

LELAND TOWNSHIP ZONING BOARD OF APPEALS

P.O. Box 238, Lake Leelanau, MI 49653

Kathy Dawkins, Chairperson

Susan Och – Township Board Rep.

Lee Cory – Planning Commission

Rep. Nancy Smith

Rep. Brooks Bunbury

ZBA MEETING AND PUBLIC HEARINGS

Wednesday, October 30, 2024—1:00 p.m.

Leland Township Office meeting room - 489 W Main Street – Lake Leelanau, MI

Meeting Minutes - DRAFT

Call to Order/Pledge of Allegiance 1:07

Attendees: Dawkins, Och, Smith, Bunbury, Cory

Public attendees: None

Approval of Agenda – Och moves to approve the agenda as is, Bunbury seconds the motion, all in attendance vote aye and the agenda is approved.

Approval of the previous Meeting Minutes – February 26, 2024

Bunbury moves to approve the previous minutes, Och seconds the motion, all in attendance vote aye and the February minutes are approved.

Declaration of Conflict of Interest – Nancy Smith wants to note for the record Meese supported a candidate she and her husband are sponsoring for membership in Leland Country Club. The PC discusses and no one considers this a conflict of interest.

Public Comment (limited to three minutes per person unless extended by ZBA Chair)

None in attendance

New Business – Two Public Hearings (See protocol on page 2)

A. Dutch – Dimensional Variance - Sarah Bourgeois (agent for owner)

The project is proposed in the R1A Medium Density Lakeshore Residential zoning district. The parcel is located at 4265 N. Lake Leelanau Drive, Lake Leelanau, MI 49653 and the tax number is 009-014-036-00. The proposed use is an improvement to an existing dwelling and requires dimensional variances for these uses.

Dave and Michelle Dutch are not present

Presentation by Applicant – Sarah Bourgeois is the agent. She has brought the site plan. They are non-compliant in more than one area. She shows the current house and setback requirements. They want to rework the existing staircase up to 2nd floor of garage. They want to rebuild and bring it back to code. There are 2 areas that are proposed covered porches, and then a screened porch on an existing deck. Above the garage is a Dutch colonial roofline that they want to lift it a little. The septic system has been redone, and they have holding tanks. On the lake side there is a covered porch that is only 6' tall, they want to lift it. They need the dimensional variances that they are requesting, because they don't conform to

setback requirements.

Bourgeois updated the information in September, and removed the 2nd floor. Smith is asking if setbacks are at the lake side. Bourgeois clarifies that the deck is already encroaching on the lake side, they are just adding a covered porch in the same space. Bunbury asks if the plans will change the existing foot print – Bourgeois says no. (other than overhang – it goes 2' past the porch on the lake side) Smith reminds the ZBA of another variance hearing that is similar and that they were tough on that applicant. ZA reminds everyone that the old case had EGLE involvement, and this does not. Smith thinks the staircase needs to be done. She looked at the house and it's a very narrow lot. ZA Cypher explains the setbacks and the challenge of getting a house on the lot. Och asks why the staircase is being rebuilt and if it's getting bigger. Cypher clarifies that public health and safety requirements require the change to the staircase to get it to code. Smith is OK with that. Bunbury reminds the PC that the stairs are already there. Smith is concerned about the distance from the lake. Smith asks for clarification about the existing house. Och asks when the original house was built. No one knows, Bourgeois talks about what came later, and guesses it's from the 50's. ZA says the accessor said it's 60 years old or older. Bunbury asks about the square footage of the deck. It's 10' x 30 and it's existing. Proposed overhang? asks Smith – not an overhang, just lifting the roof. Sarah and the PC discuss the garage and the 2nd floor. It's within the footprint, she just wants to raise the roof, which meets code. Floorplan wise, Bourgeois shows where the covered porch is.

Sarah says they are already over the lot coverage, this adds another 1% to the lot coverage. ZA asks if it's going to be an additional living space. No – there will just be a covered porch. Dawkins asks if there are any other questions.

ZA asks to make a few points. Applicant purchased the property a little over a year ago. Should they have known or done this due diligence prior to buying? This is going through the findings. He tells them to decide how much weight they want to give it. The setbacks almost overlap. 15 years ago there was another similar property – Lindquist – at the time the ZBA ruled a minimum amount of sizing. They had to downsize their plan. They knew conditions and setbacks when they purchased the property. The ZBA at the time micromanaged the sizing but approved the variance. Smith and Bunbury discuss that there's no additional square footage, just covering porches. Dawkins asks about the porch by the door facing the road. Sarah clarifies that it was part of the septic system. Lee Cory arrives, and the PC asks Sarah to bring her up to speed.

Smith states that she thinks they should have access to do a site visit. Cypher said it could be a logistical nightmare. Cypher says that the bylaws state that it should be done. They decide to discuss doing site visits in the future in new business. Bourgeois gives a summary to Cory about what is being requested in the variance.

The PC resumes the group discussion and asks about the driveway and whether or not it is steep. Bourgeois clarifies that it has a nice turnaround area. Bunbury informs Cory that the proposed changes = a 1% increase in lot coverage. (roof, not living space) Bourgeois clarifies that they have to reinstall where porches got ripped out because of the septic system. Dawkins asks if the changes are because of the stairway? Is that what encroaches on the setback? Bourgeois explains that it already exists and that it's the same footprint but better construction and safer. Bourgeois goes on to confirm that the 2' overhang is over the porch. Everything was already non-conforming, but she wants to build a screened in porch on top of the deck. The overhang of the new screened in porch is what is adding to the encroachment. There are also covered entries on the road side that are encroaching on the setbacks. There

are already doors there, they are just covering them. One is going in the setback 3' the other is 7' in the setback (worst case). Dawkins asks ZA Cypher to clarify the importance of impacting roadside setbacks and if it's negative impact. ZA says it's increasing the non-conformity. Dawkins and ZA discuss what's being requested and the impact on the setbacks. ZA feels it's important to mention that they don't regulate building safety code information, that's the architect's responsibility. If the Applicant receives approval, there will be a land use permit issued with specifics with what township will allow. Building codes will then give the permit to build. They intertwine.

The PC continues to discuss details of the roadside setbacks and that there are already slabs in front of the doors, Bourgeois is only asking for permission to add cover above the doors. Dawkins informs the ZBA that she doesn't want to just approve all requests, doesn't think that's their job. Bunbury asks how many lots are like this – they say it's about 40. ZA tells that they can maintain and repair what's there, it's only when something is new that they need to get a variance. Bunbury asks if these will keep coming up. Bourgeois clarifies that she's changing the volume. The lot coverage is 30% and they are already over 40%. Bunbury doesn't think this is too much to ask. Smith says they could also approve parts of it. Dawkins says they should change the ordinance and not just approve it. Cypher says that's another discussion. Cory asks what are historical justifications to approve issues like this? It was approved previously on a vacant lot. Look at public health and safety issues and setting precedent going forward. They have to justify in the findings.

Dawkins goes through the protocol items. Cypher wants them to have their discussion specifically on a few items before they go into the findings. Cypher directs them to look at 1A in the Staff Report. Dawkins wants to know from Cypher they were to change it, how it impacts the setback. Cory states that they seem to be making a change just to make a change. Dawkins states that she wants it to be reasonable and fair and doesn't want to approve appeals just to approve them.

Cypher walks through the findings and clarifies that they are standards.

Bullet 1 on Findings:

Och – setbacks which were put in place after house was built present practical difficulties. It's not economic, the house exists.

Dawkins – agrees with Och. Nothing is economic in the discussion of the setbacks. She thinks there is some unnecessary hardship. The door facing the front road, the doorway could be a problem for EMT's so the overhang is necessary.

Smith – Setbacks after the ordinance is a good point. It's zoned R1A and there are a lot of hardships and difficulties, agrees that it is a hardship on the front door.

Bunbury – thinks overhangs prevent ice buildup and is a safety issue

Cory – request enhances the safety of the property and if it were to be evaluated on land, enhances the value.

Bullet 2 on Findings:

Bunbury: narrowness, shape, topography isn't similar to other properties in this zoning

Cory: agrees – and it's a one time issue

Och – disagrees with Bunbury – other parcels in R1 that are narrow and on the lake. Smith mentions that the ordinance was in place after it was built. Och asks if they could expect to see others coming for a variance. Cypher says yes. Bunbury says if it was vacant land, they could be more stern about it. Och – narrowness presents a difficulty, and generally she can't think of any other lots that predate our zoning ordinance.

Dawkins – genuine, practical difficulty exists because of the narrowness of the property involved, finding is met

Smith – she thinks they've met the requirement for hardship

Bullet 3 on Findings:

Cypher cautions – this is always one of the toughest ones. There are decades of history. They need to determine if this is a reasonable ask.

Bunbury: he agrees that the finding is met – owner didn't build the structure. He feels that what they are asking for has been met.

Cory: it's been met because the applicant did not construct the building.

Och: it has been met

Dawkins: it has been met – they didn't build it or put the ordinances in

Smith: agrees that it has been met.

Bullet 4 Findings:

Not adversely impacting other properties

Smith agrees with the finding

Bunbury also agrees and the variance won't impact anyone else

Cory states met because won't affect other property owners

Och won't impact other property owners

Dawkins agrees with Cory and Och

Bullet 5 Findings:

Cory: ordinance is intended to enhance the use of property, this variance enhances the use of the property

Och – she thinks this has been met – she thinks the house will look better

Dawkins – has been met and is in harmony with the purpose and intent of the ordinance, it is a positive for the surrounding properties and the property itself

Smith – she doesn't see anything about economics in the findings. Cypher clarifies that it's in the first bullet. Increase in value is a benefit to everyone. The applicant knew when they bought it – Cypher says we don't know what was in the mind of the applicant. Smith believes it's been met

Bunbury – agrees with all others.

Bullet 6 findings:

Dawkins – has been met. Strict compliance would be unnecessarily burdensome

Smith – agrees with Dawkins

Bunbury – has been met – as described the owners wouldn't be able to enjoy property

Cory – agrees with Dawkins

Och – has been met – strict compliance would make entrances more unsafe and make ice and snow pile up on doorstep

Bullet 7 findings:

Smith – the Applicant agreed to reduce certain setbacks to overcome the inequity in the property – they met

Bunbury – has been met. You can tell by the proposal and revised proposal to propose as little as possible in changes.

Cory – applicant has done everything necessary to request the minimum amount required

Och – asks Tim about changing the amount of setbacks requested – Och agrees it's been met

Dawkins – this has been met – agrees that the architect and homeowner have worked diligently to request only the minimum amount necessary.

Bullet 8 Findings:

Och – it is met
Dawkins – it has been met
Smith – agree that it's met
Bunbury – agree it's met
Cory – agree it has been met

Bunbury moves to recommend approval of the Dutch application as presented for 4265 N Lake Leelanau Dr, including the findings of fact that were discussed during the ZBA review. Smith seconds the motion, and all vote aye and the motion for the requested variance(s) is approved.

B. Meese - Dimensional Variance – Susan Walters (agent for owner)

The project is proposed in the R1A Medium Density Lakeshore Residential zoning district. The parcel is located at 1199 N. Sunset Shores, Lake Leelanau, MI 49653 and the tax number is 009-135-028-00. The proposed use is rebuilding a new garage, adding a larger parking area, and a closet addition improvement to an existing dwelling and requires dimensional variances for these uses.

Dawkins – gives the floor to Susan Walters for the applicant Richard Meese (pronounced Macy)

Susan Walters – clarifies to make sure that everyone has a site plan. They do. She is asking for a setback from the creeks. Everything is within the allowable setbacks, but not with the creek setbacks. The only strip where they could have built is on the creek side. They want to rebuild the garage (3 cars are here all the time). Applicant can't fit a car currently. Garage isn't in great shape, the slab is cracked and not on a foundation. Little addition of the house is for a closet off the bedroom. Not within building setbacks, but in creek setbacks.

Smith – let's talk about the garage. It's already non-conforming with the creek. Susan – clarifies that it's now one parcel. There are a lot of wetlands and it all can't be built on. Creek setback is a township setback, Och asks for clarification – yes that's correct. Bunbury asks if they are seasonal creeks – no. Dawkins asks about the trees – they will stay. Susan Walters shows pics of where they would come out 8', no need to change the driveway and no trees impacted.

Walters says they are going to turn the roof the other way and it will help. Cypher clarifies that they will need a soil erosion permit. Walters says they will probably need to put in a French drain. Cypher says that other permits are required before the land use permit is issued. And advised the ZBA that they are only approving or denying a variance, but the rest of the process will still happen.

Bullet #1 Findings:

Cory – has been met – practical difficulty of the creeks
Brook - agrees
Smith – agrees
Dawkins – has been met, agrees with Cory's finding
Och – met, not economic

Bullet #2 Findings:

Bunbury – agree it has been met, would not be reoccurring in nature given that creek setbacks are specific to this property
Smith – agrees – because of the 2 creeks and the setbacks

Dawkins – using Smith’s statement

Och – agree, physical conditions of the lot (2 creeks) and they don’t exist on all properties

Cory – because of unique topography and creeks

Bullet 3 Findings:

Smith – agrees it’s been met

Bunbury – agrees,

Cory – agrees hardship is the nature of the property

Och – met

Dawkins – met

Bullet 4 Findings:

Och – met

Cory – met

Bunbury – met

Smith – met

Dawkins - met

Bullet 5 Findings:

Och – won’t have substantial effect on surrounding properties, met

Cory – met

Bunbury – Met

Smith – Met

Dawkins – met based on reasons stated

Bullet 6 Findings:

Smith – it would prevent property for intended purpose – met

Bunbury – met for reasons stated

Cory – agree

Och – agree

Dawkins – met – for all reasons stated

Bullet 7 Findings:

Dawkins – has been met – they have requested a minimum amount necessary with the creek setbacks

Smith – agrees, has been met

Bunbury – agrees for reasons stated

Cory – has been met – closet only fills in a small portion of an existing corner, garage is only taking hardscape space

Och – agrees it is met

Bullet 8 Findings:

Och – met

Cory – met

Bunbury – met

Smith – met

Dawkins - met

Cory moves that the ZBA approve the application of Richard Meese related to 1199 N sunset Shores, Lake Leelanau, MI 49653 for the purpose of building a closet and expanding the existing garage based on the findings of fact by staff and ZBA’s approval of the findings of fact. Bunbury seconds the

motion, all in attendance vote aye, the motion is passed and the variance approved.

Susan asks if it's approved and what she'll get in writing. Cypher clarifies that meeting minutes will come out and then they'll set a meeting to approve the minutes.

Other Business (if any)

Dawkins wants to schedule the next meeting. The PC discusses and agree on the 13th of November at 2 pm to meet and approve the minutes. One agenda item will be the approval of meeting minutes.

Dawkins has other topics:

- Site visits – it's encouraged but not required
- Bylaw review – includes site visits (everyone needs a copy of the bylaws) – Cypher to email to all. Need to have hard copies at office for pick up within a week. Smith likes the idea of a copy at the Township offices. Smith wants to talk about how people are notified. She thinks that the list of contacts who got the 300' letter should be attached to the package. Smith – wants consistency on when the packages are available. Cypher can't guarantee. Dawkins thinks it should be under the bylaw discussion, and policy and procedures.
- Dawkins prefers that they don't do any more public hearings in this room. She prefers that they use the Munecke room due to space and lighting. Cypher informs the PC that it's not always available. Dawkins wants the township offices as a last resort as a meeting room. Munecke room will move to an online system to book. Dawkins wants to kick out others since ZBA takes precedence, but the other ZBA members disagree. They don't want to kick anyone out.
- Training

Susan Och – she hasn't seen the transcript of the judge's decision, but attorney said judge in Main Street case approved it by the work that was done on the case. The ZBA did a good job.

Public Comment (limited to three minutes per person unless extended by ZBA Chair)

ZBA member's Comment

Adjournment – Och moved to adjourn, Bunbury seconded the motion, all voted aye and the meeting was adjourned at 3:22 pm.

Date Approved: _____

Note: A quorum of the Leland Township Board may be present. However, no Leland Township Board business will be conducted at this meeting.

Protocol for Public Hearings

- a. Presentation by Applicant
- b. ZBA Questions/Discussion with Applicant
- c. Public Comment (limited to three minutes per person unless extended by ZBA Chair)
- d. Applicant's Response to Public Comment
- e. ZBA Discussion with Staff (ZA)
- f. ZBA Deliberation/Findings of Fact
- g. ZBA Motions/Action