



Fruitland Township  
White River Light Station Museum

# Fruitland Township Zoning Board of Appeals Minutes of January 13, 2014

***CALLED TO ORDER:*** 6:00 p.m.

***PLEDGE OF ALLEGIANCE***

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

***NOT PRESENT:*** Zoning Administrator Sandel

***ALSO PRESENT:*** Recording Secretary Sally Dion and 8 interested parties.

***AGENDA:*** Motion by Brian Lernowich, second from Eileen Stoffan, ***ADOPTED***, to accept the January 13, 2014 Zoning Board of Appeals agenda as written.  
***5 AYES***

***MINUTES:*** Motion by Penny Larson, second from Judy Marcinkowski, ***ADOPTED***, to accept the December 9, 2013 Zoning Board of Appeals minutes as written.  
***5 AYES***

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

**5715 Scenic Drive**

**61-06-012-300-0012-00**

**Norman Dodds Architect, on behalf of Michael B/Lisa K Byam, homeowners,** requests a variance from the following articles for the construction of a single family dwelling in the Inland Lakes District:

Article VIIIa, Inland Lakes District, Section 8.02a Site Development Standards, (1) Rear Yard Setback.  
Article III, General Provisions, Section 3.31 Average Setback Lines, (D).

***Public Hearing opened at 6:05 p.m.***

Mr. Michael Byam introduced Norman Dodds and Westshore Consulting that are here on their behalf.

Mr. Norman Dodds explained the existing house is at 75' from the Ordinary High Water mark, they are asking for a 50' setback, all forward of the 75' will be one story.

Mr. Steve Vallier, Westshore Consulting explains this parcel is larger than currently required in this zoning district both in width and minimum size. He provided a Shoreline Exhibit indicating homes in the immediate vicinity are setback 50' or less from the Ordinary High Water mark and a Topographic plan indicating

buildable area is diminished by 41%. It was also referenced that the proposed lot coverage is 15% less than allowed. He believes shoreline protection is covered with the proposed plan; view will not be obstructed in any way. He believes the exhibits will show why they believe all of the variance conditions are met according to Section 19.08.

Mr. Michael Byam questions what the front, rear and side setbacks would be seeing this parcel is accessed by an easement which he would interpret as a private street because no part of the property touches Scenic Drive. The ordinance states a front setback on a residential street can be 50'. Zoning Administrator Sandel advised them this was public access; they found otherwise and provided a copy of a Warranty Deed, Schedule "A" registered with the Muskegon County Register of Deeds, Liber 1352, Page 51.

Board Member Lernowich states his home was built approximately 28 years ago and the 100' setback was adhered to, he believes ordinances have been put into place for a reason and need to be adhered to.

Chairperson Warner believes a home could be built without encroachment of any required setback.

Board Member Stoffan asked if the proposed home was being built on the same footprint, existing foundation. Mr. Steve Vallier stated no, that was not an option. She went on to ask if building the home as proposed means no damage to the critical dune. Mr. Steve Vallier stated that is correct. She stated she does not believe it should matter when existing home were built, they are already there.

Mr. Norman Dodds asked the board if they would interpret tonight if this would fall under a private street.

Chairperson Warner advised no that would have to be a separate hearing; we are dealing with the lake side which is the rear setback of a parcel so the front setback does not pertain to this variance request.

Board Member Stoffan asked what approvals they have. Mr. Norman Dodds advised they have DEQ Permit, Soil Erosion Permit Assurance Letter and Septic Permit.

Chairperson Warner doesn't believe this project has a lot to do as far as view goes; it is the encroachment on the lake. He believes approving this variance would be setting precedence.

***Public Comment:***

1. **Joseph Dermody, 7092 Starboard Drive**, stated before tonight he didn't realize they were requesting to demolish existing home and rebuild, he almost threw the notice away with the address being on Scenic Drive, then they found it was right below their condo, he explains this is fragile environment, his view may be obstructed, asks if this is the only meeting, he would like to take the information from tonight to other condo owners, can they build outside the existing footprint.

Chairperson Warner explains this is the only meeting; a decision will be made tonight to either grant or deny the variance request as submitted.

2. **Bill Carlston, 1768 Bayview, Nexes Realty**, he sold this parcel to the Byam's and encourages the board to approve the variance as requested. It will greatly enhance values for the township.

***Public Hearing closed at 7:22 p.m.***

***Board Comments:***

Board Member Lernowich states he agrees this is a setback issue and the 100' setback needs to be held.

Board Member Stoffan loves the plans, she is not concerned about these plans because they will not be disrupting the dune, all along White Lake are houses right up to seawalls, no one is going to build around this parcel.

Board Member Larson concurs with Board Member Stoffan, also stated she appreciated the DEQ Permit being in the packet, likes the idea of the part of the house proposed between the existing 75' setback and 50' setback only being one story.

Board Member Marcinkowski states she does not like to approve variances this close to the water, however, there are closer homes in both directions.

Chairperson Warner states again he believes a house could be redesigned to be built in the existing footprint. He feels the DEQ Permit is a moot point because the plan in no way disturbs the dune.

Motion by Penny Larson, second from Eileen Stoffan, **ADOPTED**, to **GRANT** the variance from Article VIIIa Inland Lakes District, Section 8.02a Site Development Standards, (1) Rear Yard Setback and Article III, General Provisions, Section 3.31 Average Setback Lines, (D) as requested.  
**Roll Call Vote: Stoffan-AYE, Lernowich-NAY, Larson-AYE, Marcinkowski-AYE, Warner-NAY**

Chairman Warner informed that they have 180 days to begin the project.

**ADJOURNMENT**

Motion by Penny Larson, second from Eileen Stoffan, **ADOPTED** to adjourn the January 14, 2014 Zoning Board of Appeals meeting at 7:50 p.m.  
**5 AYES**

Respectfully Submitted,  
Sally Dion  
Recording Secretary