconformity alone would not be appropriate, but it is true that the proposal does improve it together with him meeting the total required side yard setbacks. Gould stated that the applicant could also build a smaller garage and meet the sideyard setbacks, and he doesn't want it to be in the record that nonconformity is the reason for it to be approved. Alderink pointed out that if it's just one of a list of several standards then it's ok. Shoemaker brought up that the well and windows wouldn't allow it to go anywhere else.

**Findings:** An attached garage of up to 832 square feet is permitted upon all properties (with dwelling units) within the Township subject to setback requirements. The attached garage will diminish the nonconformity as compared to the existing detached garage. The location of well and layout of house make it impracticable to construct a garage within the setbacks, thereby depriving the applicant of the right of an attached garage.

**Motion** by Shoemaker to find that standard (c) is met per above with support by Gould.

**Roll Call:** Ayes: Gould, Roodvoets, Skinner, Alderink, Shoemaker. Nays: none. Motion passed unanimously.

- (d) *That the authorizing of such variance will not be of substantial detriment to adjacent or nearby lands, structures or buildings, and will not be contrary to the spirit and purpose of this Ordinance.*

**Discussion:** Alderink stated in this case it's helpful to have neighbors come out in support; that it's not a requirement but it helps to hear they do not feel there is any detriment to their immediately adjacent properties.

**Findings:** The surrounding neighbors do not believe there is any detriment to permitting the variance, which would reduce the existing nonconformity. By permitting an attached garage under the maximum permitted size, upon a parcel that is limited in its building envelope, the spirit and purpose of the ordinance are met.

**Motion by Gould** that standard (d) is met with support from Shoemaker.

**Roll Call Vote:** Ayes: Roodvoets, Skinner, Alderink, Shoemaker, Gould. Nays: None. Motion passes unanimously.

- (e) *That the special circumstances or conditions referred to in subsection (b) do not result from the actions of the applicant."*

**Discussion:** Shoemaker wondered whether this is self-created because the applicant is asking for relief from required setbacks. Castello explained that is not a literal question

because he is asking to do something- rather the question is, did the applicant create the situation that does not allow for a standard size garage to meet setbacks, for example, by placing the well or the house layout in a manner where he would in essence lock himself out of the possibility to expand by his own actions. If the exact literal interpretation of the question were to be applied, no variance would ever meet this standard.

**Findings:** The current house and garage were built in 1971, and the last change to the property legal description was in 2005. David and Pamela Herrema came into ownership of the property around 2015, placing them far away from each and any previous decision resulting in the lot's current circumstances.

A motion by Alderink to agree standard (e) is met with support from Shoemaker.

Roll Call Vote: Ayes: Alderink, Shoemaker, Gould, Roodvoets. Nays: None. Motion carries unanimously.

**Roodvoets noted that the Zoning Board of Appeals voted unanimously that all of the required standards of Section 26.09 have been met and declared that both the side yard and front yard variances are granted.**

New Business:

**Van Vliet variance denial-** members discussed whether this should be revisited with the new information regarding how determination of whether an issue can be considered self-created, and whether correction or reduction of an existing nonconformity can or should be considered?

Dave stated he thinks Van Vliet is bullying the Twp. and making threats as he is considering appealing the variance to circuit court or taking out a series of permits to accomplish the same goal but over a much longer period of time, which would extend construction nuisance to neighbors.

Alderink- thinks we understand nonconformity better now- that he could in essence still build it in shifts of a few permits, and that while existing nonconformity can't be main consideration, it can certainly be a part of the conversation.

Motion to make new public hearing for VanVliet's variance by Alderink for the following reasons, 2<sup>nd</sup> by Skinner:

- consideration of whether nonconformities can be considered at all but can be part of the whole.
- poor communication due to technology issues
- additional clarity regarding setbacks from the non-buildable alleyway/easement and fire separation.

Discussion: Skinner stated that now he understands that the easement would never be built on, he agrees with the argument that it might make sense to consider that a part of it. Gould noted that a builder recently commented to him that it's all about compromise. Alderink mentioned reducing nonconformity can't be the only reason,

but it is clear now that it can be considered as part of the whole when there are additional circumstances as well.

Skinner- y, Alderink y, Shoemaker y, Gould y, Roodvoets y. Castello will set up a re-hearing. Notice will be required etc.

**Meeting dates:** Castello explained to the ZBA that they may want to consider designating one day per month to meet if there is business as it will help members, staff and constituents to have a reliable schedule to plan for noticing, application deadlines, etc. After some discussion, it was determined the ZBA will plan to meet on the third Thursday of the month when there is business.

**Round table comments:** Roodvoets plans to take the citizen planner training.

9:10 pm Motion to adjourn by Skinner, with support by Roodvoets. Motion passed unanimously.