

<p style="text-align: center;"> <b>YANKEE SPRINGS TOWNSHIP</b>  <b>ZONING BOARD OF APPEALS</b>  <b>Tuesday, May 9, 2023</b>  <b>6:00 PM</b>  <b>Yankee Springs Township Hall</b>  <b>234 N. Briggs Rd., Middleville, MI 49333</b>  <b>FINAL MINUTES</b> </p>	<p style="text-align: center;"> <u>FINAL MINUTES</u>  Page 1 of 3  ZBA Meeting  May 9, 2023 </p>
<p>Meeting called to order at 6:00 PM by Jake Welch.</p>	<p style="text-align: center;">CALL TO ORDER</p>
<p><b>Roll Call:</b> Dave VanHouten, Ron Heilman, John Frigmanski, Jake Welch, Mike Boysen (All Present)</p>	<p style="text-align: center;">ROLL CALL</p>
<p><b>Staff Present:</b> Joe Shea, Mike Cunningham (attending as township resident), Tom Mawson, Sandy Marcukaitis</p>	
<p><b>Visitors:</b> 3</p>	
<p><b>PLEDGE OF ALLEGIANCE</b></p>	<p style="text-align: center;">PLEDGE OF ALLEGIANCE</p>
<p><b>REPORTS FROM REPRESENTATIVES:</b></p>	
<p><b>Planning Commission:</b> Mr. Frigmanski: No update as he was not in attendance at the April meeting.</p>	<p style="text-align: center;">REPORTS FROM REPRESENTATIVES</p>
<p><b>Board of Trustees:</b> Mr. VanHouten gave the following updates:</p> <ul style="list-style-type: none"> <li>• The board recognized the hall and office renovation committee for their work on the project. They put in a lot of work and did a great job. Final building inspection was completed on April 5.</li> <li>• \$5000 worth of office furniture was located that was free for the taking. This was moved and stored by our office staff and volunteers and has now been installed.</li> <li>• The board approved repairs to the lawn sprinkler system, the purchase of an 86-inch television for the hall, and payment to PCI for zoning administration work in 2022.</li> <li>• Discussed formalization of communications between the BOT, the PC, and the ZBA. It was suggested to have a line added to the agenda for the PC and ZBA meetings to list items that are being referred from one group to the other (PC to the Board, ZBA to the PC, etc.).</li> <li>• Reminder that there will be a Memorial Day ceremony at the Veterans' Memorial on Sunday, May 28 at 4:00 PM. There are also plans being made for a Yankee Springs Christmas Tree Lighting event on November 24 at 6:00 PM.</li> </ul>	
<p><b>APPROVAL OF MINUTES:</b></p>	
<p><b><i>Motion by Heilman with support from Frigmanski to approve the minutes from April 11, 2023 meeting.</i></b> All ayes. MOTION CARRIED.</p>	<p style="text-align: center;">APPROVAL OF MINUTES</p>
<p><b>INQUIRY ON CONFLICT OF INTEREST:</b></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>

NEW BUSINESS:

**ZBA 23-04-07 Parcel ID: 16-215-005-00, 2731 Oakleigh Dr., Middleville, MI 49333**

A request by property owners, Ashley & Doug Wierenga, for relief from lakefront setback requirements established in section 12.4.3 "Required Setbacks."

The property is approximately .1105 acres in size, and is zoned GLRLF (Gun Lake Residential Lake Front). The applicants are requesting a variance to allow a deck on the lake side of their dwelling which exceeds the lakefront setback requirements.

**Mr. Shea:** PCI issued a stop work order when they became aware that the construction had been done without a work permit. The Wierengas are back in front of the ZBA at this time because they have discovered that PCI made an error in telling the ZBA that the lot coverage would be 60% and it is not it is only 41%. They also told you that the established lakefront setback is 19' and that is incorrect as it is 25' on Gun Lake. The new survey that they had done allowed them to be here. They do have letters of support from both adjacent neighbors. The ZBA must treat this case as though the deck has not been constructed.

The variance request was for 8' from the deck, but they need 9'7" when measuring to the stairs.

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

Ashley Wierenga provided clarification on the sequence of events and confirmed that the building company they hired, Renaissance, did not apply for the building permit until after the construction had been started. Mr. Heilman stated that per his measurements from the high-water mark on the seawall was 14' to the edge of the stairs. That means the variance requested has to be 11'.

**Public Comment** (limited to 3 minutes):

Letters in support of the variance from Larry VanPopering (2741 Oakleigh Dr) and Len Ester (2723 Oakleigh Dr) were read into the record.

Diane Gaertner (10771 Gun Lake Rd): Expressed her concern about the precedent that this could set regarding projects being done without permits being properly obtained.

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

**Mr. Welch read the Practical Difficulty Standards and each standard was considered. The ZBA discussed the request as they went through each standard. The findings of the Zoning Administrator have been reviewed by the board members.**

- 1) Does strict compliance with the ordinance unreasonably prevent the owner from using his property for a permitted use? *No.*
- 2) Would strict compliance be "unnecessarily burdensome" to the property owner? *No.*
- 3) Is the alleged hardship due to some "unique" circumstance" of the property that is different from other properties in the area? *No, it is not.*

FINAL MINUTES

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ZBA Meeting  
May 9, 2023

ZBA 23-04-07 Parcel ID:  
16-215-005-00  
Request by Ashley &  
Doug Wierenga

PRACTICAL  
DIFFICULTY  
STANDARDS

- 4) Would granting the variance result in “substantial justice” to the property owner and neighboring property owners? *No, it doesn't affect the other property owners.*
- 5) Would granting the variance be more consistent with what has been granted to other property owners in similar situations? *No.*
- 6) Is the situation “self-created”? Is the Applicant seeking to build a structure in a location that fails to comply with the ordinance, rather than in a location that does comply? Or that is too large for the parcel, where a smaller structure would be in compliance? *Yes, it is self-created.*

**Board deliberations took place.**

**Motion by VanHouten with support from Frigmanski that we deny the request as the situation is unique but the property is not unique. Granting this would set a precedent with regard to residents starting a project without the proper permit. The 25' setback is very clear but we would approve a one foot variance was granted to allow for a four foot deck, without stairs, as a safety measure. Roll Call Vote: Van Houten: yes; Frigmanski: yes; Welch: no; Boysen: yes; Heilman: no.**

**MOTION TO DENY THE VARIANCE REQUEST**

Yes: 3, No: 2. MOTION CARRIED

**OLD BUSINESS:**

Mr. VanHouten asked if the PC could give clarification regarding the line of sight, whether it is straight out from the property or how it is determined. Mr. Frigmanski will take that to the PC. Mr. Heilman expressed his thanks to the members who have signed up for classes.

**OLD BUSINESS**

Ms. Marcukaitis brought up the addition to the agenda that was mentioned at the beginning of the meeting. She had thought of doing it as a separate form so that was discussed and it was agreed to do both.

Mr. Shea asked about the variance that was granted: It was a one-foot variance which would allow for a four-foot deck without stairs. It is not within the scope of the ZBA to determine a time frame for compliance.

**PUBLIC COMMENT (limited to 3 minutes):**

None

**PUBLIC COMMENT**

**ADJOURNMENT:**

**Motion by Boysen with support from Heilman to adjourn meeting at 6:44 PM. All ayes. MOTION CARRIED.**

**ADJOURNMENT**

Approved by:   
Ron Heilman, ZBA Secretary

Date: 8/22/23

Respectfully submitted by:  
Betsy Frigmanski, Recording Secretary  
May 11, 2023