

MEETING  
GLEN ARBOR TOWNSHIP BOARD OF APPEALS  
Thursday, August 23, 2018 at 1 pm  
GLEN ARBOR TOWNSHIP HALL

**PRESENT:** Don Lewis, Denny Becker, Bill Freeman, Pam Lysaght, Alternate Andy Dotterweich, Zoning Administrator Tim Cypher, Recording Secretary Dana Boomer

**ABSENT:** Harvey Warburton

**GUESTS:** 4

**CALL TO ORDER:** Chairman Bill Freeman called the meeting to order at 1:00 p.m. with the Pledge of Allegiance.

**APPROVAL OF AGENDA:** Dotterweich moved, Lysaght seconded to approve the agenda as presented. All in favor, motion carried.

**CONFLICT OF INTEREST:** None

**APPROVAL OF MINUTES:** Becker moved, Lysaght seconded to approve the minutes of August 29, 2018 as presented. All in favor, motion carried.

**PUBLIC COMMENT:** None

The public hearing was opened at 1:02 pm.

1. **ZBA Case #2018-03** - Alexandria and Peter Burton request a variance from Zoning Ordinance Sections IV.6 and V.2, for a 25.5 foot reduction in the 40 foot front yard setback. The property is zoned Residential 2; tax ID 45-006-122-022-20. The parcel is located at 5711 S. Sheridan Lane, Glen Arbor, Section 22, T29N, R14W, Leelanau County, Michigan.
  - a. Presentation by Applicant – Peter Burton spoke regarding the application presented by himself and his wife. He summarized their history in the area, and the history of their property. He would like to make the front of the house look more in-character with the rest of the neighborhood, make it inviting and make the porch wide enough to be useful. He is not looking to expand the porch further away from the house, instead he is extending it across the front of the house. Due to the slanted nature of the home in relation to the road, this results in one corner of the porch being closer to the road, and thus farther into the setback. The neighbors that he has spoken with are in favor of this, mainly from an aesthetics point of view. While he understands that aesthetics aren't considered by the ZBA, he feels that this application also addresses the use factor of not being able to appropriately use the front of the house, due to the small size of the existing front porch.
  - b. ZBA Questions/Discussion with Applicant – The board reviewed the existing and proposed site plans, and asked several questions of the applicant. Freeman asked if the existing cellar door would be removed. Burton replied that it would be disguised in the newly built porch. The ZBA asked the applicant to submit the e-mails he received from neighbors for the file, and asked if there were any negative

responses. Burton replied that the closest to a negative response he received was that one neighbor was in favor of the porch, but asked that Burton be sure that any contractors did not park in his driveway.

c. Public Comment (limited to two minutes per person unless extended by ZBA) – None

d. Applicant's Response to Public Comment – None

e. ZBA Discussion with Staff (if required) – Cypher summarized his staff report to the board. There may be a prudent and feasible alternative if aesthetics are not considered, in that a porch can be placed on other sides of the house. Dotterweich asked what the effects are on the application in that this house is accessed by a right-of-way easement, rather than a public road. Because this easement accesses four or more parcels, it becomes a private road, which requires a setback just like if it were a public road. The ZBA and staff discussed private and public roads and easements. The ZBA discussed the alternatives in putting the porch elsewhere – Cypher stated that while this is an alternative, he is not necessarily advocating for it, just mentioning as an option. The ZBA asked if this would exceed the 30% lot coverage – Cypher replied that it would not.

Burton spoke and stated that this request would not make his house closer to the property line than many of the other properties in the area. Both Le Bear Resort and other residential properties have buildings that already infringe upon the setbacks by more than his request would. This application will not be out of character in the area and it will not infringe upon his neighbors rights. The majority of this deck expansion is not any closer to the road than the existing house – it would only be the corner closest to the road that would be infringing further into the setbacks. Cypher mentioned that LeBear is zoned business and so their commercial side-yard setbacks are much smaller, therefore they are allowed to be much closer to the road by the Zoning Ordinance. The ZBA discussed the request.

f. ZBA Deliberation/Findings of Fact

**IV.4.a:** There are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Ordinance. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.

Lewis: Met – He agrees with the language laid out by the Burtons in their application regarding this finding. The remainder of the ZBA agreed.

Dotterweich: Met

Becker: Met

Freeman: Met

Lysaght: Met

**IV.4.b:** A genuine practical difficulty exists because of unique circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district, and shall not be recurrent in nature.

Lewis: Met

Dotterweich: Met – Because this road is basically a two-track turned into a private road, this is met.

Becker: Met

Freeman: Met

Lysaght: Met

**IV.4.c:** The hardship or special conditions or circumstances do not result from actions of the applicant.

Lewis: Met

Dotterweich: Met – He agrees with the language laid out by the Burtons in their application. The remainder of the ZBA concurred.

Becker: Met

Freeman: Met

Lysaght: Met

**IV.4.d:** The variance will relate only to property under control of the applicant.

Lewis: Met

Dotterweich: Met

Becker: Met

Freeman: Met

Lysaght: Met

**IV.4.e:** The variance will be in harmony with the general purpose and intent of this Ordinance and will not cause a substantial adverse effect upon surrounding property, property values, and the use and enjoyment of property in the neighborhood or district.

Lewis: Met – There were no negative comments from neighbors or others in the community.

Dotterweich: Met

Becker: Met

Freeman: Met

Lysaght: Met

**IV.4.f:** Strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.

Lewis: Met

Dotterweich: Met – This request is not increasing the density of the property more than what's already there.

Becker: Met

Freeman: Met

Lysaght: Met

**IV.4.g:** The variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.

Lewis: Met

Dotterweich: Met – He agrees with the language in the Burton’s application. The remainder of the ZBA concurred.

Becker: Met

Freeman: Met

Lysaght: Met

**IV.4.h:** The variance shall not permit the establishment, within a district, of any use which is not permitted by right within that zoning district.

Lewis: Met

Dotterweich: Met

Becker: Met

Freeman: Met

Lysaght: Met

Motion on the Request – Board Discussion –

**Pam Lysaght moved to approve the Burton dimensional variance request #2018-03 as presented in the application due to the findings of fact as discussed during this Public Hearing. Andy Dotterweich seconded.** There was no discussion.

Call the Question – A roll call vote was taken. **In favor: Pam Lysaght, Bill Freeman, Don Lewis, Andy Dotterweich, Denny Becker. Opposed: None. All in favor, motion carried.**

2. **ZBA Case #2018-04** - Page Stoutland and Wendin Smith request a variance from Zoning Ordinance Sections IV.5, IV.6 and V.2, for a 15 foot reduction in the 40 foot highway right of way setback. The property is zoned Residential 2; tax ID 45-006-125-064-00. The parcel is located at 6374 S. Dunns Farm Road, Maple City, 49664 (Glen Arbor Township), Section 25, T29N, R14W, Leelanau County, Michigan.

- a. Presentation by Applicant – Wendin Smith spoke regarding the application for herself and her husband. She summarized her family’s history in the area and the history of their property. This is planned to be their primary family home, not a second home. The home currently on the property is a 1930’s-era cottage, which is quaint and adorable, but unlivable for full-time occupation. There is no heat, minimal electricity, and no insulation. Because of this, they would like to do a full re-build on the same site and in approximately the same location. They have been working with a local architect and building firm to develop a home site plan that blends and sets into the hill as well as possible, to minimize impact on the site. The current cottage and the new home would have the same incursion into the setback, and other homes in the area have similar incursions. Building in the area allowed by the setbacks would result in the home being perched on the hill and would substantially impact the neighbors’ views of the lake, especially the properties to the north and south. The neighbors to the north and south are heavily in favor of the variance request, because of the negative impacts on their property if the home is built to comply with the setbacks, and have submitted letters of support. Other neighbors have also been supportive, but have not submitted letters. They have not spoken with anyone who is not in favor of this. Smith covered the findings of fact, and stated that she

believes the variance application meets all of the necessary findings. They are looking to make a home that blends into the hillside, rather than perching on the hillside blocking views and impeding views of Miller Hill from the lake.

Smith's architect spoke and stated that they had originally tried to build a house that would meet the setbacks. They were unable to find a design that was buildable and acceptable to the applicants and their neighbors. The 45 degree hill that the property has in front of the existing cottage was found to be almost unbuildable due to topography and soil type. Multiple builders told them that with more soil disturbance would come more potential for building failure. There has been a substantial amount of work put into this, and they feel that the application is the best way to have a year-round home on this property that meets the character of the neighborhood. Smith's builder spoke on the difficulties of building further down the hill in soil of this type.

b. ZBA Questions/Discussion with Applicant – The board reviewed the existing and proposed site plans, and asked several questions of the applicants. The ZBA asked about the footprint of the house. The new house will maintain the same width of the existing cottage and will be no closer to the road than the existing cottage's porch. It will simply be longer. The ZBA and applicant discussed the neighboring views and the footprint of the home.

c. Public Comment (limited to two minutes per person unless extended by ZBA) – None

d. Applicant's Response to Public Comment – None

e. ZBA Discussion with Staff (if required) – Cypher spoke regarding his prior contact with Smith and the architect, attesting to the multiple attempts at designing a building that would fit within the setbacks. While there may be options for attempting to build further down the hill, there is also major potential for problems with disturbing soil on the hillside. There has been approval from the road commission already. Dotterweich asked about a "neighborhood clause" in the Zoning Ordinance, which would allow for an "average" setback to be created in neighborhoods where existing homes were all built into the setbacks. Cypher stated that there is not a clause of this sort in the Glen Arbor Zoning Ordinance, but one has been discussed in the past.

f. ZBA Deliberation/Findings of Fact

**IV.4.a:** There are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Ordinance. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.

Lewis: Met – The slope and terrain is a major practical difficulty.

Dotterweich: Met

Becker: Met

Freeman: Met

Lysaght: Met

**IV.4.b:** A genuine practical difficulty exists because of unique circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district, and shall not be recurrent in nature.

Lewis: Met – The slope and terrain is a major practical difficulty.

Dotterweich: Met

Becker: Met

Freeman: Met

Lysaght: Met

**IV.4.c:** The hardship or special conditions or circumstances do not result from actions of the applicant.

Lewis: Met

Dotterweich:

Becker: Met

Freeman: Met

Lysaght: Met

**IV.4.d:** The variance will relate only to property under control of the applicant.

Lewis: Met

Dotterweich:

Becker: Met

Freeman: Met

Lysaght: Met

**IV.4.e:** The variance will be in harmony with the general purpose and intent of this Ordinance and will not cause a substantial adverse effect upon surrounding property, property values, and the use and enjoyment of property in the neighborhood or district.

Lewis: Met – The letters of support from neighbors must be considered favorably.

Dotterweich: Met

Becker: Met

Freeman: Met

Lysaght: Met

**IV.4.f:** Strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.

Lewis: Met

Dotterweich: Met – The hillside would render conformity unnecessarily burdensome.

Becker: Met

Freeman: Met

Lysaght: Met

**IV.4.g:** The variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.

Lewis: Met

Dotterweich: Met – The house is only 22' wide. A singlewide could not be placed on the property without being either perched on the hill or being in the setbacks.

Becker: Met

Freeman: Met

Lysaght: Met

**IV.4.h:** The variance shall not permit the establishment, within a district, of any use which is not permitted by right within that zoning district.

Lewis: Met

Dotterweich: Met

Becker: Met

Freeman: Met

Lysaght: Met

Motion on the Request – Board Discussion –

**Denny Becker moved to approve the Stoutland/Smith dimensional variance request #2018-04 as presented in the application, which includes the setbacks from the highway and waterfront, due to the findings of fact as discussed during this Public Hearing. Don Lewis seconded.** There was no discussion.

Call the Question – A roll call vote was taken. **In favor: Pam Lysaght, Bill Freeman, Don Lewis, Harvey Warburton, Denny Becker. Opposed: None. All in favor, motion carried.**

The public hearing was closed at 1:55 pm.

**OTHER BUSINESS:** The board discussed another meeting to approve the minutes. The board set a meeting for Tuesday, December 11 at 1:30 pm.

**PUBLIC COMMENT:** None.

**ZBA COMMENT:** Cypher stated that the deadline for applications on decisions made prior to the new bylaws is December 10 at 5 pm. He will have a report on this at the December 11 meeting.

**ADJOURNMENT:** **Lewis moved to adjourn the meeting, Freeman seconded. All in favor, motion carried.** With no further business, Bill Freeman declared the meeting was adjourned at 2:00 p.m.

Respectfully submitted,

Dana Boomer

Recording Secretary