

Keweenaw County
Zoning Board of Appeals
Minutes – February 25, 2013

Called the meeting to order 6:00 p.m.

The Pledge of allegiance to the American Flag was recited.

Roll Call: James Vivian Jr., Chairman
 Frank Kastelic, Vice Chair
 Pauline Johnson, Member
 Jon Soper, Planning Commission Member
 Steve Peters, Member
 Shari Chase, Alternate

Kastelic/Johnson Motion to accept the Agenda passed

Kastelic/Johnson Motion to approve the Minutes – January 24, 2013 Public Hearing, Passed.

Ann reviewed the process of the public hearing.

Chairman Vivian introduced guests: Kyle Oja, Janet Barnes & Ray Chamberlain. Then recused himself from the variance considerations and vote, but remained at the table to chair the meeting

6:04 Chairman Vivian opened the Public Hearing regarding the setback variances requested by Kyle Oja for JBRC, LLC

Public Comment -- Property Owners within 300' **

In Support –

- Don Kauppi
 - Peg Kauppi
 - Barb Foley
- In Opposition -
- Steve Pence on behalf of the Adams

Written Comments Property Owners within 300' read from the Chair

In Support –

- Peggy Kauppi
 - Patricia Walters
- In Opposition –
- Thomas Ala
 - Clayton Adams

Public Comment from interested or affected persons/organizations**

In Support --

- Tom Beverage
 - Mary Jo Beverage
 - Mike Musial
 - Chris Musiel
- In Opposition --

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** Public Comments are limited to 3 minutes at a time, not to exceed 20 minutes.

- None Present

Written Comments from Interested or affected persons/organizations read from the Chair

In Support –

- Alex Protzel

In Opposition –

- Susan McRill & Gregory Stefanowski
- Richard Jansen
- Edwin Tulppo
- Jo Tulppo
- John & Jean Daul
- Philip Taylor

ZBA Questions through the Chairman --

Jim Vivian reminded everyone that the County has been zoned since 1976 and in 2006 the ordinance rewritten. It was updated again in 2010. We try to address the ordinance to meet our unique areas. If you are interested, create an ordinance for Grant Township. The ZBA must go by the book, not the tax base, not personal, not popularity.

Jon Soper said the ordinance is a living document, we always accept comments about the ordinance.

Frank Kastelic agreed with what was said, the ordinance needs development and work. It is the ordinance we go by, the ordinance can be changed through the planning commission and the Board of Commissioners. There are lots of good reasons to change the ordinance, but none that we can change today.

Chairman Soper asked JBRC, LLC about access to the new dock for a fire truck and ambulance.

Kyle replied that there is room between the porch on the east side of the house and the porch of the small house

7:34 motion by Soper seconded by Vivian the Public Hearing was closed.

BOARD DISCUSSION –

Jon Soper stated the ordinance requires the house be built on the same footprint as the old. The new construction does not have the same footprint. The thing that bothers me, you can't take an existing non-conforming and you can't enlarge it, only in the case of a hardship, is there a hardship?

Steve Peters commented on Steve Pence's request for him to reexamine himself. Steve stated that he does have a relationship in Copper Harbor. He probably has done work for with everyone in the audience. He then asked the ZBA for their opinion.

Frank Kastelic asked him if he could base his decision on the ordinance. Steve remained.

Steve Peters reviewed Sec. 9.2 nonconforming lots and asked if there really is a definition of a nonconforming lot. He presented a survey of the property which

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showed the buildable area of the lot at the west end to go from an overlap of setbacks to a width of 44' at the east end. Fairness dictates that we should allow for a reasonable home to be built on this property. Steve then commented on a setback that was granted to the Harbor Lights in 2006, which was authorized.

Frank Kastelic stated the set back on the lake is to protect the visual from the water. The setback encroaching on US 41 is different than a setback on the waterfront.

Jon Soper stated he thought a non-conforming lot was one less than 6000 sq ft as listed on page 5-6, dimensional requirements for lots, and we are not talking about an empty lot.

Steve Peters – Does Sec. 9.2 only apply to non-conforming lots?

Frank Kastelic – No variance can be granted, is it totally unusable? No

Jon Soper – The 10' setback from the road right of way. There could be a variance to build the garage on the right of way, it happens on the road where I live, that would give an additional 10 feet. Could the structure be built on the property line? I'd move the cabins, if it were me.

The FINDING OF FACT – the findings of fact were reviewed individually. The hand written notes of the zoning administrator are attached as part of the permanent record.

DECISION –

A motion by Kastelic seconded by Johnson to allow the variance for a 10 foot set back from the road right of way.

Kastelic, No
Soper, Abstain
Johnson, No
Peters, Yes
Chase, No

A motion by Kastelic seconded by Johnson to allow the variance on the 50 foot setback to ten feet from the water.

Kastelic, No
Soper, Abstain
Johnson, No
Peters, Yes
Chase, No

The vote required to act on a nonuse variance is a simple majority of the entire ZBA membership, not only those present. The membership is five, simple majority is 3. The Variance was not granted

Around the table – Jim Vivian stated that there are provisions in the ordinance to appeal.

Motion to Adjourn by Kastelic