

**City of Howell Board of Zoning Appeals
April 12, 2018
City Hall Council Chambers
611 E. Grand River
Howell, MI 48843**

The meeting of the Board of Zoning Appeals was called to order by Chairman Munsey at 7:00 p.m.

Present:, Sean Munsey, Ken Keith, William Flattery, Victoria Hertrich, Randall Mattson, David Holmes (arrived at 7:02 pm), City Attorney Dennis Perkins, Community Development Director Timothy Schmitt, and Recording Secretary Deanna Robson.

Absent: Jeannette Ambrose.

Guests: Mike Cleland, Dan Stoddard, Marc D. Ward, Kimberly Hamman, Rose Fodor, Jerry and Jackie Douglass, Jack Bean, Rich Miller, Warner and Dixie Frazer, Sandra M. Schlink Drown, Nicoll Ward and Nick Zurek.

APPROVAL OF MINUTES OF JANUARY 25, 2018

MOTION by Flattery, SUPPORT by Hertrich, “To approve the minutes of the January 25, 2018 meeting.” MOTION CARRIED (5-0).

#18-06 – 329 MAPLE – ACCESSORY STRUCTURE SQUARE FOOTAGE

Chairman Munsey introduced the agenda item and opened the public hearing at 7:00 p.m.

Nick Zurek, 329 Maple, informed the Board that he would like to build a garage 40 feet in length; he was issued a permit for the demolition of the previous garage and the it has been removed.

Dan Stoddard, 335 Maple, voiced his support, noting that he has no objections to a slightly larger garage between the properties.

Chairman Munsey closed the public hearing at 7:02 p.m.

MOTION by Flattery, SUPPORT by Keith, “To approve the requested variance to allow for the construction of a new detached garage on the residential property in question, with the condition listed and based on the findings of fact below:

Required condition:

- **Applicant must obtain all necessary building permits for the construction on the garage prior to work commencing.**

Findings of fact:

- A. That the restrictions of this Zoning Ordinance unreasonably prevent the owner from using the property for a permitted purpose of would render conformity unnecessarily burdensome;**
- B. That the variance would do substantial justice to the applicant as well as to other property owners in the district and a lesser relaxation than that requested would**

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- not give substantial relief to the owner of the property or be consistent with the justice to other property owners;
- C. That the plight of the landowner is due to the unique circumstances of the property.
- D. That the alleged hardship has not been created by any person presently having an interest in the property.”

MOTION CARRIED (6-0).

#18-03 – 1039 NORTH MICHIGAN – FRONT YARD SETBACK

Chairman Munsey introduced the agenda item and opened the public hearing at 7:03 p.m.

Jack Bean, 222 N. State, stated that he would like to build a house on lot; there is a severe drop off on the property going down to a pond and wetlands; and the requested variance will allow him to build the house without incurring excessive costs.

Chairman Munsey closed the public hearing at 7:04 p.m.

MOTION by Flattery, SUPPORT by Hertrich, “To approve the requested variance to allow for the construction of a new single-family detached home with an attached garage on the vacant lot at 1039 North Michigan Avenue, with the condition listed and based on the findings of fact below:

Required condition:

- Applicant must obtain all necessary building permits for the construction on the house and garage prior to work commencing.

Findings of fact:

- A. That the restrictions of this Zoning Ordinance unreasonably prevent the owner from using the property for a permitted purpose of would render conformity unnecessarily burdensome;
- B. That the variance would do substantial justice to the applicant as well as to other property owners in the district and a lesser relaxation than that requested would not give substantial relief to the owner of the property or be consistent with the justice to other property owners;
- C. That the plight of the landowner is due to the unique circumstances of the property.
- D. That the alleged hardship has not been created by any person presently having an interest in the property.”

MOTION CARRIED (6-0).

#18-02 – 1363 LAKESIDE DRIVE – APPEAL OF LOT SPLIT DENIAL, LOT WIDTH, LOT AREA

Chairman Munsey introduced the agenda item and opened the public hearing at 7:05 p.m.

Kimberly Hamman introduced herself as the attorney for the applicants, two of whom were present and one who had granted power of attorney from California, She stated that the previous land division that split 10 feet should not have occurred due to concerns regarding discrepancies in ownership of the property at the time. The current request was for a lot split resulting in one lot

that would be 60 feet wide and another lot 70 feet wide, both larger than some other lots in the area.

Jerry Douglass, 1345 Lakeside, stated that he had a verbal agreement with the previous property owner in order to purchase the 10 feet of property. He noted that his understanding was that the new owner would reside in the house for a couple of years, and then tear it down and build a house in the middle of the lot. He added that the property was surveyed and survey stakes were placed 6-8 feet onto his property, next to the lot in question. He voiced his frustration that his application to install a slab on the side of his house to store a trailer was previously denied. He questioned if the lot would meet side yard setback requirements if the split was granted due to 20 foot side yard requirements. Ms. Hamman responded that the construction on the site would meet setback requirements and would be completely conforming.

Community Development Director Timothy Schmitt stated that Mr. Douglass' alleged requirement of 20 feet of side yard on one side was not accurate. Mr. Douglass corrected his previous statement noting that he meant that the requirement was 20 feet between the two side yards. He added that the house currently on the lot in question is an eyesore. Chairman Munsey informed Mr. Douglass that the responsibility of the Board was to discuss the requested split, and not the house located there. He acknowledged that Mr. Douglass was opposed to the request.

Warner Frazer, 1375 Lakeside, voiced his concern about the request to decrease the lot sizes via the split; claimed that he was informed by the current owner that only one house was planned for the entire lot; and noted that he thought the zoning ordinance was changed so that the area would have larger lots. Ms. Hamman responded that it was always the current owners' intention to split the lot, based on the property advertisement that the lot was 140 feet wide and the realtor informing her client that the lot was splittable. She added that there appears to be a chain of title issue.

Member Mattson inquired about the Planning Commission decision, and Mr. Schmitt responded that the Commission was required to deny the request based on the zoning ordinance.

City Attorney Perkins inquired if the current owner resided across the street from 1363 Lakeside when the previous property sale was occurring and Ms. Fodor confirmed. Ms. Hamman responded that the proper owner did not request the previous lot split, adding that the advertisement and broker both stated that there was an additional 10 feet on the property, while the split was done in September. Attorney Perkins noted it appears that 140 feet of property was sold when the owner did not actually have 140 feet to sell.

Ms. Hamman stated that she does not hold the City responsible, acknowledging that the City is not required to have title searches for applications. On behalf of her client, she stated that she was trying for the least invasive way to leave 10 feet of the property with Douglass', while also trying to mitigate everyone's damages. She added that a 60 foot lot is not out of the ordinary in that area. Discussion followed and Attorney Perkins added that some of the houses on area lots may be as old as the plats themselves.

Chairman Munsey closed the public hearing at 7:30 p.m.

Member Keith recommended that the Board deny the application for the lot split, concurring with the Planning Commission decision, and noting that the applicant could pursue other legal means to settle the land dispute.

MOTION by Keith, SUPPORT by Flattery, “To deny the requested variance for a lot split at 1363 Lakeside, including all of the factual items contained in the report and the attorney’s application and attachments .” MOTION CARRIED (5-1). Member Hertrich opposed.

#18-05 – 220 NORTH TOMPKINS – APPEAL OF LOT SPLIT DENIAL, LOT WIDTH

Chairman Munsey introduced the agenda item and opened the public hearing at 7:33 p.m.

Mike Cleland, 205 Pauline, stated this his company purchased the property, which was originally platted as three lots; the house was built in 1949 and was maintained by a single owner for almost 70 years; he plans to make improvements to the existing home; the utility leads are already present on the property; there are other homes in the area on 66x132 foot lots; a home is being constructed on Riddle where the lot is smaller than is required by current ordinance; and the lot containing the house that is expected to be demolished at 816 McPherson is smaller than current ordinance.

Member Keith inquired if the current lot requirement is 70 feet wide and Mr. Schmitt confirmed.

Rich Miller, 210 N. Tompkins, voiced his opinion that two additional homes on the lot would adversely affect the neighboring lots and would seriously degrade their backyard experiences.

Chairman Munsey closed the public hearing at 7:39 p.m.

Discussion followed regarding neighboring houses and lot sizes; current zoning ordinance requirements; and when the ordinance changed from the original plats. The Board inquired, and Mr. Cleland confirmed that he was informed that the property was only one lot and may not be approved for a split into three lots prior to actually purchasing the property. Cahirman Munsey noted that the single lot could be split into two lots without requiring a variance/

MOTION by Mattson, SUPPORT by Keith, “To approve the requested variance to allow the existing lot to be split into three separate lots, two of which would only be 66 feet wide where 70 feet is required, a variance of four feet, and to reverse the Planning Commission’s denial of the lot split based on the fact that the lots were platted at 66 feet wide, the preponderance of lots in the neighborhood are 66 feet wide, and utility leads were installed therein with purpose of serving those particular lots

Required condition:

- **Applicant must obtain all necessary building permits for the construction on the property prior to work commencing.**

Findings of fact:

- A. That the restrictions of this Zoning Ordinance unreasonably prevent the owner from using the property for a permitted purpose of would render conformity unnecessarily burdensome;**

- B. That the variance would do substantial justice to the applicant as well as to other property owners in the district and a lesser relaxation than that requested would not give substantial relief to the owner of the property or be consistent with the justice to other property owners;**
- C. That the plight of the landowner is due to the unique circumstances of the property.**
- D. That the alleged hardship has not been created by any person presently having an interest in the property.”**

MOTION CARRIED (4-2). Members Munsey and Holmes opposed.

#17-26 – VACANT HIGHLAND ROAD (PID #4717-25-100-005) – BUILDING HEIGHT, ACCESSORY STRUCTURE SIZE, FRONT YARD PARKING

Community Development Director Timothy Schmitt informed the Board that staff distributed public hearing notices early due to the timing between the Planning Commission and Board of Zoning Appeals meetings, but did not receive the information from the developer of this project until it was too late to include the information in the packet. The Board was asked to hold the public hearing, as posted, with a motion to postpone the request indefinitely. Once all of the information has been received, the public hearing will be re-held.

Chairman Munsey opened the public hearing at 7:53 p.m.

Nicoll Ward, 340 Brigg, Gallery Park Homeowners Association President, informed the Board that she attended the Planning Commission meeting, but has had no communication from the developer about how a piece of land, owned by Gallery Park and included in plans for a community area, will be used. She also noted residents’ concerns about the height of the building, traffic, trash, etc. and added that she had hoped the applicant would be in attendance to provide clarification. She indicated that she provided contact information to the developer at the March 21, 2018 Planning Commission meeting; the applicant has been working with Tom Elkins who may have provided incorrect information.

Chairman Munsey closed the public hearing at 7:56 p.m.

MOTION by Hertrich, SUPPORT by Flattery, “To postpone indefinitely the variance requests for PID #4717-25-100-005 until such time as the applicant provides the necessary application information and fee.” MOTION CARRIED (6-0).

OTHER BUSINESS

MOTION by Mattson, SUPPORT by Flattery, “To excuse Member Ambrose from the April 12, 2018 meeting.” MOTION CARRIED (6-0).

ADJOURN

MOTION by Mattson, SUPPORT by Flattery, “To adjourn the meeting at 7:58 p.m.” MOTION CARRIED (6-0).

Deanna Robson, Deputy City Clerk