

**SPRING LAKE TOWNSHIP
ZONING BOARD OF APPEALS MINUTES
JULY 23, 2020 – REGULAR MEETING**

Present: Ellen delaRosa-Pearn, Jack Ketchum, Larry Mierle, George Postmus, Tom TenCate, Rachel Terpstra
Absent: None
Participant: Lukas Hill, Community Development Director

Pursuant to Executive Order No. 2020 – 154, the Township of Spring Lake Zoning Board of Appeals conducted its business via conference call to mitigate the spread of COVID-19. Members of the public were encouraged to dial in to this meeting. Members of the public were not required to register or otherwise provide information to attend.

I. Call to Order

The meeting was called to order by Ketchum at 7:04 p.m.

II. Approval of Minutes

TenCate moved to approve the minutes of the June 25, 2020 meeting as presented. Mierle seconded the motion. A roll call vote was taken and the motion passed unanimously.

III. Adopt Agenda

Mierle moved to adopt the agenda as presented. TenCate seconded the motion. A roll call vote was taken and the motion passed unanimously.

IV. Public Comment

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

V. Lindhout – Variance from average waterfront setback for a deck and pergola – 15730 Connelly

Jeffrey Lindhout presented his request for a setback variance for his deck and pergola. He remodeled his house and noticed warping of his flooring near the windows and slider. The flooring supplier stated that the warping is due to the sun, and a pergola or awning is needed to mitigate the direct sun. While investigating the addition of a pergola, it was discovered that the existing deck needs to be replaced. The size of the deck will not change. It will be resurfaced and

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more supports will be added. The existing mature landscaping around the deck will remain. The pergola will be only on the south part of the deck and won't obstruct any views. The existing deck is near grade and does not obstruct any views. Lindhout stated that his application packet contained two emails from the neighbors in support of the project. He also stated that he included photos to show how the view of the neighbors will not be obstructed.

Postmus asked if the pergola would have insulated roof panels. Lindhout stated that the insulated roof panels are a solid awning over the sliders to protect the slider area and foundation from rain. The pergola will be a normal pergola.

Mierle asked if the pitch of the solid roof is the same as the pitch of the pergola. Lindhout stated that there is no pitch to the pergola, and only a small pitch to the awning. He stated he does not want the awning to be too visible from the lake. Chad McNew from Montell Construction, the project contractor, stated that the awning would have a 1:12 pitch, which is enough to shed water but won't take away from the beauty of the home.

Ketchum asked what the 18x8-foot Santa Fe referred to in the plans. Lindhout stated that this is the awning part of the structure, and that Santa Fe is the model name. McNew stated that the awning is wide enough to cover the sliding doors.

Ketchum clarified with Lindhout that he was aware that no walls would ever be allowed on the deck. Lindhout stated that he is aware, and has no intention to create a 3-season room.

The public hearing was opened at 7:23pm.

Emails were received from Taggert Kelly and Doug and Kathleen Taylor supporting the project.

Motion by Mierle, support by TenCate, to close the public hearing at 7:24pm. A roll call vote was taken and the motion was approved unanimously.

Ketchum confirmed that the request was for a waterfront setback variance to replace the deck with one of the same dimensions. The requested waterfront setback is 46.5 feet, while the required setback is 53.5 feet.

Hill stated that staff did not feel there was any unique property situation that would warrant a waterfront authorization process; therefore this is a variance request for a waterfront setback. However, if the ZBA finds there are unique circumstances, they could proceed with a waterfront determination instead. The difference is that a waterfront setback determination does not consider hardship of the applicant.

Commissioners discussed and agreed that a waterfront setback determination was the proper way to handle this situation, as there is an irregular shoreline.

TenCate read the criteria for a waterfront setback determination from Section 356 C.

Motion by Mierle, support by TenCate, to approve the Average Waterfront Setback as presented on the site plan at 15730 Connelly as it complies with the approval standards in Section 356 C of the Zoning Ordinance, with the following conditions:

- a. The pergola and deck will remain open air structures with no wall or solid roof.
- b. The applicant will comply with any other local, state, and federal laws.
- c. The applicant will comply with all verbal representations as represented in these minutes.

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

VI. Hiller – Variance from the average waterfront setback for replacing an existing deck and a side yard setback variance to replace a garage – 18415 North Shore Estates Road

Thomas Hiller presented his request. He stated that the variance request includes both a deck and a garage. The deck was built in the 1970s and much of the deck did not have support. He has been reinforcing the deck for the past 15 years, but the deck is now too unsound to repair. He would like to rebuild the new deck smaller than the existing deck so it will meet the 10-foot setback at the corner of the house. The deck will be built with all new material, as nothing is reusable. The garage will be built eastward from the existing garage. One corner of the garage will not meet the 10-foot setback, but it does stay within the existing seven-foot setback. He would like to be able to build a square garage, and not have one corner angled. He looked at moving the garage south to meet the setback, but there are structural issues. EGLE requires that the remodeled house use the same footprint as the existing house. Moving the garage further south impedes the ability to include stairways and an elevator in the interior of the house. The garage was designed to meet the EGLE requirements. He stated he has discussed the project with the neighbors and they have submitted a letter in support.

Matt McCambridge, the contractor for the project, stated that the existing deck is ready to collapse. The deck is dropping due to erosion, and nothing can be saved. The garage location was chosen to fit two staircases and an elevator. The garage will not go any closer to the lot line than the previous garage.

Hill stated that commissioners may look at the deck aspect of the request as a setback determination instead of a variance.

Postmus asked if the garage was removed for heavy equipment access. Also, he asked if the north wall of the garage will be removed. McCambridge stated that the existing north wall of the garage will become part of the new internal structure of the house. The garage came down for the revetment project.

Postmus asked about the pile of rock at the shore and whether steel retaining walls would be installed. Hiller stated that the pile of rock is currently protecting workers along the shore. They will be building a retaining wall and then adding the revetment. There is no steel involved.

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All boulders will be moved to the retaining wall and then buried as required by EGLE. The property to the south is doing a similar project with the same contractor.

Ketchum asked if the seawall would be made of steel. Hiller stated that the retaining wall would be made of sandstone. It is designed to support the walkout level of the house, not to stop the water. TenCate stated that the Nederveld design shows the use of cut sandstone to replace railroad ties.

Mierle asked about the corner of the garage. Hiller stated that instead of cutting off the corner he would like to keep it square. Ketchum confirmed that the submitted design showed the garage cut off to meet the legal setback, but the applicant would like to square it off.

TenCate asked what the waterfront setback would be. Hill stated that it is 113 feet as measured using the Ottawa County GIS system.

DelaRosa-Pearn asked about the distance between the corner of the house and the property line as shown in the site plan. Hiller stated that the plan shows the existing wall that was kept at seven feet. McCambridge stated that they did not encroach any further than what was existing. Hill stated that the seven feet is a legally nonconforming setback.

The public hearing was opened at 8:06pm.

An email was received from Kathryn and Shawn McCabe, 18427 North Shore Estates Road, stating that they are the neighbors immediately to the north. They support the requested side yard setback variance.

Motion by TenCate, support by Terpstra, to close the public hearing at 8:07pm. A roll call vote was taken. The motion was approved unanimously.

Hiller confirmed that the drawings that were submitted to the ZBA are current and represent what will be built.

Commissioners discussed and agreed that a waterfront setback determination was the proper way to handle this situation. Hill stated that a setback determination could include both the waterfront setback and the side yard setback.

Motion by Postmus, support by Mierle, to approve the Average Waterfront Setback Determination application as presented, inclusive of the waterfront and the side yard setbacks, at 18415 North Shore Estates Road as it complies with the approval standards in Section 356 C of the Zoning Ordinance, with the following conditions:

- a. The deck will remain an open air structure with no walls or solid roof.
- b. The applicant will comply with any other local, state, and federal laws.
- c. The applicant will comply with all verbal representations as represented in these minutes.

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

VII. Bez – Variance to construct a waterfront accessory structure greater than 144 square feet – 16213 Dawnview Drive

Postmus recused himself because he is a close neighbor. DelaRosa-Pearn participated as an active board member for this request.

Leslie Bez stated that when they purchased the house there was no access to the lake and the seawall was being removed. They would like to have a boardwalk along the top of the seawall. The boardwalk would be ten feet wide and extend along the entire property to connect with the neighboring boardwalks.

Mierle asked if the boardwalk was already complete. Bez stated that their contractor stated they did not need Corps or EGLE permits and they did not realize they needed a zoning permit. Joel Bez stated that they did not receive a stop work order and the structure is already complete.

TenCate asked if the goal is to have all the yards connected. Bez stated that he only knows that the direct neighbor wants to connect. The assumption is that everyone wants to connect.

DelaRosa-Pearn asked if the intent is to use the boardwalk as a boat dock. Bez stated that they will tie their boat up there.

TenCate confirmed that the deck does not extend over the seawall.

The public hearing was opened at 8:28pm.

George Postmus, 16255 Dawnview Drive, stated that he lives three to four houses down. The Bez house and seawall have been remodeled and it has been a great improvement. He supports the boardwalk.

An email was received from Reinhard Walther and Janina Schmieder, 16237 Dawnview Dr. They stated they absolutely support the application for the variance, and that they have been waiting 15 years for this to happen.

Motion by Mierle, support by TenCate, to close the public hearing at 8:31pm. A roll call vote was taken and the motion was approved unanimously.

Commissioners deliberated and reviewed the criteria in Section 112 I and found that all criteria were met.

Motion by delaRosa-Pearn, support by TenCate, to approve the Waterfront Accessory Structure Variance application as presented at 16213 Dawnview Dr. as it complies with the approval standards in Section 112, I, with the following conditions:

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- a. The deck/boardwalk will remain an open air structure with no walls or solid roof.
- b. The applicant will comply with any other local, state, and federal laws.
- c. The applicant will comply with all verbal representations as represented in these minutes.

A roll call vote was taken and the motion was approved unanimously.

VIII. Jones – Variance to construct a waterfront accessory structure greater than 144 square feet – 16225 Dawnview Drive

Postmus recused himself because he is a close neighbor. DelaRosa-Pearn participated as an active board member for this request. This item was discussed after the France request so the applicant could be present.

Kent Jones stated that they purchased the home in January and are neighbors to the Bez property. They would like to install a 112x10 foot boardwalk along their seawall. There is a steep drop from the houses to the water so it will not obstruct views. This will be a structure like those of the neighbors. There cannot be a perpendicular dock because the bayou is too narrow. Construction of the boardwalk has not started.

The public hearing was opened at 9:52pm

An email was received from Reinhard Walther and Janina Schmieder, 16237 Dawnview Dr. They stated they absolutely support the application for the variance, and that they have been waiting 15 years for this to happen.

George Postmus, 16255 Dawnview Drive, stated that it is great to see major improvements along the channel. He supports the boardwalk.

Motion by delaRosa-Pearn, support by Terpstra, to close the public hearing at 9:53pm. A roll call vote was taken and the motion was approved unanimously.

Commissioners deliberated and reviewed the criteria in Section 112 I and found that all criteria were met.

Motion by Terpstra, support by TenCate, to approve the Waterfront Accessory Structure Variance application as presented at 16225 Dawnview Dr. as it complies with the approval standards in Section 112, I, with the following conditions:

- a. The deck/boardwalk will remain an open air structure with no walls or solid roof.
- b. The applicant will comply with any other local, state, and federal laws.
- c. The applicant will comply with all verbal representations as represented in these minutes.

A roll call vote was taken and the motion was approved unanimously.

IX. France – Variance from the required front yard setback and authorization to construct an accessory building that is larger and taller than permitted by right – 17353 Coles Park Road

Dan France stated that he owns a vacant parcel and would like to build a house. He would like a setback of 12 feet from the road to the front of the house. This will have the house line up with other houses along the road. He also would like an 864 square foot detached garage, when only 576 square feet are allowed by right. France stated he sent a landscape plan to Hill.

Mierle asked for clarification of the property line. France stated that they have not had a survey done, but they expect that the property line is straight.

Sherry Norman, property owner, stated that there is an old fence that may not be exactly on the property line. They will need a survey. They did find survey pegs at the front and back and the fence may be off a little bit.

Hill stated that it is not part of the determination to know where the property line is. However, commissioners can require as-built drawings as a condition of approval if desired.

TenCate asked about moving the garage to the southerly part of the lot. France stated that there is a telephone pole in the way so the driveway needs to be on the proposed side of the house.

Commissioners decided to consider the two requests separately.

Commissioners discussed the front yard setback.

The public hearing was opened at 9:09pm. There were no comments. Motion by TenCate, support by Terpstra, to close the public hearing at 9:10pm. A roll call vote was taken and the motion was approved unanimously.

TenCate confirmed that the required front yard setback is 30 feet.

Commissioners reviewed the criteria in Section 112 I. The consensus was that the conditions were met, but that the setback requested was too close to the road.

Motion by Terpstra, support by TenCate, to approve the variance application at fifteen feet at 17353 Coles Park Road as it complies with the approval standards in Section 112, I, with the following conditions:

- a. The applicant will comply with any other local, state, and federal laws.
- b. The applicant will comply with all verbal representations as represented in these minutes.
- c. A survey will be conducted before construction begins.

A roll call vote was taken and the motion was approved unanimously.

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Commissioners then discussed the 864 square foot accessory building.

France stated that the garage will be 19 feet 10 inches high. The sidewalls will be 10 feet tall. The garage is 24 feet wide and 36 feet deep, so from the street the difference won't be noticeable.

Ketchum asked the proposed height of the new home. Norman stated that it would be two stories, and would be taller than the garage.

Postmus stated that the depth from the street the garage would look normal, but for the neighbor in back it will look bigger. France stated that there is a fence around it, and he will add trees. He wants a bigger building so there is no need for other accessory buildings.

Mierle stated that the ZBA has never allowed oversized accessory buildings on small lots in crowded neighborhoods. He stated that he feels 24x36 is too large for the neighborhood.

Terpstra asked about the size of the garage next door. France stated it is 24x24 plus an overhang.

The public hearing was opened at 9:23pm.

Two emails were received from Bernina France, 15748 Margaret Avenue, objecting to the accessory building. Bernina France attended the meeting and commented that the garage would be right off the back side of her house. The garage will be directly behind the fence but the roof will be high enough that she will see the roof. She stated that she included pictures with her letters, and there are no trees blocking the view along the fence line. She asked that the garage be placed on the other side of the property.

Betty Anguiano, 17346 Coles Park Road, stated that the accessory building as proposed is too large for their little street. She would accept a building sized as allowed by right. She also stated that there should be a survey before construction.

Sherry Norman stated that the lot coverage standard in the district is 40%. The lot coverage for the proposed house plus accessory building is less than 20%.

Motion by Mierle, support by TenCate, to close the public hearing at 9:32pm. A roll call vote was taken and the motion was approved unanimously.

Commissioners discussed the size of the proposed accessory building. Consensus was that the building was too large for the lot.

Commissioners reviewed the criteria in Section 306 F. They stated that France should consider screening the building.

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Motion by Mierle, support by Postmus, to approve the accessory building authorization application for a 24 foot by 26 foot accessory building with 8-foot sidewalls at 17353 Coles Park Road as it complies with the approval standards in Section 306 F with the following conditions:

- a. The applicant will comply with any other local, state, and federal laws.
- b. The applicant will comply with all verbal representations as represented in these minutes.

A roll call vote was taken. Mierle, Postmus and Terpstra voted yes. TenCate and Ketchum voted no. The motion was approved.

X. Adjournment

TenCate moved to adjourn the meeting at 10:01pm with support from Terpstra. With a unanimous vote, the motion passed.

Respectfully submitted,

George Postmus, Secretary
Zoning Board of Appeals