

<p style="text-align: center;"> YANKEE SPRINGS TOWNSHIP ZONING BOARD OF APPEALS <u>Tuesday, July 11, 2023</u> 6:00 PM Yankee Springs Township Hall 234 N. Briggs Rd., Middleville, MI 49333 FINAL MINUTES </p>	<p style="text-align: center;"> <u><i>FINAL MINUTES</i></u> Page 1 of 4 ZBA Meeting July 11, 2023 </p>
<p>Meeting called to order at 6:00 PM by John Frigmanski</p> <p>Roll Call: Dave VanHouten, Ron Heilman, John Frigmanski, Tom Mawson, Mike Boysen (All Present)</p> <p>Absent with Notice: Jake Welch</p> <p>Staff Present: Joe Shea, Rob Heethuis (attending as township resident), Sandy Marcukaitis, Brad Williams</p> <p>Visitors: 10</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: Mr. VanHouten gave the following updates:</p> <ul style="list-style-type: none"> • Passed budget for 23/24. • Reviewed and approved a new shed. • Insurance package for 23/24 was reviewed and approved. • Assessor’s contract was approved. • Poverty Exemption guidelines were approved for the following year. <p>Planning Commission: Mr. Frigmanski shared two requests that came to the PC:</p> <ul style="list-style-type: none"> • Grooter property on M179 came in and requested approval for two additional buildings that were included in their original plan and that was approved. • An individual on a one-acre lot zoned rural residential requested a variance to put a mobile home on the property for a home occupation and that was denied. 	<p>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>CONFLICT OF INTEREST</p>
<p>APPROVAL OF MINUTES:</p> <p><u><i>Motion by Heilman with support from Boysen to approve the minutes from May 9, 2023 meeting.</i></u> All ayes. MOTION CARRIED.</p>	<p>APPROVAL OF MINUTES</p>
<p>NEW BUSINESS:</p> <p>ZBA 23-06-10 Parcel ID: 16-120-005-00, 11066 Hastings Point Rd., Middleville, MI A request by property owner, Julie Fox, for relief from Section 3.8.1 (G) “Docks and other</p>	<p>ZBA 23-06-10 Parcel ID: 16-120-005-00 Request by Julie Fox</p>

Temporary Boat Shelters". The property is zoned GLRLF (Gun Lake Residential Lake Front). The property owner is requesting a variance to allow a permanent dock structure that extends from the shoreline ten feet over the lake. Alternatively, the property owner is requesting a smaller permanent dock structure, or one that is removable.

Correspondence was read into the record from the following:

Cara Schulte (11056 Hastings Point Rd): Has had issues with this project since it began and is not in favor of the variance being granted. She also pointed out that the structure goes over the property line by at least 4". She believes a removable structure would be the best long-term solution.

John Merchant (11076 Hastings Point Rd): He considers this a blatant violation and it should be removed and returned to original condition.

Sarah and D.R. Golding (11121 Hastings Point Rd): Expressed vehement objection to the allowance of this variance. The structure is in violation of the local ordinance and the EGLE permit that was issued.

Emil Przeklasa (11031 & 11136 Hastings Point Rd): Opposed the allowance of the variance. If allowed it would set a dangerous precedent.

EGLE (Department of Environment, Great Lakes and Energy): Violation notice addressed to Julie Fox. An inspection was conducted on June 1, 2023. At that time the Water Resources Division observed unauthorized activities including the installation of a new seawall and a deck measuring 10 feet in width on Gun Lake. EGLE advised that all unauthorized activities stop.

Ms. Fox said she had not received the violation letter from EGLE so a copy was provided to her.

Mr. Shea: The homeowner is asking for a variance to allow the structure, or approval to cut it into sections to make it removable.

This board is to address the township zoning ordinance, not the issue with EGLE.

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

Ms. Fox: She was told by her architect that this had gone before the Township board and been approved. When she found out there was an issue, she addressed it immediately with the architect and the Township. After review she talked with Joe Shea and explained that she thinks the architect was wrong and that it had not been approved. She instructed the builder to get an EGLE permit and that he should speak to Eric Thompson at PCI to make sure it was in order. When construction began, she requested her builder to post both permits (from EGLE and from PCI) and then discovered that her builder had not gotten the permit from PCI. She told the builder that he did need a permit from PCI as well. She then asked the township if Zack (the builder) could figure out a way to make the structure removeable, would it be allowed to stay. The township said yes, a removeable dock is allowed.

Mr. Shea: The owner had a previous ZBA case before and the builder thought that had been included in the variance request. The dock was not included or mentioned in any way at that ZBA meeting.

The Township does not grant dock permits. EGLE issues permits but they are subject to all

local requirements. The EGLE permit says they approved a 4' dock but the permit that was posted at the job site appears to have had the 4' changed by hand to 10.

Zach Denzel, West Michigan Seawall and Construction: Shared a site plan for removing all the docking to make it a removable dock. Each section will be cut into 8' sections that can be bolted together and would be able to be removed at the end of season. The 14 steel posts will be cut and removed from the ground. The steel dock will then sit on the bottomland like any aluminum dock on the lake. It would still be 10' wide rather than 4' wide.

Questions were asked by the Board and Mr. Denzel responded. Ms. Fox asked what sort of approval would be needed if the structure is redone as a removable structure. That is something that she will need to discuss with Mr. Shea, the Zoning Administrator.

Mr. Shea stated that it was not clear if there was a permit from EGLE for the seawall. He has been trying to get further communication from EGLE on whether they are still involved in the enforcement but is still waiting for a response. The township does not regulate the size of docks. That is up to EGLE and that's why they approved a 4' dock and not a 10' dock.

Mr. Frigmanski read the Practical Difficulty Standards and each standard was considered. The ZBA discussed the request as they went through each standard. The findings of the Zoning Administrator were reviewed for each standard.

- 1) Does strict compliance with the ordinance unreasonably prevent the owner from using the property for a permitted use? *No.*
- 2) Would strict compliance be "unnecessarily burdensome" to the property owner? *No.*
- 3) Is the alleged hardship due to some "unique" circumstance of the property that is different from other properties in the area? *No, it is not.*
- 4) Would granting the variance result in "substantial justice" to the property owner and neighboring property owners? *No, it doesn't affect the other property owners.*
- 5) Would granting the variance be more consistent with what has been granted to other property owners in similar situations? *No.*
- 6) Is the situation "self-created"? Is the Applicant seeking to build a structure in a location that fails to comply with the ordinance, rather than in a location that does comply? Or that is too large for the parcel, where a smaller structure would be in compliance? *Yes, it is self-created.*

Board deliberations took place. Mr. VanHouten read Section 3.8.1 of the Township Zoning Ordinance regarding the Purpose and Intent of the Gun Lake Residential Lake Front Zoning District.

Motion by Heilman with support from Boysen that we have them remove the permanent dock, platform frame and legs have to be removed as per 3.8.1 (G) as all structures must be disassembled during the winter months. Based on the six criteria, there was nothing that would allow the variance and we are denying the variance. Discussion: We need to state that the variance request is denied.

Motion restated as follows:

Motion by Heilman with support from Boysen that we deny the variance request based on 3.8.1 (G) which states that docks and other temporary boat shelters be dismantled during the winter months and may be assembled and placed within the water beyond the high-water line not in the winter months, and that it doesn't meet any of the six criteria to be permitted and the fact that we have a program with all four townships on the lake to be consistent on docks. Also we have them remove the permanent dock, platform frame and legs have to be removed.

Roll Call Vote: Boysen: yes; Mawson: yes; Frigmanski: yes; Van Houten: yes; Heilman: yes.

Yes: 5, No: 0. MOTION CARRIED

OLD BUSINESS:

Mr. Heilman inquired about how many people are taking the online course: Frigmanski and Heilman are taking it and Mawson has completed it. The class materials include information about meeting all of the practical difficulty tests. Mr. Heilman said this seems very stringent and would result in not allowing any variances to be approved. Is this a guideline or is it necessary to meet all six standards? This should be addressed with Attorney Catherine Kaufman and a decision made as to what should be included in the rules and procedures for clarification. Mr. Shea will contact her on that matter.

Mr. Frigmanski asked if everyone had a copy of the ZBA bylaws. He did not have one and just got it tonight from Ms. Marcukaitis so wants to make sure everyone has it. He asked Ms. Marcukaitis to see if there is a document for rules of procedure.

PUBLIC COMMENT (limited to 3 minutes):

Debbie Grant (1088 Shady Lane): She did a lot of research about her issue and learned that there are certain criteria that have to be met. She felt that when she tried to address these issues in her case that the ZBA and the attorney didn't seem to know anything about it which was frustrating for her. She is happy that the Board is learning about the criteria to be met and have Joe for his knowledge.

ADJOURNMENT:

Motion by Heilman with support from Mawson to adjourn meeting 7:07 PM. All ayes.
MOTION CARRIED.

Approved by: _____

For Heilman, ZBA Secretary

Date: _____

5/14/24

Respectfully submitted by:

Betsy Frigmanski, Recording Secretary

July 15, 2023

FINAL MINUTES

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OLD BUSINESS

PUBLIC COMMENT

ADJOURNMENT