

Columbia Township Zoning Board of Appeals

March 29, 2018

Columbia Township Zoning Board of Appeals called to order at 7:00 PM by Chairman Brad Denning. Members present Barbara Beamish, Jerry King, Robin Tackett, Teresa Mahr and Chairman Brad Denning. Absent: Bruce Andrews.

Motion made by Barbara Beamish to approve agenda. Motion seconded by Robin Tackett. Ayes: All. Motion carried.

Motion to Approve Columbia Township Zoning Board of Appeals minutes of January 18, 2018, motion made by Robin Tackett. Motion seconded by Brad Denning. Ayes: All. Motion carried. Meeting minutes approved.

Michael & Barbara Scott for a variance request to construct an attached garage onto the existing garage a distance of 9' to the East lot line and a distance of 18' to the front yard (roadside) lot line on property known as Lot 84 Grand Pointe Shores, 110 N. Grand Pointe Dr. Brooklyn, MI. 49230. ADP#000-19-28-451-026-00.

Mr. & Mrs. Scott present reasons for requesting a variance. They recently purchased the property and want to additional living space to the home. They want to make more room for family and to make best use of the home. The addition will not impede views or in any way take away from the neighborhood. They will reside entire structure & roof. Mahr asked about east lot line? The house is presently at that so to keep in line with home they will need to come straight off of the existing building. Beamish asked blocking neighbors views? The new addition will not block any views it will be in line with homes on either side. Tackett asked about dimensions from road to property line. There is roughly 40 ft. from road to property line stated applicant. Discussion at this time about 40 ft. from road to property line.

No public comment. Two pieces of correspondence. 1: Ray Kuzminski, 10693 Hewitt, not in favor of granting variance. 1: Ed Ponagai, not in favor of granting variance.

Board Closed to public comment at this time.

Board discussion at this time.

Motion by Tackett to approve variance as requested, east side yard setback of <1', a distance of 9.2 feet to lot line. Front yard (roadside) set back variance of 7 feet, a distance of 18 feet to the lot line. Siting 10.3 A. 2. 4. D. Motion seconded by King. Roll call, King: yes, Mahr: yes, Tackett: yes, Beamish: yes, Chairman Denning: yes. Ayes All variance granted.

No public comments.

Motion made by Barbara Beamish to Adjourn. Motion seconded by Chairman Brad Denning.
Ayes: All. Meeting Adjourned at 7:29PM.

Meeting Minutes Respectfully Submitted,

Robin Tackett

Secretary Columbia Township Zoning Board of Appeals

Lot 84 Grand Point Shores, 110 Grand Point Brooklyn, MI

The submitted written application for a variance does not demonstrate that a special condition and circumstances exist which are peculiar to the land or structure.

Literal enforcement of this Ordinance would not result in unnecessary and undue hardship, the applicant currently has a two (2) car garage. The ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the same district.

A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest, granting this variance is contrary to public interest because the Lake Columbia Property Owners Association Planned (LCPOA) housing development constitute a community with covenants for preserving the architecture and appearance of a housing development. Every property owner in the LCPOA has deeded restrictions of "Any structure erected must set back not less than 25' from the front lot line and not less than 25' from any side street lot line. Side line set back shall not be less than 10'." As per Declaration of Restrictions dated June 17, 1963 for Grand Pointe Shores recorded in Liber 715, Pages 617 et seq., with the county of Jackson, MI.

I submit that that the variance not be granted by the Columbia Township Zoning Board.

Columbia Township ZBA3/292018Lot 84 Grand Point Shores, 110 Grand Point Brooklyn, MI

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I submit that that the variance not be granted by the Columbia Township Zoning Board.

Respectfully
Ray Kuzminski
10693 Hewitt,
Brooklyn, Mi 49230

To: Columbia Township Zoning Board of Appeals,

March 23, 2018

The purpose of this communication is to inform the Zoning Board that the Lake Columbia Property Owners Association (LCPOA) has Deeded Restrictions enforceable in a court of law. Each owner that purchases property in the LCPOA must abide by these Deeded Restrictions.

Lake Columbia Recorded Restrictions #4 States:

“Any structure erected must set back not less than 25’ from the front lot line and not less than 25’ from any side street lot line. Side line set back shall not be less than 10’.”

The LCPOA Deed Restrictions are private contractual matters that bind real estate in the Association. One of the benefits is that LCPOA Deed Restrictions maintain property value and are more desirable to potential buyers. When members purchase property at Lake Columbia, the deed restrictions represent a guarantee that certain matters will not occur.

The deed restrictions are enforceable, even if they are more restrictive than the Columbia Township ordinances or variances. Real estate deed restrictions are restrictions on the deed that place limitations on the use of the property.

Deed restrictions are enforceable in Michigan

“See *Bloomfield Estates Improvement Ass’n, Inc v City of Birmingham*, 479 Mich 206 (2007); *Rofe v Robinson (on Second Remand)*, 126 Mich App 157 (1983); *Terrien v Zwit*, 467 Mich 56 (2002). Furthermore, the penalty for violating deed restrictions can be quite severe. On occasion, the Michigan courts have ordered that dwellings or buildings be torn down that do not comply with mandatory setbacks or other deed restrictions. See *Webb v Smith (After Second Remand)*, 224 Mich App 203 (207); *Bloomfield Estates Improvement Ass’n, Inc v City of Birmingham*, 479 Mich 206 (2007); *Thom v Palushaj (unpublished decision by the Michigan Court of Appeals dated February 12, 2012—Case No. 301568).*”

We strongly recommend the Zoning Board not approve any variances for LCPOA property that do not comply with the LCPOA Deeded Restrictions #4. “Any structure erected must set back not less than 25’ from the front lot line and not less than 25’ from any side street lot line. Side line set back shall not be less than 10’.” The Restrictions are recorded in Jackson County.

I request that that the variance not be granted by the Columbia Township Zoning Board for Lot 84 Grand Point Shores, 110 Grand Point Brooklyn, MI.

Ed Ponagai