

THORNAPPLE TOWNSHIP ZONING BOARD OF APPEAL

Regular Meeting, Monday May 24, 2021

6:00 P.M.

1. Call to Order:
 - A. The meeting was called to order by Chairman VerHey at 6:02 p.m. at the Thornapple Township Hall, 200 E. Main St. Middleville, MI 49333.
 - B. Present: Tim VerHey, Martin Wenger, Curt Campbell, Linda Gasper, Craig Stolsonburg. Also present: Catherine Getty, Amy Brown, Dave Becker, Diane VanderWerp, Patty Campbell and Josh Ross.
2. Approval of Agenda:
 - A. **MOTION** by Wenger, **SUPPORT** by Stolsonburg to approve the amended Agenda – change to the day listed from Tuesday to Monday, **MOTION CARRIED** with 5 yes voice votes.
3. Approval of Minutes: Chairman VerHey explained that there were a couple of clerical errors discovered in that the header had listed 2019 rather than 2020 and the adjournment motion being listed twice in lines 9 and 10.
 - A. **MOTION** by Gasper, **SUPPORT** by Campbell to approve the October 20, 2020 minutes with the clerical errors noted. **MOTION CARRIED** with 5 yes voice votes.
4. Officer Elections: Chairman VerHey explained that it was time to elect officers again and asked if anyone of the board was interested in making any changes. Chairman VerHey asked is anyone wanted to switch positions around. **MOTION** by Wenger, **SUPPORT** by Stolsonburg to re-elect the current slate of officers. **MOTION CARRIED** with 5 yes by roll call.
 - A. Officer's:
 - i. Chairperson – Tim VerHey
 - ii. Vice-Chairperson – Linda Gasper
 - iii. Secretary – Curt Campbell
5. Public Comments: (matters not on the agenda) None.
6. New Business: Stolsonburg stated that the electronic sign outside Red's looks nice. The board agreed. Gasper asked Getty if there is anything coming up with ordinances from the Planning Commission to the board that the ZBA may be seeing or not seeing anymore. Getty stated that there is some legislation currently being discussed regarding short term rentals that would supersede any local ordinance. Getty stated that Yankee Springs Township recently passed an ordinance regarding short term rentals. VerHey asked for clarification if it was a one room rental? Getty said it is usually the entire house. Getty explained that Airbnb has really grown over the recent years where

previously it was handled through a property management company. There are two in our area- one on Duncan Lake and one on the Thornapple river.

7. Public Hearings:

- A. ZBA File 114 – Appeal of Zoning Administrator’s Decision
-Joshua Ross, 6295 Noffke Dr. (front yard setback & accessory building closer to the road than the house)
- B. Staff introduction – Getty summarized the location of the address as the end of Noffke drive on Duncan Lake. She explained that the front yard set back requirement is 35 ft. The home sits 31.2 ft. from the front line and is considered a legal nonconforming lot. Ross is not asking to increase the nonconforming of the existing building, but rather wants to build an accessory building that is a variance of 9 ft. from the setback, which would be 26 ft. from the front line.
- C. VerHey explained the process that the ZBA was given the paperwork which Ross submitted to the township. It is the board’s job is to consider Ross’s request for variance and there is an existing regulation that says nobody should have a structure that is closer than 35 ft. closer to the road. The ZBA is supposed to start by thinking that we shouldn’t do this because if they didn’t then there wouldn’t be any uniformity and there wouldn’t be any regulation. However, if Ross can show there is an unusual situation, there is an unusual property situation or a reason he can’t comply, or other things of that nature then that is what the ZBA wants to hear.
- D. Explanation of the request for variance – Josh Ross introduced himself and gave his address. Explained that he has a small construction company and that while he had a small shed previously, he needed more space to store things and to be able to park his truck and trailer inside which is his main reason for wanting to build the pole barn as is laid out on the map. There is a very steep drop off down to the lake and he lives on a bend in the road. Explained that only he and his direct neighbor would be able to see it. He explained that it would only be 6 ft. closer than the current home. Those are the main reasons he is asking for the variance. Ross explained that the front door is on the side of the lot due to a previous owner splitting the lot. Ross explained that that he wants to be able to leave the truck and trailer connected rather than unhooking it each night to park his truck inside.

8. ZBA Comments:

- A. Questions from the board to Ross: Campbell asked for clarification on the photo included. Ross explained it is just an example of the color, but it will look more like just the left side of the picture. VerHey asked for the height of the roof – 25 ft 6 inches. Campbell asked how tall the overhead door would be. Ross replied

10 ft. Campbell asked about the height, and Ross stated that he would like have storage above so there would be a stairway inside.

B. Public Comment regarding the variance request:

OPENED AT: 6:13 pm

- i. VerHey asked Getty if she had received any calls or emails offering comment that needed to be shared. Getty replied that she had not.
- ii. Dave Becker at 7420 Noffke Dr.– Stated that if they were allowed to go 9 ft. further into the 35 ft. setback, would there be enough room for the side yard clearance? VerHey answered that there is no request for variance for the side yard clearance. Becker asked if it was allowed then wouldn't that allow other neighbors to do the same? VerHey explained that each request for a variance would need to come before the board. Becker understood there wasn't a domino effect. Gasper clarified that each person would have to come before the board and be granted a variance based on each situation and wouldn't necessarily be guaranteed. Becker explained that previously he took someone to court because they had bought a lot and put up a pole barn without a house. He stated he lost. That would be his only complaint that there should be conformity. He stated there are other houses that are within the 35 ft. setback.
- iii. Diane VanderWerp at 6895 Noffke Dr. – Asked if there will be a driveway to the new structure? Ross stated yes there would be a connection from the pole barn to the rest of the driveway.

CLOSED AT: 6:39 pm

- C. ZBA further comments: Campbell stated there have already been many variances on north Noffke to add a third stall to garage or otherwise extend an existing attached structure. The difference here is that the accessory building is unattached. Also, he didn't think anyone had a 10 ft. high garage door yet. Furthermore, the height of the pole barn would be higher than the existing roof lines. And this would be a pole barn closer to the street than a house which would be a first in the area. Wenger asked if he could push it back further and use a retaining wall. Ross said yes, this already has a 3 ft. retaining wall but to go back further would take a 6 ft to 9 ft. retaining wall which would be very expensive. Wenger asked Ross if he built it as a 24 by 24 ft building if he would still have a 10 ft. door? Ross said yes. Stolsonburg asked whether Ross had considered adding it to an existing house? Ross stated that he didn't know how he would do that because of the roof lines. Getty stated to VerHey that if Ross wanted to build a pole barn closer to the road than the house, it would mean the

Planning Commission would need to issue a special use permit. Gasper further explained that one thing the Planning Commission would look at when granting a special use permit is the design of the accessory building and how closely it would match the house. Ross explained that the future plans were to eventually reside the house, but that the current pole barn would have cedar shake vinyl siding that would match the current home’s cedar shake gables. Ross said he had even considered being willing to put vinyl siding on the front of the pole barn rather than using the steel siding in order to better match the house. Campbell asked Ross if he had a drawing of the home and the accessory building together? Ross replied no he didn’t. Campbell asked what the grade of the driveway will be. Ross said it would slope away from the building floor to match the current driveway.

D. Proposed Findings of Fact: VerHey explained that in order to approve a variance the board members would need to be able to answer yes to all the following questions.

1. Is the property subject to exceptional or extraordinary circumstances or conditions that do not apply generally to other properties in the same zoning district? Board Comments: Wenger stated that #1 fits, but other properties have the same issue.

ROLL CALL VOTE:	Wenger, Marty:	Yes
	Gasper, Linda:	Yes
	VerHey, Tim:	Yes
	Stolsonburg, Craig:	Yes
	Campbell, Curt:	Yes

2. The condition or situation of the specific piece of property for which the variance is sought is not of a general or recurrent nature? Board Comments: Campbell stated that a stand-alone accessory is unusual variance. Not everyone has a stand-alone building. Gasper stated that it doesn’t apply to the whole township but rather just to part of the lake’s geography. Getty explained that many on the lake have a drop off and the implications are that they too would be able to use this reason to build within the front set-back possibly. Campbell stated that there is also a flats area on the lake where the issue is building accessory buildings that block the view of the lake. Wenger commented that it is part of the cost of living on a lake, that there isn’t a lot of room for building. Gasper asked to what extent. VerHey said many, but not generally. Campbell said the lots are narrower and mostly they are 80 ft. wide.

ROLL CALL VOTE:	Wenger, Marty:	No
	Gasper, Linda:	No
	VerHey, Tim:	No
	Stolsonburg, Craig:	No
	Campbell, Curt:	No

3. Is a variance necessary for the preservation and enjoyment of a substantial property right, similar to the property rights possessed by other properties in the same zoning district and vicinity? Board Comments: The original home was split off the property, so the house appears to be turned, so Ross isn't able to add on to garage like others on the lake are able to do. Board Comments: VerHey stated that Ross is asking to build a 40 ft. long building, but most people don't need that. Campbell stated that he understood the purpose for the pole barn was commercial and that it would keep things out of sight. Wenger said that Ross's occupation doesn't really relate to the issue.

ROLL CALL VOTE:	Wenger, Marty:	No
	Gasper, Linda:	Yes
	VerHey, Tim:	No
	Stolsonburg, Craig:	No
	Campbell, Curt:	No

4. Will a variance not be significantly detrimental to adjacent properties and the surrounding neighborhoods? Board Comments: Stolsonburg said he didn't think this would be detrimental while Gasper she though it would be. Campbell agreed it would in that it opens the door to others to request a similar variance. Stolsonburg said it isn't really impacting neighbors, but Campbell said the 10 ft. doors would be seen by others.

ROLL CALL VOTE:	Wenger, Marty:	Yes
	Gasper, Linda:	Yes
	VerHey, Tim:	Yes
	Stolsonburg, Craig:	Yes
	Campbell, Curt:	No

5. Will a variance not impair the intent and purpose of the Zoning Ordinance requirement that is the subject of the variance request? Board Comments: Gasper stated that other garages have been built closer to

the road than the house. While Getty affirmed this, she clarified that it had not been done within the front yard set-back.

ROLL CALL VOTE:	Wenger, Marty:	No
	Gasper, Linda:	No
	VerHey, Tim:	No
	Stolsonburg, Craig:	No
	Campbell, Curt:	No

- Is the practical difficulty such that it was not self-created by any action by the applicant or their predecessors-in-title? Board Comments: VerHey stated it is a practical difficulty but Wenger also said that if Ross had not been asking for a 40 ft. long structure then it wouldn't be a problem. Wenger said the problem was the split by the predecessor.

ROLL CALL VOTE:	Wenger, Marty:	No
	Gasper, Linda:	No
	VerHey, Tim:	No
	Stolsonburg, Craig:	No
	Campbell, Curt:	No

- Will the requirement of the Zoning Ordinance at issue involve practical difficulty for the applicant or the property involved? Board Comments: Gasper stated that the only practical difficulty was that Ross couldn't come up with a plan to meet the ordinance and get what he wants. Wenger added that the additional expense of building a higher retaining wall was a difficulty. Campbell stated that a bigger retaining wall was a potential alternative, but for a lot of money. Getty added that there are other contractors living on Noffke drive which Getty has worked with in the past who have had to go off site with their work trailers and stored them in other locations. Gasper said they haven't been able to yes to them all. Getty agreed that conditional variances are difficult. Gasper asked if the board was in agreement on any? Campbell said question 6 was the closest.

ROLL CALL VOTE:	Wenger, Marty:	Yes
	Gasper, Linda:	Yes
	VerHey, Tim:	Yes
	Stolsonburg, Craig:	Yes
	Campbell, Curt:	Yes

- E. Decision: **MOTION** by VerHey, **SUPPORT** by Wenger to deny the variance for the reasons discussed above to file 114, Josh Ross. **MOTION CARRIED** with 5 yes roll call votes.
 - F. General Closing Comments: Ross asked about his door being on the side of the property. Getty stated that the front set-back is not contingent upon where the door is located but rather the home in relation to the road, regardless of the location of the door. Stolsonburg told Ross that he did a good job presenting his case to the board. Campbell agreed.
9. Adjournment: **MOTION** by Gasper, **SUPPORT** by Campbell to adjourn the meeting at 7:28 p.m. **MOTION CARRIED** with 5 yes voice votes.

Curt Campbell, Secretary

Amy Brown, Recording Secretary

Approved _____