Draft Minutes

Onekama Township Zoning Board of Appeals

Public earing Hearing #1. Stokes/Ray appeal

10/19/2022

Draft Minutes

Meeting Called to order 1:00.

ZBA members:

Jim Trout, chair, Kevin Kane, Judy Spohn were all present.

Recording Secretary: Jean Capper

The Vanaceks were present at the hearing and through their attorney.

Reason for Public Hearing:

James Stokes and Linda Ray, owners of the properties located at 8813, 8827 and 8831 Portage Pt. Rd. Onekama, Michigan 49675, filed a request for an interpretation of the Onekama Township Zoning Ordinance. In addition, they filed an appeal of the Zoning Administrator’s enforcement related decisions regarding the property identified as 51-11-370-103-00 commonly known as 8793 Portage Point Drive, Onekama, Michigan 49675 owned by Vanaceks.

Public Comment: None

Appellant statement:

Mr. Stokes indicated that he had received a new packet of information and asked that the first finding be amended to state that it did not meet the setback requirements and can not because the entire building is the non conformity.

Would like to have the definition of Patio clarified: 503. That a patio must be near or adjoining to a building.

The parcel in question is owned by the Vanaceks. They applied for a variance to build on the property line. It was denied. When Mr. Stokes and Ms. Ray returned in the spring, they came back to find that the Vanaceks had transformed their non conforming 2 car garage into a 4 car garage. It was 8 feet high, is now 14 feet tall, but will agree that it is 13 feet tall. The zoning administrator issued a land use permit and did not require a variance.

Mr. Stokes represented that the LUP states that the Rear setback is 102, but it is actually 2 feet and that walls are to 9 feet tall, not to exceed 12 feet.

Building must meet setback and can’t expand the non conformity. The garage is the non conformity. It doesn’t meet the 25 foot setback. A variance was needed.

The square foot of the new part was 25 feet from the property line.

It was a preexisting non conformity.

The non conformity is within the setback, even though the addition isn’t.

Jim Trout asks if the windows trusses, roof, and windows can be replaced.

Mr. Stokes, yes if it is a repair, but not if it is a brand new building.

8003 says the walls of the garage needs to be no more than 12 feet. Needed a variance to go higher, which they did not get.

The zoning administrator says the wall is around 12 feet, but it is actually 13 feet. They also added an unenclosed porch, which wasn’t in the LUP.

Jim Trout asked how the slab was a porch. Katie Mehl, Zoning administrator said it is a patio.

Judy Spohn asked how the porch would be used. Mr. Stokes says it is being used as storage.

Mr. Stokes argued that the interpretation of the zoning administrator of 8003 does not follow the zoning ordinances. Asking ZBA to follow the zoning ordinances and find for Mr. Stokes and Ms. Ray.

Judy Spohn asked about a letter from Mr. Stokes from May 2021 where there seemed to be some idea of cooperation.

Judy Spohn asked Mr. Stokes how often he was at the property. Mr. Stokes was there for 2 weeks, Ms. Ray was there 3-4 weeks. Mr. Stokes plans to live there full time in the future.

Dave Meister: with regards to slabs, uncovered porches, patios. Set backs are not required to be met. Only structures that are above grade must meet setback rules.

Katie Mehl -138 foot set back noted on the LUP as the rear set back was a clerical error. Front and rear setbacks were not accurate, they should be flipped. The rear setback is 30 feet, not 138. The front set back is 138. Sidewall is not defined in the zoning ordinance, sidewalls are generally 9-10 feet. The at grade structure (patio, concrete slab) would not be part of the LUP.

Mr. Stokes asked to have his notes from today submitted as part of the record.

Commissioners have seen the properties and have reviewed the package.

Judy Spohn, looking at the building I see the rational for the decisions made.

Non conformity was not expanded according to Katie Mehl. The Onekama ordinance does allow for expansion of non conforming use.

The nonconformity was not expanded because the wall was not pushed beyond the non conformity. The foot print of the non conformity was not altered.

Jim Trout-two documents prepared with Tom Grier. Tentative decisions-two versions.

Version 1 to affirm: Did zoning administrator error?

Jim Trout reviewed the findings as set forth in the document.

Katie Mehl reviewed case law from other communities, but they are not binding precedents.

Kevin Kane moved to review the document affirming the decision of the Zoning administrator 1 by 1. Judy Spohn seconded.

Appeal question 1:

Zoning Administrator did not error. All concur.

Appeal question 2:

Zoning Administrator did not error. All concur.

Appeal question 3:

Zoning Administrator did not error. All concur.

Appeal question 4:

No violation of the ordinance occurred and no enforcement is required. All concur.

The document entitled Onekama Township Zoning Board of Appeals. October 19, 2022 (affirm) consisting of 15 pages and bearing the signatures of all of the members concurring on each of the Appeal questions is attached to these minutes.

The appellants claims are denied.

Meeting adjourned at 2:00 p.m.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Jean Capper, Recording Secretary

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Jim Trout, Chair

10-19-HeaH