

<p style="text-align: center;"> <b>YANKEE SPRINGS TOWNSHIP</b>  <b>ZONING BOARD OF APPEALS</b>  <u>Tuesday, April 11, 2023</u>  <b>6:00 PM</b>  <b>Gun Lake Community Church</b>  <b>12200 W M-179 Hwy, Wayland, MI 49348</b>  <b>MINUTES</b> </p>	<p style="text-align: center;"> <u><b>FINAL MINUTES</b></u>  Page 1 of 5  ZBA Meeting  April 11, 2023 </p>
<p>Meeting called to order at 6:05 PM by John Frigmanski.</p> <p><b>Roll Call:</b> Dave VanHouten, Ron Heilman, Tom Mawson, Mike Boysen, John Frigmanski (All Present)</p> <p>Jake Welch: Absent without notice</p> <p><b>Staff Present:</b> Joe Shea, Frank Fiala, Mike Cunningham, Rob Heethuis, Larry Knowles (attending as township residents)</p> <p><b>Visitors:</b> 6</p> <p><b>PLEDGE OF ALLEGIANCE</b></p>	<p style="text-align: center;"><b>CALL TO ORDER</b></p> <p style="text-align: center;"><b>ROLL CALL</b></p> <p style="text-align: center;"><b>PLEDGE OF ALLEGIANCE</b></p>
<p><b>REPORTS FROM REPRESENTATIVES:</b></p> <p><b>Planning Commission:</b> John Frigmanski: The PC discussed side setbacks and encroachments and sent the draft back to Planner Rebecca Harvey for review. Also discussed that some of the verbiage is unclear on measurements of property width and asked Ms. Harvey to review that as well.</p> <p><b>Board of Trustees:</b> Dave VanHouten gave the following updates:</p> <ul style="list-style-type: none"> <li>• Approved a change order for the new fire truck.</li> <li>• Continued to monitor the construction progress and billing.</li> <li>• Approved change orders for adding two sections of snow bars and purchase of a fire proof file cabinet.</li> <li>• Set the township cleanup day for April 22.</li> </ul>	<p style="text-align: center;"><b>REPORTS FROM REPRESENTATIVES</b></p>
<p><b>INQUIRY ON CONFLICT OF INTEREST:</b></p> <p>Mr. Heilman inquired if there are any conflict of interest with the board regarding tonight's request. There are none.</p>	<p style="text-align: center;"><b>CONFLICT OF INTEREST</b></p>
<p><b>APPROVAL OF MINUTES:</b></p> <p><u><i>Motion by Boysen with support from Heilman to approve the minutes from March 14, 2023 meeting.</i></u> All ayes. MOTION CARRIED.</p>	<p style="text-align: center;"><b>APPROVAL OF MINUTES</b></p>
<p><b>NEW BUSINESS:</b></p> <p><b>ZBA 23-03-04 PARCEL ID #08-16-110-021-00 2121 Archwood Dr., Wayland, MI 49348.</b>  A request by property owner, Giuseppe Licari, for variance relief from the size requirements established by section 12.7 "Outbuildings".</p>	<p style="text-align: center;"> <b>ZBA 23-03-04 PARCEL ID #08-16-110-021-00</b>  <b>Request by Giuseppe Licari</b> </p>

The subject site is approximately .386 acres in size. The property is currently zoned Residential Single Family (RSF) and the applicant is requesting relief to allow for the construction of an addition to accessory building that fails to meet maximum size requirements.

**Jim Ten Haaf** (Contractor for the homeowner): the size of the lot is actually .64 acres, not .386. The owner has an existing barn with an old garage in front of it. They had made a request previously which was denied, but is asking again since the ordinance has been changed to 2,000 square feet. They are planning to tear down the existing garage and requesting approval to build a 2,400 single story building. There are others in the area that are above the 2,000 square foot size in the neighborhood. The surrounding neighbors are in support of the project.

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

None.

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

Mr. Frigmanski read a letter that was written by Giuseppe and Deann Licari with signatures from these neighbors in favor of allowing the variance:

- Dean Sperlik (2074 Archwood)
- Eric Kistka (12701 Valley Dr)
- Clarence Flietstra

**Mr. Frigmanski read the Practical Difficulty Standards and each standard was considered. The ZBA discussed the request as they went through each standard.**

**PRACTICAL  
DIFFICULTY  
STANDARDS**

- 1) Does strict compliance with the ordinance unreasonably prevent the owner from using his property for a permitted use?  
*No. The ordinance as amended allows Mr. Licari to build a structure up to 2,000 square feet in size. He would still be able to demolish the smaller garage and increase his outdoor parking area.*
- 2) Would strict compliance be “unnecessarily burdensome” to the property owner?  
*No, for the same reason as above.*
- 3) Is the alleged hardship due to some “unique” circumstance” of the property that is different from other properties in the area?  
*No. The property appears to be of a size and similar to other properties in the area. There is no evidence of unique physical characteristics such as a steep grade, wetlands, or other unusual conditions of the property itself.*
- 4) Would granting the variance result in “substantial justice” to the property owner and neighboring property owners?  
*In general, it appears that the proposed addition would do no harm to neighboring property owners. The applicant has submitted three notes from neighbors in support of his request. (No opposing letters have been received at the time of writing this report.) The proposed structure would be approximately the same length and width as the adjacent property to the northeast. The setback requirements would be met. The proposed structure and the demolition of the old garage would arguably enhance the appearance of the neighborhood.*

- 5) Would granting the variance be more consistent with what has been granted to other property owners in similar situations?  
*Applicant has presented no evidence on this point.*
- 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. He wants to build a structure that exceeds the size limits of the ordinance.*

Mr. Heilman asked for input from Zoning Administrator Joe Shea. Mr. Shea said the existing garage is in very poor shape so demolishing that would improve the appearance of the neighborhood. There were no letters or communications from anyone in the neighborhood opposing the proposed building. The homeowner was allowed to bring his request again because of the change of the rule and the fact that the variance request is not as far over the allowable size as under the previous rule.

Mr. VanHouten pointed out that the PC did a lot of work and review in making the change. Our township is very lenient on size restrictions compared to others in the area. His feeling is that 2,000 sq feet is adequate.

***Board deliberations took place.***

**Motion by VanHouten with support from Heilman that we disapprove this application reason #1, the ordinance is already generous and allows up to 2,000 square feet, he can take down the existing garage, it is not an unnecessary burden because he can add to the size of the building, and it is self-imposed that he wants to build the larger building. Roll Call Vote:**

*Van Houten: yes; Heilman: yes; Mawson: yes; Boysen: yes; Frigmanski: yes.*

Yes: 5, No: 0. MOTION CARRIED

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**ZBA 23-03-06 Parcel ID #16-155-045-00, 2137 Parker Dr., Wayland, MI 49348.** Request by property owners, Thomas and Ashley Osterbrock, for variance relief from the side-lot setback requirement of the zoning ordinance, section **12.4(2)(a) “Side Yard Setbacks”**.

The subject site is approximately 1.285 acres in size and is zoned RSF, Residential Single Family. The Applicants are requesting relief to allow construction of a 22’ x 36’ addition to the north side of their home, which would result in a proposed side-lot setback of five feet between the addition and their north property line. The ordinance requires a side-lot setback of 8’ 8” for this parcel. Thus, they are requesting a variance of 3’ 8” for the side setback.

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

Homeowner Mr. Osterbrock gave a brief overview of the addition they want to add to their home to accommodate their family. Most of the addition is well off the setback requirement; it is just the back corner that is less than the 8’ 8” width. He says he has spoke with all the neighbors and hasn’t received any opposition.

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

**MOTION TO DENY  
THE VARIANCE  
REQUEST**

**ZBA 23-03-06 PARCEL  
ID #16-155-045-00  
Request by Thomas and  
Ashley Osterbrock**

**Carl Miskotten** (owner of property across the street and to the north at 2111 Parker Drive): Spoke in favor of allowing the variance.

**Motion by Heilman with support from Frigmanski to close the public hearing.** All ayes.

MOTION CARRIED

**Mr. Frigmanski read the Practical Difficulty Standards and each standard was considered. The ZBA discussed the request as they went through each standard.**

**FINAL MINUTES**

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**PRACTICAL  
DIFFICULTY  
STANDARDS**

- 1) Does strict compliance with the ordinance unreasonably prevent the owner from using his property for a permitted use?  
*No. The owners can use the property for a permitted use (single family residence) as it is, or by building an addition that complies with the side yard setback requirements of the ordinance.*
- 2) Would strict compliance be “unnecessarily burdensome” to the property owner?  
*This is a subjective standard. Strict compliance in this case would result in a smaller addition to the Osterbrock’s’ home than the size they desire. In my opinion less living space would be inconvenient, but would not rise to the level of “unnecessarily burdensome” without some evidence of the specific burden claimed. “Lack of sufficient living space for four people” seems to be the burden claimed.*
- 3) Is the alleged hardship due to some “unique” circumstance” of the property that is different from other properties in the area?  
*The only unique circumstance of the property seems to be the lot width, which is approximately 88 feet. Lot width was determined according to section 2.1(51) of the zoning ordinance, by bisecting the lot lines and measuring across the lot at the mid-point. Because of this lot width, the side yard setback is 8.8 feet, rather than the 5-foot setbacks of several neighboring 50-foot-wide parcels. Of the eight parcels to the north of the Osterbrock’s’ property, five are 50’ wide and three are 100’ wide. The applicants claim no other unique physical characteristics or circumstances of the property itself.*
- 4) Would granting the variance result in “substantial justice” to the property owner and neighboring property owners?  
*In general, the proposed addition appears to do no harm to the neighboring property owners. (No letters from neighbors, either in support or opposition, have been submitted at the time of writing this report). The Osterbrock’s’ home would be 3.8’ closer to the neighbors’ lot line to the north than the distance required under the side yard setback requirements of the zoning ordinance.*
- 5) Would granting the variance be more consistent with what has been granted to other property owners in similar situations?  
*Applicant has presented no evidence on this point, except to point out that many of their neighbors are on narrower lots with 5’ side yard setbacks. They argue that, in effect, they are being penalized for owning a wider lot than their neighbors.*
- 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. The Osterbrocks place the blame for the situation on “poor construction planning” which placed the house too close to the north lot line. They could build a smaller addition without a variance. They claim they cannot build the*

desired addition on any other side of the house because of an outbuilding in the back yard and an attached garage on the south side.

**FINAL MINUTES**

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**Board deliberations took place.**

There are some issues because of the unique shape of the lot. Mr. Shea added that there have been supporting calls or letters from the immediate neighbors on both sides. A phone call in support was received today from Jaren George 2157 Parker Dr (immediate to the south) which pertains to #4. On #3, the lot length is a circumstance that should be considered because it seems that part of the lot is unbuildable.

**Motion by Heilman with support from Boysen that we approve a variance of 3.8' on the side lot based on #3, that it is an unusual lot that gets narrower as it goes back; #4, granting the variance would give justice and there seems to be no problems from the immediate neighbors. Most of the lots are very close in that area. And #5, granting the variance would be consistent with other variances that have been allowed down in that area. Roll Call Vote: Frigmanski: no; Boysen: yes; Mawson: yes; Van Houten: no; Heilman: yes.**

**MOTION TO APPROVE  
VARIANCE**

Yes: 3, No: 2. MOTION CARRIED

**OLD BUSINESS:**

**OLD BUSINESS**

The board members complimented Mr. Shea on his research and report to the board.

Mr. Heilman discussed a program with Michigan State University that is coming up – ZBA online course and certificate program. The township will pay for the course and it is only \$75.00 per person. It starts in May and he highly recommends that all members take it.

Mr. VanHouten mentioned that the township has already paid for online training that is very easy to get online and take at your leisure also.

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

**PUBLIC COMMENT**

Mr. Heilman commented on the new office being a positive impact on the community and the Board did a good job.

**ADJOURNMENT:**

**ADJOURNMENT**

**Motion by Mawson with support from Boysen to adjourn meeting at 6.58 PM.** All ayes.  
MOTION CARRIED.

Approved by:  Date: 04/14/2023  
Ron Heilman, ZBA Secretary

Respectfully submitted by:  
Betsy Frigmanski, Recording Secretary  
April 14, 2023