

7:00 o'clock p.m. Chairperson Montgomery called the meeting of the Zoning Board of Appeals to order.

**MEMBERS PRESENT:** Bradley, Eisenhower (VC), Marlal, Montgomery (C), Oprita (S)

**MEMBERS ABSENT:**

**ALSO PRESENT:** Jorja Baldwin, Zoning Administrator,  
Courtney Reckker, Building Clerk

**VISITORS:** Darlene Peterson, 4784 Lakeshore Road, Fort Gratiot, MI 48059  
Gary Beem, 5775 Lakeshore Road, Fort Gratiot, MI 48059  
Diane Langolf, 3007 Maplewood Drive, Fort Gratiot, MI 48059  
Allen & Theresa Shaw, 3007 Elmwood Drive, Fort Gratiot, MI 48059  
Frank & Cheryl Ferres, 3086 Maplewood Drive, Fort Gratiot, MI 48059  
Michael & Lori Carnaghi, 2981 Maplewood Drive, Fort Gratiot, MI 48059  
Brian & Teresa Jex, 3064 Maplewood Drive, Fort Gratiot, MI 48059

Motion by Eisenhower, supported by Marlal, to approve the agenda as printed and posted.

**Vote, 5/0. MOTION CARRIED. AGENDA APPROVED.**

Motion by Oprita, supported by Eisenhower, to approve the minutes of the meeting of September 20, 2022.

**Vote, 5/0. MOTION CARRIED. MINUTES APPROVED.**

**CITIZENS WISHING TO ADDRESS THE BOARD (for items not on the agenda):** None.

**NEW BUSINESS:**

**ITEM #1:** **CLASS A DESIGNATION – 4661 DESMOND BEACH / 74-20-220-0031-001:**

**APPLICANT:** Gary Beem/Beem Construction, 5775 Lakeshore Road, Fort Gratiot, MI 48059

**OWNER:** Darlene Peterson, 4784 Lakeshore Road, Fort Gratiot, MI 48059

**REQUEST:** Class A designation

**LOCATION:** 4661 Desmond Beach

**PARCEL ID #:** 74-20-220-0031-001

**LEGAL:** LOTS 4, 5, 26, 27 & THE N 1/3 OF LOTS 6 & 25 BLK 3 DESMOND BEACH ACCORDING TO THE PLAT RECORDED IN LIBER 21 OF PLATS PG 208 ST CLAIR COUNTY

**APPLICANTS PRESENTATION:**

Gary Beem, Beem Construction, asking for Class A designation on existing structure for future work on the garage.

**PUBLIC COMMENT:** None.

**BOARD DISCUSSION:**

Chairperson Montgomery stated they can grant Class A designation with a restriction with the setback on north property line. The garage overhang encroaches onto neighboring property by 3" and states the board cannot grant a Class A Designation onto another property unless there are stipulations with it if tore down, moved or rebuilt.

Member Marlal said the house is only 1.5' off the property line and they have been trying to keep at least a 3' setback. Discussion happens regarding making the setback requirements for the Class A Designation to be for the house and garage.

**Findings of Facts:**

-The area was platted in 1907.

-This property is not within a High-Risk Erosion Area

-This property is not within a Flood Plain area

-This parcel is a lawfully existing non-conforming platted lot of 58'x200". The parcel size is .26 acres (11,600sf)

**Contacts/Communications/Correspondence:**

Phone call with email to summarize conversation received from Ms. Aiken, neighboring property to north, on 10/6/2022.

**Recommendations:**

- The building official recommends approval with the following comment; In any structure is rebuilt, walls within 3' of the property line must be 1-hour fire-rated.
- The department of public works recommends approval with no conditions.
- The fire chief recommends approval with the following comment: If the garage is rebuilt, it cannot overhang onto neighboring property.

-Zoning administrator recommendations below:

- Approve the Class A Designation

**Reasons for Decision:**

-A request may be **granted** upon findings that:

- (1) Continuance thereof would not be contrary to public health, safety, or welfare.
- (2) The structure does not and is not likely to significantly depress the value of nearby properties.
- (3) The use or structure was lawful at the time of its inception.
- (4) No useful purposes would be served by strict application of the provisions or requirements of this chapter with which the use or structure does not conform.

-A request may be **denied** upon finding that:

- (1) Public services cannot be adequately provided; i.e. water, sewer, gas, electric.
- (2) The proposed construction could hinder public safety response and put the property and surrounding properties at additional risk.
- (3) A hardship (non-financial in nature) or practical difficulty (such as a natural feature of the land) has not been demonstrated.

**MOTION #1-1 CLASS A DESIGNATION – 4661 DESMOND BEACH / 74-20-220-0031-001:**

Motion by Montgomery, supported by Eisenhauer, to grant the request from Gary Beem for a Class A designation at 4661 Desmond Beach / 74-20-220-0031-001 with a minimum 3' North Yard setback.

**Vote, 5/0. MOTION CARRIED. CLASS A DESIGNATION GRANTED WITH REQUIRED 3' NORTH YARD SETBACK.**

**ITEM #2: VARIANCE/CLASS A DESIGNATION – 3064 MAPLEWOOD DRIVE / 74-20-468-0061-000:**

**APPLICANT:** Teresa Jex, 3064 Maplewood Drive, Fort Gratiot, MI 48059

**OWNER:** Teresa Jex/Cynthia Morrison/Michelle Lovitt, 3064 Maplewood Drive, Fort Gratiot, MI 48059

**REQUEST:** Proposed dwelling: 30' north rear yard setback variance; 5' west side yard setback variance; 21' south front yard setback variance; 545 square foot lot coverage variance; Class A designation.

**LOCATION:** 3064 Maplewood Drive

**PARCEL ID #:** 74-20-468-0061-000

**LEGAL:** LOTS 82 & 83 LAKE HURON MANOR

**APPLICANTS PRESENTATION:**

Teresa Jex, property owner, proposing split on the lot to return back to the original plot and to propose to build on the lot for a dwelling requesting 30' north rear yard setback, 5' west side yard setback variance, 21' south front yard setback variance with a 545 square foot lot coverage variance and Class A designation. They have met with a builder to match the setbacks of their neighbors and what would be aesthetically pleasing to match the neighborhood.

**PUBLIC COMMENT:**

Allen Shaw stated he wanted to seek clarification on the setback variances requested. Chairman Montgomery explained the details of what a variance is. Mr. Shaw asked what the policy/statute is that the township details for the language based on granting and denying requests and what supports these decisions. Chairman Montgomery explains the required setbacks and how the Manor and the Forest cannot always comply with the requirements due to their plotted land sizes. Zoning Administrator, Jorja Baldwin, explains the reason for decision comes directly from the Code of Ordinances. Baldwin states all of the lots in this area are non-conforming in today's standards, all new builds have to seek a variance. Mr. Shaw discusses how the last few years' litigation has been happening in the neighborhood and how the county and state have enforced them. Baldwin stated that the deeds are maintained and enforced only through the neighborhood and not through the township. The township only makes their decision based on the adopted ordinances. Discussion was had regarding deeds versus ordinances and how each are upheld.

Michael Carnaghi stated after reviewing the survey and speaking with the neighbors he reviewed the closeness of the neighboring homes to the property lines. He agrees the 5 feet on the side property lines are very reasonable. Mr. Carnaghi stated about 80% of homes are about 20 feet away from the road to give enough room for parking.

#### **BOARD DISCUSSION:**

Chairperson Montgomery commented that a previous granted variance in that same neighborhood was a 20 feet front yard setback. This request is 6 feet closer.

Secretary Oprita discussed line of sight with a home being that far forward but that only applies to lake front property. Discussion was had regarding the front and rear setback requests and overhangs. They also discussed how close the neighboring buildings are to their property lines. It was mentioned that the driveway will extend to the back of the property.

#### **Findings of Facts:**

- The area was platted in 1927.
- This property is not within a High-Risk Erosion Area
- This property is not within a Flood Plain area
- This parcel is a lawfully existing non-conforming platted lot of 90'x 89'. The parcel size is .18 acres (8,010 sf) Parcel will be split to Lot 83 only; 45'x89'.

#### **Contacts/Communications/Correspondence:**

No correspondence has been received to date (10/10/22).

#### **Recommendations:**

- The building official recommends approval, with no conditions.
- The department of public works recommends approval with no conditions.
- The fire chief recommends approval, with no conditions.
- Zoning administrator recommendations below:
  - Approval of the 30' rear north setback variance
  - Approval of the 5' side west setback variance
  - Approval of the 21' front south setback variance
  - Approval of the 545sf lot coverage variance
  - Approval of the Class A Designation

#### **Reasons for Decision:**

*-A request may be **granted** upon findings that:*

- (1) Continuance thereof would not be contrary to public health, safety, or welfare.
- (2) The structure does not and is not likely to significantly depress the value of nearby properties.
- (3) The use or structure was lawful at the time of its inception.
- (4) No useful purposes would be served by strict application of the provisions or requirements of this chapter with which the use or structure does not conform.

*-A request may be **denied** upon finding that:*

- (1) Public services cannot be adequately provided; i.e. water, sewer, gas, electric.
- (2) The proposed construction could hinder public safety response and put the property and surrounding properties at additional risk.
- (3) A hardship (non-financial in nature) or practical difficulty (such as a natural feature of the land) has not been demonstrated.

#### **MOTION #2-1 NORTH REAR YARD SETBACK VARIANCE – 3064 MAPLEWOOD DRIVE / 74-20-468-0061-000:**

Motion by Montgomery, supported by Oprita, to grant the request from Teresa Jex for a 30' north rear yard setback variance for proposed dwelling at 3064 Maplewood Drive / 74-20-468-0061-000.

**Vote, 5/0. MOTION CARRIED. 5' NORTH REAR YARD SETBACK GRANTED FOR PROPOSED STRUCTURE.**

#### **MOTION #2-2 WEST SIDE YARD SETBACK VARIANCE – 3064 MAPLEWOOD DRIVE / 74-20-468-0061-000:**

Motion by Montgomery, supported by Eisenhauer, to grant the request from Teresa Jex for a 5' west side yard setback variance for proposed dwelling at 3064 Maplewood Drive / 74-20-468-0061-000.

**Vote, 5/0. MOTION CARRIED FOR 5' WEST SIDE YARD SETBACK GRANTED FOR PROPOSED STRUCTURE.**

**MOTION #2-3 SOUTH FRONT YARD SETBACK VARIANCE – 3064 MAPLEWOOD DRIVE / 74-20-468-0061-000:**

Motion by Montgomery, supported by Marlar, to grant the request from Teresa Jex for a 15' south front yard setback variance for proposed dwelling at 3064 Maplewood Drive / 74-20-468-0061-000.

**Vote, 5/0. MOTION CARRIED. 20' SOUTH FRONT YARD SETBACK GRANTED FOR PROPOSED STRUCTURE.**

**MOTION #2-4 LOT COVERAGE VARIANCE – 3064 MAPLEWOOD DRIVE / 74-20-468-0061-000:**

Motion by Montgomery, supported by Oprita, to grant the request from Teresa Jex for a 545' lot coverage variance for proposed dwelling at 3064 Maplewood Drive / 74-20-468-0061-000.

**Vote, 5/0. MOTION CARRIED. 545 SQUARE FOOT LOT COVERAGE VARIANCE GRANTED FOR PROPOSED STRUCTURE.**

**MOTION #2-5 CLASS A DESIGNATION – 3064 MAPLEWOOD DRIVE / 74-20-004-4004-000:**

Motion by Eisenhower, supported by Marlar, to grant the request from Teresa Jex for a Class A designation for proposed dwelling at 3064 Maplewood Drive / 74-20-468-0061-000.

**Vote, 5/0. MOTION CARRIED. CLASS A DESIGNATION GRANTED.**

**BOARD DISCUSSION:** No meeting will be had for November.

Motion by Marlar, supported by Eisenhower, to adjourn. Time, 7:39 o'clock p.m. **Vote, 5/0. MEETING ADJOURNED.**

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Zoning Board of Appeals Secretary