



# Fruitland Township Zoning Board of Appeals Minutes of December 8, 2008

***CALLED TO ORDER:*** 6:31 p.m.

***PLEDGE OF ALLEGIANCE***

***PRESENT:*** Chairman John Warner, Board members Gary Bole, Clarence Gaertner, Brian Lernowich, and Eileen Stoffan.

***ALSO PRESENT:*** Zoning Administrator Sandel and three (3) interested parties.

***AGENDA:*** Motion by Clarence Gaertner, second from Gary Bole, ***ADOPTED***, to approve the December 8, 2008 Zoning Board of Appeals agenda.

***5 AYES***

***MINUTES:*** Motion by Gary Bole, second from Clarence Gaertner, ***ADOPTED***, to approve the September 8, 2008 Zoning Board of Appeals meeting minutes.

***5 AYES***

Chairman Warner explained the purpose and the function of the Zoning Board of Appeals.

***Correspondence:***

- Jeffrey and Nancy VanderBie, 2730 Orshal Road – E-mail received December 5, 2008; supports variance

***Public Hearing:***

2674 Orshal Road

61-06-133-100-0006-20

**Carol R. Jensen, homeowner**, requests a variance from the following article to build an accessory building on a parcel for which the maximum total accessory building size of a parcel 2.00 to 2.99 acres has been exceeded:

Article III, Section 3.08 G (2) which states that maximum total accessory building size for a parcel of 2.00 acres to 2.99 acres is 1,104 square feet.

***Public Hearing opened at 6:36 p.m.***

***Public Comment:***

Zoning Administrator Don Sandel stated that the variance request is strictly concerned with the total amount of accessory building space allowed under the ordinance.

Carol R. Jensen, 2674 Orshal Road – Stated that she owns 2 ½ acres and is requesting a variance to build a storage shed on her property. Her husband built a pole barn approximately 22 years ago to store cars, motors, etc. Mrs. Jensen stated that since her husband passed away she has been in the process of organizing and cleaning the property, and no longer has room for storing her car, lawnmower, snow blower, lawn equipment, and furniture. Mrs. Jensen would use the storage shed for storing her lawn equipment, etc. so that she may park her vehicle in her garage. The proposed storage building would be the same color as her home and barn. The storage building is not a “permanent” building as it rests on 2 x 4 planks and may be moved if necessary.

Carol Jensen stated that she understands that she does not meet the requirement of the ordinance stating “The total area for all accessory buildings shall not exceed the maximum floor areas noted below”, which is 1,104 square feet for a parcel of 2.00 to 2.99 acres. Mrs. Jensen stated that she questions the wording following, which states “except that in no case shall the total square footage of all accessory buildings exceed two thousand four hundred (2,400) square feet.” The total square footage of both accessory building would be less than 2,400 square feet.

Chairman Warner asked Zoning Administrator Sandel if a building is considered a building by definition if it does not have a permanent foundation. Administrator Sandel read the definition which states that a building is “an independent structure, either temporary or permanent, having a roof supported by columns, walls, or any other support used for the housing or storage of persons, animals or property, or carrying on business activities.”

Kathy Nearanz, 3065 Johnson Drive- stated that although she is not a neighbor of Carol Jensen, she empathizes with her situation and the loss of a loved one. However, as a resident she feels that if we set rules for our township, she doesn’t agree with passing a variance that will make a parcel even more nonconforming.

***Public Hearing closed at 6:57 p.m.***

***Board Comments:***

Board member Bole asked Carol Jensen if the closest neighbor to the north has expressed any concerns regarding the storage shed as it would be closest to their property line. Mrs. Jensen stated that she feels they would support the proposed building as it would allow her to keep her property more organized.

Board member Lernowich stated that the Township has been in this position before and he feels it has to be denied as we would be setting precedence.

Board member Gaertner stated that when the purpose of the Zoning Board of Appeals was read, it states “under certain unique and unusual circumstances”. Board member Gaertner feels probably 75% of Fruitland Township residents would like to have more storage room than they have and the applicant already has a nonconforming building that is larger than what the ordinance allows.

Board member Stoffan stated that it is the homeowner’s own property contained in the storage area, in essence creating own hardship. There are several aspects of the variance request that board member Stoffan finds compelling: 1) It is a small storage shed typically used for storing garden tools, 2) the storage shed would be closer to the home, 3) the homeowner is a woman living alone.

Chairman Warner asked the homeowner if she would consider selling any of the old vehicles as it was her husband's hobby and not hers in order to create more space. Mrs. Jensen stated that she will not be selling any of the vehicles, but may consider selling some of the motors, parts, etc. in the future.

The Zoning Board of Appeals members read through the Variance Decision Checklist.

**Motion by Clarence Gaertner, second from Brian Lernowich, *ADOPTED*, to deny variance request as submitted by Carol R. Jensen, 2674 Orshal Road, parcel #61-06-133-100-0006-20 due to Article III, Section 3.08 G (2), which states that maximum total accessory building size for a parcel of 2.00 acres to 2.99 acres is 1,104 square feet.**

***Roll Call: Bole – NAY, Gaertner – AYE, Stoffan – NAY, Lernowich – AYE, and WARNER – AYE.***

**3 AYES, 2 NAYS**

Chairman Warner informed the applicant that she has up to 30 days to appeal in Circuit Court the denial of her variance request.

Gary Bole stated that he has received a request from Supervisor Sam St. Amour to move the starting time of future Zoning Board of Appeals meetings to 7:00 PM, rather than the current starting time of 6:30 PM in order to have all meeting times uniform. Recording Secretary Becky Dahl stated that a change in the scheduled meeting time would be very inconvenient for her, but would respect the board's decision. The Zoning Board of Appeals members stated for the record that they would support the decision to move the meeting time to 7:00 PM.

Brian Lernowich reported that a new Enabling Act has been passed, and he will provide more information as it becomes available to the Planning Commission

Chairman Warner stated that Becky had supplied registration forms for an upcoming training workshop for each ZBA board member. Becky would need to receive completed registration forms from interested board members by tomorrow at the latest, as it will need to go before the Township Board for approval of registration fees.

**Motion by Gary Bole, second from Clarence Gaertner, *ADOPTED* to adjourn the December 8, 2008 Zoning Board of Appeals meeting at 7:06 p.m.**

**5 AYES**

Respectfully Submitted,

Rebecca Dahl  
Recording Secretary