

Minutes of the Leighton Township Zoning Board of Appeals meeting, held on
Thursday, 6/16/2022, 7:00 p.m.
at Leighton Township Hall, 4451 12th Street, Suite A, Wayland, MI 49348

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

Attendance:

Present: Chairman Roodvoets, Secretary Dave Gould, Steve Shoemaker, Bob Skinner, Rod Alderink, Zoning Administrator Kirk Scharphorn Jr. from Professional Code Inspections, and 8 members of the public.

Absent: Ron Schrottenboer

Approval of agenda: Motion by Skinner, support from Shoemaker; motion was approved unanimously

Meeting Minutes from 4/18/2022 were reviewed. Skinner moved for adoption of minutes with support from Shoemaker; motion was approved unanimously.

Public Comment for items not on the agenda: None.

Conflict of Interest for any agenda items: None declared.

Public Hearing: Variance request from Jim VanVliet, owner of 425 North Lake Drive, also known as Permanent Parcel 03-13-420-003-00, for relief from Section 7B.05(b) of the Leighton Township Zoning Ordinance to construct a principal structure less than 7 feet from the side lot line.

Gould read aloud the notice of public hearing. Scharphorn verified that mailers were sent and publication occurred in the 5/28/2022 edition of the Allegan County News, meeting all statutory requirements for the variance consideration.

Applicant Jim Van Vliet was represented by Mrs. VanVliet and his builder. The Van Vliets would like to demolish his existing residence and rebuild a new dwelling. While the proposed dwelling still falls within the required front and side setbacks, it is farther from the east side lot line than the existing nonconforming dwelling.

Discussion ensued regarding actual setbacks to clarify misprinted site plan. The house is proposed to lie 4' from east property line, 13' from west property line, a difference of 4' to the east (easement side) from the submitted site plan.

Chairman Roodvoets opened the hearing for Public Comment at 7:22 pm.

Comments:

Owner at 405 N lake drive stated he was not in favor of variance.

Mr. and Mrs. Johnson, owners of the neighboring property at 427 N. Lake Drive stated they were in favor of the variance.

Chairman Roodvoets closed Public Comment at 7:30 pm.

Board discussion and comments:

Scharphorn discussed reason for re-hearing with members for this variance request.

Roodvoets suggested the board work through the findings of fact.

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: Members asked several questions regarding potential layout changes that could be made to the structure, such as whether the blueprints could be flipped- builder said that was not possible due to several challenges including existing drive use etc.

Findings: The lot’s existing utilities and infrastructure (drive, etc.) need to remain in place, not allowing for further amendments to the blueprints. The proposed dwelling still does not meet the minimum required setback, but does reduce the nonconformity as compared to the existing dwelling.

Motion by Alderink that standard (a) is met with support from Shoemaker.

Ayes: Alderink, Skinner, Roodvoets, Shoemaker. Nays: Gould. **Motion passes 4-1.**

- (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: Discussion regarding the easement and concerning whether property could be divided if it encompassed easement land and/or that setbacks could be met.

Findings: The lake access easement along west side of the property creates a unique set of conditions in relation to both the front and side yard setback.

Motion by Alderink that standard (b) is met with support from Shoemaker.

Ayes: Alderink, Skinner, Roodvoets, Shoemaker, Gould. Nays: none. **Motion passes 5-0.**

- (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: Homes are permitted in the Lake Residential Zoning District (subject to setbacks).

Findings: The current home is sinking and therefore is best to be demolished. New construction will have stricter guidelines through soils and structures to prevent additional surface issues. While reduction of nonconformity cannot be the only criteria, it can be considered as a part of several reasons to approve; a similar variance was granted recently that included this determination as well.

Motion by Shoemaker that standard (c) is met with support from Skinner.

Ayes: Alderink, Skinner, Roodvoets, Shoemaker, Gould. Nays: None. **Motion passes 5-0.**

- (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 the neighbors do not feel there is any detriment to their immediately adjacent properties.

Findings: The immediately adjacent neighbors do not believe there is any detriment to permitting the variance, which would reduce the existing nonconformity. The existing easement also protects a fire-safety buffer between the Van Vliets' property and the neighboring parcel to the west.

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

Ayes: Alderink, Skinner, Roodvoets, Shoemaker, Gould. Nays: None. **Motion passes 5-0.**

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

Discussion: Discussion about the existing home; existing alley ensued.

Findings: The current nonconforming dwelling was there prior to Van Vliets' ownership of the property; as well as the neighboring access. The proposed change could mitigate some of the existing setback issues.

Motion by Skinner that standard (e) is met with support from Shoemaker, with clarification that the amended setbacks shall be not less than 13' from west side lot line and 4' from east side lot line.

Ayes: Alderink, Skinner, Roodvoets, Shoemaker, Gould. Nays: None. **Motion passes 5-0.**

Roodvoets noted that the Zoning Board of Appeals voted that all of the required standards of Section 26.09 have been met and declared that the side yard variance is granted.

New Business: None.

Round table comments: None.

8:50 pm Motion to adjourn by Skinner, with support by Roodvoets. Motion passed unanimously.