



Fruitland Township Zoning Board of Appeals Minutes of August 14, 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 6 interested parties.

AGENDA: Motion by Eileen Stoffan, second from Judy Marcinkowski, ***ADOPTED***, to accept the August 14, 2023 Zoning Board of Appeals agenda as written.

5 AYES

MINUTES: Motion by Eileen Stoffan, second from Cindy Campeau, ***ADOPTED***, to accept the July 10, 2023 meeting minutes as written.

5 AYES

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

3293 W. Bard Road

61-06-127-200-0001-10

Applicant Patricia Whitener, 3293 W. Bard Road, Muskegon, MI 49445 requests variance from the following Article, ARTICLE III, GENERAL PROVISIONS, SECTION 3.08 ACCESSORY BUILDING AND USES, (H.) Accessory building sizes, heights and setbacks. MAXIMUM ACCESSORY BUILDING FOOTPRINT SIZE 10.00 acres and over-3,200 square feet. Proposed was a 60'x120' 7,200 square foot detached accessory building with a 72'x36' 2,592 sq. ft. rear addition and a 12'x72' 864 sq. ft. lean-to in addition. The parcel has an existing 12'x20' 240 sq. ft. detached shed on the 20-acre parcel in the Rural Residential zoning district (**pursuant to section 19.03(C) of the Zoning Ordinance**).

Public Hearing Open 6:05 p.m.

Applicant Patricia Whitener explained she chose our community to be her final home. She wants to have horses; she shows horses and needs to be able to exercise them. She bought forty acres and split into two twenty-acre parcels. Her Daughter and Son-in-law live on the other twenty acres in a home that existed. She has four horses but wants two extra stalls, an indoor riding arena that is necessary with Michigan's winter weather and needing a place to keep the horses in shape. She was not clear on allowable building sizes, however, found at least four other big barns in the township. She will not be running a boarding facility; this would be for personal use only. All neighbors she has contacted are very supportive. If not approved she will need to board the horses, creating a lot of travel to Fruitport and then trailering them to the trainer who is one hour away which she feels creates a hardship. She does not feel the building size she is requesting would be a hinderance, she has cows across the street, gun club across the street, hunting properties around her.

PUBLIC COMMENT

1. Elise Butler, 3333 W. Bard Road, applicant is her mother, she reiterated the applicant's reasons of why this needs to be approved.
2. Brian Butler, 3333 W. Bard Road, quoted master plan language, stated without approval the township is not following the plan and allowing an owner to use the property as they wish. Also reiterated the need for approval of this training facility.
3. Roger and Jayne Pyle, 3350 W. Bard Road, **supports** project.
4. Builder, Bob DeZeeuw, 2221 Aue Road, **supports** project, reiterated hardship if it is denied.

CORRESPONDENCE

Brian and Elise Butler, 3333 W. Bard Road, **supports** project.
Roger and Jayne Pyle, 3350 W. Bard Road, **supports** project.

Public Hearing Closed 6:27 p.m.

Chairperson Warner pointed out that zoning requirements should have been checked before property was purchased, there are reasons for the ordinances in place.

Board Member Marcinkowski stated on a personal level she feels it unfortunate that the zoning wasn't checked on, however, on a township level it should have been checked.

Board Member Campeau asked if the zoning rules were different when the submitted properties with bigger barns were built or if a variance was requested and approved?

Chairperson Warner asked Recording Secretary Dion if she either knew or knew how to find that out.

Recording Secretary Dion advised she had checked the parcel files and the only one she could find information on was for the one on McMillan that used to be an Alpaca farm. They were granted a Conditional Use Permit, now known as Special Land Use Permit. She did not see anything in the parcel files that indicated a variance as requested or granted.

Zoning Administrator Jensen stated those were built prior to his employment.

Chairperson Warner stated those buildings have been there twenty plus years, no idea what the zoning was at that time.

Board Member Stoffan asked if this parcel is in the Agricultural Overlay and would that make any difference?

Zoning Administrator Jensen advised the parcel is in the Agricultural Overlay, however, it reverts back to uses by right and uses by special land use and site development standards of the underlying zoning district, which in this case is Rural Residential.

Board Member Stoffan asked how this can be approved?

Zoning Administrator Jensen states he can only approve what is allowed by ordinance. In all zoning districts the accessory building size is set by the size of the parcel with the biggest being 10 acres or more being allowed maximum 3,200 sq ft building(s).

Chairperson Warner stated he wasn't familiar with if raising horses for sale, racing, training horses would fall under the use of agricultural, however, it does not help in this case.

Zoning Administrator Jensen stated he is not versed enough with GAAMPS rules to know if horses are considered agricultural or not.

Brian Butler provided a copy of the State Tax Commission Qualified Agricultural Property Exemption Guidelines issued August 2018 which indicates "agriculture use" can include boarding horses, raising horses for sale and training horses.

Chairperson Warner stated after briefly reviewing that there is not doubt what they do would fall under agriculture use, however, does not see how it can help with this.

Consensus after all board members reviewing ordinances is that they cannot find a way to approve this.

Board Member Stoffan asked if we have an Agricultural District?

Chairperson Warner advises that we do not.

Board Member Stoffan asked if the agricultural overlay is only over the rural residential district.

Zoning Administrator Jensen states no, it overlays other districts as well.

Chairperson Warner concurs it is an overlay to other districts as well.

The Variance Decision Checklist was reviewed and found un-favorable.

Motion by Eileen Stoffan, second from Cindy Campeau, **ADOPTED**, to **DENY**, the variance as submitted for 61-06-127-200-0001-10, 3293 W. Bard Road based on it far exceeds the 3,200 sq. ft. maximum allowed.
ROLL CALL: Campeau AYE, Marcinkowski AYE, Stoffan AYE, Schropp AYE, Warner AYE.

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

ADJOURN

Motion by Eileen Stoffan to adjourn the August 14, 2023 meeting at 7:17 p.m.

Respectfully Submitted,

Sally Dion
Zoning Board of Appeals Recording Secretary