



Fruitland Township  
White River Light Station Museum

# Fruitland Township Zoning Board of Appeals Minutes of July 11, 2011

***CALLED TO ORDER:*** 7:00 p.m.

***PLEDGE OF ALLEGIANCE***

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

***ALSO PRESENT:*** Zoning Administrator Sandel, Recording Secretary Sally Dion, Stephen Nagengast (applicant), J. Gilbert Norwick (applicant) and six (6) interested parties.

***AGENDA:*** Motion by Eileen Stoffan, second from Clarence Gaertner, ***ADOPTED***, to approve the July 11, 2011 Zoning Board of Appeals agenda. ***5 AYES***

***NOMINATIONS/ELECTIONS:*** Motion by Clarence Gaertner, second from Penny Larson, ***ADOPTED***, to nominate and re-elect John Warner as Chairperson, Clarence Gaertner as Vice Chairperson and Eileen Stoffan as Secretary for the Zoning Board of Appeals year of April 2011 to April 2012.  
***Roll Call: Stoffan – AYE, Lernowich – AYE, Larson – AYE, Gaertner – AYE, and Warner – AYE. 5 AYES***

***MINUTES:*** Motion by Penny Larson, second from Brian Lernowich, ***ADOPTED***, to accept the December 13, 2010 Zoning Board of Appeals as presented. ***5 AYES***

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

***CORRESPONDENCE:***

None

**PUBLIC HEARINGS:**

3897 Scenic Drive

61-06-024-400-0014-00

**Stephen B. Nagengast**, request an appeal of the Zoning Administrator's decision to approve a zoning application on the basis of a fence installation westward of the bluff as submitted by Roger Sorokin, homeowner, according to the following article:

*Article XIX, Section 19.07 A, which states that appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer, department or board of the Township, or bureau of the state or local unit of government. In addition, a variance in the zoning ordinance may be applied for and granted under section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, and as provided under this act. The zoning board of appeals shall state the grounds of any determination made by the board. Applications for appeals shall be filed within five (5) days after the date of the decision which is the basis of the appeal. The appellant must file with the Zoning Administrator a notice of appeal specifying the nature and grounds for the appeal. The Zoning Administrator shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.*

**Public Hearing opened at 7:05 p.m.**

Stephen and Mary Nagengast, 3905 Scenic Drive, state that they fully support the proposed fence that goes to the East but not to the West. They believe the following: fencing is a structure and if allowed westerly of the bluff is in conflict with the Lake Michigan Shoreline District, fencing down the bluff and on the beach can have negative outcomes such as topographical changes, kill existing vegetation, especially dune grass, by changing and creating new sand formations, will de-beautify the lakeshore by impacting its natural beauty and character, could bring about negative financial outcomes relative to erosion and home values, that fencing has no ecological basis.

Chairperson Warner states he disagrees that there is a chance of negative impact to the dunes; however, he does believe the graphic in the existing ordinance needs to be review for possible amendment to read the fence is only allowed to the Ordinary High Water Mark. He disagrees a fence is a structure from an engineer standpoint.

Roger and Barbara Sorokin, 3897 Scenic Drive, state they want to mark their boundary because there are several persons using their beach, until he put in a stake anyone using the Nagengast stairs to the beach were on his property, almost as soon as they step off the stairs if they do not immediately go to the North they are on the Sorokin property. They thought a snow fence would be less imposing and it is allowed by the DEQ without a permit.

Chairperson Warner asks Mr. and Mrs. Sorokin if they are willing to do another type of fence, maybe something more attractive or if they would be maybe willing to only stake the property. Mr. and Mrs. Sorokin said no they want a fence of some type.

**Public Comment:**

- Jane Gardner, 5625 Murray Road, opposed.

Mr. Sorokin states he believes the DEQ has thoroughly investigated this and they allow snow fences.

Mr. Nagengast admits that yes in the past they may have used the Sorokin beach just as the Sorokin's use the beach to the South of them; however, since the stake has been put in they have honored it.

***Public Hearing closed at 8:04 p.m.***

***Discussion***

Chairperson Warner asks the Board Members to review the language and graphic in the Lake Michigan Shoreline District regarding where a fence can be placed.

Zoning Administrator Sandel explains his decision was based on the following:

- Article VIa Lake Michigan Shoreline District, Section 6.04a (7) reads: On Lakefront lots, no fence, wall, hedge, berm or screen shall be higher than three (3) feet in height between the shoreline and the lakeside of the home as measured perpendicular to the side lot line nearest the lakeside. On lakefront lots that have no principal building the height of a fence, wall, hedge, berm or screen may not exceed three (3) feet.
- Article II Definitions, Section 2.07 Definitions – F, Fence reads: A barrier, partition, wall, structure or gate erected as a dividing structure, barrier or enclosure.

The proposed fence will not be higher than three (3) feet and he would consider a fence a barrier not a structure.

***Board Member Comments:***

- Brian Lernowich believes the fence will impact the shoreline.
- Eileen Stoffan states we are only here tonight to determine if Mr. Sandel's approval was correct according to the ordinance.
- Penny Larson states the definition for fence does state that a fence is a structure and that Article VIa Lake Michigan Shoreline District, Section 6.04a (4a) reads: No structures or buildings shall be built or installed westerly of the bluff line except for wooden stairs and platforms less than one hundred fifty (150) sq. ft. in surface area which provide beach access and comply with the requirements of Michigan Law and the Department of Environmental Quality (DEQ). All such Items (including stairs and platforms) shall be approved by the Zoning Administrator.

Motion by Clarence Gaertner, second from Eileen Stoffan, ***ADOPTED***, to agree with Zoning Administrator Sandel's decision regarding proposed fence to be installed westerly of the bluff.

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

***3 AYES 2 NAYS***

*Vacant Parcel – W. Michillinda Road*

*61-06-108-300-0002-00*

**J. Gilbert Norwick, applicant,** requests a variance from the following article for the construction of a 32’ X 60’ Accessory Building to be used in connection with an Agricultural use on a vacant parcel in the Rural Residential (RR) with Agricultural Overlay (AG) District less than 200’ from a lot line:

*Article IVa, Section 4.05a 2, which states that for agricultural uses and Intensive Livestock Operations, the minimum lot area shall be forty (40) acres, and all buildings used in connection with such operations shall be located not less than 200 feet from any lot line.*

***Public Hearing opened at 8:20 p.m.***

Mr. Norwick states he needs a place for his farm equipment. His insurance company will no longer insure them if they are not in a building. This parcel is located in the Agricultural Overlay District which requires an Agricultural Building to be located 200’ from any lot line. He would like a place less visible from the road and the place he proposes to construct it would require less excavation; however, it would not meet the 200’ setback requirement from all lot lines.

***Public Comment:***

None

***Public Hearing closed at 8:30 p.m.***

***Board Comments:***

Consensus is that even though there is no hardship that the proposed location probably would work the best and as long as there were not going to be animals/livestock and he is willing to construct the structure at least 125’ from the East property line the variance could be approved.

Motion by Clarence Gaertner II, second from Brian Lernowich, ***ADOPTED***, to grant variance with the exception that the structure must be 125’ from the East property line and that not animals/livestock will be allowed to be housed in such building.

***Roll Call: Gaertner – AYE, Larson – NAY, Lernowich – AYE, Stoffan – AYE, and Warner - AYE***

**4 AYES 1 NAYS**

***ADJOURNMENT***

Motion by Eileen Stoffan, second from Clarence Gaertner II, ***ADOPTED*** to adjourn the July 11, 2011 Zoning Board of Appeals meeting at 9:05 p.m. **5 AYES**

Respectfully Submitted,

Sally Dion  
Recording Secretary