

<p style="text-align: center;"> YANKEE SPRINGS TOWNSHIP ZONING BOARD OF APPEALS <u>Friday, November 18, 2022</u> 6:00 PM Yankee Springs Township Hall 284 North Briggs Road, Middleville, Michigan 49333 </p> <p style="text-align: center;">FINAL MINUTES</p>	<p style="text-align: center;"> <u>FINAL MINUTES</u> Page 1 of 5 ZBA Meeting November 18, 2022 </p>
<p>Meeting called to order at 6:00 PM by Ron Heilman.</p> <p>PLEDGE OF ALLEGIANCE</p> <p>Roll Call: Present: Dave VanHouten, Ron Heilman, Mike Boysen (All Present)</p> <p>Absent with Notice: John Frigmanski, Jake Welch Absent without Notice: John Jerkatis</p> <p>Staff Present: Sandy Marcukaitis</p> <p>PCI: Mark Thompson</p> <p>Visitors: 6</p>	<p style="text-align: center;">CALL TO ORDER</p> <p style="text-align: center;">PLEDGE OF ALLEGIANCE</p> <p style="text-align: center;">ROLL CALL</p>
<p>REPORTS FROM REPRESENTATIVES:</p> <p>Planning Commission: No report.</p> <p>Board of Trustees: Dave VanHouten gave an overview of the Board’s activity for the last month.</p> <ul style="list-style-type: none"> • Cobb Lake Weed Control Assessment district was approved • Treasurer reported on the audit and budget amendments • Park committee gave an update on the parking lot project • Fire truck purchase meeting set for 11/22/22 • Veteran’s Committee gave an update on ceremony • Hall & office renovation update • Shalinda plot approval • Junk complaint enforcement on Valley Drive • Update on the training fire hydrant 	<p style="text-align: center;">REPORTS FROM REPRESENTATIVES</p>
<p>INQUIRY ON CONFLICT OF INTEREST:</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;">CONFLICT OF INTEREST</p>
<p>APPROVAL OF MINUTES:</p> <p><i>Motion by Boysen with support from VanHouten to approve the minutes from October 11.</i> All ayes. MOTION CARRIED</p>	<p style="text-align: center;">APPROVAL OF MINUTES</p>

NEW BUSINESS:

Mr. Heilman explained to the applicants that the Board only has 3 members present tonight so the applicants have the option to delay their requests until the next meeting at no charge to the applicants. The applicants decided they would like to proceed at tonight's meeting.

ZBA 22-10-024 PARCEL ID #08-16-190-003-00. 2812 Beatrice Ave., Middleville MI 49333. A request by property owner, Walter and Sharon Jalowiecz, for variance relief from the setbacks established by section 12.4 "Required Setbacks".

ZBA 22-10-024 Parcel ID
#08-16-190-003-00
Request by Walter and
Sharon Jalowiecz

The subject site is approximately .339 acres in size. The property is currently zoned GLRLF (GRLF) and the applicant is requesting relief to allow for the construction of a pergola and deck that fails to meet the required setbacks.

Mark Thompson gave a brief explanation of the request (which was not marked on the site). The new structure will not have any larger footprint than what is there now, but it will be over 18" above grade.

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

MOTION CARRIED

Mr. Jalowiecz said they want to replace the old deck on the existing footprint but would like to raise it higher to make the step from the home onto the deck a better height. (It is currently an unusually high step.) The pergola is to provide shade. Mr. Heilman stipulated that they will not be able to enclose the pergola in the future if this variance is approved.

Public Comment (limited to 3 minutes): None

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

MOTION CARRIED

A letter from Brian and Danielle DeSmit (2028 Beatrice Ave.) was read into the record. They have no objection to the granting of the variance.

Mr. Heilman 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 Boysen with support from VanHouten to grant the variance based on the previous discussion of #4, the proposed 28' lakeside setbacks are generally similar to the existing setbacks of neighborhood properties and the proposed construction will comply with applicable building height standards (which is a little bit of a gray area because we are adding 2 inches to it), and #5 it is in consideration of existing setbacks on adjacent lots, the proposal is consistent with the visibility, sight line and general building alignment objectives of the front setback standard; it would be required that the deck not be enclosed (no permanent roof) and no closer to the lake than the current deck. Roll Call Vote: Van Houten: yes; Boysen: yes; Heilman: yes.

Yes: 3, No: 0. MOTION CARRIED

ZBA 22-10-023 PARCEL ID #08-16-215-005-00. 2731 Oakleigh Dr., Middleville, MI 49333
A request by Renaissance Roofing and Exteriors for property owner, Cynthia Wierenga, for relief from the setbacks established by section 12.4 "Required Setbacks" and relief from lot coverage requirements established by section 12.6 "Maximum Building Coverage".

The subject site is approximately .087 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 deck that fails to meet the required setbacks and lot coverage requirements.

Mr. Thompson of PCI said the project had been started without permits and he told them that they needed to secure railings to make the structure safe, stop the project and work to obtain the needed variance. There is a need for a lakeside setback and also an issue on lot coverage. The proposed lot coverage would be approximately 60%. The average setback is 19 feet and they are asking for 14 feet.

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

MOTION CARRIED

Doug and Ashley Wierenga are here on behalf of Cynthia Wierenga. The structure of the deck was not secure and had deteriorated to the point of being unsafe. After starting to repair the deck they found out about the variance issue. It is their statement that the old deck was 10' but since it was already torn down this was not verified. Board members were shown a photograph and thought it appeared smaller than 10'. The new deck is 12'.

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**MOTION TO APPROVE
THE VARIANCE
REQUEST**

**ZBA 22-10-023 Parcel ID
#08-16-215-005-00
Request by Cynthia
Wierenga**

Jim Schultz (Renaissance Roofing): The project manager didn't follow procedure and wait for the permit issuance and he is no longer employed with the company. Mr. Schultz had not seen the original deck.

Mr. Wierenga provided pictures to the board members of the new deck. The finished project will not be any larger than is shown in the photos. The sightlines of the neighbors will not be impeded. The Wierengas also provided letters in support of the project from neighbors.

Public Comment (limited to 3 minutes): None

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

Mr. Heilman read letters of support into the record from the neighbor directly to the north and south of the residence, Leonard Eister and Larry VanPopering.

Mr. Heilman 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. The proposed front setback is 14' and does not meet the established minimum front setback of 19 ft. If the variance is granted the lot coverage would be 60 percent, rather than the allowed 50 percent. The requirements have recently been adjusted to the current standards and it doesn't seem that there is any

Motion by Heilman with support from Boysen to reopen the public comment. All ayes.
MOTION CARRIED

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Mr. Schultz asked what the situation would be if they had repaired the structure of the deck and not increased it at all. Mr. Thompson explained that if the posts were staying in place and just the deck boards being replaced, it would be fine but it putting in new structure, footings, etc., then it is considered a new structure.

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

MOTION CARRIED

MOTION TO DENY
VARIANCE REQUEST
REGARDING LOT
COVERAGE

Motion by VanHouten with support from Boysen that we deny the variance request on the lot coverage due to there is nothing unique about it and granting it to allow 60% lot coverage when the max is 50 is a huge mistake. It was self-created because it would have been caught if they had gotten the permits. Roll Call Vote: VanHouten: yes; Heilman: yes; Boysen: yes.

Yes: 3, No: 0. MOTION CARRIED

MOTION TO DENY
VARIANCE REQUEST
FOR SETBACK
VARIANCE

Motion by Boysen with support from VanHouten that we deny the required setback variance and it has everything to do with the ordinance is clear and there was no practical difficulty found. Roll Call Vote: Boysen: yes; VanHouten: yes; Heilman: yes.

Yes: 3, No: 0. MOTION CARRIED

OLD BUSINESS

OLD BUSINESS:

Mr. VanHouten asked about staff members attending meetings. If they are there only as residents of the township, could they be listed as visitors rather than staff? This would show that they are not trying to exert influence on the proceedings as a board member. Discussion took place on how that could be handled in the future.

Mr. Thompson stated that any time he gets a permit application that is for a lakefront property, even if there is a site plan, he goes out to see the property. That is how the Wierenga issue was discovered.

PUBLIC COMMENT

PUBLIC COMMENT (limited to 3 minutes):

None

ADJOURNMENT

ADJOURNMENT:

Motion by Boysen with support from VanHouten to adjourn meeting at 7.06 PM. All ayes.

MOTION CARRIED.

Approved by: 
Ron Heilman, ZBA Secretary

Date: 12/15/2022

Respectfully submitted by:
Betsy Frigmanski, Recording Secretary
November 21, 2022