

<p style="text-align: center;"> <b>YANKEE SPRINGS TOWNSHIP</b>  <b>ZONING BOARD OF APPEALS</b>  <u><b>Tuesday, March 14, 2023</b></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>MINUTES</b></u>  Page 1 of 7  ZBA Meeting  March 14, 2023 </p>
<p>Meeting called to order at 6:00 PM by Jake Welch.</p> <p><b>Roll Call:</b> John Frigmanski, Jake Welch, Dave VanHouten, Mike Boysen, Ron Heilman (All Present)</p> <p><b>Staff Present:</b> Joe Shea, Sandy Marcukaitis, Mike Cunningham, Rob Heethuis (attending as township residents)</p> <p><b>PCI:</b> Mark Thompson</p> <p><b>Visitors:</b> 18</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>Planning Commission:</b> John Frigmanski: The last meeting was the joint meeting and everyone should have received the minutes from that. Waiting for some things to go through the Board of Trustees.</p> <p><b>Board of Trustees:</b> Dave VanHouten gave the following updates:</p> <ul style="list-style-type: none"> <li>• Adopted a resolution to apply for a DNR grant for the park to convert the existing basketball court and two pickleball courts into a full basketball court and construct four new pickleball courts</li> <li>• City of Wayland approved 5-year Fire Service Contract.</li> <li>• Approved a change order for the new fire engine for \$11,725.</li> <li>• Approved installation of two 8' snow bars to the township hall.</li> <li>• The renovation project is ahead of schedule, projected to be complete April 3.</li> <li>• Set April 22 for township cleanup date. Anyone interested can meet at the Fire Station at 9 AM.</li> <li>• Monday April 3 is the blood drive from 2 to 6 PM at the Fire Station.</li> </ul>	<p><b>REPORTS FROM REPRESENTATIVES</b></p>
<p><b>INQUIRY ON CONFLICT OF INTEREST:</b></p> <p>Mr. 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>APPROVAL OF MINUTES:</b></p> <p><b><i>Motion by Heilman with support from Frigmanski to approve the minutes from February 14, 2023 meeting.</i></b> All ayes. MOTION CARRIED.</p>	<p><b>APPROVAL OF MINUTES</b></p>

**NEW BUSINESS:**

**ZBA 23-3-002 PARCEL ID #08-16-045-010-00 726 Perch Cove Ct., Middleville, MI 49333.**  
A request by property owner, Joy Aten, for relief from the setbacks established by section 12.4 “Required Setbacks”.

The subject site is approximately .15 acres in size. The property is currently zoned Residential Lake Front (RLF) and the applicant is requesting relief to allow for the rebuilding of a portion of the house with a new addition and roof system that fails to meet the required setbacks.

Mark Thompson (PCI): This is an existing foundation and they want to put a roof system on it with the exception of a small addition off the corner. Because of the location it is legally non-conforming. In the staff report, Section 16.4 grants the ZBA the authority to approve variances with consideration of a non-conforming structure. The applicant does not want to tear the home down and replace it. It is non-conforming because of the lake side setback. It is not going to be any closer to the lake than the current home. The board has been provided a stamped survey of the property.

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

Ms. Aten gave an overview of her plans and the reasons for the request. With her proposal the home would maintain its current footprint, only adding an 8’ x 12’ section on the streetside southwest corner giving the home the exterior dimensions of 24’ x 36’. The current deck on the lakeside will be removed and replaced with a ground level patio for wheelchair accessibility. The current roof height is 12’ 10” and the proposed roof is just over 6’ higher. The home is setback 38’ from the lakefront. The adjacent properties are 56’ and 47’. If required to move the home back due to the waterfront setbacks, there would be some practical difficulties: It would encroach on the location of the new well required by the county. It could also make the future building of a garage impossible. There is also a steep incline which would make a retaining wall necessary if a new foundation is built. She would prefer to maintain the current foundation if possible. The renovation will also bring the home up to current standards with regard to the well, plumbing, electrical, and energy efficiency.

She is compliant with the required property line setbacks regarding the proposed 8’ x 12’ addition. With an eave of 1’ the closest point of the home would be 5’3” from the property line. The increase in the roof pitch will allow for precipitation run off.

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

**John Trygier** (11696 Barlow Lake Rd): Spoke in support of Ms. Aten’s plans and granting the variance.

The following email was read into the record in opposition of the variance as requested:

**Carol Hammond** (732 Perch Cove Ct): She is opposed as it will block her view of the lake.

The following emails were read into the record in support of the variance as requested:

**Bob and Gae Kruizenga** (679 Palmer Dr)

**Tracy and Doug Warsen** (800 Palmer Dr)

MINUTES

Page 2 of 7  
ZBA Meeting  
March 14, 2023

**ZBA 23-3-002 PARCEL  
ID #08-16-010-00 (726  
Perch Court) Request by  
Joy Aten**

**Dick and Margo Neeson** (11864 Friendship Court)  
**John Trygier** (1169 Barlow Lake Road)

**Mike Cunningham** (1908 Heritage Bay Dr): (speaking as a township resident.) It seems silly to consider making someone move their home in order to put a new roof on the home. In favor of granting the variance.

Emails in favor of the request were also received from the following residents: **Kortni Matteson** (672 Arhana Drive), **Terri Duff** (11650 Barlow Lake Rd) and **Ron and Renee Rodenhouse** (702 Perch Cove Court).

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

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 to approve the variance to allow the home to remain at 38' from the lake for the following reasons: the unique physical limitations of the topography of the land; it is impractical to move it back, per #1. Also #4, the proposed 38' setback is similar to existing dwellings and also the proposed construction would comply with the applicable building height standards, and #5, we have to consider the setbacks of adjacent lots in the proposal and I don't think that sight lines are really an issue here, and also include Section 16.3 that nothing in this ordinance shall prevent repairs or reinforcement of an existing non-conforming structure or dwelling that may be necessary to secure or ensure continued use of the structure during its natural life.**

MINUTES  
Page 3 of 7  
ZBA Meeting  
March 14, 2023

PRACTICAL  
DIFFICULTY  
STANDARDS

MOTION TO APPROVE  
THE VARIANCE  
REQUEST

Amended to add: It's a 13-foot lakeside variance that is being asked for. Support from Heilman. Roll Call Vote: Van Houten: yes; Boysen: yes; Frigmanski: yes; Welch: yes; Heilman: yes.

Yes: 5, No: 0. MOTION CARRIED

\*\*\*

**ZBA 23-3-003 PARCEL ID #08-16-065-002-00 1704 Shady Lane, Middleville, MI 49333.**

A request by property owners, Paul & Leslie Nowaczyk, for relief from the setbacks established by Section 12.4 "Required Setbacks".

The subject site is approximately .167 acres in size. The property is currently zoned Gun Lake Residential Lake Front (GRLF) and the applicant is requesting relief to allow for the construction of a new home that fails to meet the required setbacks.

Mr. Van Houten asked for clarification on how the width of the lot was measured. The standard currently is to measure the width at the lake front according to the definition in the zoning ordinance. Mr. Welch suggested that the ZBA could table this request until the next meeting and allow investigation into how this has been applied in the past. The ZBA does have the discretion to make a decision based on the information available. It was decided to proceed with the request at this time.

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

Mr. Nowaczyk gave some background on the request. It is a very small cottage that was built in 1954 and they enjoyed using it for short visits. After owning it for a few years they discovered that the floor boards and exterior walls are rotting and got an estimate to do the repair work. But the problem is that the slab is right at grade and so the repairs would not actually fix the problem for the long term. The solution that they came up with was to change the cottage into a full-time home. The proposed design meets the zoning requirements in most aspects by adjusting different aspects of the plan.

The lot is shaped like a parallelogram so measuring the width at the lake front does not actually represent the buildable space on the lot. Measuring at the lake front the width is 57' and requires a 5.7' side setback. The width of the lot where they would build is 49.3'. The new garage would be moved farther from the road than it is today so that is an improvement.

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

**Carl Bossenbroek** (10780 Shady Lane): Spoke in favor of the approval of the variance. He appreciates that they took his view into consideration when developing their plans.

**Bill Bryker** (10798 Shady Lane): They are 100% in support of this proposal.

**Sandra Johnson** (12857 Canal View Dr): If the property were not on the lake, they wouldn't need a variance. Their plans are an improvement to the neighborhood and she is in favor of granting it.

**Mike Cunningham** (1908 Heritage Bay Dr): (speaking as a township resident.) This house is going to stay within the 5' minimum setback and the rule should be changed. The "pointy" part is a geographic anomaly and doesn't really have anything to do with the side yard setbacks.

MINUTES  
Page 4 of 7  
ZBA Meeting  
March 14, 2023

**ZBA 23-3-003 PARCEL  
ID #08-16-065-002-00  
(1704 Shady Lane)  
Request by Paul and  
Leslie Nowaczyk**

**Ed Wilson** (10896 Shady Lane): The entire neighborhood will benefit from the building of the new home.

The following emails were read into the record in support of the variance as requested:

**Emil Przeklasa** (10784 Shady Lane)  
**Carl Bossenbroek** (10780 Shady Lane)  
**Bill and Deb Bryker** (10798 Shady Lane)  
**Rick and Jennifer Buller** (4614 Turtle Rock Dr)  
**Mike and Karen Hecht** (no address given)  
**Ed and Kathy Wilson** (10896 Shady Lane)

**Kris Marcukaitis**: 10978 Hermitage Point. Not neighbors but live nearby. It is not as affordable as it used to be to have a “cottage” on the lake. Many people find it necessary to make their full-time residences on the lake in order to afford it and it is much preferable to having a lot of rental properties.

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

MOTION CARRIED

**PRACTICAL  
DIFFICULTY  
STANDARDS**

**Mr. Welch 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.***

**Motion by Heilman with support from Boysen in regard to the side setback that we approve the side setback of 5' based on #1, the curvature of the lake makes it an issue, and #2, that if**

the measurement were in the middle of the lot, it wouldn't be an issue, so it is an issue that comes up a lot, and #4, the variance is not detrimental to the adjacent properties since you have the water run-off is being dealt with and the neighbors all seem to be in favor of it, and #5 it meets the minimum setback of 5'.

Amended by Heilman with support from Boysen to add: Meets the minimum setback of 5' to the eave. We're moving it from 5.7' to 5. Roll Call Vote: Boysen: yes; Frigmanski: yes; VanHouten: yes; Heilman: yes; Welch: yes.

Yes: 5, No: 0. MOTION CARRIED

Motion by Welch with support from VanHouten to approve the roadside setback that #1 the parallelogram shape of the lot is unique and causing difficulty based on the road side setback; by #3, that the size required by the setback would create an abnormally small footprinted house; and that it wouldn't interfere with the neighbors; and #4, that they have gone to great lengths and have requested this variance based on the fact that moving it 5' closer to the lake would greatly impair the neighbors vision of the lake; and #5, that they have increased parking and minimized the nonconforming structure by moving it 3.5' back from the existing structure.

MOTION TO APPROVE VARIANCE

Amended by Welch with support from VanHouten to grant the variance from 26.8' to the proposed 21.07' from the road as traveled. Roll Call Vote: Heilman: yes; VanHouten: yes; Welch: yes; Frigmanski: yes; Boysen: yes.

Yes: 5, No: 0. MOTION CARRIED

**OLD BUSINESS:**

OLD BUSINESS

Mr. Heilman commented that per the minutes of the Joint Meeting we have not had very many educational classes and our #1 goal for 2023 is to encourage everyone to attend classes and workshops and for members to work on the Master Citizen Planner. Board members should receive emails regarding opportunities. Everyone can benefit by taking some classes. Many classes are available on line now.

Mr. Frigmanski: As a member of the PC, we did set objectives but based on the discussion tonight the measurement of these lots also needs to be looked up. He would like to know if the Board would like to direct the PC that they do want them to look into this matter.

Mr. Heilman would like to know if the Board has decided to look at possible follow up with regard to the variance requests that were denied or given conditionally. This will fall under the new Zoning group's accountability.

Mr. Welch brought up the matter of Mr. Cunningham, who is a Board member, speaking as a township resident at the ZBA hearing. It can be difficult to discern whether his opinion should be considered as a Board member. Mr. Cunningham clarified that he is only here to speak as a resident. This should also be noted in the minutes.

Mr. Frigmanski pointed out that current board officers have not been discussed in 2023.

Motion by Frigmanski with support from VanHouten to continue with the existing officers. Roll Call Vote: VanHouten: yes; Frigmanski: yes; Welch: yes; Boysen: yes; Heilman: yes.

MOTION TO KEEP EXISTING OFFICERS

Yes: 5, No: 0. MOTION CARRIED

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

None

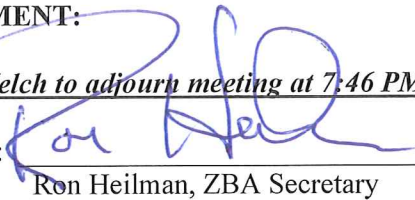
**PUBLIC COMMENT**

**ADJOURNMENT:**

**ADJOURNMENT**

Motion by Welch to adjourn meeting at 7:46 PM. All ayes. MOTION CARRIED.

Approved by:



Ron Heilman, ZBA Secretary

Date:

03/19/2023

Respectfully submitted by:

Betsy Frigmanski, Recording Secretary

March 19, 2023