SPRING LAKE TOWNSHIP
ZONING BOARD OF APPEALS MINUTES
FEBRUARY 23, 2023
BARBER SCHOOL, 102 W EXCHANGE, SPRING LAKE MI

Present: Larry Mierle, George Postmus, Tom TenCate, Stephen Trocke
Absent: Ellen delaRosa-Pearn, Jack Ketchum
Participants: Lukas Hill, Community Development Director

I. Call to Order

The meeting was called to order by TenCate at 7:01 p.m.

II. Adopt Agenda

Postmus moved to adopt the agenda as presented. Mierle seconded the motion, which passed unanimously.

III. Approval of Minutes

Mierle moved to approve the minutes of the December 1, 2022 meeting as presented. Postmus seconded the motion, which passed unanimously.

IV. Public Comment

A time for public comment was provided. There were no comments.

V. Thornsen: Waterfront Setback Determination, Lot Coverage Variance, Accessory Building Authorization, and Accessory Building Variance – 17307 Franklin Ave

Kirsten Runschke, Architektura PLC, presented the request for multiple considerations. They plan to tear down the existing house. The applicant would like to maintain the current waterfront setback with a lower level deck extending 14 feet toward the water, beyond the foundation of the home. The applicant is also requesting a side yard setback reduction from the required 15 feet to seven feet. The applicant is requesting a variance to allow 30% lot coverage when 25% lot coverage is the maximum permitted in the R-3 district for a waterfront lot. An accessory building authorization for 1152 square feet of total accessory building area is requested. They are also requesting to maintain/construct three accessory structures on site when two are permitted by right. A current detached waterfront deck is proposed to be maintained as-is, and two new accessory buildings are proposed. The total requested accessory building area is 1333 square feet, when 1152 square feet are permissible through the authorization process, so a variance would be required for the additional square footage.

Mary Thornsen, property owner, presented reasons for their requests. They purchased the home with the intent of remodeling to expand the home. It is their year-round home. The lot is long and narrow, and without the side yard setback variance the house will be very narrow. They are unable to
parcel off the back part of the lot, so that is a hardship. They are asking for less than the neighbors asked for, and believe their requests are reasonable.

Dave Thornsen, property owner, discussed the property shape. There are three lots that are long and narrow. The narrowness limits the way they can use their property. Neighbors on the two other narrow lots have received similar variances.

TenCate noted that each request would be considered separately, but the public hearing would cover all requests. The public hearing was opened at 7:20pm.

Four letters were received.

Katherine Bailey and Mark Pursley, 15845 Pine St, support the request.

James Wallace, owner of 17319 Franklin Ave., supports the request if the distance from the proposed structure to the north lot line is no less than the distance from his structure to the same lot line, and if the distance from the west-most end of the proposed structure is no farther west than the west-most end of the structure on his property. Based on the posted plans, it appears that his concerns are alleviated.

Shirley Hipwell, 15843 Cherry St., supports the request, and finds them reasonable. She stated she understands the home will have a seven foot distance from her property line.

Colin and Emily Quiney, 17325 Franklin Ave, also have one of the deep lots. They had to request variances to improve their lot, and understand the necessity for the requested variances.

Motion by Mierle, support by Postmus, to close the public hearing at 7:25pm. The motion passed unanimously.

Mierle asked if the side yard setback for the house to the north is five feet. Hill stated it is.

Postmus asked about the attached deck. Mary Thornsen stated it was there when they bought the house. Postmus suggested a ground-level patio instead of a deck, because the patio does not count in the lot coverage calculation and is not subject to setback limits.

TenCate clarified that the structure down by the lake will remain.

Hill clarified that the waterfront setback determination is for the front of the home to remain where the existing front of the home is. There would be a low-level deck extending from the front of the home. There is an existing waterfront deck that they want to retain. Hill noted that the deck area may or may not be included in the motion for the waterfront setback determination. A deck height of 18 inches or less does not require railings.

Mierle stated he prefers a deck to a patio, as it will fit better, and will look nice for longer. TenCate noted that the decision about a deck would be made by the applicant, based on the waterfront setback determination. The motion can specify the setback is to the foundation, to the deck, or as presented.
Hill noted that patios are not considered structures, so they are not regulated in the Zoning Ordinance and do not require building permits.

Postmus asked if they were using the same foundation or replacing it. Runschke stated they are completely replacing the foundation.

Trocke asked if the ground could be raised to allow pavers to be at the level of the deck. Hill stated that a small retaining wall could be installed to define the patio area.

Postmus asked if trees will be removed. Runschke stated that all trees that are to be removed have been removed already. The rest will remain.

Mierle asked for the size of the deck. Hill stated it would be 24 feet by 16 feet. Runschke stated that is the same size as the house to the north.

TenCate reviewed the request. They are requesting that the waterfront setback be the same as the existing house. The motion can address the deck location. There is also a request for a side yard setback reduction for the south lot line. He noted there was a variance request for another lot in 2006, but the ordinance has been changed since then to recognize the unique area of Strawberry Point.

Trocke asked where the waterfront setback was measured, whether to the deck or to the foundation. Hill clarified that the issue would be handled in the motion.

Trocke asked if the new house would affect the view for the house to the south. David Thornsen stated it would affect a small portion of the view, but the neighbors are planning to rebuild their house closer to the water.

TenCate asked about the upstairs deck overhang. Runschke stated it would not extend over the lower deck.

Hill clarified the setback is measured to the eaves.

Board members considered the criteria for a waterfront setback determination. The location of buildings on adjoining properties was discussed. The effect of construction on the Lot in question on the view from adjoining properties will have a slight change to the view for the property to the south. There will be no effect on erosion or flooding, seawalls or adjoining properties and the surrounding neighborhood. The relative proximity of the proposed building to adjoining properties was discussed.

Board members discussed the side yard setback request. Hill noted that the side yard setback reduction should only be considered if it affects the waterfront viewshed. The request is for a seven-foot setback to the eave.

Postmus made a motion to determine the Waterfront Setback as the same as the existing home front foundation, which is approximately 55 feet from the 582 contour, with no side yard setback reductions at 17307 Franklin with the following conditions:
1. An as-built survey be provided after the foundation has been installed and prior to framing.
2. The applicant will comply with any other local, state, and federal laws, and
3. The applicant will comply with all verbal representations.
The motion died for a lack of a second.

TenCate made a motion, support by Mierle, to determine the Waterfront Setback as the same as the existing home front foundation, which is approximately 55 feet from the 582 contour, with no side yard setback reductions at 17307 Franklin the following conditions:

1. The proposed home foundation shall not protrude further west than the foundation of the home on the lot directly adjacent to the north (17319 Franklin).
2. An attached waterfront deck may extend 14 feet towards the water with a maximum height of 12 inches from existing grade. No railings or enclosures are permitted.
3. An as-built survey be provided after the foundation has been installed and prior to framing.
4. The applicant will comply with any other local, state, and federal laws, and
5. The applicant will comply with all verbal representations.

A roll call vote was taken. Postmus and Trocke voted no. Mierle and TenCate voted yes. The motion failed.

Mierle made a motion, support by TenCate, to determine the Waterfront Setback as presented with the following conditions:

1. An attached waterfront deck may extend 14 feet towards the water with a maximum height of 18 inches from existing grade. No railings are permitted.
2. The applicant will comply with any other local, state, and federal laws, and
3. The applicant will comply with all verbal representations.

A roll call vote was taken. With Postmus as the only no vote, the motion passed.

Postmus pointed out that the lot coverage could be reduced by removing the waterfront deck and the attached deck and replacing them with a patio. Postmus stated that he believes allowing the deck to extend into the waterfront setback is inconsistent with previous Board actions. A nearby property was denied the waterfront deck and had to install a patio. TenCate noted that the applicant can choose to eliminate the deck, but it is their choice.

The Board then discussed the lot coverage variance request of up to 30%, where the maximum allowed coverage in the district is 25%.

Hill noted that the proposed structures are not relevant to this discussion. The property as a whole should be considered. The requested coverage is 5103 square feet, while the ordinance would allow 4245 square feet. When the lot coverage is determined, the applicant decides how to allocate the square footage.

Postmus asked about the existing garage. Hill stated that everything on the property will be removed except for the existing waterfront deck.

The criteria for a variance were considered. The Board did not find that any of the criteria were met.

Motion by Trocke, support by Mierle, to deny the lot coverage variance request at 17307 Franklin, as the request does not meet the criteria in Section 112 I of the Zoning Ordinance, specifically conditions a, b, c, d and e.
A roll call vote was taken. The motion was approved unanimously.

The Board considered the accessory building authorization request. TenCate noted that with the lot coverage set at 25%, it could affect the accessory buildings allowed. The request is for three accessory buildings, when two are allowed by right. The request is for 1152 square feet of accessory buildings, when 576 square feet are allowed by right.

Hill noted that the waterfront deck is included in the accessory building calculations.

Hill noted that the Board could approve the authorization. With the lot coverage limit, the applicant would need to determine whether to construct a larger accessory building or a larger house.

Hill read the criteria for an accessory building authorization. He noted that no landscaping information was provided by the applicant.

Mierle made a motion, support by Postmus, to approve an accessory building authorization at 17307 Franklin to allow 1152 square feet of accessory structures as the request complies with all of the review criteria in Section 306, F, of the Zoning Ordinance with the following conditions:
1. Only two accessory structures shall be permitted on site.
2. The applicant will comply with any other local, state, and federal laws, and
3. The applicant will comply with all verbal representations.

A roll call vote was taken. The motion passed unanimously.

As the accessory building authorization for 1152 square feet was approved, the accessory building variance could be considered. Generally, a variance should only be allowed in extremely unique cases where application of the law would result in a situation that denies reasonable use of the property.

The applicant withdrew the accessory building variance request.

VI. Adjournment

Postmus moved to adjourn the meeting at 9:20pm with support from Mierle. With a unanimous vote, the motion passed.

Respectfully submitted,

George Postmus, Secretary
Zoning Board of Appeals