

**YANKEE SPRINGS TOWNSHIP
ZONING BOARD OF APPEALS**

Regular Meeting

Tuesday, May 8, 2018

7:00 p.m.

**Yankee Springs Township Hall
284 N. Briggs Rd., Middleville, Michigan 49333**

MINUTES

DRAFT MINUTES

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Meeting called to order at 7:00 PM by ZBA Chair, Jacob Welch.

PLEDGE OF ALLEGIANCE:

Roll Call: Ron Heilman, Jacob Welch, David VanHouten, Cathy Strickland, John Frigmanski.

Absent with notice: Michael Boysen

Professional Planner: Rebecca Harvey was present

Staff Present: Chuck Biggs-Constable, Todd Delamar, Sandy Marcukaitis.

Visitors: 9

REPORTS FROM REPRESENTATIVES:

Report from Planning Commission: Cathy Strickland

At the most recent Planning Commission (PC) meeting a request for a land division was tabled for Phoebe Jane Richards on Payne Lake Road (possibly tabled until the September PC meeting). The PC also talked about private roads and currently the ordinance says if you are going to divide land you have to pave private road built to county standards. C. Strickland noted that the PC has recently had a few land division requests that have come in that have been in such small developments it just didn't make a lot of sense, so the PC is looking at what the county does. The county does allow unpaved private roads on smaller developments, so the PC will look at that. This is still under discussion. C. Strickland mentioned that John Frigmanski brought up the issue of joint meetings and solar and wind farms so the PC is connecting with the board to see if that is something they'd like the PC to take up. C. Strickland also noted that the PC is getting close to being finished with the Master Plan. A workshop was held and hopefully the future land use map is almost ready. The written portion of the Master Plan is done. This should be able to be turned over to the Board of Trustees soon for their approval. Also, a meeting is coming up in the Lansing area sponsored by the Citizen's Planner group out of Michigan State. Strickland commented that six (6) of the PC members are planning on attending. The PC would like to suggest this meeting to ZBA members to attend as well. The meeting will be held from 9:00 a.m. to 4:15 p.m. in Okemos on June 7th. Strickland added that at the last PC meeting lot coverage was discussed as well. R. Harvey brought several ways to work with lot coverage for lots that are smaller than the "average" lot.

Report from Board of Trustees: No Report.

REPORTS FROM REPRESENTATIVES

APPROVAL OF MINUTES:

Motion by Heilman with support from Frigmanski to approve ZBA meeting minutes of April 10, 2018 as presented. All ayes. MOTION CARRIED.

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PUBLIC COMMENT:

Robert Lippert, Former Zoning Administrator, 12725 Park Dr. commented that he believed his name came up as being the ZA who had approved the vacating of the cul-de-sac (mentioned at last ZBA Meeting). Bob Lippert commented that he was not in office at that time. It was two years prior to his ZA position. (R. Lippert asked that this would be entered into the record). The approval was given 5-01-02 which was approximately three years prior to his employment as the Zoning Administrator. R. Lippert also noted that he would never have done that because it is well beyond the scope of the authority of the Zoning Administrator. R. Lippert also commented, "On your report from your last meeting, it states on there, motion was made by Boysen and then supported by Boysen. Either that is error, or violation of procedure." (It was later determined Lippert was not referring to the minutes that were just approved.) Lippert commented, "Probably more important than that, was the violation of procedure, in the fact that Boysen had not been, to the best of my knowledge, sworn in to the ZBA at the time. So, he couldn't of, he shouldn't of, -you've got some correction to do. And the final point, I mentioned that the vacating of the cul-de-sac as it's called in one form, ...was not within the purview of the ZA. There is a Michigan case law that supports the fact that any error committed by a public official is not grounds for permissive or otherwise favorable decision to a petitioner. So you should take that into account...Again I have no dog in this fight, but I hope you will find the information helpful in your decision making this evening."

Ron Heilman, ZBA Secretary addressed Bob Lippert. Heilman commented that at the beginning of last month's ZBA meeting, the ZBA members were all surprised that Mr. Boysen was there. Heilman commented that they (ZBA members) had asked prior to the beginning of the meeting, if it (having Boysen on the ZBA) was acceptable. They were told it was ok, and they just went ahead. "And as far as favorable, we were not favorable to that situation. It didn't make any difference to us who the Zoning Administrator was....We just felt that we had to consider that. He (petitioner-Nash) was stuck in that corner because he had cut the tree down and now he had this cul-de-sac thing he couldn't build on. We may have leaned a little bit over the gray line to say 'You're five feet back and within the setbacks, we'll let you go ahead...'"

R. Lippert commented that he was not questioning the ZBA's judgement, but just trying to clarify the facts.

NEW BUSINESS:

NEW BUSINESS: ZBA 18-04-05 Parcel ID 200-024-00. Property 1421 Manitou Lane, Middleville, MI 49333

Property at 1421 Manitou Lane, Middleville, MI
Barb & Doug Hunt

- A request by property owners Barb & Doug Hunt, for a variance to construct an addition to an attached garage that fails to meet the rear yard setback standard and the lot coverage standard.
- The required rear yard setback for structures in the Residential Lakefront District (RLF) is 25 feet or the average of the setbacks within 300 feet per Article XII – Sec. 12.4.3.a.
- The required lot coverage requirement for structures in the RLF 30% for structures and 40% including impervious surfaces.

Motion to **OPEN public hearing** by Frigmanski with support from Heilman at 7:12 p.m. All ayes. MOTION CARRIED.

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The owners, **Barb & Doug Hunt** presented their request and noted they had purchased the cottage at 1421 Manitou Lane. Their hope is to make the 800 foot cottage into a permanent residence. The Hunts are trying to increase square footage for bedrooms and bathroom. The Hunts are trying not to build on top of existing structure. They are aware of the possible changing of lot coverage requirements.

Motion to open public hearing at 7:12 p.m.

Motion to **CLOSE PUBLIC HEARING** 7:16 P.M. by Heilman with support from VanHouten. All ayes. MOTION CARRIED.

Motion to close public hearing at 7:16 p.m.

BOARD DELIBERATION took place. **Practical difficulty test** was read by J. Welch. (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).

The ZBA reviewed the six standards of the Practical Difficulty test in relation to the variance request(s) this evening.

It was noted the Planning Commission is working on the lot coverage requirement portion of the ordinance. It was also noted that any possible changes would most likely not be in place until Fall. It was also noted the requested lot coverage percentage (variance) this evening would most likely still exceed the maximum amount of lot coverage allowed after changes to the ordinance have taken place (if changes are indeed made).

The ZBA chose to deal with the rear yard setback first.
Motion by Heilman with support from Strickland to deny rear yard setback as there is no practical difficulty in any of the 6 areas (of the Practical Difficulty Standards test) that justifies allowing adding to the non-conformance of the property. Roll Call: VanHouten: Yes, Welch: Yes, Strickland: yes, Frigmanski: Yes, Heilman: Yes. Yes: 5, No: 0. Motion Carried.

J. Frigmanski commented that he highly recommends that the Hunts attend the PC meeting on the 17th (5/17/18). Discussion occurred regarding lot coverage. Frigmanski commented that the PC needs to know the public's opinion. Smaller parcels with cottages being turned into year around homes was noted in the lot coverage discussion.

D. VanHouten commented on other lot coverage percentages in the neighborhood and asked "Can we not find a compromise?"

J. Welch commented on the ZBA doing a fairly decent job on looking at the property and the lot shape and size. "I think we've looked at those instances and giving every benefit of the doubt to the home owner and tried to help with everything we could. I think we did this by sending this to the Planning Commission (Lot Coverage requirement to work on). There is nothing unique about a 50 x 100 lot on a lakefront...I think we are all in agreement that something should be looked at (by the PC)..." Welch referred to R. Harvey regarding the ZBA's decision making and the ordinance.

R. Harvey commented that the ZBA is the one body who sits with the authority to modify the standard. "But with that authority comes the direction through case law and the statute..." Discussion continued regarding finding unique circumstances and a struggle for fairness. R. Harvey commented on the ZBA's job to fairly apply the criteria (Practical Standard of Difficulty) to each variance request.

Motion by Welch with support from Frigmanski *to deny request for variance to lot coverage based on inability of board to find a unique circumstance with the property. Roll Call: Frigmanski: Yes, Strickland: Yes, Welch: Yes, Heilman: Yes, VanHouten: No. Yes: 4, No: 1. Motion Carried.*

OTHER BUSINESS: None.

ADJOURNMENT: It was motioned by Heilman and supported by VanHouten to adjourn at 8:01 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, 5.8.18

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Motion to deny rear yard setback request.

Motion to deny request for lot coverage variance.

No Other Such Business

ADJOURNMENT