

DRAFT

BURT TOWNSHIP Zoning Board of Appeals Minutes September 24, 2010

The regular meeting of the Burt Township Zoning Board of Appeals was called to order by Chair, Walt Lindsay on September 24, 2010 at 7 p.m. at the Burt Township Hall, Cheboygan, Michigan.

Attendance: Walt Lindsay, Harold Koviak, Katie Parker.

Also attending: Dan Swantek

Guests: Ed Terris, Jim Weidman, Don Cheyne, Stu Cheney, Drake and Diane Pendleton and children

Minutes of July 23, 2010

Motion: Moved by Harold Koviak and seconded by Katie Parker to accept the minutes of July 23, 2010 as published.

Motion Approved

Public Comment Period

Dan Swantek offered a comment to be passed on to the Burt Township Board: get road signs on Peace, Love and Peck roads. His comment was duly noted by township supervisor Koviak, who further stated that the road commission has started putting red signage on all private roads in the county.

Public Hearing

Burt Lake Springs Resort, 2214 Elmhurst Rd., represented by Don Cheyne and Jim Weidman. Case # 254

Subject of the public hearing

This is a request by the Burt Lake Springs Association, 2214 Elmhurst Road, Brutus, for variances to allow construction of a new 280 ft² storage shed that would encroach in the 50 foot rear setback of the association's property. The association is proposing that this shed (a temporary construction without a foundation) replace an existing 415 ft² storage shed located elsewhere on the property. In addition to demolishing the existing shed, the association proposes to demolish a 190 ft² deck that is connected to a separate building; that building will remain place.

Jim Weidman presented the request to the board.

The association wishes to tear down the old deteriorating storage shed in the center of the Burt Lake Springs Resort, along with an old deck attached to another storage building. This has already been approved by the association's board.

Comments by Dan Swantek, Burt Township Zoning Administrator

Dan Swantek voiced concern about the location of the proposed new shed on the other (west) side of Elmhurst Road and the proximity of the shed to Elmhurst Road. Swantek reported one comment in support of the proposed project from John Roberts, a neighbor to the north of Burt Lake Springs.

Public Comment Period

No public comment

Public Hearing closed

Board Discussion

Variances being requested: 26 foot variance from the rear 50 foot setback (Section 3.09), and a second dimensional variance of 80 ft² for construction of an oversized shed (Section 6.04.3, paragraph 1). There was some discussion concerning the location of the shed vis-à-vis the Elmhurst Road road right-of way. It will be the responsibility of the Burt Lake Springs Association to confirm that the proposed shed is outside the right-of-way.

Motion

It was moved by Harold Koviak and seconded by Katie Parker that an 80ft² dimensional variance in the size of the shed and a 26 ft. variance in the rear setback be granted to allow building of the proposed storage shed. Construction will be subject to the Burt Lake Springs Association removing existing storage building and deck as shown in the drawing that accompanied their application, and to verifying with the road commission that the new shed will be located outside the road right-of-way. Reason for granting the two variances: reduces the overall number and cumulative size of the nonconforming structures on the Burt Lake Springs Resort property.

Roll call vote: Lindsay-yes, Koviak-yes, Parker-yes. **Motion unanimously approved**

Public Hearing

Ed Terris, 2086 West Burt Lake Road. Case # 255

Subject of the public hearing

This is a request by Ed Terris, 2086 West Burt Lake Rd. for a variance to allow construction of a 952 ft² detached storage building on the property where his residence is located. The property is located in the R-1 General Residential District. The storage building as proposed encroaches in the 50 ft rear setback (Section 3.09). There are no other accessory buildings on the property. Mr. Terris proposes to place the new accessory building 10'6" from the rear property line. The drawing submitted with the application shows a 22' wide "utility road" immediately to the east of the rear property line.

Ed Terris presented his request to the board

As set forth in the application, Mr. Terris is requesting a variance of 39.5 ft in the rear setback for construction of a stick built garage. As proposed, Mr. Terris said the garage would be in line with that of his neighbor immediately to the south, with access via the "utility road".

Comments by Dan Swantek, Burt Township Zoning Administrator

Dan Swantek cited one comment from David and Connie Bedford, owners of the neighboring property and garage to the south. The Bedfords have no issue with the structure proposed by Ed Terris, noting that it will be in line with their garage.

Public Comment Period

No public comment

Public Hearing Closed

Board Discussion

Discussion ensued concerning the “utility road” at the rear of the Terris property. On the map of the Beauwood plat, this road is shown as a ‘lane’. Dan commented that Terris is allowed a 10 ft side setback because his property is part of a plat. Walt Lindsay noted that the neighboring garage to the south is appears to measure closer to 19 ft from the rear property line, rather than 10’6””, and wondered if the proposed Terris garage could be positioned to the west, closer to the house. This would reduce the variance request by approximately 8 ft., and allow a better turning radius from the utility road. Harold Koviak mentioned that he received a call from a neighbor (Ed Nye), who has no issue with the proposed construction.

Motion

Moved by Harold Koviak and seconded by Katie Parker to grant Ed Terris a variance of 32 ft from the rear setback to allow construction of a 28’ x 34’ garage as represented in the drawing submitted with his application. It was noted for the record that in the R-1 District the height to the eaves cannot exceed 14 ft. but Dan said in the R-1 District, 14 ft. is the height limit for an accessory structure (Section 6.04.1).

Reasons

1. proposed structure will be in line with neighboring garage. 2. minimize impact on mature trees 3. except from the rear, the structure will be largely invisible, thus not negatively impacting other properties in this area.

Roll call vote

Lindsay-yes, Koviak-yes, Parker-yes.

Motion unanimously approved

Public Hearing

Drake Pendleton, 2229 Peace Trail, Topinabee. Case #256

Subject of the public hearing

This is a request by Drake Pendleton, 2229 Peace Trail for several variances to allow construction of an addition and other modifications to his home and further to allow construction of a detached garage. The property is located in the Waterfront Residential (WR) District. A master suite and guest bathroom addition proposed on the north side of the existing home includes a covered porch and measures almost 1200 ft² (30 ft wide x 39 ft deep). This addition as

proposed encroaches in the 75 foot waterfront setback. Also proposed is enclosing an existing second story covered porch on the lakeside of the home; this area is entirely within the 75 foot waterfront setback. The existing home includes a lakeside deck also entirely within the waterfront setback; the edge of the deck closest to Burt Lake measures 38 feet from the high water mark on the south and 44 feet on the north. The new garage as proposed also encroaches in the 75 foot waterfront setback. In addition, the proposed garage measures 1439 ft² of usable space, exceeding the 1200 ft² allowed for an accessory building in the Waterfront Residential District

Drake and Diane Pendleton presented their request to the board.

The Pendletons bought the house three years ago from Jane Harris. It is way too small for their family and has no storage space. Gasoline cans and generator are stored in the basement area. To the north, the land is mostly cleared. There is a steep incline to the rear where Peace Trail comes down the hill; it is dangerous descending in winter. Their proposed addition to the home avoids impact to the well, septic field and large hardwoods. The plans for the garage have already been redrawn to comply with the 1200 ft² limit. The Pendletons indicated they also would agree to move the garage back to comply with the 75 ft waterfront setback

Comments by Dan Swantek, Burt Township Zoning Administrator

Dan Swantek received a call from Mr. Peck, who was objecting to the requested variance from side and lakefront setbacks. He was concerned about encroachment, especially for a garage. As long as the garage is 75 feet from the lake and 10 feet from the side property line, and construction is monitored by Dan, Mr. Peck will be okay with the plan. Gerta Treglown, a neighbor two houses away from Pendletons, has no objection to their proposed plan.

Swantek is especially concerned about proximity of the deck to the lakefront (no record of prior deck construction has been found). Walt Lindsay reviewed for the Pendletons what “variances” mean; they are permanent and stay with the property in perpetuity. There are major problems with the variances being requested by Pendletons.

Open Discussion Period

The Pendelton home was built 35-40 years ago (but not the deck), prior to township zoning, and is therefore classified as a prior non-conforming structure. As such, it is allowed to stay within the 75 foot waterfront setback. This does not apply to the deck which clearly appears to have been constructed after zoning was enacted in 1976. The plans as drawn by the architect do not show zoning setbacks, as such plans normally would. The existing deck is not shown on any of the drawings.

If the new garage is moved to 75 feet from the lakefront and size is reduced to 1200 ft² or less, no variance will be needed and a permit can be issued. Another point, because of the new construction, the Pendletons will need to add a green belt at the lakeshore. The Pendeltons indicated their willingness to do so.

Walt Lindsay cited other cases from the same Peace Trail area of variances that had been granted, and why (driven by unique topography - very steep slope at the rear means construction closer to the lakefront necessary). In 1994, the Birches to the north received a 12 foot variance,

building 63 feet from the lakefront and in 1984, the McFalls received a 15 foot variance to build 60 feet from the lakefront. Lindsay indicated that the ZBA needs to see revised plan drawings with setbacks shown. The project also needs to be staked. Pendletons agreed to revisit their architect.

Public Hearing Closed

Motion

Moved by Harold Koviak and seconded by Katie Parker to table the Pendletons' request for variances until a revised plan is presented. Motion unanimously carried. Revised plans need to be given to Dan by 11/22/2010 at the latest for consideration at the next ZBA meeting, Dec. 10. The Pendeltons indicate the property will be staked to show their updated proposal.

Other business

No other business

Reports

Dan Swantek, Zoning Administrator:

Mary Campbell is developing three forms for his use: 1. a template for the Zoning Administrator to use when notifying owners of ordinance violations, 2. form to hand out to property owners who have zoning violations, and 3. a revised Application for Public Hearing/Variance. Mr. Quick is still in violation of the "junk" ordinance but is making some attempt at improvement.

Harold Koviak, Burt Township Board Representative

The Burt Trail Committee is now a stand-alone committee, reporting to the Township Board rather than the Planning Commission. Dr. Steve Vorenkamp is now the Trail committee chair. The Trail committee is proceeding with grant requests, and has over \$125k in private pledges. The Township has done some work on the Hoppies boat launch. The Burt Lake Preservation Association and the Township are placing signage re. zebra mussels on all the Burt Lake boat launch sites. In November, the DNRE will hold hearings on redo of Maple Bay boat launch.

The time for the December 10, 2010 ZBA meeting needs to be revised to 2 pm on the Township's website.

Public Comments Period

None

Next Meeting

December 10, 2010 at 2 p.m., Burt Township Hall. The deadline for submitting requests to the Zoning Administrator for a public hearing at this meeting is November 22, 2010.

Motion:

Moved by Harold Koviak and seconded by Katie Parker to adjourn.

Motion Approved

Meeting adjourned at 9:10 p.m.

Katie Parker, substituting for
Joyce Hutto
Recording Secretary