

**YANKEE SPRINGS TOWNSHIP  
ZONING BOARD OF APPEALS  
MEETING**

**Tuesday, April 10, 2018  
7:00 PM**

**Yankee Springs Township Hall  
284 North Briggs Road, Middleville, Michigan 49333**

**MINUTES**

**MINUTES**

Page 1 of 7  
ZBA  
4.10.18

Meeting called to order at 7:00 PM by Jake Welch, ZBA Chairman.

**Roll Call:** Present: Jake Welch (Chair), Dave VanHouten (Vice Chair), Ron Heilman (Secretary), John Frigmanski, and Michael Boysen (Board Rep.).

Michael Boysen (Board Trustee) will be sitting on the ZBA this evening. R. Harvey explained the allowance for this. Rebecca Harvey also noted that if an item is tabled this evening, and Cathy Strickland would be at the next meeting, the person taking her place (tonight) would sit on the ZBA for that item (that was tabled) at the next meeting.

**Absent with notice:** Cathy Strickland

Alternate Todd Delamar was not in attendance this evening.

**(Also Present:** Rebecca Harvey, Professional Planner)

**PLEDGE OF ALLEGIANCE –**

**Absent with notice:** Eric Thompson, PCI, YS Zoning Administrator

**Staff Present:** Frank Fiala, Sandy Marcukaitis, (Mark Englerth entered later in meeting at approximately 8:20 p.m.)

**Visitors:** 7 - not including staff present.

**REPORTS FROM REPRESENTATIVES:**

**Planning Commission:** Cathy Strickland was absent with notice.

**Board of Trustees:** No report.

**APPROVAL OF MINUTES:**

Motion by Heilman with support from Frigmanski to approve ZBA meeting minutes of February 13, 2018 as presented. All ayes. MOTION CARRIED.

**PUBLIC COMMENT:** NONE at this time.

**NEW BUSINESS:** ZBA 18-03-02 Parcel ID 080-054-00: 4054 England Drive, Shelbyville, MI 49433:

- a. A request by Ronald Skelton (Contractor), for a variance to construct an attached garage that fails to meet the side yard setback standard.
- b. The required side yard setback for structures in the Residential Single Family District (RSF) 10% of the lot width per Article XII – Sec. 12.4.2.a

**CALL TO ORDER**

**ROLL CALL**

**PLEDGE**

**REPORTS FROM REPRESENTATIVES**

**APPROVAL OF MINUTES**

**PUBLIC COMMENT**

**Public hearing opened at 7:04 p.m.**

**Motion by Heilman with support from Frigmanski to Open Public Hearing at 7:07 p.m. All ayes. MOTION CARRIED.**

Owner Sandy Schlukebir presented request to build a garage. A letter was delivered by Ms. Schlukebir to the ZBA Secretary- in favor of the project. Letter was written by her neighbors, The Nelson's. Ms. Schlukebir commented that her neighbor, Mr. McCullough, was okay with the project as well.

Contractor, Ronald Skelton, was unable to attend this evening.

Information was still needed by ZBA members.

R. Skelton commented to Ms. Schlukebir that the ZBA members could contact R. Skelton by phone if necessary.

Ms. Schlukebir will now try to contact contractor and ZBA will move to 2<sup>nd</sup> request of this evening.

**Motion by Heilman with support from Welch to table public hearing for ZBA 18-03-02- 4054 England Dr., Shelbyville, MI. One opposed. (VanHouten). (4 Ayes/1 Nay) MOTION CARRIED.**

**ZBA 18-03-03 Parcel ID 240-004-00. Property address 8269 Willson Dr., Middleville, MI 49333:**

- a. A request by property owners Tom and Linda Nash, for a variance to construct a detached accessory structure that fails to meet the rear and side yard setback standard.
- b. The required rear yard setback for structures in the Residential Lakefront District (RLF) is 25 feet or the average setback of dwelling within 300 feet per Article XII – Section 12.4.3.a.
- c. The required side yard setback for structures in the Residential Lakefront District (RLF) is 5 feet or 10% of the lot width, whichever is greater, per Article XII – Section 12.4.2.

**Motion by Frigmanski with support from VanHouten to OPEN public hearing at 7:19 p.m. All ayes. MOTION CARRIED.**

Tom Nash presented his request for detached accessory structure. Information was reviewed by the ZBA with Mr. Nash.

T. Nash explained his purchase with a neighbor and splitting the lot in 1974. Nash commented that in 2011, the Zoning Administrator, told him (Nash) that his plans for a garage/outbuilding would be no problem. So Nash put underground power (lines) in. The next Zoning Administrator told him it was a “no go”.

Mr. Nash commented that his neighbor, C. Downs, (next door neighbor), sent a letter of approval. Letter was sent to E. Thompson, of PCI. Also, letters came from: Five (5) other neighbors in favor of the project. Letter documentation for the five (5) letters are included in ZBA members' packets.

**Motion by Heilman with support from Frigmanski to CLOSE public hearing on the Nash request at 7:32 p.m. All ayes. MOTION CARRIED.**

**MINUTES**

Page 2 of 7

ZBA

4.10.18

**Public hearing**

**opened at 7:07 p.m.**

**MOTION TO TABLE**

ZBA 18-03-02 4054

England Dr.,  
Shelbyville

ZBA 18-03-03 –T. &

L. Nash, 8269  
Willson Dr.,  
Middleville

**OPEN PUBLIC HEARING at 7:19 p.m.**

**CLOSE PUBLIC HEARING 7:32 p.m.**

**BOARD DELIBERATION**

Practical difficulty test read by J. Welch.

Practical difficulty standards test: (provided by R. Harvey, Professional Planner)

1. That the practical difficulty asserted by the applicant by way of justification for a variance is due to unique circumstances of the property. (exceptional or extraordinary physical circumstances applying to the property that do not apply generally to other properties in the area/zoning district).
2. That the condition of the property is not of so general or recurrent a nature as to make reasonable the formulation of a regulation for such condition. (an amendment of the zoning ordinance instead of variance relief).
3. A literal interpretation of the provision of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; and that the variance is the minimum necessary. (preservation of a substantial property right similar to that possessed by other properties in the district/vicinity).
4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
5. That, in granting a variance, the ZBA is insuring that the spirit of the Zoning ordinance is observed, public safety secured, and substantial justice done. (not impair the intent and purpose of the Ordinance).
6. That the practical difficulty asserted by way of justification for the variance is not self-created. (created by any affirmative action of the applicant).

**Practical Difficulties Found by ZBA members: (Nash Request) for Road Setback –noted by R. Heilman, ZBA Secretary:**

1. Unique Circumstance. Cul-de-sac right of way would increase road (actual) setback. Location of Cul-de-sac and location of septic system causes difficulty with garage placement.
2. Not General or Recurrent in Nature.
3. R. Heilman observed houses in same area of the Nash residence, and there were houses a lot closer than the 25 foot setback.
4. Just two neighbors involved. and they are a reasonable distance from the border. Neighbor on adjacent parcel has given approval for request and buildings on adjacent parcel are a reasonable distance from border.
5. R. Heilman felt it was not detrimental to the ordinance because of the unique circumstance.
6. Practical difficulty was not self created.

**MINUTES**

Page 3 of 7

ZBA

4.10.18

*Motion by Heilman with support from VanHouten to grant variance of 10 feet to the rear yard setback of 25 feet (now making it 15 foot setback) based on difficulties (noted above) and lay of property and plans of T. & L. Nash for the property. VanHouten: Yes, Boysen: Yes, Welch: yes, Frigmanski: yes, Heilman: yes. Yes: 5, No: 0. MOTION CARRIED.*

MINUTES  
Page 4 of 7  
ZBA  
4.10.18

**Criteria was reviewed for sideyard setback request of T. & L. Nash:**

1. R. Heilman noted the unique situation because building placement has been limited in area due to power and gas lines from the street to the house. Heilman commented “I take in consideration that Mr. Nash was told by the Zoning Administrator (former ZA in 2011) earlier on that property that he would not have a problem building a building and that was not investigated deep enough and consequently they put their gas and power lines down thru the property which was the shortest and easiest route to the house to save them the most money to do that.” Heilman noted that Nash could have put the power lines in differently or changed them if he hadn’t been given approval earlier.
- 2./3. Not general or recurrent in nature. Error of Zoning Administrator is involved.
4. Letter from neighbor in adjacent property was sent to PCI, but wasn’t available this evening. Neighbor approved building placement. Neighbor to the south (adjacent) is Cecelia Downs.
5. Gas line is a consideration of safety – Owner had permission and was going to build on cul-de-sac.
6. The difficulty was not self created. Error of Zoning Administrator caused the lines to be put in and tree removed.

**MOTION for REAR YARD SETBACK variance request.**

***MOTION By Frigmanski with support from VanHouten to deny sideyard variance request of 5 feet. VanHouten: Yes, Welch: No, Frigmanski: Yes, Boysen: No, Heilman: No. Yes: 2, No: 3: MOTION FAILS.***

**MOTION TO DENY 5 ft. VARIANCE.**

Further discussion requested by M. Boysen (prior to vote above). Boysen commented that he would like the letter from the adjacent property owner, C. Downs. Letter approves building placement of the T. & L. Nash. R. Harvey spoke regarding the prior approval of the former zoning administrator noting that a township official does not have the ability to vary the law. R. Harvey added that if a mistake is made by a ZA, or township official, it still doesn’t make the request “legal”.

**A motion will now be made to allow the 5 foot sideyard setback.**

**Review of 6 items (Practical Difficulty) for newer motion by Heilman:**

1. Unique circumstances causes problem, (gas and electric lines), also mentioned was former Zoning Administrator’s approval causing the unique circumstance.
2. This appeal isn’t recurrent in nature. It wouldn’t exist because it was a unique situation and the property was unique in itself – cul-de-sac.
3. Other properties in the area have similar situations and the property next door to the Nash’s – it seems to be not an issue with them (property next door).

*Practical Standards Review continued on next page.*

4. Variance will not be significantly detrimental to adjacent property and the surrounding neighborhood- Neighbor to the south (next door neighbor)- Cecelia Downs – letter of approval is with Eric Thompson, PCI (unable to attend meeting tonight).

5. In granting a variance, the ZBA is insuring that the spirit of the Zoning Ordinance is observed, public safety secured, and substantial justice done. (Not impair the intent and purpose of the Ordinance). Public safety with lines – would like to see lines over more- R. Heilman commented that owner did what he was told.

*MOTION by R. Heilman with support from M. Boysen to allow the 5 foot sideyard setback (based on practical difficulties noted above).. (Allowing a reduction of 3.4’ from the required 8.4’ ordinance). VanHouten: No, Welch: Yes, Frigmanski: No, Boysen: Yes, Heilman: Yes. Yes: 3, No: 2. MOTION CARRIED.*

**ZBA 18-03-04 Parcel ID 240-004-00. Property address 1862 Parker Dr., Wayland, MI 49348**

a. A request by property owner James Tenhaaf, for a variance to construct a single family dwelling and a detached accessory structure that fails to meet the rear yard setback standard.

b. The required rear yard setback for structures in Gun Lake Residential Lakefront District (GLRLF) 25 feet or the average setback of dwellings within 300 feet per Article XII – Section 12.4.3.b.

**Motion by Heilman with support from Frigmanski to Open Public hearing at 8:09 p.m. All ayes. MOTION CARRIED.**

**It was noted: James TenHaaf is the applicant, not the property owner at this time. He, TenHaaf, is in process of buying the property. J. TenHaaf presented his request.**

**Bob Genter of Parker Drive:** commented that he hadn’t seen James’ proposal. The garage that TenHaaf referenced the stake was by -was given a variance maybe a year and half ago according to Genter. Genter commented, “That garage extends out toward the roadway approximately 10 feet further than the previous garage. There’s a line of sight problem on that road because of the curve in the road as you come down that street. After that gentlemen built that new garage and now parks outside that garage and doesn’t use it to park his vehicle and parks outside it, his tailgate of his pickup is almost on the road. You can’t see vehicles coming as you come down that street– it’s a grave concern with us that you have a line of sight. I didn’t know where his variance request was towards- the road, towards the lake, that we didn’t know. Our biggest concern on Parker Drive is people don’t have enough driveway to park their vehicles. They park them in the street, hanging out in the road. Several variances have been given on our street. That people cannot park a full-size vehicle in their driveway. They have to park sideways. And it’s time to stop that practice. It’s unsafe, and unfair to people that have abided by the rules. My concern is not to discriminate against James. That lot is very unique in itself. You’re right. And for him to build on it, it’s probably a great thing. But again be careful in giving variances to the road because if people can’t park a vehicle in there, why have a driveway?”

**Clarification: Variance is for house and garage.**

**MINUTES**

**Page 5 of 7**

**ZBA**

**4.10.18**

**MOTION TO ALLOW the 5 foot sideyard setback.**

**ZBA 18-03-04 Parcel ID 240-004-00. Property address 1862 Parker Dr., Wayland**

**Open Public Hearing 8:09 p.m.**

Frank Fiala asked "What is width of the road right of way (on Parker Dr.)? Fiala noted later in meeting that it was 33 ft. starting at 179.

***Motion by Frigmanski with support from Boysen to CLOSE PUBLIC HEARING at 8:23 p.m. All ayes. MOTION CARRIED.***

**BOARD DELIBERATION:**

**Practical Difficulty Standards Review: R. Heilman noted: (Standards list on page 3).**

1. Triangular lot was noted - Odd shaped lot.
2. Not many triangle shaped lots in township.
3. Applicant is limited in what he can do. He is within the scope of where he has to be. Compliance would create issues for run-off and render the parcel unbuildable for a reasonable size home. Setback of other properties increased the average setback.
4. Variance will not be significantly detrimental to the neighborhood: To come into further compliance would make it worse for the neighbors per J. Welch. TenHaaf would have to twist his house and be looking right at someone's front door.
5. Spirit/intent of Ordinance: Work has been done to see where his house can be appropriately placed.

Two letters received by ZBA at township read into minutes: **One from Michael Staples** (current owner) allowing ZA to come onto property to inspect proposed project. Second letter from **Doug Ybema** email of April 5, 2018 with concern of water run-off into Ybema's home and storage shed. Ybema asked in letter: "Where is the detached accessory structure going to go? If closer to my home then current setbacks – then I'm not in approval of this." If approved by ZBA, Ybema asked for gutters to be put on to deal with water runoff. Ybema commented that he felt the TenHaaf's would be good neighbors; he just didn't want his home to be negatively affected by the planned construction. *\*Building permits/state law/deal with water-off. Township doesn't deal with this.- noted by Welch.*

***Motion by Welch support from Heilman that 15 ft. variance is granted for both house and garage as shown on plan in the application packet so long as total edge separation from pavement is greater than 29 ft. (29 ft. includes 15 ft. road R-O-W from actual pavement and 14 ft –rather than required 25' setback from Road R-O-W.) VanHouten: Yes. Welch: Yes, Boysen: Yes, Heilman: Yes, Frigmanski: Yes. Yes: 5, No: 0. MOTION CARRIED.***

It was noted by Welch that Applicant needs to know exactly where building corner is including eaves from existing pavement of road - 29 ft.

Rebecca Harvey mentioned to James TenHaaf that the decision is based on this proposal.

**Brief break taken at 8:47 p.m.**

**MINUTES**

**Page 6 of 7**

**ZBA**

**4.10.18**

**CLOSE of PUBLIC HEARING at 8:23 pm**

**MOTION TO GRANT VARIANCE REQUEST**

**BREAK**

*The ZBA revisited and reopened public hearing for the first request of the evening:*

**ZBA 18-03-02 Parcel ID 080-054-00 4054 England Drive, Shelbyville, MI 49433:**

- c. A request by Ronald Skelton (Contractor), for a variance to construct an attached garage that fails to meet the side yard setback standard.
- d. The required side yard setback for structures in the Residential Single Family District (RSF) 10% of the lot width per Article XII – Sec. 12.4.2.a

**Information obtained:**

- The garage dimensions are: 25 x 25 including the eaves.
- The variance request is for 4' (going from 10' setback to 6').

**BOARD DELIBERATION TOOK PLACE:**

**STANDARDS OF PRACTICAL DIFFICULTY WERE REVIEWED.**

After review, it was determined that no standards of Practical Difficulty were met. Other options are available to maintain compliance with the ordinance.

*Motion by Welch with support from Boysen to deny based on fact there are other options that maintain compliance. Roll Call: VanHouten: Yes, Welch: Yes, Heilman: Yes, Frigmanski, No, Boysen: Yes. Yes: 4, No: 1. MOTION CARRIED.*

At 9:06 p.m. Ron Skelton, Project Contractor, entered township hall just after request was denied. It was mentioned to Mr. Skelton by R. Harvey - the same variance cannot be requested for a year. "But that doesn't deny you from pursuing a different request," commented R. Harvey.

**OTHER SUCH BUSINESS:**

The Planning Commission will be looking at request of J. Frigmanski regarding 30% lot coverage. Per R. Harvey, Mr. Helder of Manitou Lane, has filed an application for amendment. PC meeting to take place April 19, 2018. Welch asked that C. Strickland report on PC discussion of 30% lot coverage at next ZBA meeting.

**ADJOURNMENT:** It was motioned by Boysen and supported by Frigmanski to adjourn at 9:09 p.m. Approved by all.

Approved by : \_\_\_\_\_ Date: \_\_\_\_\_  
Ron Heilman, ZBA Secretary

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_  
Janice C. Lippert, Township Clerk

Respectfully submitted by:  
Deb Mousseau  
Recording Secretary, 4.10.18

**MINUTES**

Page 7 of 7

ZBA

4.10.18

**MOTION TO DENY  
VARIANCE  
REQUEST**

**OTHER SUCH  
BUSINESS:**

**ADJOURNMENT**