

PITTSFIELD TOWNSHIP ZONING BOARD OF APPEALS MINUTES

Members Present: Dennis Ward, Kathie Mahn, Ishwar Naik, Alayna Stagg, Kenneth Brostrom.

Members Absent: None.

Others Present: Grant Stewart, Planning Director Bruce E. Fowler, Associate Planner Suzanne McCoy, and Recording Secretary Laura Ford.

1.0 Call Meeting to Order/Determination of a Quorum

Chairperson Naik called the meeting to order at 6:31 p.m. A quorum was present.

2.0 Approval of Agenda

Motion by Member Ward, supported by Member Stagg, to approve the agenda, as presented.

MOTION CARRIED

3.0 Communications and Announcements

None.

4.0 Items from the Floor

None.

5.0 Election of Vice Chairperson

Motion by Member Stagg, supported by Member Brostrom, to move the election of vice chairperson until after Item 7.1. (Item 8.3)

MOTION CARRIED

6.0 Old Business

None.

7.0 New Business

7.1 ZBA 07-01 Grant Stewart
[submitted for variances]

Associate Planner Suzanne McCoy reviewed the report. She said that this is a variance to permit the expansion of a non-conforming single-family structure within the required setbacks. She said that the site is zoned agricultural (AG). She

listed the neighboring uses. She said the house was constructed in 1920 before the current regulations were in place. She mentioned the current structure does not meet setback requirements. She said that the house is located within the one hundred twenty-five (125) foot Michigan Avenue setback and encroaches into the front yard requirement of fifty (50) feet. She said that a building permit was previously issued to replace the roof and complete interior work. She said additional work was completed that was not approved on the permit. She added that the Building Department issued a stop work order. She said that a letter was sent to Mr. Stewart stating that a variance would be required to complete the work. She mentioned photographs enclosed in the packets of the new work and before photos. She said that the applicant proposes to expand the structure by raising the roof by four (4) feet and other structural alterations. She said that any expansion of legal non-conforming single-family structures must meet current regulations, and the proposed expansion does not because the house is located in the required setbacks.

Chairperson Naik opened the public hearing.

Grant Stewart, applicant, stated that the problem is the clearance upstairs. He said that the stairs are so steep that it is impossible for the stairs to be changed. He added that there is no headroom. He said that they started to proceed on this and did not think they were going to run into problems until they received a stop work order. He said that he knew he could not change the footprint of the building although he did not realize that raising the roof would change the floor area, thereby increasing the building envelope. He said that this is the reason he is applying for the variance. He discussed the back roof being flat and having problems with water leaking. He said that he wants to expand the roof over the whole building.

Member Ward discussed the usable space in the upper level. He asked Mr. Stewart to comment on what this construction would do for the usable space and how the variance would affect the work he would like to complete.

Mr. Stewart stated that the usable space was not up to code according to the building inspector. He said that the room is ten (10) to twelve (12) feet wide and the stairs come into the center of the room. He said that there is not enough room to utilize the space. He mentioned that the building inspector said that the stairs should not be left like this.

Member Ward asked Mr. Stewart that if this work were allowed would he be changing the staircase to improve safety and meet building codes.

Mr. Stewart replied yes. He stated that the building inspector looked at the work.

Member Brostrom asked Mr. Stewart how far he has progressed in the renovation process.

Mr. Stewart stated that there are walls up on the inside and the wiring is completed.

Member Brostrom asked if the roof has been raised four (4) feet.

Mr. Stewart replied yes.

Member Mahn asked if there would be other structural alterations.

Mr. Stewart replied no, there would not be other alterations.

Chairperson Naik asked what the exterior would look like when the construction was finished.

Mr. Stewart stated that the upstairs would have two (2) bedrooms. He said that the inside would be open more because of the raised roof.

Member Naik looked at a picture of the house and asked for clarification.

Planner McCoy stated that this is a picture of the structure before the construction started. She mentioned that the pictures included in the packets show what the house looks like now.

Chairperson Naik asked if there would be siding on the outside of the house.

Mr. Stewart replied yes.

Chairperson Naik asked if there was any communication from neighboring residents in opposition or support.

Planner McCoy replied no.

Motion by Member Brostrom, supported by Member Ward, to close the public hearing.

MOTION CARRIED

Chairperson Naik reviewed the findings.

- 1. That strict compliance with the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render the conformity with such regulations unnecessarily burdensome.** *The owner of the property states that the useable space in the upper level is limited due to the pitch of the roof. This issue is not a*

result of the regulations of the zoning district in which it is located, but a result of the original construction of the house.

Member Stagg stated that the building inspector has said that it does not meet regulations and it is not tall enough. She said that the staircase is in the middle of the floor. She said that the applicant does not want to expand the footprint; he just wants to build up the roof.

Chairperson Naik stated that the restriction would unreasonably prevent the owner from using the property.

Member Brostrom asked if the problem is the new height of the home or that changes are being made.

Planner McCoy stated that by raising the roof the applicant is creating more usable space on top that is an expansion of the structure within the required setback. She said that the house is not in conformance.

Member Brostrom asked if the structure is too high.

Planner McCoy replied no, that the house is not too high. She said that the expansion is proposed in the setback.

Yes: Brostrom, Mahn, Naik, Stagg, Ward.

No: None.

2. **That the granting of a variance would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property and be more consistent with justice to other property owners.** *Granting the variance may do substantial justice for the applicant by allowing the applicant to have more useable space in the upper level of the structure. There are also other houses along Michigan Avenue that would require a variance for expansions.*

Member Ward stated that this would do substantial justice for the owner and the residents. He said that the applicant is attempting to bring the house up to code and be more in line with the construction in the neighborhood. He said that anything less would not be appropriate. He added that granting this request would do substantial justice to the applicant and the neighboring property owners.

Member Stagg stated that making the room smaller would be unfeasible.

Yes: Stagg, Mahn, Ward, Naik, Brostrom.

No: None.

- 3. That the plight of the applicant is due to unique circumstances of the property and not to general conditions in the area.** *There are some unique circumstances of the property that contribute to the plight of the applicant. The majority of the parcel is located within the major road setback. Only a small corner of the parcel is not within a required yard.*

Member Ward stated that there is no question about it. He said that even the established parcels in the area are well outside the setback. He said that this is very unique.

Yes: Naik, Brostrom, Mahn, Ward, Stagg

No: None.

- 4. That the plight or problem is not self-created.** *The plight is not self-created. The house was constructed prior to the adoption of the current regulations.*

Chairperson Naik stated that the plight is not self-created.

Yes: Mahn, Brostrom, Ward, Stagg, Naik

No: None.

- 5. That no non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.** *Non-conforming sites shall not be considered as reason to grant a variance if the Zoning Board decides to do so.*

Chairperson Naik asked if the ZBA would run into this again in this area.

Planner McCoy stated that there are many non-conformities along Michigan Avenue, east of Platt Road to US-23. She said that there might be other cases of people coming before the ZBA. She said that this case is unique because of the shape and size of the parcel.

Director Fowler stated that the planning staff is looking at the area to the east where there are several houses that are non-conforming and currently some pressure to rezone to commercial. He said they are looking at the best way to amend the Comprehensive Plan and address the amendments with zoning. He said that this might not be the situation in the future.

Member Stagg stated that the ZBA would take it on a case-by-case basis.

Yes: Ward, Stagg, Brostrom, Naik, Mahn.

No: None.

- 6. That the variance observes the spirit of the Ordinance, secures public safety, and does substantial justice.** *The variance could provide the property owner with a more useable floor area within the house. It does not appear the variance would have a negative impact on public safety.*

Member Ward stated that this does observe the spirit of the Ordinance. He said that this building was here before the Ordinance was enacted. He said that this would do substantial justice to the applicant by creating a safer environment, usable space and a nicer façade for him and the other residents.

Yes: Ward, Stagg, Naik, Mahn, Brostrom.
No: None.

Planner McCoy stated that the applicant would be working with the Building Safety Department. She said that the variance is the first step and the applicant still needs to coordinate with the building department, to obtain a permit.

Motion by Member Brostrom, supported by Member Stagg, to approve the request for the variance.

ROLL CALL:

YES: BROSTROM, NAIK, WARD, MAHN, STAGG.
NO: NONE.
ABSENT: NONE.
ABSTAIN: NONE.

MOTION CARRIED

8.0 Zoning Administrator's Report

8.1 ZBA Bylaws

Director Fowler stated that the members could discuss the bylaws and suggest corrections if necessary.

Member Brostrom discussed Section 6.3 Secretary. He said that this should state that a member of the Township Board of Trustees cannot serve as secretary.

Chairperson Naik discussed a Planning Commissioner serving as chairperson, vice-chairperson or secretary.

Member Ward added that he understood that the State statute mentions that a board member cannot serve as chairperson.

Director Fowler read from the Section 601 (5) of the Michigan Zoning Enabling Act, which states, "one regular member may be a member of the legislative body but shall not serve as chairperson of the zoning board of appeals."

The Members agreed to leave it open.

Member Brostrom discussed Section 7.2 Regular Meetings. He said that it should read “held on the fourth” and “the third Monday of the month.” He asked about the portion stating “annual meeting schedule is established if there is business to come before it.” He asked why it states “if there is business to come before it.”

Member Ward stated that it is worth keeping this in the bylaws. He mentioned being restricted to just the fourth Monday. He said that if something came up a meeting could be scheduled in compliance with the open meetings act, and it would not have to occur on the fourth Monday of the month. He said that if a situation arises that deems the ZBA should meet they would be restricted to only that Monday. He added that this would give the Township and the ZBA some wiggle room.

The Members discussed the wording in Section 7.2 Regular Meetings.

Member Brostrom discussed Section 7.3 Special Meetings. He said that this should read “Special meetings will be held as necessary.” He discussed Section 7.6 Rules of Order. He mentioned that the comma should be inside the quotation marks.

Member Ward added that in Section 7.6 the period should be in the quotation marks.

The Members discussed Section 7.6.

Member Brostrom discussed Section 8.2 Voting. He asked about it stating “majority of the members, whether present or not.”

Director Fowler stated that if two members were absent and there were three present there has to be three votes.

The Members discussed the wording in Section 8.2.

Member Ward discussed Section 11.1 Resolution and Effective Date. He said that the effective date should be changed.

Director Fowler stated that he would review the bylaws for substance and he would go through the wording.

Motion by Member Ward, supported by Member Stagg, to accept the Pittsfield Charter Township Zoning Board of Appeals Statement of Bylaws with the following corrections; Correction #1 add the word “the” in Section 7.2 on the first line before ZBA, Correction #2 changing the word “or” to “of” on the second line of Section 7.2 after the word Monday, Correction #3 in Section 7.3 changing the word “necessitated” to “necessary”, Correction #4 in Section 11.1 changing the date to May 21, 2007.

MOTION CARRIED

8.2 Rules of Procedure

Chairperson Naik stated that the chairperson opens the public hearing and the members make a motion to close the hearing. He said that it is not necessary to have a motion to open the public hearing.

Member Stagg discussed the statement of “The Chairperson shall announce these limitations before opening the floor for comment.” She said that it might be appropriate to state this later on if people were dragging out their comments.

Director Fowler stated that if there were a lot people here and you sense there will be a lot of public input it is good to announce this at the beginning.

Motion by Member Ward, supported by Member Stagg, to accept the Pittsfield Charter Township Zoning Board of Appeals Rules of Procedure.

MOTION CARRIED

8.3 Election of Vice-Chairperson

Member Ward nominated Member Mahn to the position of vice-chairperson.

Member Mahn declined the position of vice-chairperson.

Chairperson Naik nominated Member Ward.

Member Ward accepted the nomination.

The members accepted the nomination of Member Ward.

9.0 Member's Report

Chairperson Naik formally welcomed Member Kathie Mahn to the ZBA. He said that they are looking forward to her contribution to the ZBA.

10.0 Secretary's Report

None.

11.0 Chairperson's Report

None.

12.0 Approval of Prior Minutes

12.1 Minutes of January 22, 2007

Motion by Member Ward, supported by Member Stagg, to approve the minutes, as corrected.

MOTION CARRIED

13.0 Adjournment

Motion by Member Ward, supported by Member Stagg, to adjourn the meeting.

MOTION CARRIED

Chairperson Naik adjourned the meeting at 7:31 p.m.

s/Alayna Stagg, Secretary

July 30, 2007