

JAMESTOWN CHARTER TOWNSHIP

Zoning Board of Appeals

Meeting Minutes

April 25, 2023 at 6:00 p.m.

CALL TO ORDER: Chairperson VandenHeuvel called the meeting to order at 6:00 p.m.

BOARD MEMBERS PRESENT: Scott Brouwer, Janae Byker, Dean Smith, Mike VanAanhold, Chris VandenHeuvel

INVOCATION: Board member Brouwer opened with the invocation.

APPROVAL OF AGENDA: A motion was made by VanAanhold, supported by Brouwer, to approve the agenda. Motion carried unanimously.

APPROVAL OF MINUTES: A motion was made by Smith, supported by VanAanhold, to approve the minutes of the January 31, 2023 Zoning Board of Appeals meeting as written. Motion carried unanimously.

PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA: None.

PUBLIC HEARING:

Chairperson VandenHeuvel read the request from Jason Meyer of 2926 Rocaway Drive, also known as permanent parcel 70-18-15-276-001, for a variance to allow an eaves height that is taller than permitted by ordinance for a detached accessory building. This variance would provide for relief from Section 3.2J Eaves Height within the R-1 Residential Zoning District.

A motion was made by Byker, supported by VanAanhold, to open the Public Hearing at 6:02 p.m. Motion carried unanimously.

Lori Costello, from Professional Code Inspections (PCI), was in attendance on behalf of the applicant. She presented information regarding the erroneous issuance of a building permit by PCI in 2016 for an accessory building with a height that is not compliant with Section 3.2J of the R-1 Residential District Section of the Jamestown Charter Township Zoning Ordinance (JCTZO), at which time the foundation was constructed and approved. Construction on the building did not proceed and the permit was voided and then reissued in 2020. Due to complications during COVID with material and labor shortages, the permit was extended and construction on the accessory building began in March of 2023, at which point the Township Zoning Administrator was made aware by a neighbor of the applicant that the height of the approved building was not in compliance with the JCTZO. Costello apologized for the error made by PCI in issuing the original building permit, and then reissuing a building permit without verifying the accuracy of the original building permit. The Zoning Administrator requested that the applicant halt construction of the accessory building and apply for a variance from the ZBA. Costello presented a topographical map to the board members and stated that the contours of the land indicate a steep grade change to the east and west of the home. She further stated that this creates an issue with the measurement of the building height, as within the JCTZO building height is determined by measuring from grade at the center of the building, and that it is more common to measure building height using an average of peak and side wall to average grade. Costello also noted that there appears to be an inconsistency within the JCTZO. Section 3.2J states "Eaves height: Detached garages and other residential or non-residential accessory buildings within the R-1, R-2, R-3 District are permitted to have an eaves height of ten feet and a building height of sixteen (16) feet...", while farther down Section 3.2M states: "The Planning Commission may, through the issuance of a special use permit, authorize the following: 4. An increase in the eaves height of a detached garage or residential or nonresidential accessory building above the limit allowed as a matter of right under the provisions of Section 3.2J." Costello stated that it appears the applicant could apply for a Special Use permit which has a lower set of standards, but that Section 3.2M references

Eaves height only and not Building Height. Because the mean Building Height depends on the Eaves Height along with the width of the proposed roof pitch, with the exception of flat and mansard roofs, an applicant could apply for a Special Use permit for any sidewall height up to thirty-five (35) feet which is the maximum height for a structure in the R-1 Residential Zoning district, and an applicant with a flat roof would be rewarded while an applicant with a pitched roof would be penalized. She requested an interpretation as to whether Section 3.2.M.4 permits an application for a Special Use permit for Eaves Height only or if it also provides relief for overall Building Height. This would be per section 22.8 Authorized Appeals of the JCTZO-Interpretation of the Ordinance: "The Zoning Board of Appeals shall hear and decide upon requests to interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such request, the Zoning Board of Appeals shall ensure that its interpretation is consistent with the intent and purpose of the Ordinance, the Article in which the language in question is contained, and all other relevant provisions in the Ordinance."

Mike Gerrits, 2873 16th Avenue, who owns property adjacent to the applicant's property, stated that he is opposed to the granting of a variance due to concerns regarding the overall building height as it pertains to his property value and view.

Jason Meyer, 2926 Rocaway Dr., stated that they (the applicant) have done everything legally and in good faith and that there are other barns in existence that do not comply with the JCTZO. He also stated that they have lost time and money due to this issue. It would be very costly to tear the structure down and start again, and the building was constructed in the only suitable location due to the grades of the property.

Jodi Meyer, 2926 Rocoway Dr., stated that she wished to defend their name and reputation.

A motion was made by VandenHeuvel, supported by Smith, to close the Public Hearing at 7:01 p.m. Motion carried unanimously.

Board members discussed the five standards that must be met for the granting of a variance and did not think that the request could meet all the standards, especially as the property owner was not being deprived of rights enjoyed by all other property owners owning property within the same zoning district in that he can construct an accessory building, just not one of this height. ZBA members discussed the request by Costello to provide an interpretation regarding Section 3.2.M.4 of the JCTZO as to whether it allows a change to Building Height as well as Eaves Height, in which case the applicant would be able to apply to the Planning Commission for a Special Use permit. ZBA members agreed there was ambiguity in the language of 3.2.M.4 of the JCTZO and had procedural questions regarding approval or denial of the submitted application for a variance versus finding that the application for a variance was not necessary if it is determined that the applicant should instead apply for a Special Use permit under section 3.2.M.4 of the JCTZO.

A motion was made by Smith, supported by VandenHeuvel, to table a decision regarding the request for a variance in order to obtain an opinion from township legal counsel regarding the status of the building permit and options for moving forward. Motion carried unanimously.

NEW BUSINESS: None.

ADJOURN: A motion was made by Smith, supported by Brouwer, to adjourn the meeting at 7:45 p.m. Motion carried unanimously.

Respectfully submitted by,

Maureen Carmody, Recording Secretary
Zoning Board of Appeals

Minutes approved on

_____ by _____
(chair)