

<p style="text-align: center;"> YANKEE SPRINGS TOWNSHIP ZONING BOARD OF APPEALS SPECIAL MEETING <u>Tuesday, October 4, 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 4 ZBA Special Meeting October 4, 2022 </p>
<p>Meeting called to order at 6:03 PM by Jake Welch</p>	<p style="text-align: center;">CALL TO ORDER</p>
<p>Roll Call: Present: Ron Heilman, Jake Welch, Mike Boysen, John Frigmanski, Tom Mawson</p> <p>Absent with Notice: Dave VanHouten</p> <p>Absent Without Notice: John Jerkatis</p> <p>Staff Present: Sandy Marcukaitis, Rob Heethuis, Frank Fiala</p> <p>Visitors: 3</p>	<p style="text-align: center;">ROLL CALL</p>
<p>PLEDGE OF ALLEGIANCE</p>	<p style="text-align: center;">PLEDGE OF ALLEGIANCE</p>
<p>INQUIRY ON CONFLICT OF INTEREST:</p> <p>Mr. Welch inquired if there are any conflict of interest with the board regarding tonight's request. There are none.</p>	<p style="text-align: center;">CONFLICT OF INTEREST</p>
<p>APPROVAL OF MINUTES FROM SEPTEMBER 21, 2022 SPECIAL MEETING</p> <p><i>Motion by Heilman with support from Welch to approve the minutes of the last meeting.</i> All ayes. MOTION CARRIED</p>	<p style="text-align: center;">APPROVAL OF MINUTES</p>
<p>NEW BUSINESS:</p> <p>ZBA 22-10-020 PARCEL ID #08-16-110-021-00. 2121 Archwood Dr., Wayland MI 49348. A request by owner, Giuseppe Licari, for variance relief from the size requirements established by section 12.7 "Outbuildings".</p> <p>The subject site is approximately .386 acres in size. The property is currently zoned Residential Single Family (RSF) and the applicant is requesting relief to allow for the construction of an addition to an accessory building that fails to meet maximum size requirements.</p> <p>Mark Thomson shared that he noticed it incorrectly in the paper. He noticed as setback relief and it should have been size relief. The applicant is requesting relief for the size of an outbuilding on the back lot. The size of the proposed building is 2,464 and we allow 1,600 square feet.</p>	<p>ZBA 22-10-020 Parcel ID #08-16-110-021-00 Request by Giuseppe Licari</p>

Motion by Frigmanski with support from Heilman to open the public hearing. All ayes.

MOTION CARRIED

Mr. Licari shared that he has several cars and he doesn't want to leave them parked outside which the neighbors would not like. He wants to expand the existing pole barn forward which will make it over the limit of 1600 square feet. The small garage in front is an eyesore and would be torn down. He spoke to the closest neighbor who agreed to it and other neighbors have also expressed to him that they have no objection. The previous owner had indicated to him that he would be able to build the larger building but he didn't do the due diligence that he should have to verify that. The front of the building as proposed would be 4 feet in front of the neighboring property's barn. It would be further back from the road than the existing small garage. It would be a one-story building. The small garage that will be demolished is a non-conforming building. If he can't build the larger building, he will leave the small garage in place.

Public Comment (limited to 3 minutes):

Mr. Welch read letters in support of granting the variance from the following into the record:

- Dean Sperlik (2074 Archwood)
- Eric Kistka (12701 Valley Dr)
- Clarence Flietstra

Motion by Heilman with support from Boysen 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.

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).

FINAL MINUTES

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**PRACTICAL
DIFFICULTY
STANDARDS**

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).

Additional items from Section 20.8

1. The alleged hardships and/or practical difficulties are exception and peculiar to the property of the person requesting the variance and result from conditions which do not generally exist throughout the township.
2. The alleged hardship and/or practical difficulty which will result from a failure to grant a variance would include substantially more than mere inconvenience or mere inability to attain a higher financial return.
3. That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by the Zoning Ordinance, the individual hardships that will be suffered by failure of the ZBA to grant a variance, and will not be contrary to both the public purpose and general intent and purpose of the Zoning Ordinance.

Board deliberations took place. The intent of the zoning is to not allow large pole buildings in residential areas. The Board has already requested that the Planning Commission review the 1600 square foot size limitation in the ordinance. Mr. Heilman expressed his concern with being consistent. Mr. Welch commented that if denied, there will be a 1600 square foot building with a non-compliant building in front of it with a gap in between. If allowed it would be the same square footage and would look nicer and be similar to the neighboring building. That makes this a little different from the other requests since it includes the removal of the non-conforming building.

Motion by Heilman with support from Welch to re-open the public hearing. All ayes.

MOTION CARRIED

Mr. Heilman asked the property owner if he felt it would be possible to keep the building to 1600 square feet at this time but add on later if the ordinance changed. Mr. Licari replied that he did not know at this time if that would be possible.

Motion by Heilman with support from Mawson to close the public hearing.

Motion by Heilman with support from Frigmanski that we cannot approve this at this time as there is nothing on the Practical Difficulty list to warrant giving the variance on this piece of property for his building. Roll Call Vote: Frigmanski: yes; Boysen: yes; Mawson: yes; Welch: no; Heilman: yes.

MOTION TO DENY THE VARIANCE

Yes: 4, No: 1. MOTION CARRIED

The board members explained to the property owner that they are bound by the ordinance and they have asked the Planning Commission to review it. If the rule changes, then he may not need to have a variance. Mr. Thompson will contact the property owners to review their options with coming before the Planning Commission.

Mr. Welch brought to the Board's attention that it is best not to comment on the decision with the applicant after the motion has been made and voting has been completed. Mr. Mawson

stated that if the ordinance is 1600 square feet, he doesn't see how they can vary from that. Mr. Heilman explained that every applicant who comes before the ZBA can't comply with the ordinance and they are here for an appeal. The Board then has to look at the six practical difficulties and the neighbor comments and digest all of it in order to make a decision. Every request is in direct conflict with the ordinance or the property owner would not be asking for a variance. If there is something in the difficulties that can allow that to happen then the variance can be granted. It was also discussed whether the applicant should receive a copy of the Practical Difficulty Standards.

OLD BUSINESS:

OLD BUSINESS

Mr. Welch asked if there was any idea when the Planning Commission would be able to address this. Mr. Frigmanski said that he and Mr. Fiala have both requested that it be reviewed. Mr. Welch feels that the ZBA has been forced to make poor decisions based on this rule and would like to push the PC to take action. Mr. Heilman agreed that it needs to be addressed but for now the ZBA has to make decisions based on the ordinance. Mr. Welch feels it should be a high priority and would like feedback from the PC on when this can happen. Mr. Frigmanski agreed that it is important and should be moved ahead on the PC agenda because it currently is an issue.

PUBLIC COMMENT (limited to 3 minutes):

PUBLIC COMMENT

Sandy Marcukaitis: If the property owner prints off the Request for Variance application it does include a checklist for the practical difficulties. Mark Thompson agreed that he can hand them the packet to make sure they see it.

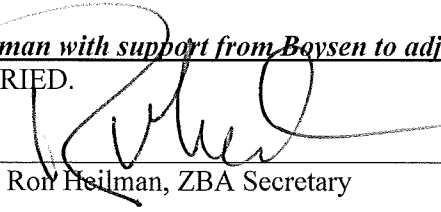
Rob Heethuis: From the attorney, at the next meeting, we will have attorney motion and language to send to the Planning Commission on your six points. That is going to happen at the next Board meeting next Thursday. Two, I have listened to the Planning Commission have discussion on this and it was brought up and at the time it was said that they needed the right language. Larry Knowles was given the responsibility of bringing back that language to the Planning Commission. So they are in the process of working through this right now. I think this will be sooner rather than later.

ADJOURNMENT:

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Motion by Heilman with support from Boysen to adjourn meeting at 6:59 PM. All ayes.
MOTION CARRIED.

Approved by:


Ron Heilman, ZBA Secretary

Date:

11/14/22

Respectfully submitted by:

Betsy Frigmanski, Recording Secretary

October 7, 2022