



Fruitland Township Zoning Board of Appeals Minutes of January 9, 2023

CALLED TO ORDER: 6:00 p.m.

PLEDGE OF ALLEGIANCE

PRESENT: Chairperson Warner, Board members Cindy Campeau, Judy Marcinkowski, Eileen Stoffan and Duke Schropp.

ALSO PRESENT: Zoning Administrator Val Jensen, Recording Secretary Sally Dion and 7 interested parties.

AGENDA: Motion by Eileen Stoffan, second from Duke Schropp, ***ADOPTED***, to accept the January 9, 2023 Zoning Board of Appeals agenda as written.

5 AYES

MINUTES: Motion by Judy Marcinkowski, second from Cindy Campeau, ***ADOPTED***, to accept the November 14, 2022 meeting minutes as written.

5 AYES

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

6143 Murray Road

61-06-578-001-0001-06

Applicants Jeff Lanthier, Lanthier Construction LLC, on behalf of owner Virginia Beckett, 8700 Underwood Ridge, Traverse City, MI 49686, requests variance from the following Article, ARTICLE III, GENERAL PROVISIONS, SECTION 3.08 ACCESSORY BUILDING AND USES, 10' side setback, and 24' maximum height, to construct a 590.67 sq. ft. accessory building (pursuant to section 19.03(C) of the Zoning Ordinance).

Public Hearing Open 6:05 p.m.

Chairperson Warner asked Zoning Administrator Jensen if he had anything to report. Zoning Administrator Jensen stated the new application submitted did change the proposed height from 25'9" to 24'9". The reason it is before them is because the side setback and height do not meet zoning requirements.

Applicant Jeff Lanthier, Lanthier Construction LLC, advised members the driveway easement on the east side of the property was abandoned in 2021 after consultation and approval of neighbors, and the Sylvan Beach Resort Company (SBRC) Modifications Committee and Board of Directors. This easement on the leasehold existed prior to the replacement of a septic system in the fall of 2021.

If the requested variances are denied the applicants will be forced to construct a narrow garage, leaving one foot from the exterior walls and two feet between two standard vehicles. This does not adequately protect its vehicles (assets) from damage. The additional 9 inches of height allows for 24" beams to span the first floor of the garage. Without the additional 9 inches, joists would be required, presenting issues with opening car doors in the first-floor space.

The Sylvan Beach Resort Company (SBRC) has approved this proposed plan.

The same family has owned this leasehold for 80 plus years.

PUBLIC COMMENT

1. Frank Hollister, 6195 Murray Road, stated he is neither for or against, he wonders about possible run off due to a new building. Chairperson Warner advised that possible run off is not looked at for this decision and he would believe with all the sand this should be a non-issue.
2. Virginia Beckett, 8700 Underwood Ridge, Traverse City, advised EGLE and Soil Erosion permits have been secured for this proposed project.
3. John Beckett, 8700 Underwood Ridge, Traverse City, stated he wanted to make it clear whatever the decision they appreciate the time taken with this issue. The septic system failed and because they had enough leasehold they had to put it completely on it, unfortunately, this is where the garage could have went. They are very interested in keeping Sylvan Beach Resort as it has always been.
4. Alice Gambel, 5730 Oaktree Lane, asked if the proposed building was right on the line or just short of the line? It was advised the proposed setback requested was 5' from the line which does not meet zoning requirements.

Correspondence

1. Barbara Davis, 6133 Murray Road, neutral feelings, **not for or against project**.
2. Jim & Jeanie Schmidt, 6111 Murray Road, **supports**.
3. Ann Hartman Brown, 6123 Murray Road, **supports**.
4. Steve Deupree, President SBRC, **no burden has been recorded to the two neighboring properties or to the Association at large**.
5. Charles R. Deupree, 6119 Murray Road, **supports**.
6. Patti Jackman, 6050 Murray Road, SBRC Shareholder/Summer Resident, SBRC Board of Directors Secretary, **supports**.
7. Margot S. Pulver, 5963 Murray Road, **objects**, a new structure should fit well within the owner's leasehold without requiring a zoning variance so as not to over saturate the leasehold.
8. Barbara McColl, 6155 Murray Road, **strongly object**.
9. Steve & Jean Ashmore, 6147 Murray Road, **objects**.
10. Douglas Peterson, 6151 Murray Road, is not against them building a garage, however, **objects** to variance request(s).
11. Emily Berry & Jill Newsham, co-owners of 6149 and 6153 Murray Road, **objects**.
12. Gail Greiner, Co-owner of 6149 and 6153 Murray Road, **objects**.
13. Sharon Uhlemann, 6158 Murray Road, **objects**.
14. Horace Lothmann, 6139 Murray Road, **objects**.
15. Irene Pierson, 6100 Murray Road, **neither for or against**.

Public Hearing Closed 6:34 p.m.

Board Member Schropp asked if the building can be moved to meet the 10' setback requirement? Applicant answered that it cannot, that is where the drain field is located.

Chairperson Warner asked what the dimension was between the proposed building and the drain field. Applicant answered 1'.

Board Member Stoffan states according to the site plan the proposed building will be 5' from the property line on the one side, Zoning Administrator Jensen advised, that is correct, on the south side. Continuing she asked and the neighbors building on the other side is 3'.8" from the lot line, Zoning Administrator Jensen confirmed that is correct, and what about the other corner of the building, is it encroaching on an easement? Zoning Administrator Jensen advised the application had a statement that the easement was abandoned in 2021 when the septic system was put in. She then asked if that was a formal abandonment? The applicant stated that Steve Deupree's correspondence referenced said abandonment. Recording Secretary Dion read correspondence from Steve Deupree which stated the following "This is confirmation of the Sylvan Beach board's understanding and approval of abandonment of the Beckett driveway easement on the east side of their property. No burden has been recorded to the two neighboring properties or to the Association at large". Chairperson Warner thanked Recording Secretary Dion for the clarification. Board Member Stoffan went on to comment then she cannot see any reason why the one setback is an issue because there is such precedent, this whole area is non-compliant. She asked about the height requirement. Zoning Administrator Jensen referenced the setback issue first stating he did research of garages located at 6149, 6139, 6153, 6155, and 6157 Murray with no records found of these garages being built. This leads him to believe they were built before 1999 and under different zoning requirements.

Chairperson Warner asked Zoning Administrator Jensen about his initials on a note that he had sent the proposed plan to the White Lake Fire Authority for review. Zoning Administrator Jensen stated that is true, he sent it to Keith Heidelberg, and his response was setbacks are not mandated in the National Fire Code (NFC), however it is something that will be addressed at the time the building permit is submitted. The building code does have certain requirements for buildings that are close together.

Board Member Stoffan stated some years ago a variance was approved for a building in this general location and one of the stipulations was that it was not to be used as a residence. The 2nd floor of the proposed building makes her nervous that the possible plan is to be used as housekeeping. Applicant responded by saying it will be a bedroom, bathroom, sitting area, exercise area, no kitchen. He also said it would not be rented out. With a house renovation they went down from six bedrooms to four. The Sylvan Beach Resort Company has approved them to allow for one bedroom in the proposed building.

Chairperson Warner stated he has concerns with buildings being so close for fire reasons.

Applicant stated the neighbors lost their cottage and the fire department fought the fire with no issues. The inside roads of Sylvan Beach have plenty of room for equipment.

Board Member Stoffan asked if any other garages in the area are 25'? It was stated there are a few two-story buildings, not sure of height.

Zoning Administrator Jensen stated that according to Article III, General Provisions, Section 3.08 (E.) No part of a detached accessory building shall be used for independent living facilities for one or more persons. No accessory building shall include all the permanent provisions for living, sleeping, eating, cooking and bathroom sanitary facilities and (F.) Detached accessory buildings shall: 1. be located a minimum of ten

(10) feet from any building on the lot, as measured from the eaves of the accessory building, or any portions of the structure, whichever is closer;

Chairperson Warner asked if there would be any more discussion by the board before reviewing the decision checklist? Consensus was no. The variance decision checklist was done and it was a tie, 4 unfavorable to granting variance, 4 favorable to granting variance.

Board Member Stoffan is in favor of granting the variance as requested.

Board Member Marcinkowski believes the proposed building fits the character of the neighborhood.

Board Member Campeau feels they could propose something to meet existing zoning requirements without requiring a variance.

Board Member Schropp feels very strong about the 10' setback being held and that if approved will set precedence.

Chairperson Warner asked again if there was any discussion to be put out there. Hearing none, he called for the motion.

Motion by Judy Marcinkowski, second from Cindy Campeau, **ADOPTED**, to **DENY**, the variance as submitted for 61-06-578-001-0001-06, 6143 Murray Road based on the side setback and height requirements not meeting zoning requirements.

ROLL CALL: Campeau **AYE**, Marcinkowski **AYE**, Stoffan **NAY**, Schropp **AYE**, Warner **AYE**.

Motion by Eileen Stoffan, **DIED**, due to **LACK OF SUPPORT**, to **APPROVE**, the variance for 61-06-578-001-0001-06, 6143 Murray Road for the side setback and height requirement as submitted.

ADJOURN

Motion by Eileen Stoffan, second from Judy Marcinkowski, **ADOPTED**, to adjourn the January 9, 2023 meeting adjourned at 7:20 p.m.

Respectfully Submitted,

Sally Dion
Zoning Board of Appeals Recording Secretary