

**Columbia Township**

**Zoning Board of Appeals**

**December 6, 2007**

**Meeting called to order by chairman Donald Oswald at 7:30 PM.**

**Roll call. Present: Holmstrom, Andrews, Messimer, Beamish and Oswald**

**Absent: none.**

**HERBERT. Edward, 10697 Wesch Rd. Brooklyn, MI. 49230 ADP# 000-19-22-378-018-00. Request to build a walk way attached to a deck with a variance of 3 feet, 7 feet to the East lot line.**

**Rebecca Walch, builder, represented the Herberts and presented pictures of the former deck and walk-way and said that the intention is to replace it. The walk way has been removed. She said the reason for the walk way is so the residents can have access to the gas grill. She acknowledged that no variance was originally sought or approved.**

**Letter received from Lake Columbia Building Committee recommending denial of the variance as it falls within the set back in violation of plat restrictions.**

**Mr. Oswald stated that because no variance had been applied for originally, the request would be considered as if the former walk way did not exist and considered as new construction.**

**Discussion from board members followed. Mr. Oswald called for a motion.**

**Messimer stated that no special circumstances were presented by the applicant and the reason for the variance is clearly because of the action of the applicant, no rights would be denied the applicant that are allowed in the same district, and it would confer special privilege that is denied in the same district.**

**Motion by Messimer, seconded by Andrews to deny the variance based on:**

**1. That special conditions and circumstances exist which are peculiar to the land, structure, or building**

**involved and which are not applicable to other lands, structures, or buildings in the same district.**

**2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights**

**commonly enjoyed by other properties in the same district under the terms of this Ordinance.**

**3. That the special conditions and circumstances do not result from the actions of the applicant.**

**4. That granting the variance requested will not confer on the applicant any special privilege that is**

**denied by this ordinance to other lands, structures, or buildings in the same district.**

**5. That no nonconforming use of neighboring lands, structures, or buildings in the same district, and no**

**permitted use of lands, structures or buildings in other districts shall be considered grounds for the**

**issuance of a variance.**

**Ayes: Messimer and Andrews**

**Nays: Holstrom, Oswald and Beamish**

**Motion failed**

**Discussion held on accessibility to the side yard patio where the gas grill is located. Messimer mentioned that the gas grill is also within the setback and believes it represents a structure according to the ordinance.**

**Holmstrom said that was a matter of interpretation of the ordinance. The section was referred to and read by the board:**

**2.3.118 Structure:**

**Anything constructed, erected or placed with a fixed location on the surface of the ground or affixed to**

**something having a fixed location on the surface of the ground, or constructed, or placed below the**

**surface of the ground, excepting drives, paving, parking lots, and/or paved ramps.**

**Motion to approve the variance of 3 feet, 7 feet to the East lot line to construct a walk way according to the drawing by Holmstrom seconded by Beamish based on :**

**C. The Zoning Board of Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.**

**E. In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made**

**a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under SECTION 9.7 of this Ordinance.**

**Ayes: Beamish, Oswald and Holmstrom**

**Nays: Messimer and Andrews**

**Motion carried, variance approved.**

**Motion by Beamish, seconded by Holmstrom to accept the minutes of the November 8, 2007 meeting as presented. Ayes all, motion carried.**

**Discussion held on supervisor Ray Kuzminski's letter regarding meeting times and fees.**

**Adjournment**

**Respectfully submitted,**

**John Messimer, Secretary**

**COLUMBIA TOWNSHIP ZBA**