

<p style="text-align: center;"> <b>YANKEE SPRINGS TOWNSHIP  ZONING BOARD OF APPEALS  MEETING  <u>Tuesday, February 8, 2022</u>  6:00 PM  Yankee Springs Township Hall  284 North Briggs Road, Middleville, Michigan 49333</b> </p> <p style="text-align: center;"><b>FINAL MINUTES</b></p>	<p style="text-align: center;"> <b><u>FINAL MINUTES</u></b>  Page 1 of 4  <b>ZBA Meeting</b>  February 8, 2022 </p>
<p>Meeting called to order at 6:00 PM by Jake Welch.</p> <p><b>PLEDGE OF ALLEGIANCE</b></p> <p><b>Roll Call:</b> Present: John Frigmanski, Jake Welch, Dave VanHouten, Ron Heilman, John Jerkatis.</p> <p><b>Staff Present:</b> Sandy Marcukaitis, Mark Thompson, Eric Thompson, Frank Fiala  <b>Visitors:</b> 9</p>	<p><b>CALL TO ORDER</b></p> <p><b>PLEDGE OF ALLEGIANCE</b></p> <p><b>ROLL CALL</b></p>
<p><b><u>REPORTS FROM REPRESENTATIVES:</u></b></p> <p><b>Planning Commission:</b> John Frigmanski, PC Representative: One of the applicants here tonight was at the last planning commission meeting for a special use permit that was granted for her garage development.</p> <p><b>Board of Trustees:</b> Dave VanHouten, Board Trustee: A special meeting was held on ARPA funds to get input from the community on how they should be spent.</p>	<p><b>REPORTS FROM REPRESENTATIVES</b></p>
<p><b><u>INQUIRY ON CONFLICT OF INTEREST:</u></b></p> <p>Welch inquired if there are any conflict of interest with the board regarding tonight's request. There are none.</p>	<p><b>CONFLICT OF INTEREST</b></p>
<p><b><u>APPROVAL OF MINUTES:</u></b></p> <p><b>Discussion:</b> With regard to the applicant at the last meeting, Welch asked if they wanted to delay the request for a month so the measurements could be verified, and the applicant said no, they wanted to continue with the appeal. That correction needs to be added to the minutes right as the applicant finished giving their views.</p> <p><b><u>Motion by Heilman with support from Jerkatis to approve the January 11 ZBA meeting minutes with the noted change.</u></b> All eyes. MOTION CARRIED</p>	<p><b>APPROVAL OF MINUTES</b></p>
<p><b><u>NEW BUSINESS:</u></b></p> <p><b>ZBA 22-02-01 Parcel ID 16-120-005-00</b> A request by Julie Fox of 11066 Hastings Point Rd., Middleville, for variance relief to allow for the construction of an accessory structure that fails to meet the required setback and height requirements.</p> <p><b><u>Motion by Heilman with support from VanHouten to open the public hearing.</u></b> All eyes. MOTION CARRIED</p> <p><b>Discussion:</b> Ms. Fox presented her request and introduced her architect. Her request is to renovate the existing garage and add a space on top of it (not living quarters). It makes the building a little higher and wider than the what would be a conforming building. She also provided pictures</p>	<p><b>NEW BUSINESS</b></p> <p><b>ZBA 22-02-01 Parcel ID 16-120-005-00 REQUEST BY JULIE FOX</b></p>

of other buildings in the area that she believes are already non-conforming.

Eric Thompson clarified there is **not** a need for a variance in the rear setback based on the “as traveled” roadway, believing this to be the best way of calculating that. The variance needed is for the height at the rear of the property and also a variance required on the side setback.

Per the architect the 4’6” walkway will not encroach on the side setback. After his review of the drawings with the Board they agreed that **a variance is not needed for the side yard setback.**

With regard to height, in order to add an internal stair to the building and have the appropriate clearance (without adding anything that encroaches into the side yard) the design ends up being 1-1/2 feet above the rule. The applicant believes that what she is requesting is not out of place with what is already in the area.

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

MOTION CARRIED

**Jake Welch read the Practical Difficulty Standards and each standard was considered along with the review of the request presented by R. Harvey, Professional Planner. The ZBA discussed the request as they went through each standard.**

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 Heilman with support from Frigmanski based on 12.7 which is the appeal for height that we allow them to have the additional height that they need to make in compliance with the plans, using 2, 3, and 4 as the reasons to allow them to do that. Roll Call Vote:**

*VanHouten: yes; Heilman: yes; Welch: yes; Jerkatis: yes; Frigmanski: yes.*

Yes: 5, No: 0. MOTION PASSED

**ZBA 22-02-02 Parcel ID 16-190-008-00** A request by Mary Liechty of 2876 Beatrice, Middleville, for variance relief to allow for a construction of a deck that fails to meet the

required setbacks.

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

MOTION CARRIED

**Discussion:** Applicant has been in her home since 1988 and this is the original deck that was on the cottage when she moved in. She would like to increase the depth by two feet to make sure that the depth of it will accommodate a walker.

The proposed deck design itself would not be subject to the setback requirements. However, the addition of the railing increases the height of the structure to over 18” which makes it therefore subject to the setback requirement. It is the addition of the railing that causes the need for a variance. The applicant feels the railing is necessary for safety.

Emails were received by neighbors Karen Freiberg, Kendra Ships, and Katie Ambrose all in support of allowing the applicant’s request.

Tom Maurer (representative of the company hired to do the design): He provided some background information and said this was the best design that would allow for the use of a walker as needed. The design was trying to follow function and not intending major change.

Discussed where the measurement to the seawall is done. Depending on the measurement the variance needed is between six inches and one foot.

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

MOTION CARRIED

**Jake Welch read the Practical Difficulty Standards and each standard was considered along with the review of the request presented by R. Harvey, Professional Planner. 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 VanHouten with support from Frigmanski that we go ahead and approve the request based on possible sea wall deterioration may have reduced the 25-foot setback, the deck is lower than 18 inches and that negates the requirement for the 25-foot setback, the safety rail is for the safety of the homeowner and should be allowed. This could be a temporary railing that may need to be removed at some point. Discussion: The motion should include reference to the Practical Difficulty Standards. The board shouldn't make a motion that goes against the Township ordinance. They would like to also see something included that it cannot be enclosed.

Motion was withdrawn and restated:

Motion by VanHouten with support from Frigmanski that we go ahead and approve that variance based on Number 4 and 5 with the understanding that there would be no future construction of walls and roof on this deck and we feel that it is possible measurement wise because of the sea wall deterioration there may be some flexibility in the measurements. The 18" deck they would not even have to get a variance but the railing requires it so that negates the 25 feet. The safety rail is for the safety of the homeowner and should be allowed and we could look at this as a temporary safety railing that may need to be removed at a later point. Roll Call Vote: Frigmanski: yes; Jerkatis: yes; Welch: yes; VanHouten: yes; Heilman: yes.

MOTION TO APPROVE VARIANCE REQUEST

Yes: 5, No: 0. MOTION PASSED

**OLD BUSINESS:**

- Joint meeting: VanHouten is pleased that PCI will be doing the write ups, that there is a willingness to be here at the meetings and is in agreement with the staking and surveying requirement of the property that was discussed. PCI has not gotten official direction from the Board but is expecting that they will be doing the staff reports and will attend the meetings unless directed otherwise.

OLD BUSINESS

Motion by Welch with support from VanHouten that we request the Board to not have Rebecca do the writeups before our meetings anymore and to have PCI do the writeups prior to our meetings now as well as have at least one PCI representative attend our meetings. All Ayes, MOTION CARRIED.


MOTION TO REQUEST THE BOT DIRECT PCI TO DO REPORTS

Welch expressed that he would like to see the reports stick to the facts and measurements and not what PCI's opinion of the variance is. The board likes the idea that PCI has been to the property and done the measuring so the report will reflect that. PCI already is in communication with the homeowners so they should be able to get any additional information needed in a timely manner.

**ADJOURNMENT:**

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Motion by VanHouten with support from Heilman to adjourn meeting at 7:03 PM. All Ayes, MOTION CARRIED.

Approved by:  Date: 3/8/22  
Ron Heilman, ZBA Secretary

Respectfully submitted by:  
Betsy Frigmanski, Recording Secretary  
February 9, 2021