

**ZONING BOARD OF APPEALS**  
**January 13, 2014**

Meeting called to order at 10:30am.

**BOARD MEMBERS PRESENT:** Chairperson Case, Secretary Dennings, Stauffer, D’Felio, Thorburn

**OTHERS PRESENT:** Thomas Barber, Barber Construction; Nick Holland; Robert Yaske, Building and Zoning Administrator; Steve Luebke, Zoning Specialist

Motion by Thorburn, second by Stauffer: CARRIED  
That the Board approve the September 30, 2013 meeting minutes as presented.

**NEW BUSINESS:**

Introduction to current appeal number 14.01 by Chairman Case for property number 72-004-339-025-0000 located at 449 Old Stage Road, Lot Number 25.

Chairman Case declared a public hearing on appeal number 14.01 for property number 72-004-339-025-0000 be opened.

Chairmen Case outlined the appeal as filed to be: Proposal to build a 12’x20’ one story building for lake accessory use which replace an existing 8’x10’ building. Denial of the building permit is based on Gerrish Township Zoning Ordinance, Table 3-4, footnote No. 3a and Section 20.8 (C) (1), which state that no accessory building may be constructed in the front yard setback as established by the existing building line. The proposed building would be located on the lakeside area which is considered the front yard.

**CORRESPONDENCE READ:**

- a. Letter from Constance B. Harvey, Lakeside Association, stating no objection to the proposed building.

Chairman Case then requested Thomas Barber, acting as the authorized agent for owner Nick Holland, to address the seven findings of fact as outlined in the Gerrish Township Zoning Ordinance, Section 16.7, Variances. (B) Standards.

Thomas Barber, on behalf of owner Nick Holland, reviewed the highlights of the submitted responses to Section 16.7, Variances, and (B) Standards. Mr. Barber explained that the proposed project is to construct a small building in the front yard, which does not meet Zoning Ordinance setbacks. Mr. Barber explained that the topography includes a high bank and presented pictures to the Board. This large difference in elevation provides a practical difficulty in property usage as lake access is challenging based on traversing a large cliff. Mr. Barber stated that the proposed new lake accessory building would allow for Mr. Holland and his family to remove themselves from quick changing weather, provide storage for beach use items and allow easier access and use of their full property.

Mr. Barber also explained that the conditions of the property were not created by the owner. He informed the Zoning Board of Appeals that the location within Lakeside Association is private property, with the Association retaining ownership of the land. The Lakeside Camp Association Board of Directors has given Mr. Holland their 'blessing' on the proposed project. Mr. Barber informed the ZBA that surrounding properties have similar uses and that the existing 8'x10' building will be removed. The variance should not affect the surroundings as there will be minimum tree removal and they will work within the current landscaping. Mr. Barber also stated that strict compliance with the Zoning Ordinance would not stop Mr. Holland from using the property but would be burdensome. Site plans were submitted to the Building and Zoning Department.

Secretary Dennings asked where, in the drawings submitted, the lake is located. Mr. Barber said it is by the deck. Secretary Dennings then asked if stating the project is a  $\frac{3}{4}$  increase over the existing is accurate and asked Mr. Barber to clarify the size of the current deck. Mr. Barber stated it is 12'x20' and that they will be adding 4' on the back, but that the actual building will be pushed back from the current location. Mr. Dennings then asked for clarification on the location from the water's edge and Mr. Barber confirmed that it is 19'.

Chairman Case stated there are other structures closer than the proposed building and Mr. Dennings stated that his questions were intended to address 5, 6, and 7 of the standards. Secretary Dennings asked Mr. Holland if he had considered a smaller structure and why he chose this size. Mr. Holland stated he had not considered a smaller structure because he wanted enough space for both storage and living area. Mr. Barber further elaborated that the total living area will be 14'x12' and the storage area will be 6'x12'. Mr. Case then thanked Mr. Barber and Mr. Holland for addressing the seven standards in advance of the meeting. He then asked the Zoning Board of Appeals members if they had any further questions.

R. Yaske suggested that the Board remember that the plan states the deck will be 3' from the water's edge, which is nonconforming. He pointed out that the height is okay but the existing setback is not being altered. The variance request is for the building itself. Chairman Case stated that the addition to the rear versus the front is appreciated and wondered if this was due to ice damage. Mr. Holland confirmed. Chairman Case again asked if the Board had further questions.

Secretary Dennings indicated that while he understood that Lakeside Camp Association had given approval, he questioned if there would be any negative impact on the neighbors' view or use and what the proximity to the green shed, as pictured in the photos submitted, was. Mr. Holland stated that it was behind the green shed and that he did not believe there would be a negative impact as the Lakeside Camp Association had approved the plan. S. Luebke pointed out that there is a large vista that prevents sight of the lakefront from homes. Secretary Dennings stated he was concerned with the impact on neighbors. Chairman Case told the Board that there is a walking path on the shoreline of Lakeside Association at that these type of lake access buildings are built on the other side of the path. Mr. Holland stated that his project is allowed by the Association by-laws and that it had been approved.

Mr. Thorburn then referred to the photograph containing the three properties and questioned if existing permits existed for those structures. Mr. Yaske stated that he believed there are. Mr. Thorburn then asked how long the zoning has been against these type of structures and Mr. Yaske stated he was unsure, but at least the last twenty years. Mr. Barber said that over the last twenty years all the association camps had been constructing these type of structures; it is a common theme.

Mr. D'Felio questioned if there would be a need for additional approvals, such as the EPA, MDNR or MDEQ. Mr. Yaske felt there would not be, though there may be a need for a soil erosion permit and/or drain commission approval. Mr. Barber emphasized that there would be little ground disturbance as they would be working above grade. Mr. Luebke confirmed that there would not be need for additional permits.

Mr. Holland then thanked the ZBA members for their time and Chairman Case suggested that the ZBA members enter into Board discussions of Appeal 14.01. The time was 10:58am. Chairman Case then informed the Board that he would entertain motions regarding appeal number 14.01.

Discussion regarding the motion centered on the requirements of meeting findings of fact, similarity of usage by surrounding properties, definition of slope versus elevation as related to the 17' drop off and set back from water's edge.

**FINDINGS OF FACT:**

1. Practical difficulties do exist due to a 17' cliff located on the property.
2. The structure is not expanding its current setback from the water's edge.
3. The set back is not a concern, though it is nonconforming, it is not being changed.
4. There is no concern with neighboring buildings or structures.
5. There are no health or safety concerns and the Lakeside Camp Association Board of Directors has approved the building plan as submitted.
6. There exist certain practical difficulties which are burdensome and prevent Mr. Holland from enjoying full use of his property.
7. The plan design is meant to provide minimal impact to the surrounding area.

**MOTION:**

Motion by D'Felio, second by Stauffer: CARRIED  
that the variances as requested in appeal number 14.01 be approved as requested based on the applicant's ability to satisfactory address the seven standards as outlined in Section 16.7 Variances, (B) Standards, specifically that the property has a 17' elevation, the deck will remain 3' from the water's edge and the structure is compatible use with surrounding properties. Also, the proposed construction has been approved by the Lakeside Camp Association Board and is similar in size to neighboring buildings, decks and setbacks.

Roll Call: Ayes: Case, Dennings, Stauffer, D'Felio, Thorburn  
Nays: None

The Chairman declared the variance carried and informed the applicant that he must wait ten days before the start of construction.

Chairman Case then informed the Zoning Board of Appeals members that there was some annual 'housekeeping' to be addressed. Specifically, the annual appointment of officers must be done. Mr. Thorburn suggested that Bill Case remain as Chairman.

Motion by Dennings, second by Thorburn: CARRIED

That the nominations for Chairperson be closed and that William (Bill) Case be appointed as Chairperson by unanimous consent.

Chairman Case abstained from the vote.

Motion by Case, second by Stauffer: CARRIED

That the nominations for Secretary be closed and that Ken Dennings be appointed as Secretary.

Secretary Dennings abstained from the vote.

R. Yaske then informed the Board that the ten day waiting period was no longer a part of the Zoning Ordinance and therefore was not required. Secretary Dennings questioned if the waiting period had been placed to comply with the requirements for minute publication as defined in the Open Meetings Act. Mr. Yaske did not feel this was the case. Lengthy conversation ensued about the reasoning behind including the ten day waiting period. Mr. Thorburn was concerned with the need to cause further wait to the builder and owner as they have already waited to be heard on appeal. He questioned the need to wait and asked if anyone knew why this was a requirement. Chairman Case stated he believed it was for rebuttal purposes and Mr. Barber, who was still in attendance, suggested that the ten day wait may be done to allow for a 'cooling off period'. He did not believe that waiting was a hardship as the site plans cannot be finalized until after the Zoning Board of Appeals meeting.

Motion by D'Felio, second by Thorburn: CARRIED

That the Board request the Planning Commission to review and discuss the ten day waiting period. Ayes: D'Felio, Thorburn, Case, Stauffer Nays: Dennings

Chairman Case then informed the members that the Township Board has requested that the Zoning Board of Appeals consider scheduling quarterly meetings for purposes of hearing appeals, conducting routine business and approval of minutes. Some discussion over scheduling occurred.

Motion by Dennings, second by D'Felio: CARRIED

To schedule meetings on April 14, 2014, July 14, 2014 and October 20, 2014 at 10:30am.

Motion by Thorburn, second by D'Felio: CARRIED

To adjourn the hearing on Appeal 14.01.

Meeting adjourned at 11:50am.

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Chairperson, William Case

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Secretary, Kenneth Dennings

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Approved

The minutes are subject to review and approval of the Zoning Board of Appeals at its' next scheduled meeting.