

SAUGATUCK TOWNSHIP BOARD OF APPEALS

January 29, 2009

The Saugatuck Zoning Board of Appeals met on January 29, 2009, at the township hall on Blue Star Highway, Saugatuck, MI 49453.

Present: Shawn Powers, Tedd Oyler, Bill Rowe

Absent: None

Also present: Z.A.Ellingsen, Ron Bultje, R.J. Peterson, and George Bauer

Chairman Oyler called the meeting to order at 4:00 P.M.

Approval of the minutes of September 18, 2008. Motioned by Rowe, Powers seconded. Unanimously approved.

Chairman Oyler read the notice from the paper.

One hearing was scheduled: A request from Roland Peterson, 116 Riverside Dr., Saugatuck (Parcel # 0320-004-026-00) for review of a determination by the Zoning Administrator regarding the addition of side walls to enclose the existing boat house adjacent to the Kalamazoo River. The Zoning Administrator believes that the construction violates Section 40-1012 of the Saugatuck Township Zoning Ordinance which disallows extension, enlargement, alteration, remodeling, or modernization of a nonconforming structure unless the alteration...is compliant with the 75 foot setback from the waters edge in the R-2 Zoning District.

The ZBA may reverse or affirm, wholly or partly, or may modify any order, requirement, decision, or determination of the Zoning Administrator as stated in Section 40-72 (1).

Z.A. Ellingsen stated he had a conversation with Mr. Peterson and that he mentioned putting windows in and Z. A. Ellingsen assumed he was placing them in the existing walls. But when he received a complaint he visited the site and noticed Mr. Peterson had added a south wall and west wall. French doors were added and the deck had plywood added to it. Looking in the ordinance, back in the non-conformity section it was determined it was a non-conforming building for that expansion.

Attorney George Bauer stated that this was a pre-existing boat house. In the mid 80's Mr. Peterson did a renovation and had a steel structure built for the boat house and at that time it met the 75 foot setback requirement. In 1987 the ordinance for the requirement of the 75 foot setback requirement went into affect and at that time the building became non-conformity. Mr. Peterson completed the structure but let the south wall and west wall uncompleted. In 2007-2008 he sought to complete his project from the mid 80's and installed large windows and doors.

Mr. Peterson said according to the contractor he didn't think looking at the building permit adding the windows and doors wouldn't affect the permit.

Mr. Bauer believes that there were no structural alterations. Mr. Bauer stated that he agrees it is a non-conforming use. Mr. Bauer has a different interpretation of the non-conforming ordinance which was drafted in 1994. Section 40-1012(a). Mr. Bauer believes it's intended for specific non-conformities. In regards to that the 2 walls were ok to add.

Mr. Bultje disagreed with Mr. Bauer that it says you may alter if you don't non-conform. The alteration must comply with the 75 yard setback. The expansion on a non-conformity building has to fit in Section 40-1012 (a) or (b). The general law in Michigan that non-conforming buildings can not be changed and if it was already there than it was grandfathered in, the only accept ion is in Section 40-1012.

Rowe asked to define "area". And Bultje explained the general interruption of "area" means dimensions. Meaning it would be a dimension of a lot, setbacks or the footprints of a building.

There was a brief discussion on the meaning of "area" between the Commissioners, Zoning Administrator and Attorneys.

Chair Oyler suggested Section 40-1013 because of the use not changing; it's always been used for boat storage.

Bultje suggested that it could be a dimension variance in Section 10-76(a).

Discussion took place between the parties and based upon the facts Mr. Peterson will file an application for a dimension variance to come to the ZBA. The ZBA requested that the fee for the variance be waived, but will be determined by the Township Board. Therefore notices will also have to be sent out again because Mr. Peterson will be requesting a variance and not the determination by the Zoning Administrator regarding the addition of the side walls to enclose the existing boat house.

Bultje suggested tabling the interpretation application and allowing the applicant to file a variance request and if they get the variance then they can withdraw the interpretation request and than the ZBA will not have to deny it.

Chair Oyler motion to table the request. Rowe motion, Powers seconded. Unanimously approved.

Meeting adjourned 4:55 p.m.

Lori Babinski, Recording Secretary