



ZONING BOARD OF APPEALS DRAFT MINUTES
COMMUNITY CENTER
September 23, 2020
5:30 pm

Called to order at 5:30 pm

Everyone was masked up

Pledge Recited

Attendance Roll Call: Cheryl P., Bill N., John C., John Oliver, Greg C. present

Quorum satisfied

Also present: David Neumann, Dan Kline, Alison Oliver, and petitioner Jim Mokwa.

Minutes of July 22, 2020 were presented: Greg motioned, John O. supported and all approved. Those minutes stand approved.

The Chairman noted that Bill Neumann is at his last ZBA meeting due to elections this year and the Committee will be looking for a replacement approved by the Town Board and a new Secretary.

Agenda accepted.

Discussion about Agenda item 6 concerning how the ZBA wants to handle a non-conforming zoning situation for which a building permit is being applied. Zoning Administrator Dan Kline asked the ZBA members to give him guidance about whether a zoning variance should be required if the existing non-conforming situation is not increased from the work requested in the building permit. The ZBA advised Dan that it will hear all cases where a variance is required regardless of the previous zoning non-conformance on the lot. Current building permits are granted that comply with our zoning ordinance OR by a variance approved by the ZBA.

A motion was made at 6:00 pm to enter the Public Hearing regarding Mr. Mokwa's request for a permanent dock placement variance on Thousand Island Lake.

Roll Call taken, all present as previously documented.

Quorum satisfied.

Mr. Mokwa was introduced and he presented documentation supporting his request for a permanent dock variance. He submitted drawings of the present situation and the proposed changes. Key points considered include the following:

- EGLE (Michigan DEQ) has approved the installation of this Dock as proposed.

- Your property is an 85' wide non-conforming lot extending into a predominately shallow bay/cove shared with a neighbor on the east side who has a floating dock that is longer than 40' due to shallow water. Your shoreline is irregular following the contour of the bay and arcing to a point that extends to the shoreline on the west side of your lot with a 10' difference between the "negative" shoreline. This point is detailed in your letter and drawings submitted. ZBA members also conducted site visits and reviewed imagery for Google Maps and AcreValue.
- The request is to install the permanent dock (Dock) so that it is nearly in the same location and extends into the lake no farther than your existing dock and boat lift. To do this, the length of the Dock will be 50 feet instead of the 40 feet allowed in the Ordinance. Jim could place the Dock along his irregular shore under a tall cedar tree which then would allow him to have a conforming dock and no variance would be required. The area under the tree is very wet, has large protruding roots and is a clear safety hazard. Instead he is proposing to place the Dock 10 feet east along the shore where the shore access is level, dry and doesn't require ducking under a tree and mitigates a potential safety hazard for foot traffic. However, this "negative" shoreline is 10 feet back from the tree shoreline which then lengthens the Dock to 50 feet to maintain the location of the Dock to the present temporary dock and boat lift location.
- The proposed Dock will be slightly angled west from the existing dock and boat lift and basically near the same spot as is the temporary dock presently in use. It will have an "h" shape with an 8'x10' platform at the short end of the "h." The existing dock is "L" shaped. It will be a total of 344 square feet with the Ordinance allowance of 336 square feet. The walkway of the dock is 3 feet wide and 6 feet is allowed by the Ordinance.
- The shoreline parallel width of the Dock will be 25 feet instead of the 22 feet allowed in the Ordinance in order to have a sufficient swimming platform and room for the boat lift. This increase in length should allow the maximum dock square footage to increase to 354 square feet.
- The ends of the Dock will be in 5 feet of water depth instead of the 3 feet maximum allowed as stated in the Ordinance for a dock longer than 40 feet. The shallow water is a particular concern when a boat in the main lake creates a large wake that rocks the pontoon.

Greg asked Jim if he would then enjoy the same docking benefits as other local dock owners? Jim answered that the (pontoon) boat cannot be tethered closer to shore because of the shallow water of the bay, (Lake level is said to be stable within 6" for a majority of the year). While it was said a pontoon boat requires 3' of water to float, it was pointed out that the boat lift would contribute to this, and it was pointed out that most pontoon boats draft less than 18". The shallow water is a particular concern for Jim when a boat in the main lake creates a large wake that rocks the pontoon.

John O. motioned, supported by John C., at 6:30 to exit the Public Hearing for further discussion by the Board. It was said that the origin of the Town's Permanent Dock Ordinance was because the EGLE (DEQ) did not want to deal with all the permutations of dock possibilities. At that time the Planning Commission came up with, in compromise, allowable configurations, and the maximum square feet for any configuration, allowing for a target depth of 3' of water at the end

of the dock that is extended beyond the allowable 40' dock length from shore. John O. commented that the entire bay is relatively shallow; Greg commented that one of the criteria says to "do no further harm" when granting a variance.

A motion was made by John O. to approve the set of variances. A discussion ensued using the ZBA Dimensional Variance Standards guidelines to determine the outcome of the variance:

- Special or Unique conditions:
 - Shallow bay.
 - Contour of the shoreline and existence of a tree that is a safety hazard and therefore restricts the placement of the dock's shoreline connection.
 - Proposed permanent dock does not extend into the bay any further than existing temporary dock
- Literal interpretation of the Ordinance would deprive applicant of rights secured by other owners in the area
- There is no evidence of the owner generating the Special or Unique Conditions.
- Granting variance will be in accordance with the spirit of the Ordinance
- There is no evidence that the granting of this variance will be injurious to anyone.
- Direction of the Ordinance is maintained by not impacting neighbors or EGLE (DEQ) requirements.
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There was a second motion to grant the variance by John O. based on the facts and discussion above:

1. Allow the dock to extend parallel to the shore from 22' to 25,' which allows the total square feet of the Dock to increase to 354 for which the proposed 344 square feet is within that limit.
2. Allow the Dock length to be increased to 50' from the Ordinance 40'.
3. Allow the maximum water depth at the end of the Dock to be 5' water depth increased from the Ordinance maximum for a 3' for a dock that extends beyond 40' from shore.

Roll call Vote to accept variance:

John C., John O., and Cheryl P. Yes

Greg Clark, Bill Neumann No

Motion carried with majority voting to approve the set of variances, variance with conditions granted.

Adjourned at 7:15 pm

Respectfully submitted,

Bill Neumann, Sec'y

DRAFT