

**YANKEE SPRINGS TOWNSHIP**  
**ZONING BOARD OF APPEALS**  
**Tuesday, December 13, 2022**  
**6:00 PM**  
**Yankee Springs Township Hall**  
**284 North Briggs Road, Middleville, Michigan 49333**

**FINAL MINUTES**  
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 ZBA Meeting  
 December 13, 2022

**MINUTES**

Meeting called to order at 6:00 PM by Jake Welch.

**CALL TO ORDER**

**Roll Call:** Present: Dave VanHouten, Ron Heilman, Jake Welch, Mike Boysen, John Frigmanski (All Present)

**ROLL CALL**

Absent with Notice: John Jerkatis

**Staff Present:** Frank Fiala, Mike Cunningham, Rob Heethuis (attending as township residents)

**PCI:** Mark Thompson

**Visitors:** 6

**PLEDGE OF ALLEGIANCE**

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**REPORTS FROM REPRESENTATIVES:**

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**Planning Commission:** PC was asked to look at the accessory building sizes and they are working on that.

**Board of Trustees:** Dave VanHouten gave an overview of the Board's activity for the last month. It was noted that a Joint Meeting of the Board of Trustees, the Planning Commission, and the Zoning Board of Appeals has been set for February 23, 2023.

**INQUIRY ON CONFLICT OF INTEREST:**

**CONFLICT OF INTEREST**

Mr. Welch inquired if there are any conflict of interest with the board regarding tonight's request. There are none.

**APPROVAL OF MINUTES:**

Mr. Heilman requested a correction to the minutes of November 18. The following needs to be added on page 5 after the second motion by Mr. Boysen:

**Yes: 3, No: 0. MOTION CARRIED**

**APPROVAL OF MINUTES**

***Motion by VanHouten with support from Boysen to approve the minutes from November 18 with the changes noted. Roll Call Vote: Frigmanski (abstain); Boysen: yes; Welch (abstain); Heilman: yes; VanHouten: yes.***

**Yes: 3, No: 0. MOTION CARRIED**

**NEW BUSINESS:**

**ZBA 22-10-025 PARCEL ID #08-16-210-009-00. 1166 Lynn Dr., Middleville MI 49333. A request by Randall Burri Builder for property owner, Larry and Carol Ditkof, for relief from the setbacks established by section 12.4 "Required Setbacks".**

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The subject site is approximately .216 acres in size. The property is currently zoned Residential Lake Front (RLF) and the applicant is requesting relief to allow for the construction of an attached garage with second story that fails to meet the required setbacks.

**ZBA 22-10-025 Parcel ID  
#08-16-210-009-00  
Request by Randall Burri**

Mr. Thomson stated that builder is proposing plans to tear down the existing garage and rebuild with living space above it attached to the present structure. Measurements are to the road as traveled.

**Motion by Heilman with support from VanHouten to open the public hearing.** All ayes.

MOTION CARRIED

The engineers did not approve adding a second story onto the current buildings as the footings were not sufficient so the existing garage needs to be torn down. The builder explained that the neighboring garage is 10'4" from the blacktop. In order to match the neighbors, they would like to have the building at the same distance. They are proposing to build the new garage at either 10'6" or at 12'6" whichever is approved. The new building will be slightly larger than the existing one. The average of the neighboring properties is 24.5' roadside setback. The current garage is at 21'. There is an 8' space between the house and the garage.

**Public Comment** (limited to 3 minutes): None

**Motion by Heilman with support from VanHouten 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.**

**PRACTICAL  
DIFFICULTY  
STANDARDS**

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 ensuring that the spirit of the Zoning ordinance is observed, public safety secured, and substantial justice done (not to 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).

*Board deliberations took place.*

*Motion by Welch with support from Boysen that we grant a variance to the existing setback of the existing garage based on #3 that the literal interpretation 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. They have a garage and getting a smaller garage in order to comply with the zoning ordinance in that location and it may be partly due to the paving if that's the case granting a couple feet of relief so that they can go to the existing setback is okay so I would propose that we grant them a 3'5" variance from the required setback to allow a variance to the existing 21' setback from the roadside based on #3 and also under #4 that the variance will not be significantly detrimental to the adjacent properties.*

Discussion: The intention is to allow them to build to the same setback they have right now. **Roll Call Vote:** Van Houten: yes; Heilman: yes; Welch: yes; Boysen: yes; Frigmanski: yes.

Yes: 5, No: 0. MOTION CARRIED

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**ZBA 22-10-026 PARCEL ID #08-16-030-039-00. 12738 Russell Dr., Wayland MI 49348.**

A request by property owner Andrew James Wyman for variance relief from the setbacks established by section 12.4 "Required Setbacks".

The subject site is approximately .071 acres in size. The property is currently zoned Residential Single Family (RSF) and the applicant is requesting relief to allow the continuing placement of a shed that fails to meet the required setbacks.

Mr. Thompson stated that Brad Williams and Eric Thompson have been working on this situation for a long time due to an existing shed that was placed on the property illegally without approval.

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

Dr. Wyman gave a presentation and overview. He bought the property in September and put in a fence application in November but then found out there was a complaint about the shed being on the property line and water shed going on to the neighboring property. There is not a garage on the property. The shed should be 10' off the rear property line according to the standard lot size of 12000 square feet. His proposal is based on the fact that this parcel being so much smaller the shed should be allowed to be proportionately closer to the lot line. The overall lot coverage is below the 50% maximum so that is not an issue.

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

**Richard Fox** (2617 Cork St): He is the owner of the property that abuts this to the rear. He submitted written concerns to the Board and wanted to know if this was being considered. He asked Mr. Heilman about the lot coverage percentage and Mr. Heilman explained that anything under 18" (such as the driveway or walkways) is not part of the percentage. Mr. Fox asked if the porch addition being built without a permit was being considered tonight. The board members explained that this was not part of the variance request and does not pertain to the ZBA.

MOTION TO APPROVE  
THE VARIANCE  
REQUEST

ZBA 22-10-026 Parcel ID  
#08-16-030-039-00  
Request by Andrew James  
Wyman

Mr. Fox's letter has been reviewed by each board member.

**Cathy Maurer** (2655 Russell Dr) submitted a letter supporting the granting of the variance.

**Rhonda Parsons** (2610 Cork Street): She is in support of Mr. Fox and does not feel that the variance should be approved. She feels that the ordinances in place should be followed and there should not be variances granted very often. If he's willing to move the structure that would satisfy the requirement and that would respect the property owners.

**Jeff Parsons** (2610 Cork Street): When this shed was built the property owner did not consult Mr. Fox before using his property for access. The shed and the slab should be moved. He does not support the variance being approved.

**Mike Cunningham**: asked if building code allows the shed to be against the house and Mr. Thompson said it does not. Code requires it to be 5' from the house.

Dr. Wyman said that he can move the building so that it would be 5' from the side property line and 3' from the rear property line. This would require only a variance on the rear setback so he would rescind the request for the side setback variance.

**Motion by Heilman with support from VanHouten 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.**

**PRACTICAL  
DIFFICULTY  
STANDARDS**

**Note:** The applicant has agreed to comply with the side property setback requirement so we are addressing only the variance with regard to the rear property line.

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 ensuring that the spirit of the Zoning ordinance is observed, public safety secured, and substantial justice done (not to 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).

Board deliberations took place.

Motion by VanHouten with support from Welch that we approve the request for a 7' variance on the rear setback based on #1 the practical difficulty asserted by the applicant by way of justification for a variance is due to unique circumstances of the property, that is the size of the lot is very small and where he could locate the shed is very limited; #3 a literal interpretation of the provision of this ordinance would deprive the applicant of rights commonly enjoyed by others, if you look two properties down there is a shed that is very close to the line. #4 There is a wetland in back so water shouldn't really be an issue and the applicant has stated he is willing to put gutters on to control the water. Roll Call Vote: Frigmanski: no; Boysen: yes; Welch: yes; Heilman: yes; VanHouten: yes.

Yes: 4, No: 1. MOTION CARRIED

**OLD BUSINESS:**

Change of meeting location: The hall will be unavailable from mid-January until probably May so the meetings will be held at Gun Lake Community Church.

Mr. Boysen brought up the fact that Mr. Jerkatis has not been attending regularly and he is wondering about his status and if he will be a member rather than an alternate. This is a decision that has to be made by the Board of Trustees.

Mr. Welch requested that PCI provide a map showing the measurement of the neighboring properties that are used for the averaging and Mr. Thompson said he will try to do so in the future.

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

None

**ADJOURNMENT:**

Motion by Boysen with support from VanHouten to adjourn meeting at 7.20 PM. All ayes.  
MOTION CARRIED.

Approved by:  Date: 3/10/23  
Ron Heilman, ZBA Secretary

Respectfully submitted by:  
Betsy Frigmanski, Recording Secretary  
December 14, 2022

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MOTION TO APPROVE  
VARIANCE REQUEST

OLD BUSINESS

PUBLIC COMMENT

ADJOURNMENT