

<p style="text-align: center;">YANKEE SPRINGS TOWNSHIP ZONING BOARD OF APPEALS MEETING</p> <p style="text-align: center;">Tuesday, December 12, 2017 7:00 PM</p> <p style="text-align: center;">Yankee Springs Township Hall 284 North Briggs Road, Middleville, Michigan 49333</p> <p style="text-align: center;">MINUTES</p>	<p style="text-align: right;"><u>MINUTES</u> Page 1 of 4 ZBA 12-12-17</p>
<p>Meeting called to order at 7:01 PM by Jake Welch, Acting Meeting Chairman.</p> <p>Roll Call: Present: Cathy Strickland , Dave VanHouten (Vice Chair), Ron Heilman (Secretary), Jake Welch – Chair, Todd Delamar (alternate), John Frigmanski</p> <p>Professional Planner: Rebecca Harvey (Present)</p> <p><u>PLEDGE OF ALLEGIANCE –</u></p> <p>Roger Rottschafer resigned from the Board of Trustees in November.</p> <p>Staff Present: Eric Thompson, PCI (Interim Zoning Administrator), Sandy Marcukaitis, Larry Knowles (Former Zoning Administrator).</p> <p>Visitors: 2 - not including staff present.</p>	<p>CALL TO ORDER</p> <p>ROLL CALL</p> <p>PLEDGE</p>
<p><u>REPORTS FROM REPRESENTATIVES:</u></p> <p><u>Planning Commission:</u> Cathy Strickland was not at the October meeting.</p> <p><u>Board of Trustees:</u> No Board Rep at this time.</p>	<p><u>REPORTS FROM REPRESENTATIVES</u></p>
<p><u>APPROVAL OF MINUTES:</u></p> <p>Motion by Heilman with support from Frigmanski to approve ZBA meeting minutes of October 10, 2017 as presented. All ayes. MOTION CARRIED.</p>	<p><u>APPROVAL OF MINUTES:</u></p> <p>October 10, 2017- ZBA meeting minutes approved.</p>
<p><u>PUBLIC COMMENT:</u> NONE at this time.</p>	
<p><u>NEW BUSINESS:</u></p> <p>1. <u>ZBA 17-12-08</u> Parcel #08-16-029-001-00. A request by Jean Stuckey for a variance to build a 6 foot high privacy fence near the street right-of-way. Fences are restricted to 4 foot high non-privacy. Article XII – Sec. 12.9.D.3 a</p> <p><i>Distributed documents were prepared and explained by Rebecca Harvey.</i></p> <p><u>Open Public Hearing:</u> <i>Motion by Frigmanski with support from VanHouten to open public hearing at 7:06 p.m. All ayes. MOTION CARRIED.</i></p> <p><u>Public hearing opened at 7:06 p.m. :</u></p> <p>Jean Stuckey commented that Consumers Energy cut down tree line which affected Stuckey’s cottage and neighbor Tom Osterbrock’s cottage. Basically, the fence will replace the trees. J. Stuckey noted the affects of auto lights, doors slamming and commercial lighting issues that now exist.</p>	<p><u>NEW BUSINESS</u></p>

Motion by Heilman with support by Frigmanski to close public hearing at 7:13 p.m. All Ayes. MOTION CARRIED.

CLOSE PUBLIC HEARING - at 7:13 P.M.

Practical difficulty standards test: Used previously by the ZBA.

B. Non-use Variance: A non-use variance may be allowed by the Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:

1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include:
 - a. exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter; or
 - b. by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure; or
 - c. by reason of the use or development of the property immediately adjoining the property in question; whereby the literal enforcement of the requirements of this Ordinance would involve practical difficulties; or
 - d. any other physical situation on the land, building or structure deemed by the Board of Appeals to be extraordinary,
2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonable practical the formulation of a general regulation for such conditions or situations.
3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
5. The variance will not impair the intent and purpose of this Ordinance.
6. That the immediate practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant.

Pertinent points of Practical Difficulty test were noted by Ron Heilman- regarding J. Stuckey's variance request:

Regarding 1. C. of the Practical Difficulty test (on page 2): Issues of the lights from the buildings across the street (Sam's) and the noise, such as the slamming of car doors on the weekends were noted. J. Stuckey and neighbors do not have enjoyment of the property with all the lights and noise.

Dave Van Houten added that this property (Gun Lake Residential Lakefront) has commercial properties directly across the road. The customers of these businesses are negatively affecting the Stuckey's enjoyment of their property ever since the line of 20 ft. tall trees were removed by Consumer's Power.

MINUTES

Page 2 of 4

ZBA

12-12-17

Practical Difficulty Standards test

Regarding #2: It's a high density commercial spot that happens to be across the street that is not common in the township. D. VanHouten agreed and commented that granting this variance is not so general that precedence would be set. Multiple commercial properties across from the residential property can generate unusual challenges and circumstances. Border properties sometimes require a privacy block of some sort.

Regarding #3: Adjoining property has the same issue, without a variance they would need to have a living berm.

Regarding #4. Neighbors have approved the fence.

Regarding #5. This is an isolated incident not common to the township. D. VanHouten commented that it is important that it is noted that a restaurant and a store is across from a residential property. Border property calls for a variance to correct the problem.

Regarding #6. Consumers Power (not the applicant) was responsible for clearing out the trees that compromised their lines. When they removed the dividing berm by cutting out the overhanging trees, this action left the property exposed to commercial density. D. VanHouten noted the fence does not cause a safety issue by inhibiting pedestrian or vehicle views.

R. Harvey reviewed her criteria documentation in comparison to the Practical Difficulty Test, being in a different numerical order.

Tom Osterbrock referred to other privacy fences in the area: Stickmann Bakery, and Edwin Dr.

Board Comments

J. Frigmanski spoke regarding the fence, road right-of-way and setbacks.

C. Strickland inquired as to how long applicant has owned the property. (Stuckey's Answer: 30 years). Osterbrock has owned since 1966. Stuckey noted there was a business across the street when she bought the property and larger than 6 foot trees were there.

Jake Welch went through variance review criteria. Welch feels that the fence is the best option.

C. Strickland commented that she was playing the Devil's advocate and when the applicant purchased the property, they knew the store was across the street. There was privacy block until Consumers took the trees down, C. Strickland referred to Consumers as the new owners. Strickland commented that they could put in a berm and high bushes and felt it is precedence setting as commercial becomes more prevalent, commercial and homes will be coming together. Strickland spoke of living fences being an issue of the Planning Commission because residents are commenting on living fences blocking their view. Strickland feels it is not a wise move at this time.

Tom Osterbrock commented on C. Strickland's idea as cost prohibitive.

Jean Stuckey commented that at her age she cannot wait for living fences to grow. J. Stuckey commented that deer would come and eat the vegetation.

Dave VanHouten commented that he would be upset if he had to live where J. Stuckey lived.

Ron Heilman commented that there's not a lot of room to plant anything that would grow high enough to be over six (6) foot tall.

Jake Welch commented on issues with the berm causing drainage issues.

John Frigmanski commented that he was concerned about the amount of the setback.

MINUTES
Page 3 of 4
ZBA
12-12-17

BOARD
DELIBERATION

Board Comments

Larry Knowles, former Zoning Administrator commented that a 6 foot privacy fence is not even allowed in the rear yard. It is allowed in the side yard. "When you get to the rear yard (street) it drops to 4 feet. You are allowed to continue to 15 feet within the road and then it has to change to 4 feet – non- privacy," added Knowles.

J. Welch confirmed that it's allowable to have a 4 foot chain link fence right on the right of way.

C. Strickland referred to a 6 foot privacy fence that a family put up along the side of their home because they were up a little hill and there was a road there. The township made them lower it.

Motion by Heilman with support from VanHouten to approve variance request for property at 2608 Colony Drive #11 to allow a six (6) foot solid fence based on the criteria noted above per sketch dated Dec. 4, 2017. ROLL CALL: VanHouten: Yes, Welch: Yes, Strickland: No, Frigmanski: Yes, Heilman: Yes. Yes: 4, No: 1. MOTION CARRIED.

Other Such Business - ZBA Annual Report –

Changes to Educational Class Participation (on the ZBA Annual Report) were noted by Sandy Marcukaitis.

E. Thompson commented that the Citizen Planner class is now on line. He feels it is very worthwhile.

J. Welch commented on adding to "accomplishments" as having the criteria in place to work through to make a variance decision.

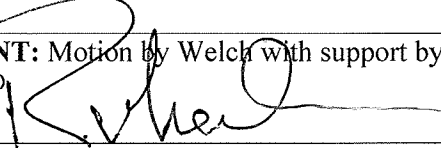
J. Frigmanski spoke of the objectives of the ZBA. He noted that breaking of the ordinance should be penalized.

C. Strickland commented that most people violate the ordinance out of ignorance. The person in violation is informed. If afterward, they violate again, then penalties come into play.

Discussion took place on residents having work done, and then coming in for a variance. Issue of power is a problem. (Enforcement discussion followed). Eric Thompson commented on PCI handling enforcement issues for YS Township during this interim.

R. Harvey commented about having conversations with applicants outside of the zoning office. Harvey noted that if these conversations take place, it puts the decision of the board in jeopardy, because it appears that the conversation is on top of the hearing. Along with this discussion topic, it was noted that getting on an applicant's property is authorized by the signing of the application.

ADJOURNMENT: Motion by Welch with support by Heilman to adjourn at 8:24 p.m. All ayes. MOTION CARRIED

Approved by:  _____
Ron Heilman, ZBA Secretary

Date: 2/13/18

Approved by: _____
Janice C. Lippert, Township Clerk

Date: _____

MINUTES
Page 4 of 4
ZBA
12-12-17

MOTION TO APPROVE
VARIANCE REQUEST

OTHER BUSINESS

ADJOURNMENT

Respectfully submitted by:
Deb Mousseau
Recording Secretary
12.12.17