

ZONING BOARD OF APPEALS

Approved Minutes of May 12, 2014

Variance request of Guido Grassi

5338 Port Austin Road #3213-018-008-00

The meeting was called to order by Chairman Jeanne Henry at 7:00.

Pledge of allegiance was recited.

Roll Call: Mike Manenti, Rich Ehrlich, Jeanne Henry, Jerry Pobanz and Lou Colletta present. Kim Simpson recording secretary. Approximately nine guests.

Minutes of April 1, 2014 with three corrections. Lou Colletta mentioned that his roll call vote should've read, closer to compliance with ordinance instead of into compliance with ordinance. Mike Manenti mentioned that in the third paragraph, second page it should be changed to bring closer to compliance with ordinance; instead of keep in compliance. Jeanne Henry noticed wives was misspelled and should be wife's. Colletta made a motion to accept April 1, 2014 minutes with corrections. Seconded by Manenti. All ayes motion carried.

Approval of Agenda: Pobanz made motion to approve May 12, 2014 agenda, seconded by Ehrlich. All ayes motion carried.

Notice of hearing and six correspondence read.

Mr. Guido Grassi addressed the ZBA members. He stated that he's owned his property for fourteen years, and is constantly battling with the sand blowing onto his grass. He stated that two years ago he spent \$1,000 removing sand from his property. He thought the wood fence was a good solution; the fence is there to keep sand from blowing into my yard. Mr. Grassi apologized for putting the fence up without site plan or permit. He had asked the surveyor about permits and the surveyor told him he wouldn't need one everyone has fences. Mr. Grassi also stated that there is a chain link fence next to his property that is further on beach than his fence so he thought his fence was fine. There was a brief discussion with the ZBA members and Mr. Grassi. Henry then read Section 1201. Prohibited Fences

#4 No structures are permitted to cross the beach area.

#5 There shall be no fences allowed in the water front yard area, i.e. the area facing the water.

Henry stated that there can be no structures on beach; only barricade fencing in the off season which is October- May 1.

Public Comments:

Victor Rohner stated he thought the ZBA should grant Mr. Grassi his variance. The fence looks nice, doesn't block anyone's view, people can still use the beach. He has a nice retaining wall, his property looks very nice. His fence isn't hurting anything.

Scott Tuckey made the comment that Lynn Datz (whose correspondence was against fence) doesn't even come up to the area much anymore. Mr. Tuckey stated that he has no problem with the fence.

Walt Kloc asked Mr. Grassi what his title says. Kloc stated he went through this about 20 years ago. Kloc said his title stated his property extends to water's edge. He found out later that he could have extended his fence 12 foot more.

Colletta stated doesn't matter, still can't put anything in front yard on water front property.

Rohner stated that Grassi's neighbor's chain link fence extends further than Grassi's fence.

Henry said, "We are trying to enforce what's in the Ordinance."

Kloc asked why fences could go to the water's edge fifteen years ago. Why was the ordinance changed?

Henry replied people abused the way they put fences up. People complained that the fences were blocking views, blocking the beach, people had to walk around them in the water.

Pobanz stated that this is all still happening in the front yard and the ordinance states no permanent structures in water front yard area.

Rohner stated that he thought Grassi should have more rights on his own property.

Henry stated everyone has property rights. The reason for a variance is to see if the owner has an exceptional circumstance, or practical difficulty. Everyone on the water front has to deal with the sand.

Kloc made the comment that without Mr. Grassi knowing what his title to property reads; he didn't think the ZBA could make a decision.

Henry stated that it has nothing to do with the high water mark or water's edge. Mr. Grassi can't construct beyond house towards the beach.

Rohner stated Lake Township should work with the people and not try to deem what they can or can't do with their own property.

Henry replied, ordinances are here because of the people.

Colletta stated if you don't like some of the ordinances, go to the Lake Township Planning Commission meeting and tell the board; that is what people need to do if they want to make changes. The ZBA can't change the ordinances, we have to follow them.

Henry stated public comments are always welcome.

Tracey Swift stated that changing the ordinances has nothing to do with this meeting.

Public comments closed.

Mike Manenti wanted the ZBA to read section 303.11 part C #3 which reads:

Variation is necessary for the preservation of a Substantial Property Right possessed by other properties in the same zoning district...

The ZBA members discussed Mr. Grassi's situation.

Pobanz suggested he remove the section of the fence that is extending in the front yard towards the beach and put the section back up in September-May 1st, until ordinance is changed if it is ever changed.

Motion made by Colletta to deny the variance. Ordinance states no fences allowed in the water front yard. He also cited #2 Circumstances resulting from an act of the applicant. Seconded by Ehrlich, same reasons as Colletta.

Roll Call Vote:

Manenti: Nay- Variation is necessary for preservation... Section 303.11 C #3

Ehrlich: Aye- No fences allowed in water front yard area

Henry: Aye- There shall be no fences allowed in the water front yard area, (i.e. the area facing the water.)

Pobanz: Aye- No fences in water front yard area.

Colletta: Aye- There shall be no fences allowed in the water front yard area.

Sited #2- Circumstances resulting from an act of the applicant. (Section 303.11 C #2)

Motion denied. 4 ayes and 1 nay.

Henry explained to Mr. Grassi that he could contact the Zoning Administrator Tracy Swift about taking down the fence and that he has 30 days to appeal ZBA's decision.

Motion made by Colletta to adjourn, seconded by Pobanz. All ayes motion carried.

Meeting adjourned 8:23 P.M.

Next meeting May 20, 2014 at 7:00