

**CHARTER TOWNSHIP OF MERIDIAN
ZONING BOARD OF APPEALS REGULAR MEETING MINUTES *APPROVED*
5151 MARSH ROAD, OKEMOS, MI 48864-1198
(517) 853-4000
WEDNESDAY, MARCH 10, 2021
TOWN HALL ROOM**

PRESENT: Chair Mansour, Members Kulhanek, Newman, Opsommer, Shorkey

ABSENT: None

STAFF: Community Planning and Development Director Kieselbach; Assistant Planner Keith Chapman

1. CALL MEETING TO ORDER

Chair Mansour called the meeting to order at 6:31 p.m.

2. APPROVAL OF AGENDA

MEMBER OPSOMMER MOVED TO APPROVE THE AGENDA AS SUBMITTED.

SECONDED BY MEMBER SHORKEY

ROLE CALL TO VOTE:

YEAS: Members Shorkey, Opsommer, Newman, Kulhanek, Chair Mansour

NAYS: None

Motion carried: 5-0

3. CORRECTIONS, APPROVAL & RATIFICATION OF MINUTES

A. February 24, 2021 Meeting Minutes

CHAIR MANSOUR MOVED TO APPROVE THE MINUTES FROM WEDNESDAY, FEBRUARY 24, 2021 AS SUBMITTED.

SECONDED BY MEMBER OPSOMMER.

ROLE CALL TO VOTE:

YEAS: Members Shorkey, Opsommer, Newman, Kulhanek, Chair Mansour

NAYS: None

Motion carried: 5-0

4. COMMUNICATIONS

A. Jeff Williams 5566 White Ash Lane; RE: ZBA #21-03-10-1

B. Chippewa Woods Homeowners Association RE: ZBA #21-03-10-1

5. UNFINISHED BUSINESS

None

6. NEW BUSINESS

A. ZBA CASE NO. 21-03-10-1 (Lommel), 5528 Silverleaf Court, Haslett, MI, 48840

DESCRIPTION: 5528 Silverleaf Court
TAX PARCEL: 11-481-026
ZONING DISTRICT: RA (Single Family-Medium Density)

The applicant is requesting a variance from the following section of the Code of Ordinances:

- Section 86-373(e)(5)(c) For lots up to 150 feet in depth, the rear yard shall not be less than 30 feet in depth.

Marsha Lommel, the applicant, is requesting a variance to construct an enclosed porch at 5528 Silverleaf Court.

Assistant Planner Chapman outlined the case for discussion.

Chair Mansour asked the applicant or the applicant's representative if they would like to address the Zoning Board of Appeals (ZBA).

Marsha Lommel, 5528 Silverleaf Court, Haslett, stated the proposed enclosed porch (deck) would face a wooded, wetland area and not encroach on any neighbors. The Chippewa Homeowners Association had approved the request to enclose the deck to proceed with the project. She stated the addition will enhance the residence and the other residences in the neighborhood have three-season rooms.

Trustee Opsommer asked if there were any other houses in the neighborhood with a rear yard setback issue.

Assistant Planner Chapman replied no as most of the houses had decks.

Trustee Opsommer stated the existing deck extends past the southern wall of the house. He asked if the additional footage was due to the proposed construction.

Ms. Lommel replied yes.

Trustee Opsommer stated the existing support system posts may need to be reconstructed for the three-season room. He asked if the reconstruction of the deck would require a variance.

Chair Mansour stated the existing deck is conforming but enclosing the deck would be considered part of the principle structure and require a variance for the rear yard setback.

Chair Mansour stated there was a practical difficulty requiring the structure to be removed to become a three-season room. The new structure would encroach into the setback requiring a variance of two feet in order to conform. This request would be the minimal action. The Township received the approval from the homeowners association and a letter of support from a neighbor for the proposed construction.

Member Kulhanek stated the approval of this request could result in requests from neighbors for enclosed decks that encroach into a rear yard.

Chair Mansour read review criteria one from Section 86-221 of the Code of Ordinances which states unique circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district. Chair Mansour stated the lots in this neighborhood were uniquely shaped.

Chair Mansour read review criteria two which states these special circumstances are not self-created. Chair Mansour stated the circumstances were not self-created.

Trustee Opsommer stated the support posts for the existing deck may not support an enclosed porch. If the deck had been engineered differently, there would not be a need for the setback variance which creates a unique circumstance.

Ms. Lommel stated if the support posts had been moved in two feet, then there would have been a two foot overhang.

Chair Mansour read review criteria three which states strict interpretation and enforcement of the literal terms and provisions of this chapter would result in practical difficulties. Chair Mansour stated the existing deck is in compliance and the practical difficulty was the enclosed deck would have to be built in compliance by two feet. This would not be in the spirit of the Zoning Ordinance and the request was the minimal needed.

Member Kulhanek stated although it may be the minimal amount, he was concerned about receiving additional requests of this type.

Member Opsommer asked what was the public intent in treating an enclosed deck versus an unenclosed deck.

Director Kieselbach stated the intent of the Zoning Ordinance is when a deck is enclosed with walls and a roof, it becomes part of the principal structure. Also, in the future, it would allow the owner an opportunity to enclose the lower portion of the deck and then that enclosure would become part of the principal structure.

Member Opsommer asked if a building permit would be required because of it becoming as it would be part of the principal structure.

Director Kieselbach replied yes.

Director Kieselbach stated if the variance is approved for the 2.2", the contractor will need to verify that the support posts can hold the additional weight of the proposed roofed area.

Chair Mansour asked if the posts are required to be replaced, can a condition be put on the variance to have the posts moved in two feet to make the request compliant.

Director Kieselbach replied yes but until the building inspector had the opportunity to inspect the posts he was not sure if the posts needed to be replaced.

Chair Mansour asked when would the determination be made.

Director Kieselbach stated staff ask the contractor to verify the posts could support the additional weight prior to construction.

Chair Mansour stated a condition could be added if the posts have to be replaced the construction needs to come into compliance.

Chair Mansour read review criteria four which states that the alleged practical difficulties which will result from a failure to grant the variance would unreasonably prevent the owner from using the property for a permitted purpose. Chair Mansour stated the property owner has stated it would improve her lifestyle if the deck was enclosed, but it would not prevent the owner from using the property for its permitted purpose.

Member Kulhanek stated would not prevent the owner from using the property for its permitted purpose.

Chair Mansour read review criteria five which states granting the variance is the minimum action that will make possible the use of the land or structure in a manner which is not contrary to the public interest and which would carry out the spirit of this zoning ordinance, secure public safety, and provide substantial justice. Chair Mansour stated the request for two feet was the minimal action needed.

Member Opsommer stated the enclosure would reduce noise and a public benefit to the property owner and adjacent property owners.

Chair Mansour read review criteria six which states granting the variance will not adversely affect adjacent land or the essential character in the vicinity of the property. Chair Mansour stated this criteria had been met and the request will enhance the character of the neighborhood.

Chair Mansour read review criteria seven which states the conditions pertaining to the land or structure are not as general or recurrent in nature as to make the formulation of a general regulation for such conditions practicable. Chair Mansour stated she does not recall any similar cases in this area. Each case is reviewed individually, variances go with the property and understood the concern that granting the variance could potentially allow similar requests.

Chair Mansour read review criteria eight which states granting the variance will be generally consistent with public interest and the purposes and intent of this Chapter. Chair Mansour stated she would suggest placing a condition that any further improvements would require the approval of the ZBA.

Member Shorkey suggested a condition for this the variance apply only to the upper deck and any enclosure of the lower deck would require a variance.

Member Kulhanek stated this was a single family house, in single family district. While an enhancement, the house is being used for its permitted purpose. Considering criteria three, the enclosed deck could be built two feet smaller to be in compliance.

Member Shorkey the Zoning Ordinance considers the open deck as one type of structure while the enclosed deck is part of the principal structure.

Chair Mansour asked if the lower was nonconforming.

Director Kieselbach replied the Zoning Ordinance allows an unenclosed porch/deck to extend out further than the principal structure. When the porch/deck is enclosed with walls and a roof, then the porch/deck needs to meet the same setbacks as the principal structure.

Member Opsommer stated once the deck is enclosed, then additional steps need to be taken to bring into compliance. He would support adding conditions with respect to construction for both the upper and lower decks. The purposes of the rear yard setback, is to provide a buffer. There is open space adjacent to the lot and wooded area in the rear yard and there will not be two homes abutting each other.

Member Newman stated if the request was denied it did not mean the three-season room could not be built. It would need to be reduced by 2.2' to be approved.

MEMBER SHORKEY MOVED TO APPROVE THE 2.2' VARIANCE FOR THE THREE SEASON ROOM WITH TWO CONDITIONS: 1) ANY BUILDING PERMIT FOR HVAC, PLUMBING, OR ELECTRICAL WILL TRIGGER A REVIEW OF THIS APPLICATION WITH THE POSSIBLE REVOCATION AND 2) THIS VARIANCE SHALL APPLY ONLY TO THE CURRENT UPPER STORY DECK AND ANY ATTEMPT TO ENCLOSE ANYTHING ON THE GROUND LEVEL WILL RESULT IN A NEW VARIANCE APPLICATION FOR ZBA CASE NO. 21-03-10-1 (Lommel), 5528 Silverleaf Court, Haslett, MI, 48840.

Chair Mansour asked if these conditions would satisfy the scope of what has been discussed to prevent this request from becoming a four-season room and an addition to the home.

Director Kieselbach suggested the following wording for the conditions: 1) the variance is to enclose the upper deck as a three-seasons room subject to the plans as submitted and further changes to the three-seasons room may be subject to Zoning Board of Appeals approval and 2) the lower deck shall not be enclosed unless approved by the Zoning Board of Appeals

Board Member Shorkey accepted Director Kieselbach's suggested wording.

SECONDED BY MEMBER OPSOMMER

Discussion:

Chair Mansour stated there will be installation of HVAC or plumbing that would result in the three-season room becoming livable space versus being just an enclosed deck. The property owner met criteria four. Enclosing the deck, the property owner is not unreasonably prevented from using the property.

ROLE CALL TO VOTE:

YEAS: Members Shorkey, Opsommer, Newman, Chair Mansour

NAYS: Member Kulhanek

Motion carried: 4-1

7. OTHER BUSINESS

None

8. PUBLIC REMARKS

Chair Mansour opened the floor for public remarks at 7:54 pm

Bryanna Idzior, 207 Collingwood Drive, Reporting Intern for HOM-TV, asked what the rules were for the unenclosed deck.

Director Kieselbach stated the location of the house determines the rear yard setback. The minimum setback is 30 feet. The Zoning Ordinance states if the house is built at 30 feet, a property owner is allowed to extend a deck or encroach into the area up to eight feet for an deck. The property owner's existing unenclosed deck was compliant but when proposed to be enclosed the deck becomes part of the principal structure and must meet the setback of 30 feet.

Chair Mansour closed public remarks.

9. MEMBER COMMENTS

Chair Mansour welcomed new Alternate Board Member Alex Newman.

10. ADJOURNMENT

Meeting adjourned at 7:58 pm.

Respectfully Submitted.

Robin Faust, Administrative Assistant II