

# Otsego County Zoning Board of Appeals

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Minutes from 06-22-2010

6:00 pm Call to order.

Pledge of Allegiance

Roll Call

Present: Mr. Hoffman, Mr. Wagar, Mr. Alexander, Mr. McCarthy, Ms. Bono, Mr. Stults, Mr. Saggasser

Staff Present: Mr. Ferrigan, Mrs. Bolinger, Mr. West

Approval of minutes from 11-24-2009 meeting.

Motion by Mr. Saggasser to approve the minutes as written. Supported by Mr. Wagar.

Motion approved unanimously. Motion carries.

Citizen comments regarding items not on the agenda. None

6:04pm Open public hearing for Variance request #V100001 James and Karen Riling. A request to construct an 8' x 12' shed/retaining wall system within the shoreline area. The property address is 6509 Honey Lane, Johannesburg, MI; the parcel number is 023-190-004-018-00.

The Legal description is: LOT 18 AND 19 BLK 4 1<sup>ST</sup> ADD TO LITTLE BEAR LAKE.

Ms. Bono wanted to let the board know that she knows the applicants and has done business with them.

Mr. Hoffman believes that that has no relevance in this case.

Mr. Riling addressed the board and explained the request for a variance. He passed a photo album around for the board to look at and to compare surrounding properties.

There were multiple discussions among the board members and the applicant.

Allen West stated there are other similar enforcement actions occurring in the same area.

There were multiple discussions among the board members.

Mr. Joseph Tyree from 6519 Honey Lane addressed the board. He stated that he supports Mr. Riling having his steps, deck and shed.

William Wells, a neighbor from across the street addressed the board and stated that he is in support of Mr. Riling keeping his shed, steps & deck.

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Public hearing closed at 6:29pm.

Mr. Hoffman reads letters received concerning this variance request. (Attached)

Charlton Township is not in support of the variance request.

Hami Fortney Trust is not in support of the variance request.

Lenci and Kristie Fotteny are in support of the Rilings keeping the shed, deck and steps.

Rodney and Betty L. Schoolcraft are in support of the Rilings keeping the shed, deck and steps.

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TO: OTSEGO COUNTY  
LAND USE SERVICES

ATTN. JOSEPH FERRIGAN

HAMI FORTNEY TRUST  
OPPOSED TO VARIANCE  
REQUEST # V100001

FOR JAMES RILING  
6509 HONEY LN  
JOHANNESBURG, MI 49751

From HAMI FORTNEY TRUST  
1719 HAMILTON DR.  
Bloomfield Hills, MI 48302

L Fortney  
6-9-10

P.1

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2400220493

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# Otsego County Zoning Board of Appeals

Minutes from 06-22-2010

Rodney L. and Betty L. Schoolcraft  
P.O. Box 3058  
Gaylord, Michigan 49734

June 4, 2010

Otsego County Land Use Services  
Planning & Zoning Department  
1068 Cross Street  
Gaylord, Michigan 49735

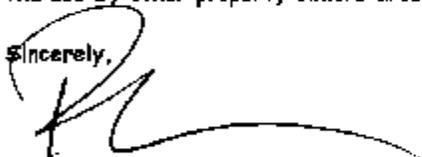
received  
6-23-10  
10:49 AM

RE: Variance Request - V100001, James H. & Karen A. Rilling

To whom it may concern,

We are owners within the 300' of the property requesting a variance. We have no objection to the request being granted. The retaining wall and shed does not harm or otherwise affect in any manner the surrounding properties and is in fact consistent with the use by other property owners around Little Bear Lake.

Sincerely,

  
Rodney L. Schoolcraft

cc: Mr. and Mrs. James H. Rilling

6544 Honey Lane  
Johannesburg, Michigan 49751

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received  
6-28-10  
10:49 AM

8/22/09

To Whom It May Concern,

We would like to state that our next door neighbor's, Jim & Karen Riley's, shed down by the lake is very attractive and was built in such a way that it blends into the existing landscape. It enhances their beach-front and increases the ease of being able to use it. Being on the West side of Little Bear Lake and up high on the bluff, it is almost a necessity to have some type of structure to store your beach & boating belongings in as it is difficult in always carrying them down & back up again. We believe Jim & Karen should be allowed to keep their shed down by the lake. The layout & structure was very well thought out and is not interfering with our enjoyment of our beach & lake-shore. Please take the above into consideration when making your decision as we feel that it would be unjust and a shame if they had to remove it.

Sincerely,  
Lance H. Follenzi  
Krista A. Follenzi

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## CHARLTON TOWNSHIP OTSEGO COUNTY

P.O. Box 357 • Johannesburg, Michigan 48751 • Phone: (989) 731-1820 • Fax: (989) 731-1070

To: Otsego County Zoning Board of Appeals  
1068 Cross St.  
Gaylord, MI 49735

17 June 2010

From: Ivan H. Maschke, Charlton Twp. Clerk

Re: File Z10050

Dear Sir or Madam,

At the regular June meeting of the Charlton Township Board held on June 14, 2010, there was discussion regards to File Z10050, a request of James H. Riling for variance to be able to have his 8' x 12' retaining wall/shed remain on his lake property at 6509 Honey Lane, Johannesburg, MI, 49751.

Mr. Riling and a next door neighbor were present at the meeting. Some board members viewed the property and thought that he did a good job in the construction of the project. It appears that the project conforms to other properties in the area, however, it is an obvious violation of the 50' greenbelt zone.

After more discussion, Nowak moved, Samkowiak supported, to recommend to the Otsego County Zoning Board of Appeals that the request for variance be denied as the project now stands. The motion passed 4-0 with Trustee Mike McCarthy absent.

Thank you for your time and consideration.

Sincerely,



Ivan H. Maschke  
Charlton Twp. Clerk

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Old Business: None

New Business:

1) Finding of facts.

Mr. Hoffman read Section 15.1 of the Zoning Ordinance that defines building within the shore land.

Motion made by Mr. Sagasser to approve the 13 general findings of facts (attached) as clarified. Motion supported by Mr. Stults.

Motion approved unanimously. Motion passes.

Special Conditions.

Motion made by Mr. Stults that the requested variance will not detrimental to the public welfare or other wise injurious to other properties in the same zoning district. Supported by Ms. Bono.

Roll call vote. Motion approved unanimously. Motion passes.

Motion made by Mr. Sagasser that the requested variance is necessary for the applicant to receive a right available to other properties in the same zoning district. Supported by Mr. Stults.

Roll call vote: Mr. Hoffman-No, Mr. Wagar-Yes, Mr. Alexander-No, Mr. McCarthy-Yes, Ms. Bono-Yes, Mr. Stults-Yes, Mr. Sagasser-Yes

Motion passes 5 to 2.

Motion made by Mr. Sagasser that special physical conditions or unique circumstances exist with this property that do not generally apply to other properties in the same zoning district. Supported by Mr. Wagar.

Roll call vote. Motion approved unanimously. Motion passes.

Motion made by Mr. Sagasser that the special conditions or circumstances are not the result of actions by the applicant or predecessor in title. Supported by Mr. Stults.

Roll call vote: Mr. Hoffman-Yes, Mr. Wagar-No, Mr. Alexander-Yes, Mr. McCarthy-Yes, Ms. Bono-Yes, Mr. Stults-Yes, Mr. Sagasser-Yes

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Motion passes 6 to 1.

Motion made by Mr. Sagasser that the requested variance is the minimum variance necessary that will make possible the reasonable use of the land. Supported by Ms. Bono. Roll call vote: Mr. Hoffman-No, Mr. Wagar-Yes, Mr. Alexander-No, Mr. McCarthy-Yes, Ms. Bono-Yes, Mr. Stults-No, Mr. Sagasser-Yes

Motion passes 4 to 3.

Motion made by Mr. Sagasser that based on the five requirements of Section 23.6.1 through 23.6.5 being met that the variance be approved as requested. Supported by Mr. Wagar.

Discussions among board members.

Mr. Sagasser clarified his motion to say:

Motion based on the facts and the presentations provided under ZBA Case V100001 a variance as detailed under the 13 items of general findings of facts and the discussions the variance is approved as the facts decided under sections 23.6.1 through 23.6.5 have been met and approved by majority vote thus the variance should be approved. Support was made earlier by Mr. Wagar.

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Proposed General Finding of fact for ZBA case V100001 James & Karen Riling

The Zoning Board of Appeals finds:

1. James and Karen Riling are the owners of certain real property described as Lots 18 and 19 Block 4 1<sup>st</sup> addition to little bear lake, Property address 6509 Honey Lane, Parcel I.D.#023-190-004-018-00. (Ex. 1) (Ex. 3)
2. That this parcel is located in Charlton Township, Otsego County Michigan. (Ex. 1)(Ex. 5)
3. That James and Karen Riling seek a 50' shore land dimensional variance from the requirements of the Otsego County Zoning Ordinance to construct an 8' x 12' retaining wall/shed and 164 sqft. of additional decking within the shore land area. Ex. 2
4. That the required fees for the variance request were paid by James and Karen Riling. (Ex. 9)
5. That the parcel referenced in ZBA case V100001 is zoned Recreation Residential. (Ex. 5)
6. That Applicants request for a variance is an after- the- fact request since the retaining wall /shed has already been constructed. (Ex. 2)
7. That Section 15.1, 15.2, 15.4 and 15.6 of the Otsego County Zoning Ordinance defines Shoreland as land paralleling the Lake shoreline, 50 feet wide as measured from the ordinary high water level. (Ex. 4)
8. That the public Hearing was properly published as required by the Otsego County Zoning Ordinance. (Ex. 6)
9. That the requirements of Article 24 of the Otsego County Zoning Ordinance were met. Ex. 7
10. That the requirement that all parties within 300' of the subject parcel were properly notified of the variance request. As certified by the Otsego County Zoning Administrator. Ex. 8
11. That the Zoning Board of Appeals in accordance with 23.2.1.3 of the Otsego County Zoning Ordinance has the authority to grant nonuse variances. Ex. 4
12. That 72 sqft of the deck and the shed/retaining wall were constructed in 2009.
13. That the 7'x12' and 14'x7' decks were constructed between 2001 and 2009.

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Mr. Stults moved to amend the motion to limit the variance to a width of deck to 30'x7' and an 8'x10' shed/retaining wall. Supported by McCarthy.

Mr. Riling stated that he was not opposed to this requirement.

Roll call vote on amendment: Mr. Hoffman-No, Mr. Wagar-Yes, Mr. Alexander-Yes, Mr. McCarthy-Yes, Mr. Sagasser-No, Ms. Bono-Yes, Mr. Stults-Yes  
Motion passes 5 to 2.

Mr. Hoffman clarified the motion.

Motion to grant a variance for the retaining wall/shed which is 8'x12' plus the decking in front of it extending south 30'x7' to the north, which is 4' beyond where the steps come down as amended.

Roll call vote: Mr. Hoffman-No, Mr. Wagar-Yes, Mr. Alexander-Yes, Mr. McCarthy-Yes, Mr. Sagasser-Yes, Ms. Bono-Yes, Mr. Stults-Yes  
Motion passes 6 to 1.

Variance request #V100001 closed at 8:08pm.

Mr. Riling commended the board for the way they conducted the meeting.

2) Election of officers.

Mr. Alexander nominated Mr. Hoffman to remain as Chairman of the Zoning Board of Appeals. Supported by Mr. Wagar.  
Nomination approved unanimously.

Mr. Sagasser nominated Mr. Wagar to remain as Vice Chairman of the Zoning Board of Appeals. Supported by Mr. Alexander.  
Nomination approved unanimously.

Mr. Alexander nominated Mr. McCarthy as Secretary of the Zoning Board of Appeals. Supported by Mr. Wagar.  
Motion approved unanimously.

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Communications: None

ZBA member items: None

Adjourned 8:13pm.