



# Fruitland Township Zoning Board of Appeals Minutes of January 14, 2019

**CALLED TO ORDER:** 6:00p.m. by Recording Secretary Dion.

**PLEDGE OF ALLEGIANCE**

**PRESENT:** Chairperson Marcinkowski, Board members Cindy Campeau, John Ruck and John Warner.

**NOT PRESENT:** Board member Eileen Stoffan.

**ALSO PRESENT:** Zoning Administrator Jensen, Recording Secretary Sally Dion and 5 interested parties.

**AGENDA:** Motion by John Warner, second from Cindy Campeau, **ADOPTED**, to accept the January 14, 2019 Zoning Board of Appeals agenda as written.

**4 AYES**

**MINUTES:** Motion by John Ruck, second from Cindy Campeau, **ADOPTED**, to amend the November 13, 2018 Zoning Board of Appeals minutes, NOT PRESENT, to correct Chairperson Judy Marcinkowski name from Marcinkowski and accept as amended.

**4 AYES**

Chairperson Marcinkowski explained the purpose and function of the Zoning Board of Appeals.

**3453 Scenic Drive**

**61-06-130-300-0003-00**

**Applicants Kevin C. and Lori D. Rahrig, 3453 Scenic Drive, Muskegon, Michigan** requests a variance to construct a new single-family dwelling in the Lake Michigan Shoreline Zoning District from the following article: **Article VIa Lake Michigan Shoreline District, Section 6.04a Site Development Standards – Rear Yard Setback and Article III, General Provisions, Section 3.31 Average Setback Lines, (E.) Lake Michigan Shoreline Setback (pursuant to section 19.03(C) of the Zoning Ordinance).**

**Public Hearing Opened 6:05 p.m.**

Applicant Kevin C. Rahrig, 0-2098 Leonard Road, Grand Rapids, MI 49534, stated he and Lori purchased parcel 61-06-130-300-0003-00, 3453 Scenic Road, Muskegon, MI 49445 approximately 2 ½ years ago. He is originally from Muskegon and would like to come back to the Muskegon area. In filing for Zoning Compliance, they hit a roadblock, with the rear setback, thence the reason for the variance request. He stated neighbors to the North and South have provided documentation within the packet supporting the proposed project.

Joel Terpstra, Managing Member of 56 West Homes & Design LLC, 0-455 Lake Michigan Drive, Suite #23, Grand Rapids, MI 49534, is the Builder for the proposed project. They feel that the property to the South being that it is a non-conforming parcel in the sense it is within the 100' setback off from Scenic Dr and the actual structure on the property is on the lot line they feel the averaging really skews where the proposed home can be placed and creates a hardship. They are not asking to go in front of any neighbors. The Zoning Compliance Application was submitted in July 2018. Zoning Administrator Jensen then advised that a DEQ permit was required. The DEQ permit was received in November 2018. Upon review of the site plan Zoning Administrator Jensen advised that the proposed location did not meet the average rear setback. Because of the width of the lot they are restricted in the design of the home. Because of this they are proposing the garage closer to Scenic Drive and building the house part back towards the lake which is pretty common in building. Joel believes having to use the averaging and the proposed location having to be moved further back close to Scenic Drive, they won't be able to have the garage where it is at which will then put it closer to the structure on the South side which would mean they would have to clear quite a few trees. As a builder with the structure on the South side being on the lot line and then the proposed house being 10' from that with a 12' to 13' foot sidewall and roof pitch it will create almost a 20' box shadowing their house and they don't want to do that. They do not want to hurt their neighbors view as well as they would like to be in line with homes to the North.

Board Member Warner questioned the gross exceedance of the average setback line. He asked if anyone reviewed the Ordinances and realized how extreme it was.

Joel stated he believes the structures within 200' to the North and the two structures to the South were to be used for averaging if that was true it would only put them 17' to close to the average.

Board Member Warner cited what Section 3.31 Average Setback Lines, Lake Michigan Shoreline Setback. states ... 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 top of bluff as the average distance from the principal building located within two hundred (200) feet on each side from the proposed structure... He then continued on to say that according to the Zoning Board of Appeals Information provided by the applicants if the request is not granted the proposed home would be encroaching on the privacy of the neighbors to the south. If the variance is granted the proposed home will be encroaching on the privacy of the neighbors to the north, however, if moved back to the average setback line it would not encroach on either neighbor.

Kevin C. Rahrig stated that the home they purchased which has now been demolished was located close to where the proposed garage is showing. They wanted to keep the same relative footprint. The South neighbors did not want barriers taken down, they wanted the house where it was and then moving it forward was okay. The North neighbors didn't want certain views they have to be blocked. The challenge is when the South neighbors sell and if new owners decide to rebuild and move up with the ordinance as it reads today will block our view of the lake.

Board Member Warner stated no one is entitled to a view, legally, except between your own property lines,

not across someone else's property.

Kevin C. Rahrig stated they are trying to be good neighbors.

Board Member Warner stated he understands that, however, you can't put that down as a reason for a variance.

Kevin C. Rahrig went on to say they would have to replace the septic system drainage field and sewer system tanks which were placed in 2008, there is a shed on the property, and they would have to tear out a lot more trees. With the angle of the property the house located to the South it is either right on or over the property line. If they are required to move back, they will be encroaching on their privacy.

***Public Comment:***

- Ed Bruun, 3461 Scenic Drive, stated he is the first neighbor to the North, he has walked the property stakes, he did not find any view or encroachment problems, supports.

Chairperson Marcinkowski asked if the shed was staying after the new home is built.

Kevin C. Rahrig stated that yes it will, they would be putting new siding and roof on it to match the house.

Chairperson Marcinkowski asked about the drawings, she said she there are three and they all have different numbers on them. She questions which one should they be using?

Joel Terpstra stated the one indicating 140.5 from the bluff to the proposed house is the one that was submitted with the Zoning Compliance Application and was denied according to.

Chairperson Marcinkowski asks Zoning Administrator Jensen for his opinion.

Zoning Administrator Jensen verified he used the site plan received December 7, 2018 to figure the average setback. He referenced Article VIa Lake Michigan Shoreline District, Section 6.04a Site Development Standards, "Rear Yard Setback/Lakefront Lot - See General Provisions Average Setback Lines" and Article III, General Provisions, Section 3.31 Average Setback Lines. According to these Articles and Sections the plan submitted had to be denied.

***Correspondence:***

- Edward E. & Mary Elizabeth Bruun, 3461 Scenic Drive, supports.
- Robert A. & Susan M. Van Herweg, 3447 Scenic Drive, supports.

***Public Hearing Closed 6:38 p.m.***

***Board Comments:***

Board Member Campeau stated she does not believe views, moving septic/drain field or removing trees are hardships. These are all items that should be expected when building.

Review standards for variances were reviewed.

Motion by John Ruck, second from John Warner, **FAILED**, to **GRANT**, the variance as requested by Applicants Kevin C. and Lori D. Rahrig, 3453 Scenic Drive, Muskegon, Michigan requests a variance to construct a new single-family dwelling in the Lake Michigan Shoreline Zoning District from the following article: Article VIa Lake Michigan Shoreline District, Section 6.04a Site Development Standards – Rear Yard Setback and Article III, General Provisions, Section 3.31 Average Setback Lines, (E.) Lake Michigan Shoreline Setback (pursuant to section 19.03(C) of the Zoning Ordinance) for parcel 61-06-130-300-0003-00, 3453 Scenic Drive.

**ROLL CALL VOTE:** Campeau *NAY*, Ruck *AYE*, Warner *NAY*, Marcinkowski *AYE*.

Chairperson Marcinkowski informed that they have up to 30 days to appeal in Circuit Court the denial of their variance request.

The January 14, 2019 Zoning Board of Appeals meeting adjourned at 6:57p.m.

Respectfully Submitted,

Sally Dion  
Recording Secretary