

<p style="text-align: center;"> YANKEE SPRINGS TOWNSHIP ZONING BOARD OF APPEALS MEETING <u>Tuesday, September 13, 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: right;"> <u><i>FINAL MINUTES</i></u> Page 1 of 8 ZBA Meeting September 13, 2022 </p>
<p>Meeting called to order at 6:00 PM by Jake Welch</p> <p>Roll Call: Present: Dave VanHouten, Ron Heilman, John Jerkatis, Jake Welch, John Frigmanski</p> <p>Staff Present: Sandy Marcukaitis, Rob Heethuis, Frank Fiala, Tom Mawson, Brad Williams</p> <p>Visitors: 15</p> <p>PLEDGE OF ALLEGIANCE</p>	<p style="text-align: right;">CALL TO ORDER</p> <p style="text-align: right;">ROLL CALL</p> <p style="text-align: right;">PLEDGE OF ALLEGIANCE</p>
<p>REPORTS FROM REPRESENTATIVES:</p> <p>Planning Commission: John Frigmanski: At the last meeting the ZBA variance form was reviewed and forwarded to the Board for their approval. A request from the Gun Lake Cocina for a zoning change was tabled as there is no need for it because the liquor license issue has to go through the Board of Trustees. Also discussed the M179 overlay setbacks and that will be further reviewed in detail at the next meeting</p> <p>Board of Trustees: Dave VanHouten, Board Trustee: Liquor license for the Mexican restaurant was reviewed and approved. The ZBA variance form was approved. Waiting for another quote for the fire hydrant so that it on hold right now. A lot of discussion took place in regard to the renovation project.</p>	<p style="text-align: right;">REPORTS FROM REPRESENTATIVES</p>
<p>INQUIRY ON CONFLICT OF INTEREST:</p> <p>Welch inquired if there are any conflict of interest with the board regarding tonight's request. There are none.</p>	<p style="text-align: right;">CONFLICT OF INTEREST</p>
<p>APPROVAL OF MINUTES:</p> <p><u><i>Motion by Heilman with support from VanHouten to approve the August 9, 2022 ZBA meeting minutes as presented.</i></u> All ayes. MOTION CARRIED</p>	<p style="text-align: right;">APPROVAL OF MINUTES</p>
<p>NEW BUSINESS:</p> <p>ZBA 22-09-015 PARCEL ID #08-16-205-024-00. 3287 Sandy Beach, Wayland MI 49348 A request by builder Jack Workman for property owner, Ryan and Kendra Craven, for variance relief from the setbacks established by section 12.4 <i>“Required Setbacks”</i>.</p> <p>The subject site is approximately .189 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 an accessory building that fails to meet the required setbacks.</p>	<p style="text-align: right;"> ZBA 22-09-15 PARCEL ID #08-16-205-024-00 Request by Jack Workman </p>

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

MOTION CARRIED

Mr. Workman explained that the old garage blew down in a storm and the request is to allow the same size building in the same spot. There is a well behind where the garage was located so they want to put it into the same space which is 28' from the road and 5' from the side lot line. The owner, Ryan Craven, said the new building will look much better and have eave troughs to keep the water from going on to the adjacent property.

An email was read from Brenda Goede (3301 Sandy Beach) expressing concerns about the water runoff.

The builder said they will be putting gutters on the building and hooking them into an underground drain tile to control the water runoff.

Lori VonSeggren (neighbor to the north) said that drainage is an issue with the subject home. She believes that the garage as staked out now looks significantly bigger than what was there in the past. She is concerned that more than 50% of the lot may be covered by solid surface. The Board explained that the only issue being considered tonight is the building of the garage and not the home itself. She stated that she had contacted PCI and had gotten no response.

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

MOTION CARRIED

Jake 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 VanHouten with support from Heilman to approve the variance request for

relief from the required 34' to a 28' setback based on #3 with existing setbacks from 0 to 60 this was a reasonable setback for what some of the others are in the area; #4 the proposed setbacks are similar to other properties in the general area, and #5 – it does not meet the established minimum but looking at the averages of other properties it is consistent with other setbacks in the general area.

MOTION MODIFIED TO INCLUDE:

Homeowner will provide gutters and downspouts to an underground drain out to the lake and also, #6, that it was not action of the homeowner but blown over in a windstorm. Roll Call Vote: Frigmanski: yes; Welch: yes; Jerkatis: yes; Heilman: yes; VanHouten: yes.

Yes: 5, No: 0. MOTION CARRIED

ZBA 22-09-017 PARCEL ID #08-16-200-008-00. 1305 Manitou Ln., Middleville, MI 49333

A request by property owner, Dean and Pam Hubbard, for variance relief from the setbacks established by section 12.4 "Required Setbacks".

The subject site is approximately .282 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 porch/entrance that fails to meet the required setbacks.

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

MOTION CARRIED

Dean Hubbard shared that their request is to build a 10 x 10 addition which allows main floor access to the home and the garage. The neighbors to the right were permitted a variance to add on to their porch. It would require a variance of the side setback to be 1' 4" to the base of the building. The overhangs planned are 8". If granted, the variance would be to the overhang and not to the foundation.

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. 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.

MOTION TO APPROVE
THE VARIANCE REQUEST

ZBA 22-09-017 Parcel ID 08-16-200-008-00
Request by Dean and Pam
Hubbard

PRACTICAL DIFFICULTY
STANDARDS

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 that we approve the plan and allow them the 1.4' proposed measurement to the overhang on the side setback based on #1- that the difficulty because of the lot shape to try to square that building and that covered overhang to make it look reasonable and to fit into the floor plan as you enter the house; also #3 that the existing setbacks on the adjacent lots are 0 to 6' and this is 1.4; and #5 that we're actually encroaching toward the easement and not a lot so it's not affecting somebody in that regard. Roll Call Vote: VanHouten: yes; Heilman: yes; Jerkatis: no; Welch: yes; Frigmanski: yes.

Yes: 4, No: 1. MOTION CARRIED

ZBA 22-09-018 PARCEL ID #08-16-005-002-00. 1731 Manitou Ln., Middleville, MI 49333. A request by property owner, Donald J. and Elizabeth L. Klein, for variance relief from the size requirements established by section 12.7 "Outbuildings".

The subject site is approximately 4.6 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 accessory building that fails to meet the maximum size requirements.

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

MOTION CARRIED

Don Klein has an existing pole barn on the property that is in bad shape and they would like to replace it with a new and larger pole barn. They have almost 5 acres of property and the building is not visible from the road or from the lake. Only one neighbor can generally see the pole barn and has no objection. The neighbors who have contiguous property have all signed letters that they don't object to the variance. It will not block anyone's view to the lake. The current building is 30 by 38 and they propose to put in 40 by 48 and raise the elevation approximately 12" to alleviate standing water around the building. They would also raise the height of the building by about six feet.

The residence on the property has been torn down and the owners plan to break ground on a new home next year. The property owner would have to obtain a building permit for the home before an outbuilding can be constructed.

Luke Miller (1940 Heritage Bay Dr) is in favor of allowing the new pole barn. It would be much nicer than looking at the current building.

The Planning Commission has been asked to review the rules regarding the size of outbuildings but the rule at this time is 1600 feet.

Three letters were read in support of the request: One from Luke Miller (1940 Heritage Bay

MOTION TO APPROVE
THE VARIANCE REQUEST

ZBA 22-09-018 PARCEL II
#08-16-005-002-00
Request by Donald and
Elizabeth Klein

**PRACTICAL DIFFICULT
STANDARDS**

Dr.), one from Jack Rosenberg (1777 N. Briggs Rd.), and one from Greg Oatley (1725 Manitou Lane). Steven Pitsch, Barlow Lake resident, also spoke in favor of the variance.

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

Jake 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. The Board commented that this type of request has been seen before and that the Planning Commission has been asked to review whether they would consider changing the ordinance. The current ordinance is 1600' and if the applicant wants a larger building he could wait to see if that is changed.

Motion by Welch with support from Heilman to reopen public hearing. All ayes. MOTION CARRIED

Applicant requested board to consider his request in light of the fact that he has an unusually large lot size for Residential Lake Front property.

Luke Miller commented that the Rosenberg request that was denied was a much smaller property.

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

Further board deliberations took place.

Motion by Heilman with support from Frigmanski that we deny based on the fact that we have no practical difficulties and that the ordinance requires that it's a 1600 square foot building. Discussion: It would also require that a building permit be issued for a home on

**MOTION TO DENY THE
VARIANCE REQUEST**

the property, but that is not part of this decision at this time. The decision has to be based on the current ordinance and the current zoning of the property. **Roll Call Vote:** *Welch: yes; Frigmanski: yes; VanHouten: yes; Jerkatis: no; Heilman: yes.*

Yes: 4, No: 1. MOTION CARRIED

ZBA 22-09-019 PARCEL ID #08-16-055-005-10. 935 Palmer Dr., Middleville, MI 49333

A request by property owner, Peter J. DeMann, for variance relief from the setbacks established by section 12.4 **“Required Setbacks”**.

ZBA 22-09-019 PARCEL II

#08-16-055-005-10

Request by Peter DeMann

The subject site is approximately .162 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 new single-family dwelling that fails to meet the required setbacks.

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

MOTION CARRIED

Mr. DeMann clarified that this is not new construction, it is an addition to his current home. The distance between the lake and the road is much shorter on the north side than the south side. The house was not built perpendicular to the road. His request is to allow building a three-season room in place of the existing deck on the home. The lot is small and Palmer Drive runs through the middle of the lot. The lake curves in more on the north side so the property line is over 6’ shorter on the north side than on the south side so this would make the lakeside setback 18’ on the north side and 24’ on the south side. The existing deck with the stairs sets closer to the lake than the requested three-season room.

Also wants to add a double stall garage on the road side of the house. He is requesting a setback of 8’2” on the road side and believes that to be similar to other homes on the road. The builder measured the homes nearby and came up with an average of 7’ off the road. Several homes are only 2’ to 3’ off the road. The homes average 15’ setback on the lake side.

Two letters in support of the request were read into the record: one from Paula and Richard Bruinsslot (955 Palmer Drive) and another from Rick Gannon (923 Palmer Drive).

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

MOTION CARRIED

Jake 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. The lot coverage percent is 27% which is very modest for the size of the lot.

Motion by VanHouten with support from Heilman to approve a variance request with lakeside setbacks of 18' on the north side and 24' on the south side based on #1, having the road bisect the property is very unusual; #3, this stays in line with the other setbacks in the area so not a problem there; and #5, setbacks on the adjacent lots are consistent and #6, he did not build the road and it does bisect his property. Discussion: Under #2, that the shoreline adjusting from one side to the other of his property impacting the setbacks could be included in the motion.

MOTION TO APPROVE THE VARIANCE REQUEST WITH REGARD TO LAKESIDE SETBACKS

MOTION RESTATED:

Motion by VanHouten with support from Heilman to approve a variance request with lakeside setbacks of 18' on the north side and 24' on the south side caused by the curvature of the lake based on #1, having the road bisect the property is very unusual; #3, this stays in line with the other setbacks in the area so not a problem there; and #5, setbacks on the adjacent lots is consistent and #6, he did not build the road and it does bisect his property. Roll Call Vote: VanHouten: yes; Heilman: yes; Jerkatis: yes; Welch: yes; Frigmanski: yes.

Yes: 5, No: 0. MOTION CARRIED

Motion by Heilman with support from VanHouten we approve the roadside setback and he is asking for a setback of 8' 2" from the road as traveled due to the absence of an established right of way proposed, and that's to the overhangs based on Practical Difficulty #1, unique circumstances of the lot being split by a road and he's only at 27% coverage; #2, the road makes it so that it's not a general or recurrent nature requiring a special ordinance; #3, the provision would deprive the applicant if we didn't approve it rights commonly enjoyed by other properties. I believe one of the gentlemen was going halfway down the road and the garages were closer to the road than this gentleman is proposing, #4, the variance would not be significantly detrimental to other properties since they are all pretty much the same; #5, when we talk about public safety secured, there's plenty of room in front of his place for a truck with trusses to come through and he has parking on the other side so he won't have cars blocking the roadway; and #6, the practical difficulty asserted is not totally self-created because the road happens to separate his property and limits what he can and can't do. Roll Call Vote: Frigmanski: yes; Welch: yes; Jerkatis: yes; Heilman: yes; VanHouten: yes.

MOTION TO APPROVE THE VARIANCE REQUEST WITH REGARD TO ROADSIDE SETBACKS

Yes: 5, No: 0. MOTION CARRIED

OLD BUSINESS:

OLD BUSINESS

Restated the request that the PC review the ordinance regarding the 1600 square feet limit for outbuildings and whether the percentage of the coverage of the lot would be a more appropriate measure.

PUBLIC COMMENT (limited to 3 minutes):

Sandy Marcukaitis: introduced Tom Mawson as the second alternate member to the ZBA.

Debra Grant: (10888 Shady Lane) She received an email from Sandra that gave the Practical Difficulty standards and she was asking for clarification on how many of the Practical Difficulty standards they use for their decision. She reviewed what some other townships have in the Muni code stating that either a certain number or all of the Practical Difficulty standards need to be met. She would appreciate clarification on how that is done. If anyone from the Board would like to contact her the number is 517-896-0950.

PUBLIC COMMENT

ADJOURNMENT:

Motion by Heilman with support from VanHouten to adjourn meeting at 7:55 PM. All ayes.

MOTION CARRIED.

Approved by: _____

Ron Heilman, ZBA Secretary

Date: _____

11/14/22

ADJOURNMENT

Respectfully submitted by:

Betsy Frigmanski, Recording Secretary

September 14, 2022