

**YANKEE SPRINGS TOWNSHIP
ZONING BOARD OF APPEALS
IN-PERSON & VIRTUAL Zoom MEETING
Tuesday, October 13, 2020**

**7:00 PM
Yankee Springs Township Hall
284 North Briggs Road, Middleville, Michigan 49333**

MINUTES

MINUTES
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ZBA
10/13/2020

Meeting called to order at 7:04 PM by Jake Welch, Meeting Chairman.

Roll Call: Present: Ron Heilman, John Frigmanski, Jake Welch, Dave VanHouten (All present – in person).

Absent with Notice: Pat Jansens has resigned.

PLEDGE OF ALLEGIANCE –

Present: Rebecca Harvey, Professional Planner, and Catherine Kaufman –of YS Township Attorney (Bauckham, Sparks et al.)

Not Present: Eric Thompson- PCI, YS Zoning Administrator

Staff Present: Frank Fiala (virtually), Sandra Marcukaitis (in person).

Visitors: 5 - not including staff present. Also Virtually joining: Jane Jackson, Bob Burton, Chris VanRyn (1st Applicant on agenda this evening).

REPORTS FROM REPRESENTATIVES: No REPORTS.

Planning Commission: Not present. (Pat Jansens has resigned).

Board of Trustees: There is no Board Representative at this time.

APPROVAL OF MINUTES:

Motion by D. VanHouten with support from Heilman to approve ZBA meeting minutes of September 8, 2020 as presented. All ayes. MOTION CARRIED.

NEW BUSINESS:

ZBA 20-09-06 Parcel ID 200-010-10. A request by property owner Chris VanRyn for variance relief from setbacks in Section 12.4. Mr. VanRyn wants to place an addition on existing dwelling. Address: 1327 Manitou Lane, Barlow Lake.

C. VanRyn (virtually present) presented their request. Mr. C. VanRyn repeated his request to be heard during the virtual meeting.

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

BOARD DELIBERATION

R. Harvey commented on her findings.

CALL TO ORDER

ROLL CALL

PLEDGE

REPORTS FROM REPRESENTATIVES

APPROVAL OF MINUTES

ZBA 20-09-06 Parcel ID 200-010-10.
VanRyn setback relief for addition at 1327 Manitou Lane, Barlow Lake.

OPEN PUBLIC HEARING

NO COMMENT in township hall (in person).

Virtual Comment came from **Jane Jackson, 6648 Jousma Court, Caledonia, property owner at Barlow Lake**. **J. Jackson** asked what responsibility the township had to verify easements and right of ways that are included or not included on site plans before they are brought forward for approval to avoid these kinds of questions.

R. Harvey, Professional Plan responded “generically speaking, ...there are two responses to that.” Harvey noted the township staff and board (ZBA) does confirm the parcel layout, and where the streets are, etc. R. Harvey commented that this was a 20 ft. easement according to the parcel maps. As to the legal position of this, in terms of ownership and rights of easement, Harvey commented, “The township does not pursue that. They are looking at it as a legitimate 20 ft. wide easement. The applicant is bound by the information presented... if something in the applicant’s proposal (information-wise) turns out to be inaccurate then the township’s, the board’s (ZBA) action is no longer valid because it’s premised upon the information presented as being accurate. The township doesn’t engage in a legal investigation or research into the status of the easement or how it was formed...”

C. Kaufman, YS Attorney, commented that the township doesn’t necessarily investigate as to owner property rights to easements or ability to use a dedicated street or road or subdivision park that ends at the lake. C. Kaufman commented that R. Harvey’s previous statement was a “fair statement”.

No mailed-in or emailed comments.

Motion to CLOSE Public Hearing at 7:24 p.m. by J. Frigmanski with support from D. VanHouten All ayes. MOTION CARRIED.

CLOSE of Public Hearing.

J. Welch asked to Screen share at this time via C. Kaufman, host of virtual meeting.

*Jake Welch screen-shared and read the **Practical Difficulty Standards along with the Review comments of R. Harvey for each standard (6) 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 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.

The applicant proposed two options for the addition to the existing porch:

Option 1: proposes an addition that will result in a 10 ft. x 30 ft. (300 sq. ft.) porch on the waterfront side of the dwelling that complies with the 25 ft. waterfront setback requirement but is provided a side setback of only 1 ft. from the south property line. (5 ft. required)

Option 2: proposes an addition that will result in a 10 ft. x 27.5 ft (270 sq. ft.) porch on the waterfront side of the dwelling that complies with the 25 ft. waterfront setback requirement but is provided a side setback of 4 ft. from the south property line. (5 ft. required)

Motion by Van Houten with support from Frigmanski Option #1 (of C. VanRyn Parcel ID 200-010-10 at 1327 Manitou Lane) would be acceptable, as it would not be setting precedence due to the fact of the presence of the 20 ft. easement on the south side of the subject property, reduced setback from the south property line will continue to maintain adequate building separation and open space provides emergency access and creates limited nuisance impact and also based on the findings of criteria, #3, #4, & #5. ROLL CALL VOTE: VanHouten: Yes, Heilman: Yes, Welch: Yes, Frigmanski: Yes. Yes: 4, No: 0. MOTION CARRIED.

MOTION TO APPROVE

ZBA 20-09-07 Parcel ID 135-012-00. A request by Kim Sutton for variance relief from setbacks in Section 12.4. She wants to place an addition on an existing dwelling at 10092 Deer Sight Drive, Middleville.

Jake Welch, ZBA Chairman, commented to the representative of Ms. Sutton that he could table her (K. Sutton's) request due to four (4) of five (5) ZBA members being present. The project builder in the audience suggested proceeding.

Motion by Frigmanski with support from VanHouten to open public hearing at 7:43 p.m. All ayes. MOTION CARRIED

Ms. Sutton's father, Robert Dozema, presented her request - near Deer Sight Dr.

No Comments were made in person or virtually. No letters or emails from other residents.

Motion by Frigmanski with support from VanHouten to close public hearing at 7:52 p.m. All Ayes. MOTION CARRIED.

ZBA 20-09-07 Parcel ID 135-012-00. A request by Kim Sutton 10092 Deer Sight Drive

OPEN PUBLIC HEARING

At this time, **Jake Welch, Chair**, share-screened and read the Practical Difficulty Standards with each standard being considered. The ZBA discussed the applicant’s request as they went through each standard. Ms. Harvey’s review was incorporated into the Standards of Practical Difficulty review.

BOARD DELIBERATION TOOK PLACE with R. Harvey commenting on her findings.

Motion by Welch with support from VanHouten to deny request based on not finding enough practical difficulty. ROLL CALL: VanHouten: Yes, Frigmanski: Yes, Welch: Yes, Heilman: Yes. Yes: 4, No: 0. MOTION CARRIED. (REQUEST DENIED.)

MOTION TO DENY

OLD BUSINESS:

OLD BUSINESS

ZBA 20-05-02 Parcel ID# 125-029-00. A request by Karen Hale of 1704 Heritage Bay Dr. to construct a new home that fails to meet the required setbacks in Section 12.4. Home to be built three (3) feet from the road.

ZBA 20-05-02 Parcel ID# 125-029-00 A request by Karen Hale of 1704 Heritage Bay Dr. (Previously tabled).

Motion by Frigmanski with support from VanHouten to open public hearing at 8:13 p.m.
All Ayes. **MOTION CARRIED.**

Karen Hale presented her request. K. Hale commented on the previous tabling of her request due to a paper road from the 1920’s.

R. Harvey commented on this common situation (noted by K. Hale), and the provision in the ordinance.

D. VanHouten commented on a comment from J. Jackson regarding debris by a power pole. Mr. Bob McDowell commented that the debris is concrete and will be gone. There is already concrete in the hill from previous residents putting it there per McDowell.

C. Kaufman, YS Attorney, commented on “process to vacate” Lakeside Drive which is now in the lake. C. Kaufman also commented there has been some communications between PCI, and herself, (C. Kaufman) regarding how to vacate the road that is platted “essentially between this house and the lake, and probably all the other lots on the same street or at least in the same area.”

NO Comment from anyone “in house or in person”.

Virtual participation comment came from:

Jane Jackson of Jousma Drive in Caledonia, commented that she has not seen a plan where structure would be built in relationship to Lakeside Drive. She noted that she has been told that the house would not be built on Lakeside Drive. “That’s fine, but the township should be making an effort to make sure that you know if a house is being completely torn down or more than 50% of the replacement costs of the building that is going into any renovation of that site, that it should be brought into compliance. So I would like the township to consider that in discussion going forward. Also does the 2nd floor of the garage,... is it a residence? Is there a kitchen?” At this point, Chair Welch commented that it didn’t have anything to do with this variance request. J. Jackson commented that it would if it would be putting two (2) residences on the same lot.

Welch commented that the request for relief was for the front and rear setbacks.

Jane Jackson also asked if there would be any more excavating of hillside behind property and “any more tree removal because there is a very steep and high drop off that butts up to the property that the trust did own until recently.” J. Jackson voiced concern regarding the safety risk of the steep hill behind the proposed work site and the danger of trees, logging, and collapse of hill along with the utility pole and potential property damage on west side of Heritage Bay Drive as traveled. J. Jackson asked why a retaining wall hadn’t been considered. Chair Welch redirected the meeting to the purpose of zoning relief requested by the applicant.

Site plan was shared to the share-screen.

J. Jackson asked if there was anywhere in the ordinance that stipulates if a non-conforming is rebuilt in the same place that it be permitted to do so. Chair Welch commented that he was not aware of it.

2 letters were sent from:

Richard and Diana Overmire, 1720 Heritage Bay Dr., Middleville, directly to NE of the Hale property- in support of project.

David and Tamara Mayer of 1688 Heritage Bay Dr., Middleville other next door neighbor of K. Hale- in support of Hale project.

No other public (in house or virtual) comment.

Motion by Heilman with support from VanHouten to Close Public Hearing at 8:31 p.m. All Ayes. MOTION CARRIED.

MOTION to CLOSE PUBLIC HEARING

The Board will now go through the Standards of Practical Difficulty twice. Once considering waterfront setbacks and then considering roadside setbacks. A short while later, it was resolved that they (both setbacks) would be considered at the same time- not separately. Ms. Harvey’s findings were incorporated into the Standard of Practical Difficulty review.

Motion by Heilman with support from Frigmanski to approve request of K. Hale and allow K. Hale to build on same existing print ID# 125-029-00 (1704 Heritage Bay Dr., Barlow Lake) with the findings that all six (6) standards of criteria are met. ROLL CALL VOTE: Welch: Yes, VanHouten: Yes, Frigmanski: Yes, Heilman: Yes. Yes: 4, No: 0. MOTION CARRIED.

MOTION to APPROVE

OTHER SUCH BUSINESS/OLD BUSINESS:

(Such other business as may properly comebefore Zoning Board of Appeals.)

OTHER SUCH BUSINESS/OLD BUSINESS:

C. Kaufman commented on the virtual meeting proceedings and in-house meeting tonight in light of yesterday’s rulings regarding virtual meetings and a quorum for in-house ZBA members. All four ZBA members were in room/in-house, open for public attendance and because it was advertised as a zoom meeting, the zoom was left as is.

Meetings have to be held in person, this week, and must not exceed 20 people. PC (Planning Commission) meeting Thursday night (10/15/2020) will be run probably the same way as this evening. “If you don’t have over 20 people at the meeting, then you’re fine,” added C. Kaufman.

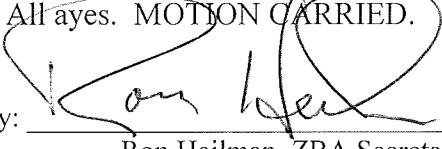
It was noted the ZBA Board prefers in-person meetings.

PUBLIC COMMENT: Nothing further at this time.

ADJOURNMENT:

Motion by VanHouten with support from Welch to adjourn meeting at approximately 8:48 p.m. All ayes. MOTION CARRIED.

Approved by: _____



Ron Heilman, ZBA Secretary

Date: _____

11/10/2020

ADJOURNMENT

Approved by: _____

Janice C. Lippert, Township Clerk

Date: _____

Respectfully submitted by:

Deb Mousseau

Recording Secretary, 10/13/2020