

<p style="text-align: center;"><b>YANKEE SPRINGS TOWNSHIP ZONING BOARD OF APPEALS Tuesday, May 14, 2024 6:00 PM Yankee Springs Township Hall 284 N. Briggs Rd., Middleville, MI 49333 FINAL MINUTES</b></p>	<p style="text-align: center;"><u><b>FINAL MINUTES</b></u> Page 1 of 6 ZBA Meeting May 14, 2024</p>
<p>Meeting called to order at 6:00 PM by John Frigmanski</p> <p><b>Roll Call:</b> Dave VanHouten, John Frigmanski, Tom Mawson, Mike Boysen, Ron Heilman, (All Present)</p> <p>Absent with Notice: Jake Welch</p> <p><b>Staff Present:</b> Joe Shea, Rob Heethuis (attending as township resident), Sandy Marcukaitis, Larry Knowles (attending as township resident), Mike Cunningham (attending as township resident)</p> <p><b>Visitors:</b> 9</p> <p><b>PLEDGE OF ALLEGIANCE</b></p>	<p><b>CALL TO ORDER</b></p> <p><b>ROLL CALL</b></p> <p><b>PLEDGE OF ALLEGIANCE</b></p>
<p><b>REPORTS FROM REPRESENTATIVES:</b></p> <p><b>Board of Trustees:</b> Mr. VanHouten gave the following updates:</p> <ul style="list-style-type: none"> <li>• Election results were that both school millages were approved.</li> <li>• The kitchen renovation project is currently on hold.</li> <li>• Approved the purchase of two dry suits for the fire department.</li> <li>• Appointed two new members to the Recycling Committee.</li> <li>• North wall has been repaired.</li> <li>• Approved the 2024 Newsletter.</li> <li>• Set an additional Budget Meeting for May 30.</li> <li>• A successful blood drive was held on May 9.</li> <li>• Township Clean Up day on April 27 went very well.</li> </ul> <p><b>Planning Commission:</b> Mr. Frigmanski shared the following:</p> <ul style="list-style-type: none"> <li>• The PC is still working on the Master Plan to be submitted. This is a major project and takes quite a few extra meetings.</li> <li>• The situation with the condos on Parker Drive will be addressed at this week's meeting.</li> </ul>	<p><b>REPORTS FROM REPRESENTATIVES</b></p>
<p><b>INQUIRY ON CONFLICT OF INTEREST:</b></p> <p>Mr. Heilman inquired if there are any conflicts of interest with the board regarding any of the three cases on tonight's agenda. There are none.</p>	<p><b>CONFLICT OF INTEREST</b></p>
<p><b>APPROVAL OF MINUTES:</b></p> <p><u><b>Motion by Heilman with support from Boysen to approve the minutes from July 11, 2023 meeting.</b></u> All ayes. MOTION CARRIED.</p>	<p><b>APPROVAL OF MINUTES</b></p>

**ZBA 24-04-02 Parcel ID:  
16-155-057-00  
Request by Doug and  
Julie Ybema**

**NEW BUSINESS:**

**ZBA 24-04-01 Parcel ID 16-155-057-00, 1864 Parker Dr., Wayland MI 49348**

A request by property owners, Doug and Julie Ybema, for relief from lakefront setback requirements established in section 12.4.3 "Required Setbacks".

The property is zoned GLRLF (Gun Lake Residential Lake Front). The applicants are requesting a variance to allow a shed on the lake side of their dwelling which exceeds the lakefront setback requirements.

Eleven letters of support from the community have been received.

**Mr. Frigmanski opened the public hearing.**

Mr. Ybema presented his request. The shed was built where the old one was torn down and he was unaware of the need for a variance. At this time, he wants to move the shed to be 21 to 22' away from the lakefront so he would need a 4' variance. He feels that everyone in the area supports this and it doesn't interfere with anyone's view.

Mr. Shea clarified that the shed cannot be in the front yard of a lakefront lot per the zoning ordinance, so it has to be no closer than the house to the shoreline.

**Mike Varano** (1882 Parker Drive): He asserts that the shed is not on a lakefront lot but it is on a channel front lot. He does not believe that this lot is taxed as a lakefront lot.

Mr. Ybema restated his opinion that based on where his lot is and where the shed is located there shouldn't be any problem with the variance.

**Public comment closed.**

**Mr. Frigmanski read the Practical Difficulty Standards and each standard was considered. The findings of the Zoning Administrator were reviewed for each standard.**

**PRACTICAL  
DIFFICULTY  
STANDARDS**

- 1) Does strict compliance with the ordinance unreasonably prevent the owner from using the property for a permitted use? *No. Strict compliance with Section 12.4 setbacks would still allow all the permitted uses of a Gun Lake waterfront property. The property owner would still be allowed to have a shed, but it would have to comply with setback requirements, just like any other new structure on Gun Lake.*
- 2) Would strict compliance be "unnecessarily burdensome" to the property owner? *This is a subjective standard related to the property owner's ability to use the property. The applicant has not presented evidence on this point. Strict compliance would not prevent him having a shed. It would only prohibit him from having it nearer the shoreline than allowed by the ordinance. Moving the shed may be burdensome, but if so that burden was made necessary by the applicant when he placed the shed without a zoning permit.*
- 3) Is the alleged hardship due to some "unique" circumstance of the property that is different from other properties in the area? *The property is similar to other properties in the GLRLF district. There are no unique circumstances to distinguish this property from others in the area. It is located near the end of a short channel, but there are many channels on Gun Lake. The alleged hardship does not arise from any particular characteristic of the property. Also, there is sufficient room for the shed in other areas*

*of the property where it would meet setback requirements.*

- 4) Would granting the variance result in “substantial justice” to the property owner and neighboring property owners? *“Substantial justice” means justice administered according to the rules of substantive law in a fair manner. The zoning ordinance is intended to protect the public health, safety, and welfare of all lakefront property owners consistent with the Township Master Plan. The ZBA should consider whether the applicant’s neighbors would be harmed in any way by the granting of this variance. The applicant’s neighbors have written letters in support of their application. No one has opposed it.*
  
- 5) Would granting the variance be more consistent with what has been granted to other property owners in similar situations? *The applicant has not presented any information to this point. The Zoning Administrator is unaware of any lakefront owners receiving a variance to place a new shed or other structure near the shoreline in violation of setback requirements. The only exceptions that the ZA can recall would be a non-conforming structure such as a boat house. The applicant’s previous shed may have been allowed to remain as a nonconformity, but it was removed and replaced. Section 16.3.4 states: “Existing nonconforming structures, other than dwellings, shall not be replaced except with structures that conform to the requirements of this ordinance”.*
  
- 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.***

Mr. Heilman stated that while it is wonderful to have the support of the neighbors, the point of #4 states equal treatment for all Gun Lake residents. Setting this as a precedent could encourage others to want to move or build outbuildings as a result. The neighbors’ opinions are not generally considered as part of the decision.

Mr. Boysen stated that it is unclear whether the issue is the setback or if the outbuilding would be located in the front yard if Mr. Ybema moved it to comply with the setback.

Mr. VanHouten said that the shed could have been remodeled it would have been allowed but since it was torn down it can’t remain in the same place. Mr. Heilman observed that there is property available where he could move it and be in compliance.

**Motion by VanHouten with support of Heilman that we deny the applicant’s request based on all six of the practical difficulty tests.** Discussion: It is not necessary to adhere to all six tests but have to apply to something. **Roll Call Vote:** Van Houten: yes; Frigmanski: no; Mawson: no; Boysen: no; Heilman: yes.

Yes: 2, No: 3. MOTION FAILED

Mr. Frigmanski stated his opinion that due to the location of the lot and the fact that the garage blocks the view of the shed, there is a unique circumstance of the property there. Mr. Boysen agreed that it is unique and feels that if he’s willing to meet the setback requirement the board could show leniency.

**Motion by Mawson with support from Boysen that we approve the request based on the**

**MOTION TO DENY  
THE VARIANCE  
REQUEST**

**MOTION TO APPROVE  
THE VARIANCE  
REQUEST**

uniqueness of the property and that he moves the shed to be 25' from the shoreline to be in compliance with the setback requirement. Roll Call Vote: Mawson: yes; Boysen: yes; Frigmanski: yes; VanHouten: no; Heilman: no.

Yes: 3, No: 2. MOTION CARRIED.

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**ZBA 24-04-02 Parcel ID 16-217-003-00, 12610 Park Dr., Wayland MI 49348**

An appeal by the property owner, Kay Cummiford, from the decision of the Zoning Administrator pursuant to section 20.8.2 "Authority of the Board of Appeals".

The property is zoned GLRLF (Gun Lake Residential Lake Front). The property owner is appealing the decision of the Zoning Administrator denying an application for Short-Term Rental.

Mrs. Cummiford resides at 2734 Vista Dr. She shared some history of the property on Park Drive and that it has been rented consistently for the last fifteen years as a short-term rental. She has documentation to show that it has been rented. She feels that this should allow the property to be part of the "grandfathered" rental properties. She has spoken with her neighbors and says that they support her decision. She has reviewed the requirements of the short-term rental ordinance and feels that she is in compliance with them.

**James Penix** (12598 Parker Drive): He is the next-door neighbor to the rental home. Kay has been very responsible renter and since she has been a good neighbor they support her request.

**Correction: Mr. Penix' address is 12598 Park Drive.**

**Bob Rohlfs** (12575 Park Drive): Wants to know what the intention is and how she is renting it. He believes that her daughter and son in law have been living there for the last year or more.

Mrs. Cummiford explained that during 2021 her daughter moved into the home and rented it, also subletting it to some of their friends, and has vacated the property as of May 1<sup>st</sup>. Mr. Rohlfs' concern is that one party rents it and then other parties show up.

**Public comment closed.**

**Board deliberations took place.**

Mr. VanHouten explained that the property can be rented if the owner lives in the home, or if it is rented as a long-term rental. It is just not allowed as a short-term rental.

Mr. Shea said that the ordinance states that a property can be grandfathered if it was a lawful non-conforming used. Our ordinance never listed short term rentals as a permitted use in this zoning district even before 2021. Then when the ordinance was adopted in 2021 it required permits to be issued. There was never a permit issued for this property. It is not grandfathered because it was an unlawful use of property due to being in a residential neighborhood.

Mr. Heilman clarified that Yankee Springs is a complaint-driven township, meaning they don't take a lot of actions unless there are complaints. The State of Michigan determined that short term rentals are a commercial enterprise and need to be in a commercial district. Due to a plethora of complaints the township needed to address the issue. After an in-depth study and 6-month moratorium and numerous published notices for public comment the ordinance was

revised. Any existing STRs that were licensed and were legal non-conforming STRs were allowed to renew their licenses and those are the only ones that are allowed in residential neighborhoods. There are also traditional STRs which are the primary legal residence of the owner and owners must reside in and be present overnight when renters are in the residence. It must be owner occupied to have a traditional STR under 28 days. Anything longer than that is a rental, not a short-term rental.

The intent of the ordinance is to reduce STR in residential areas and the state of Michigan says they should only be in commercial districts so that is the reason for the current ordinance.

**Motion by VanHouten with support from Boysen that based on the review the Zoning Administrator did not make an error. This does not qualify as a traditional short-term rental.**

**Roll Call Vote: Boysen: yes; Mawson: yes; Frigmanski: yes; Heilman: yes; VanHouten: yes.**

Yes: 5, No: 0. MOTION CARRIED

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### **ZBA 24-04-03 Ordinance Interpretation Request**

A request by the Zoning Administrator for an interpretation of the zoning ordinance pursuant to section 20.8.1 "Authority of the Board of Appeals".

The Zoning Administrator is asking for an interpretation of section 2.1.88 "Definitions; Structure", and section 12.7.1 "Outbuildings" as applied to the use of shipping containers in residential zoning districts.

Mr. Shea explained that while he did attach a drawing as an example this is not a request for that specific property. It is a request for an interpretation in general.

### ***Board deliberations took place.***

Discussion took place as to how a shipping container should be classified. Mr. VanHouten stated that he thinks they should not be allowed except in agricultural zoning. Mr. Boysen said there is a wide difference in shipping containers and how they look so if they were to be allowed there may have to be some additional parameters.

Mr. Heilman read through the criteria that pertains to what is a structure and what is an outbuilding under township ordinance and feels that a shipping container does not apply under either definition. It doesn't fall under a storage building or a shed either, since it's not a structure. An amendment to the ordinance would be necessary to allow shipping containers to be used as storage areas in either agricultural or industrial areas and possibly some commercial areas. Mr. Boysen disagrees and feels that they can be used as a shed or a barn but shouldn't be in a residential area unless it's cleverly disguised. If it's been repurposed and brought in to a residential area that would be allowed but not brought in as a shipping container.

Mr. Shea asked the Township Attorney Kaufman and she said most areas that she's aware of are not allowing them in Single Family Residential but may be permitted in AG, Industrial and Commercial.

A citizen asked about storage pods, etc., and it was explained that those are temporary so this ordinance does not apply.

**Motion by Heilman with support from Mawson that since a shipping container is not**

### **FINAL MINUTES**

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ZBA Meeting  
May 14, 2024

**MOTION TO DENY  
THE APPEAL**

**ZBA 24-04-03  
ORDINANCE  
INTERPRETATION  
REQUEST**

**MOTION THAT  
SHIPPING  
CONTAINERS NOT BE  
ALLOWED IN  
RESIDENTIAL AREAS**

considered a structure or an outbuilding, we do not allow them in residential areas.

Discussion: Mr. Boysen felt that there needs to be more language included since there could be a modified container that is more similar to a structure. The ZBA can request that the Planning Commission review the issue to determine if an ordinance revision is appropriate.

**Roll Call Vote:** Van Houten: yes; Frigmanski: yes; Mawson: yes; Boysen: no; Heilman: yes.

Yes: 4, No: 1. MOTION CARRIED

**OLD BUSINESS:**

Mr. Mawson asked if anyone followed up on making sure Julie Fox's dock was removed. That would not be the accountability of this board but Brad Williams may have checked.

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

A citizen asked if the Planning Commission would look at the storage container issue and Mr. Heilman explained that they could be asked to look at it and possibly revise the ordinance. The citizen can go to the Planning Commission or the Board of Trustees and ask them to have the Planning Commission do the review.

**Mike Cunningham** (township resident; 1908 Heritage Bay): With regard to following rules, he wishes to see the Boards make sure that everyone follows the rules about when people can speak or not speak because it does impact how the decisions are made. In the first decision tonight, the Board allowed the rules to not be followed which impacts everyone who has followed the rules. Keep that in mind when making decisions.

**Amy Leep** (11871 Windward Lane, Shelbyville on Gun Lake): She has seen shipping containers done beautifully that look like sheds. And she has also seen aluminum structures covered by tarps that look atrocious. So while a shipping container is not a structure or an outbuilding, it can be made to look very nice and can be a structurally sound and economical way to store things. There would need to be some specifications so people can't bring in an old rusting shipping container and have that in their yard; but also, just because it meets an ordinance people shouldn't be allowed to make anything that covers things and consider it a shed. It could be done in a residential area if there is certain verbiage regarding how it is done.

Mr. Heilman encouraged her to attend the PC meeting with her comments.

Joe Shea mentioned that the Planning Commission meets this Thursday night if anyone wishes to speak during public comment.

**ADJOURNMENT:**

Motion by VanHouten with support from Mawson to adjourn the meeting at 7:19PM. All ayes. MOTION CARRIED.

Approved by:  Date: 07/08/2024  
Ron Heilman, ZBA Secretary

Respectfully submitted by:  
Betsy Frigmanski, Recording Secretary  
May 18, 2024

OLD BUSINESS

PUBLIC COMMENT

ADJOURNMENT