

<p style="text-align: center;"> YANKEE SPRINGS TOWNSHIP ZONING BOARD OF APPEALS MEETING <u>Tuesday, August 9, 2022</u> 6:00 PM Yankee Springs Township Hall 284 North Briggs Road, Middleville, Michigan 49333 </p> <p style="text-align: center;">MINUTES</p>	<p style="text-align: center;"> <u>FINAL MINUTES</u> Page 1 of 5 ZBA Meeting August 9, 2022 </p>
<p>Meeting called to order at 6:00 PM by Jake Welch</p> <p>Roll Call: Present: Dave VanHouten, Ron Heilman, John Jerkatis, Jake Welch, John Frigmanski.</p> <p>Staff Present: Sandy Marcukaitis, Rob Heethuis, Frank Fiala, Greg Purcell</p> <p>Visitors: 6</p> <p>PLEDGE OF ALLEGIANCE</p>	<p>CALL TO ORDER</p> <p>ROLL CALL</p> <p>PLEDGE OF ALLEGIANCE</p>
<p>REPORTS FROM REPRESENTATIVES:</p> <p>Planning Commission: John Frigmanski: Greg Purcell was appointed to the Planning Commission. A citizen who attended was quite adamant about enforcement of the setback infringements and the Zoning Board has responded. Gun Lake Cocina asked for a zoning change to sell liquor. It was decided that the PC will take the liquor language out of the ordinance and it will be up to the Board of Trustees to make this decision. A property on Patterson Road that was zoned C3 was changed back to residential per the request of the property owner. Several amendments were approved to go to the Board for their review. A request was made by PCI to change the setback from measuring 5' to the foundations rather than 5' from the eaves.</p> <p>Board of Trustees: Dave VanHouten, Board Trustee: No report.</p>	<p>REPORTS FROM REPRESENTATIVES</p>
<p>INQUIRY ON CONFLICT OF INTEREST:</p> <p>Heilman inquired if there are any conflict of interest with the board regarding tonight's request. There are none.</p>	<p>CONFLICT OF INTEREST</p>
<p>APPROVAL OF MINUTES:</p> <p><u>Motion by Frigmanski with support from Jerkatis to accept the July 12, 2022 ZBA meeting minutes as presented.</u> Discussion: Should the motion by Heilman on the last page of the minutes be amended to say "an error by the representative of the township" rather than "an error by the township"? While this is a good point, that was not what was said at the time so the wording should stay as written. Roll Call Vote: Frigmanski: yes; Welch: yes; Jerkatis: yes; Heilman: yes; VanHouten: yes.</p> <p>Yes: 5, No: 0. MOTION PASSED</p>	<p>APPROVAL OF MINUTES</p>
<p>NEW BUSINESS:</p> <p>ZBA 22-07-09 PARCEL ID #08-16-008-008-10. 509 N. Briggs Rd., Middleville, MI 49333 A request by property owner, Steven Rosenberg, for variance relief from the setbacks established by section 12.4 "Required Setbacks".</p>	<p>ZBA 22-07-09 PARCEL ID #08-16-008-008-10 Request by Steven Rosenberg</p>

The subject site is approximately 2.265 acres in size. The property is currently zoned Rural Residential (RR) and the applicant is requesting relief to allow for the construction of a storage shed that fails to meet the required setbacks.

This request is no longer needed. The setbacks are not an issue, only the size. This request can be disregarded.

ZBA 22-07-10 PARCEL ID #08-16-008-008-10. 509 N. Briggs Rd., Middleville, MI 49333
A request by property owner, Steven Rosenberg, for variance relief from the size requirements established by section 12.7 "Outbuildings".

ZBA 22-07-10 PARCEL ID #08-16-008-008-10
Request by Steven Rosenberg

The subject site is approximately 2.265 acres in size. The property is currently zoned Rural Residential (RR) and the applicant is requesting relief to allow for the construction of an accessory building that fails to meet maximum size requirements.

Motion by Heilman with support from VanHouten to open the public hearing. All ayes.
MOTION CARRIED

Mr. Rosenberg wants to build a barn big enough to store his concession equipment to be able to keep it under cover on his own property.

Motion by Heilman with support from Frigmanski to close the public hearing. All ayes.
MOTION CARRIED

Discussion: The proposed structure is 720' over the allowed size which is 2400'.

Jake Welch read the Practical Difficulty Standards and each standard was considered. The ZBA discussed the request as they went through each standard.

PRACTICAL DIFFICULTY STANDARDS

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 ensuring that the spirit of the Zoning ordinance is observed, public safety secured, and substantial justice done (not to 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).

Board deliberations took place. The ordinance clearly states a building cannot be over 2400' although the homeowner would still be under the maximum coverage allowed for his property size. The ZBA cannot approve unless the Planning Commission made a change to the ordinance as written.

FINAL MINUTES

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Motion by VanHouten with support from Frigmanski that we turn down this variance request based on #3, that the max size of the building allowed is 2400 feet. Discussion: Does #3 specifically refer for the size? The building is over the allowable size per the ordinance. There aren't any criteria that would allow the ZBA to override the ordinance.

MOTION TO DENY
THE VARIANCE
REQUEST

Restated Motion:

Motion by VanHouten with support from Frigmanski that we turn down this variance request based on the max size of the building allowed is 2400 feet. Roll Call Vote:

VanHouten: yes; Heilman: yes; Jerkatis: no; Welch: yes; Frigmanski: yes.

Yes: 4, No: 1. MOTION PASSED

ZBA 22-08-014 PARCEL ID #08-16-165-003-00. 2364 Vista Point Dr., Wayland, MI 49348. A request by property owner, Gerard Wordhouse Jr., for variance relief from the setbacks established by section 12.4 "Required Setbacks".

ZBA 22-08-014 Parcel ID
08-16-165-003-00
Request by Gerard
Wordhouse Jr.

The subject site is approximately .22 acres in size. The property is currently zoned Gun Lake Residential Lake Front (GLRLF) and the applicant is requesting relief to allow for the construction of an addition to an existing home that fail to meet the required setbacks.

Motion by Frigmanski with support from VanHouten to open the public hearing. All ayes.
MOTION CARRIED

Mr. Wordhouse is present with his daughter and his contractor, Scott Wierenga. He presented an overview of his request. Part of the existing home between the garage and the main house is 13" lower than the rest of the home, so the purpose of this renovation is to raise the floor of that area due to the homeowner's need to be able to navigate with a walker or wheelchair. They will also tear down the existing 3-season room and extend it to the same dimension as the garage so it would not be encroaching any further on the property line or the road than the garage currently does. He believes it will enhance the appearance of the home and none of the neighbors have objected.

The board confirmed with the homeowner that the dimension is to the eave on the new addition and not to the foundation.

A letter from Steve and Donna LaVoie of 2294 Vista Point Drive in support of granting the variance was read into the record.

Motion by Heilman with support from Frigmanski to close the public hearing. All ayes.
MOTION CARRIED

Jake Welch read the Practical Difficulty Standards and each standard was considered. The ZBA discussed the request as they went through each standard.

PRACTICAL
DIFFICULTY
STANDARDS

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 ensuring that the spirit of the Zoning ordinance is observed, public safety secured, and substantial justice done (not to 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).

Board deliberations took place.

Motion by Heilman with support from Frigmanski that we approve his request for 1' 8" variance toward the road based on #3, #4, and #5. Discussion: Should the motion include the measurement of 8'4" from the roadway?

Restated Motion:

Motion by Heilman with support from Frigmanski that we approve his request for 1' 8" variance to bring it to 8'4" from the road based on #3, #4, and #5. Roll Call Vote:

Frigmanski: yes; Welch: no; Jerkatis: yes; Heilman: yes; VanHouten: yes.

Yes: 4, No: 1. MOTION PASSED

MOTION TO APPROVE
THE VARIANCE
REQUEST

OLD BUSINESS:

The Board has been given a revised "Request for a Variance" form to review. It was decided to remove the language under RIGHT TO ENTER PROPERTY following "above application" (copy of form is attached). Sandy Marcukaitis will make the changes as requested and Dave VanHouten will present it to the Board of Trustees at the meeting on Thursday, August 11.

VanHouten made a suggestion to add additional identifying numeration to the Practical Difficulties (such as Item 3.1, 3.2) to make it clear what the criteria is for the approval or denial. Welch suggested that the language be put into the motion; i.e., recommending approval based on #3 and the applicable language from Item 3 stated. Welch feels this can be addressed in the future as other changes are made with the zoning administrator situation."

Frigmanski brought up that one of the applicants who came tonight said that no one at PCI helped him complete the paperwork and forms needed. Working with the applicants before they come to the ZBA would help smooth the process for the citizens. In regard to the request that was denied tonight, Welch asked Frigmanski to make the Planning Commission aware of this particular situation and if the ordinance should be changed to make this allowable.

OLD BUSINESS

PUBLIC COMMENT:

Debra Grant: has emailed the ZBA group and wanted to talk about an issue with a house being built and the fact that the foundation is 5' from the setback and the house is 6" over the setback as

PUBLIC COMMENT

well as that an air conditioner and generator are over the setback limit. PCI told her that a variance was not required in regard to an air conditioner and generator. She believes the air conditioner and generator are part of the ordinance since they are structures and wants to know what recourse there is if PCI denies it being an issue and how to appeal that decision. Welch explained to her that the ZBA has no authority to address anything until a variance request is made but that she could go to the Board of Trustees meeting if she wants to address it there.

Frank Fiala: A job responsibility was written up for the Zoning Administrator and one of the most important items was for them to be an advocate for people that want to do something in our township; to interpret the ordinance and decide whether they need a variance or a building permit and that may help sort this out.

ADJOURNMENT:

Motion by Heilman with support from Frigmanski to adjourn meeting at 7:27 PM. All ayes. MOTION CARRIED.

Approved by: _____

Ron Heilman, ZBA Secretary

Date: _____

9/13/2022

ADJOURNMENT

Respectfully submitted by:
Betsy Frigmanski, Recording Secretary
August 11, 2022