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**SPRING LAKE TOWNSHIP
ZONING BOARD OF APPEALS MINUTES
FEBRUARY 24, 2022
BARBER SCHOOL, 102 W EXCHANGE, SPRING LAKE MI**

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

I. Call to Order

The meeting was called to order by TenCate at 7:00 p.m.

II. Adopt Agenda

DelaRosa-Pearn 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 16, 2021 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. 360 Michigan LLC – Dimensional Variance – 18051 N Fruitport Rd

Todd Bosgraaf and Jeremy Fogg presented the request to expand the volume of an existing nonconforming waterfront accessory structure. The intent is to make the building more usable by increasing the roof height. They are not expanding the building footprint. The building sits on the side of the hill and is not visible from the neighbors.

Mierle asked if they were going to raise the roof. Bosgraaf stated they would either raise the roof or lift the building to lift the roof. They want to increase the headroom to allow people to walk in the side of the building.

Postmus asked if the pergola is considered a structure. Hill stated that it is a structure, and one waterfront structure is permitted. This property has two waterfront structures currently.

DelaRosa-Pearn asked if the pergola was going to remain. Bosgraaf stated it would remain, and that the pergola does not have sides, just a floor and roof.

DRAFT

Postmus asked if there would be water added to the building. Bosgraaf stated they were adding water and a waste line that would be pumped to the septic tank.

The public hearing was opened at 7:08pm.

An email was received from Mike Reinhart, 18053 N Fruitport Rd, stating that he has no concerns with the request and endorse its approval.

Motion by delaRosa-Pearn, support by Mierle, to close the public hearing at 7:10pm. The motion was approved unanimously.

DelaRosa-Pearn stated she was concerned about the nonconformity of two waterfront accessory structures.

Mierle stated that the building is being used, and the square footage is not expanding, just the cubic footage is expanding.

Bosgraaf stated they would be moving the play structure, although it is not considered a structure.

The Board reviewed the criteria for a dimensional variance. By consensus, they found that the exceptional circumstance was the hill from the house to the water. Postmus stated that the hill behind the accessory building will block the view, and the neighbor is not concerned. By consensus, the Board found that the remaining criteria for a dimensional variance were met.

Motion by Mierle, support by delaRosa-Pearn, to approve the variance request at 18051 N. Fruitport Road as presented to expand an existing nonconforming waterfront accessory structure as the application meets all of the criteria in Section 112, I, of the Zoning Ordinance with the following conditions:

- a. The applicant shall comply with any other local, state, and federal laws, including compliance with critical dune laws.
- b. The applicant will comply with all verbal representations.
- c. The pergola may remain as a waterfront accessory structure but it must remain as it is currently.

A roll call vote was taken. With TenCate as the only negative vote, the motion was approved.

VI. 360 Michigan LLC – Accessory Building Authorization – 18047 N Fruitport Rd

Todd Bosgraaf and Jeremy Fogg presented the request to add more accessory structure than permitted by right. Previously, approval was granted to convert the barn to a guest house and split the property. This request is for an authorization to add a greenhouse. There is an existing sugar shack on the property. Because the raised planters need to be included in the square footage calculation, the total square footage of accessory buildings is larger than permitted.

Hill stated that there is a maximum of 960 square feet of accessory structures, and this request is for 994 square feet total, which includes the greenhouse, the raised planters and the sugar shack. The raised planters are considered part of the greenhouse because they are on the same foundation.

DRAFT

TenCate stated the raised planters add about 70 square feet to the total. The planters are not on the side of the greenhouse where the driveway comes in.

Postmus asked where the sugar shack is. Bosgraaf stated it is back in the woods. The playhouse is not considered a structure. Bosgraaf stated they would like to keep the sugar shack.

Mierle asked about removing the raised planters. Bosgraaf stated they were part of the growing process, and they would prefer to keep them.

The public hearing was opened at 7:36pm. There were no comments. Motion by delaRosa-Pearn, support by Postmus, to close the public hearing at 7:37pm. The motion was approved unanimously.

Hill stated a landscape plan was submitted on February 24. The plan was provided for the Board to review.

Fogg stated that they have extensively engineered the drainage. They are adding an orchard near the greenhouse. Only scrub trees will be removed, and everything else will remain.

DelaRosa-Pearn asked about the fencing. Fogg stated they have not determined the look of the fencing yet. TenCate noted the fencing will be visible from the driveway and from the neighbor's house.

The Board reviewed the criteria for an accessory building authorization. By consensus, the Board found that all criteria were met.

Motion by delaRosa-Pearn, support by Postmus, to approve the authorization request at 18047 N. Fruitport Road as presented as the application meets all of the criteria in Section 306, F, of the Zoning Ordinance with the following conditions:

- a. The applicant shall comply with any other local, state, and federal laws.
- b. The applicant shall comply with all verbal representations.
- c. A restrictive covenant shall be recorded with the Ottawa County Register of Deeds, , indicating that any future division of the subject Lot shall meet the limits for Lot Area and Accessory Building or Structure size provided in Section 306. The covenant shall be provided to the Zoning Administrator prior to the issuance of a permit under Section 116.

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

Motion by delaRosa-Pearn, support by Mierle, to hear the remaining two applications in reverse order, with Kiel first and Garrison second. A roll call vote was taken. The motion was approved unanimously.

VII. Kiel – Dimensional Variance – 19115 N Fruitport Rd

Tyler Peterson presented the request to expand a nonconforming structure. The current structure has existing yard encroachments. The request is to modify the roofline, but leave the footprint the same. Converting the attic space to a bedroom will add 400 square feet to the house.

DRAFT

TenCate confirmed that the house will have the same foundation, the same overhang, and the same setbacks. Peterson stated that is correct.

Hill stated the lot is surrounded by right of way. The north property line was considered a side yard. The ordinance requires a five-foot setback, and the current house has a three-foot setback.

DelaRosa-Pearn confirmed that the driveway and garage will remain the same, and the only modification is for the attic. Peterson stated that is correct.

The Board reviewed the criteria for a dimensional variance. By consensus, the Board found that all criteria were met.

Motion by Postmus, support by Mierle, to approve the variance request at 19115 N. Fruitport Road as presented to expand an existing nonconforming structure as the application meets all of the criteria in Section 112, I, of the Zoning Ordinance with the following conditions:

- a. The applicant shall comply with any other local, state, and federal laws.
- b. The applicant will comply with all verbal representations.

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

VIII. Garrison – Dimensional Variance – 18069 North Shore Estates Rd

Norman Dodds presented the request for side and rear setback variances. Previously, a variance was granted based on the existing structure. After construction started, it was found that there was either too much damage or construction was inadequate, and the existing structure was removed.

Postmus asked if a building permit was received. Dodds stated he had a building permit. He thought his partner may have requested a demolition permit. Hill stated no demolition permit was issued.

DelaRosa-Pearn asked if the foundation was changing. Dodds stated that everything that has been poured will stay. The east wall was bowed in, probably due to weight from the road. It was not noticed until the drywall was removed.

Mierle stated that since more than half the building has been removed, the new structure needs to meet code.

Hill stated that anything being rebuilt must meet setback requirements. This request is to reapprove what was previously granted. However, the structure is now being built from the foundation, rather than from existing walls.

DelaRosa-Pearn asked if the existing foundation has been approved by EGLE. Dodds stated EGLE approved the footprint. If the foundation is removed the house will need to be moved landward as far as local zoning would allow. The foundation is 19 feet 2 inches from the road, rather than the required 20 feet.

Dodds stated that they can meet the 10-foot side yard setbacks by carving out the corners. The main part of the house meets the setback. The garage has one side that does not meet the setback. The southeast corner of the garage is all that will not comply with the setback.

DRAFT

Dodds stated the existing EGLE permit is still valid. EGLE is requesting a post-construction permit for the linkage between the house and garage.

The public hearing was opened at 8:27pm.

An email was received from Jim Brady, 18075 North Shore Estates Rd opposing the request. Brady stated he built his house without a variance and this house should meet the requirements of the ordinance.

Dodds stated that the Brady house is forward from this house and the Brady house infringes on the setbacks.

Motion by delaRosa-Pearn, support by Mierle, to close the public hearing at 8:29pm. The motion was approved unanimously.

DelaRosa-Pearn stated that procedurally this is a problem. However, the Board argued about the setbacks recently and she sees no point in arguing again.

Dodds restated that he can notch the walls back, but the foundation will remain where it is.

The Board reviewed the criteria for granting a variance.

By consensus, the Board found that the road and the critical dune constitute exceptional or extraordinary circumstances.

By consensus, the Board found that the variance is necessary for the preservation and enjoyment of a substantial property right. Postmus expressed concern about financial gain.

By consensus, the Board found that the variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of the ordinance. Hill stated that the purpose of the ordinance is to be fair to all applicants for zoning permits.

By consensus, the Board found that the remaining conditions for a dimensional variance were met.

Dodds stated he received an email that the existing EGLE permit is still valid, and he will forward that to Hill. He has applied for the post-construction permit for the wall between the house and the garage.

DelaRosa-Pearn stated that notches will solve the north and south setback issues, and the only remaining issue is the distance between the garage and the road, which is eight inches off.

Hill stated that when EGLE states a location is good and removing the foundation would disrupt critical dunes, a variance can be warranted.

Motion by delaRosa-Pearn, support by Mierle, to approve the variance request to construct a new house at 18069 North Shore Estates Road as modified with notches in the walls on the north side of the house and the south side of the garage to meet the setbacks, and as presented for the rear yard

DRAFT

variance, as the application meets all of the criteria in Section 112, I, of the Zoning Ordinance with the following conditions:

- a. The applicant shall comply with any other local, state, and federal laws, including compliance with critical dune laws and permits.
- b. The applicant will comply with all verbal representations.
- c. The EGLE permit is valid to construct a home in the presented location.

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

IX. Adjournment

DelaRosa-Pearn moved to adjourn the meeting at 9:07pm with support from TenCate. With a unanimous vote, the motion passed.

Respectfully submitted,

George Postmus, Secretary
Zoning Board of Appeals