

<p style="text-align: center;"> YANKEE SPRINGS TOWNSHIP ZONING BOARD OF APPEALS MEETING <u>Tuesday, July 12, 2022</u> 6:00 PM Yankee Springs Township Hall 284 North Briggs Road, Middleville, Michigan 49333 </p> <p style="text-align: center;">MINUTES</p>	<p style="text-align: center;"> <u><i>FINAL MINUTES</i></u> Page 1 of 6 ZBA Meeting July 12, 2022 </p>
<p>Meeting called to order at 6:00 PM by John Frigmanski</p> <p>Roll Call: Present: Dave VanHouten, Ron Heilman, Mike Boysen John Frigmanski.</p> <p>Absent with notice: John Jerkatis, Jake Welch</p> <p>Staff Present: Mark Thompson, Sandy Marcukaitis, Rob Heethuis</p> <p>Visitors: 16</p> <p>PLEDGE OF ALLEGIANCE</p>	<p>CALL TO ORDER</p> <p>ROLL CALL</p> <p>PLEDGE OF ALLEGIANCE</p>
<p>REPORTS FROM REPRESENTATIVES:</p> <p>Board of Trustees: Dave VanHouten, Board Trustee: No report</p> <p>Planning Commission: John Frigmanski: No report</p>	<p>REPORTS FROM REPRESENTATIVES</p>
<p>INQUIRY ON CONFLICT OF INTEREST:</p> <p>Heilman inquired if there are any conflict of interest with the board regarding tonight's request. There are none.</p>	<p>CONFLICT OF INTEREST</p>
<p>APPROVAL OF MINUTES:</p> <p><i>Motion by Heilman with support from Boysen to approve the June 14 ZBA meeting minutes.</i> All ayes. MOTION CARRIED</p>	<p>APPROVAL OF MINUTES</p>
<p>NEW BUSINESS:</p> <p>ZBA 22-07-011 PARCEL ID #08-16-055-003-00. 971 Palmer Dr., Middleville, MI 49333. A request by property owner, Ryan Asbury, for variance relief from the setbacks established by section 12.4 "Required Setbacks". The subject site is approximately .32 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 addition to the principal dwelling that fails to meet the required setbacks.</p> <p>Ryan Asbury explained that his request was needed due to a steep hill and unplatted road that runs through the property which leaves them little space to add on to the garage. The average roadside setback is 12'5" and they are requesting a variance of 11'11". They want to expand their deck by two feet which would make the deck approximately 13' from the water. Neighbors have said they do not have a problem. Heilman advised the homeowner that if approved, they would not be allowed to ever enclose the deck in any manner and the homeowner expressed his agreement. Homeowner answered questions asked by the Board.</p>	<p>ZBA 22-07-011 Parcel ID 08-16-055-003-00 Request by Ryan Asbury</p>

John Tryger (11696 Barlow Lake Rd) lives almost directly across from Asbury residence. From the lake side looking at the property he expressed his opinion that it will look much nicer if this request is allowed. He also is in support of the addition to the garage as it will not interfere with traffic.

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

MOTION CARRIED

John Frigmanski read the **Practical Difficulty Standards** and each standard was considered. 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.

VanHouten questioned how the “high water mark” is determined. The board discussed that the variance if granted should be for the 7’ from the dwelling to the sea wall.

Motion by VanHouten that we deny the request for 7’ from the deck to the seawall based on the reason #5 which clearly states it doesn’t meet the established reason. Motion dies for lack of support

Motion by Boysen with support from Frigmanski that we approve both requests based on #1, #2, #3, and part of #5. Roll Call Vote: Frigmanski: yes; Boysen: yes; Heilman: yes; VanHouten: no.

Yes: 3, No: 1. MOTION PASSED

Discussion: The stipulation for not enclosing the deck should have been included in the motion.

MOTION Rescinded.

**PRACTICAL
DIFFICULTY
STANDARDS**

**MOTION TO APPROVE
THE VARIANCE
REQUEST**

ZBA 22-07-12 Parcel ID
08-16-115-007-00
Request by Earl and
Laurie Krol

Motion by Boysen with support from Frigmanski that we grant him the variance on both requests with the special stipulation that he not enclose the lakeside deck ever. Roll call vote: Frigmanski: yes; Boysen: yes; Heilman: yes; VanHouten: no.

Yes: 3; No: 1. MOTION PASSED.

ZBA 22-07-012 PARCEL ID #08-16-115-007-00. 11662 Barlow Lake Rd., Middleville, MI 49333. A request by property owners, Earl and Laurie Krol, for variance relief from the setbacks established by section 12.4 "Required Setbacks". The subject site is approximately .231 acres in size. The property is currently zoned Residential Lake Front (RLF) and the applicant is requesting relief to allow for the construction of a roof over deck that fails to meet the required setbacks.

Mr. Krol presented his request. They want to put an 8' front covered porch that would be less than 25' from the lake with the overhang – it would be a variance of approximately 1.5'. This would also allow escape from the upper bedrooms without a twenty-foot ladder and provide shelter along the front of the home. The changes would make it a much more appealing waterfront home than what is currently there.

The board expressed appreciation for the marking of the property and the amount of information provided with the request. Mr. Krol shared letters from neighbors to the north and south that support approval of his request.

John Tryger: Expressed his support of the variance request. He believes the changes will improve the look of the home. The two houses on either side are actually closer to the lake so the covered porch will not block the view of either neighbor. The high-water mark for Barlow Lake would be determined by the dam. Most of his house meets the setback requirement, it's just one corner that needs a variance due to the old rock seawall. Overall, he feels the improvements would be beneficial to the neighborhood and the homeowner.

Two letters from neighbors were read by the Chair in support of the request, one from Holly and Nate Spurgess, and one from John and Sarah Donalds.

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

John Frigmanski read the Practical Difficulty Standards and each standard was considered. 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).

**PRACTICAL
DIFFICULTY
STANDARDS**

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 Boysen with support from Heilman to grant him the variance for 19.7 feet based on Point #3 in the #2 section, 3 and 4 of the #3 section, and all of Section 4 and 5. Roll Call Vote: VanHouten: yes; Heilman: yes; Boysen: yes; Frigmanski: yes.

**MOTION TO APPROVE
THE VARIANCE
REQUEST**

Yes: 4, No: 0. MOTION PASSED

ZBA 22-07-013 PARCEL ID #08-16-205-024-00. 3287 Sandy Beach, Wayland, MI 49348. A request for property owners, Ryan and Kendra Craven, for variance relief from the setbacks established by section 12.4 **“Required Setbacks”**. The subject site is approximately .189 acres in size. The property is currently zoned Gun Lake Residential Front (GLRF) and the applicant is requesting relief to allow for the construction of a new home that fails to meet the required setbacks.

**ZBA 22-07-013 Parcel ID
08-16-205-024-00
Request by Ryan and
Kendra Craven**

Jack Workman: Builder for Ryan Craven. The zoning was approved when paperwork was turned into PCI for the building permit. The permit was issued and construction was started. A neighbor was concerned and contacted PCI who then realized that the overhang is not in compliance (the foundation is in in compliance). Most of the encroachment is one foot. The neighbors have homes that the overhang actually exceeds the setback but no one was aware of it. The setback from the lake according to the neighbors’ averages is not an issue, just the overhang. The builder was not aware because most of the homes he builds in other areas measure to the foundation not to the overhang.

The site plan drawing with the setbacks was submitted to PCI and that was what they approved. Mark Thompson shared this with the Board. PCI agreed that it was an oversight and they did not consider the eaves when they approved the plan and issued the permit.

Matt Meindertsmma (3281 Sandy Beach): neighbor to the North. He expressed that he has no objection to the granting of the variance.

Dee Bigelow (neighbor to the south): He lives in the house to the south that Jack Workman built. He was under the impression that the setbacks were 10% so that on a 40’ lot it was only 4 feet. Expressed that they have no objection to the request.

Ryan Craven: When the project was started, they believed it was in compliance so they are waiting for the decision tonight and hoping to move forward.

Mark DeVries (3235 Sandy Beach): neighbor up the street. Supports their project and has no issues with it at all.

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

MOTION CARRIED

Board deliberations took place. A letter from neighboring homeowner, Tracey Wilmer, was read in support of the variance being granted. Since approving this is the correction of an error, it was discussed whether it was necessary to meet the Practical Difficulty Standards.

Motion by Heilman with support from Boysen that we approve this error and allow them to encroach on the 5' requirement only to the extent of what the soffit and eaves will be by no more than 1' because of #6. It wasn't an issue that was created by the homeowner or the builder; it was an error by the township. Roll Call Vote: Frigmanski: yes; Boysen: yes; VanHouten: yes Heilman: yes.

Yes: 4, No: 0. MOTION PASSED

Discussion between Mark Thompson and the Board regarding how to address if an error like this happens. The Board felt they were in a position where they had to approve the variance because it was not the fault of the homeowner. PCI needs to be very careful because this causes potential liability for the township. There is another property owner in the township who has a similar situation that is going to need to be addressed. The planning commission would have to be involved if the ordinance was to be changed.

ZBA 22-07-10 PARCEL ID #08-16-008-008-10. 509 N. Briggs Rd., Middleville, MI 49333

A request by property owner, Steven Rosenberg, for variance relief from the size requirements established by section 12.7 "Outbuildings". The subject site is approximately 2.265 acres in size. The property is currently zoned Rural Residential (RR) and the applicant is requesting relief to allow for the construction of an accessory building that fails to meet maximum size requirements.

Adam Underhill: neighbor directly behind the subject parcel. He asked a question about what the homeowner is planning and the Board clarified that the applicant wants to build a 52' x 60' outbuilding for storage.

Motion by VanHouten with support from Heilman to table the Rosenberg request until next month. Roll Call Vote: Frigmanski: yes; VanHouten: yes; Boysen: yes; Heilman: yes.

Yes: 4, No: 0. MOTION PASSED

OLD BUSINESS:

The Board of Trustees did approve the change in fees at their last meeting. The forms will be updated with the new amounts.

Discussed that having five requests in one night can make it difficult to keep track of all the details. If the requests were split it into two different meetings the Board would have to approve the additional expense. The other problem with limiting the number of requests is that it causes delays for the homeowners.

Additional discussion took place about whether the Planning Commission might change the ordinance to reflect measurement to the foundation. At the last Planning Commission meeting it was discussed what the procedure should be as far as the PC asking the Board before they spend time on something whether the Board would entertain the change. VanHouten says the view of the Board is that they want the committees to come before the Board with their recommendation.

MOTION TO APPROVE THE VARIANCE

ZBA 22-07-09 Parcel ID 08-16-008-008-10 Request by Steven Rosenberg

MOTION TO TABLE THE ROSENBERG REQUEST

OLD BUSINESS

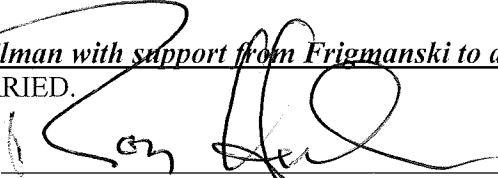
PUBLIC COMMENT:

A resident shared that he has been working with Mark (Thompson) on a plan and request for a variance and it was made very clear to him that the dimensions had to be measured to the eaves – not the foundation.

ADJOURNMENT:

Motion by Heilman with support from Frigmanski to adjourn meeting at 7:43PM. All ayes.
MOTION CARRIED.

Approved by:


Ron Heilman, ZBA Secretary

Date:

08/09/2022

Respectfully submitted by:
Betsy Frigmanski, Recording Secretary
July 15, 2022

FINAL MINUTES

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ADJOURNMENT