



# Fruitland Township Zoning Board of Appeals Minutes of July 12, 2010

***CALLED TO ORDER:*** 7:12 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, Steve Seeger (applicant), Matt DeRose (applicant), and three (3) interested parties

***AGENDA:*** Motion by Gary Bole, second from Clarence Gaertner, ***ADOPTED***, to approve the July 12, 2010 Zoning Board of Appeals agenda. ***5 AYES***

***MINUTES:*** Motion by Gary Bole, second from Eileen Stoffan, ***ADOPTED***, to approve the April 12, 2010 Zoning Board of Appeals meeting minutes as presented. ***5 AYES***

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

***PUBLIC HEARING:***

6840 South Shore Drive

61-06-012-300-0028-00

**DeRose Builders Inc., applicant for Richard and Mary Smies, homeowners,** request a variance from the following article for the construction of a 12' x 12' accessory building:

Article III, Section 3.31D, Rear (Shoreline View Protection). *For parcels on White Lake and Duck Lake if there are existing principal buildings on adjacent lots within two hundred (200) feet on each side of a proposed building location, a proposed building or structure may be located the same distance from the ordinary high water mark as the average distance from the principal building located within two hundred (200) feet on each side from the proposed structure. If there is a vacant waterfront lot within two hundred (200) feet, the one hundred 100 foot setback shall be used for averaging. The building shall not be located closer than one hundred (100) foot from the ordinary high water mark.*

***Correspondence:*** None

***Public Hearing opened at 7:20 p.m.***

Zoning Administrator Sandel explained that this is a very small structure and there are others in this area.

Matt DeRose from DeRose Builders for Richard and Mary Smies stated that lots on both sides of the Smies have accessory buildings so if the variance were to be approved it would not be setting precedence. To meet zoning it would have to be up on the hill which would defeat the purpose of being able to store lawn chairs, etc.

***Public Comment:***

Dr. Leland Holly, 6820 South Shore Drive – stated he supports the variance request; however, would not approve of plumbing for a restroom.

***Public Hearing closed at 7:35 p.m.***

***Board Comments:***

Board member Bole stated he has no problem with request as long as it is used for storage only.  
Board member Stoffan stated she is in favor of variance request.  
Board member Lernowich stated this is a unique situation and he has no problem with request.

The Board reviewed the variance decision checklist.

Motion by Clarence Gaertner, second from Gary Bole, ***ADOPTED***, to approve the variance request for parcel number 61-06-119-100-0006-00 as presented and to be used for storage only.

***Roll Call: Lernowich – AYE, Stoffan – AYE, Gaertner – AYE, Bole – AYE, and Warner – AYE. 5 AYES***

Chairman Warner informed Matt DeRose from DeRose Builders, that he has 180 days to begin the project.

*4791 Duck Lake Road*

*61-06-120-400-0005-30*

**Steve and Tracy Seeger, homeowners**, request a variance from the following article for the construction of a roof over the existing front porch:

Article VI, Section 6.04, Site Development Standards. *No main building or principle structure, nor the enlargement of any main building or principle structure, shall be hereafter erected unless the following requirements are met and maintained in connection with such building, structure, or enlargement. One-hundred (100) feet on arterial streets and fifty (50) feet on residential streets or less if the average setback requirements apply.*

***Correspondence:*** None

***Public Hearing opened at 7:40 p.m.***

Steve Seeger, homeowner, explains they have an existing deck they would like to cover to make a formal entrance and for when the weather is inclement. The deck used to be covered with an awning which was removed approximately ten (10) years ago. He said the deck is 8' X 12' now, however; he would like to cut down a little to a 6' X 10'.

***Public Hearing closed at 7:50 p.m.***

***Board Comments:***

Board member Stoffan states she feels this would improve the home site.

The Board reviewed the variance decision checklist.

Motion by Eileen Stoffan, second from Brian Lernowich, ***FAILED***, to grant variance as submitted to Steve and Tracy Seeger, 4791 Duck Lake Road, parcel #61-06-120-400-0005-30, from Article VI, Section 6.04, Site Development Standards.

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

***2 AYES***

***3 NAY***

**DISCUSSION**

Board Member Bole voted no because if the variance is approved as submitted the deck would remain 8' X 12' and the applicant said he wanted to cut it down some. The motion needs to reflect what size deck is being covered.

Motion by Gary Bole, second from Brian Lernowich, ***ADOPTED***, to suspend rules and allow the applicant to speak.

***5 AYES***

Steve Seeger explained that when he considered going smaller it was for two (2) reasons, 1) to meet the average of the neighbors and then he wouldn't have needed a variance and 2) that he would be willing to go smaller if that was the only way they could be granted the variance. He and Tracy would like to keep it the 8' X 12' size it is now if possible.

Motion by Gary Bole, second from Brian Lernowich, ***ADOPTED***, to return to regular session.

***5 AYES***

**DISCUSSION**

Consensus was to allow a roof over the existing 8' X 12' deck and to have that made part of the motion.

Motion by Gary Bole, second from Eileen Stoffan, **ADOPTED**, to approve the variance request for parcel number 61-06-120-400-0005-30 for a roof over an existing 8' X 12' deck.

**5 AYES**

Chairman Warner informed Steve Seeger, homeowner, that he has 180 days to begin the project.

**OTHER BUSINESS:**

Zoning Administrator Don Sandel read the definition below of Accessory Building to the board members and asks them for an interpretation of what they consider a common wall.

SECTION 2.02            DEFINITIONS – A

ACCESSORY BUILDING

A building or portion of a building subordinate to a main building on the same lot occupied by or devoted exclusively to an accessory use. When an accessory building is attached to a main building in a substantial manner, such as a common wall or roof, the accessory building shall be considered a part of the main building.

Consensus is that it is a wall common to both buildings not a wall attaching the buildings.

Motion by Eileen Stoffan, second from Gary Bole, **ADOPTED**, to interpret the language of Section 2.02 regarding Accessory Buildings to mean a common wall is one that creates a shared interior wall.

**ADJOURNMENT**

Motion by Gary Bole, second from Clarence Gaertner, **ADOPTED** to adjourn the July 12, 2010 Zoning Board of Appeals meeting at 8:10 p.m.

**5 AYES**

Respectfully Submitted,

Sally Garvey  
Recording Secretary