

ISABELLA COUNTY
ZONING BOARD OF APPEALS
October 20, 2010

Room 225
Isabella County Building

A regular meeting of the Isabella County Zoning Board of Appeals was held on October 20, 2010 in room 225 of the Isabella County Building, 200 North Main Street, Mount Pleasant, Michigan.

MEMBERS PRESENT: Jim Wynes, Gordon Gilchrist, Marilyn Fosburg, Tom Courser, Kelly Bean.

MEMBERS ABSENT: None.

SUPPORT STAFF PRESENT: Mike Zalewski, Planner/Zoning Administrator
Brandy Harger, Recording Secretary

The meeting was called to order by the chair at 9:00 a.m.

The Pledge of Allegiance was recited by the board.

APPROVAL OF AGENDA

The agenda was approved as submitted.

PREVIOUS MINUTES

The minutes of the September 15, 2010 meeting were approved as submitted.

PUBLIC COMMENTS

None heard.

VARIANCE REQUEST #10-08

Mr. Zalewski explained that James and Karen DeVleeschouwer are requesting variances to construct a 16' x 20' accessory building 1.5' from the front property line and 1.5' from the home that is on the property. The minimum front setback for this property located in the Lakes Area Residential (L-R) District is 20'. The minimum setback between an accessory building and principal building is 6'.

Mr. John Benaske, representing the applicant, stated that there was a case on Bayou Dr. in which the ZBA approved a variance for a garage to be 4' from the house.

Mr. Zalewski stated that the office would have record of that case, but he is unsure of which case he is referring to.

Mr. Benaske stated that the doors to the building would be on the side with access to the road. The 1.5' was measured from overhang to overhang.

The public hearing was opened at 9:12.

None heard.

The public hearing was closed at 9:12.

Mr. Courser stated that the list of criteria should be gone through to see if the board can justify granting this request. He also explained that in this case there are no exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district.

Ms. Fosburg stated that the shed that is on the property is much closer to the road than is shown in the drawing.

Mr. Courser stated that there is no exceptional narrowness, shallowness or shape of this specific property. All the lots in that area are about the same size and have the same type of situation; therefore all those property owners would have the same types of problems. He also explained that because everyone else is in the same situation the variance would not be necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same Zoning District and in the vicinity.

Mr. Bean stated he would challenge that most people in that area do have garages on their properties and most people would like to put a garage somewhere on their property to store things.

Mr. Courser stated that putting this building 1.5' from the property line would be detrimental to the adjacent property and the surrounding neighborhood because neither the property owner nor the neighbors would be able to see around it. He also explained that the variance will materially impair the intent of the purpose of the ordinance and that the immediate practical difficulty causing the need for the variance request was created by the applicant. There is the potential to build a 44' x 45' building and meet all setback requirements. Doing so would require the house to be removed and start over, but it still makes this a self created problem.

Mr. Bean stated that the property owner couldn't start over completely. A car parking in a driveway with this building being 1.5' from the property would be in the road.

Mr. Wynes stated that the applicant is looking for an 18.5' variance. That is like zoning nullification; at this point why even have zoning. This goes beyond what a variance is.

Ms. Fosburg stated that the shed that is currently on the property is in the way now and hard to see around when backing out.

A motion was made by Ms. Fosburg, supported by Mr. Courser, to Deny Variance #10-08 because there are no exceptional circumstances that exist with the property, there are no other garages in the area that are too close to the property lines, just sheds. This would be detrimental for neighboring properties because they will not be able to get out of their driveways. Granting the variance would materially impair the intent of the ordinance and this problem was also created by the applicant.

Roll Call Vote:

Tom Courser: Yes
Marilyn Fosburg: Yes
Gordon Gilchrist: No
Kelly Bean: Yes
Jim Wynes: Yes

Motion carried.

Variance Denied.

STAFF COMMENTS

Mr. Zalewski stated that last year when the ordinance was amended to reduce the front setback in the L-R district to 20' in some areas, Gilmore Township had concerns with the reduced setback requirements, and specifically mentioned the properties in this area.

BOARD COMMENTS

Mr. Gilchrist stated that this is a reoccurring problem in the L-R districts.

Ms. Fosburg stated that the builders should have an obligation to tell property owners that they are building on a small lot and inform them of any possible zoning issues. Further, a buyer has to know what they are buying.

ADJOURNMENT

A motion was made by Ms. Fosburg, supported by Mr. Courser to adjourn at 9:27 a.m.

Yes: Wynes, Gilchrist, Fosburg, Courser, Bean.

No: None.

Motion Carried.

Marilyn Fosburg, Secretary

Brandy Harger, Recording Secretary