

7:00 o'clock p.m. Chairperson Montgomery called the meeting of the Zoning Board of Appeals to order.

MEMBERS PRESENT: Eisenhower (S), Marlar, Montgomery (C), Oprita (VC)

MEMBERS ABSENT: Bradley

ALSO PRESENT: Sharon Wilton, Zoning Administrator
Liz Austin, Recording Secretary

VISITORS: Doug Touma, 5130 Lakeshore Road, Fort Gratiot, MI 48059
Lyle Meharg
Julie & Michael Studier, 5837 Campfire Drive, Fort Gratiot, MI 48059
Jeff Frizzle, 3959 Bedford Road, Fort Gratiot, MI 48059
Laurie Wilson, 3002 Woodland Drive, Fort Gratiot, MI 48059
Robert & Diane Hardy, 2014 Holland Avenue, Port Huron, MI 48060
Paul Jones, 3009 Sylvan Drive, Fort Gratiot, MI 48059
Kyle McCalmon, 5834 Campfire Drive, Fort Gratiot, MI 48059
Barbara Lashbrook, 2976 Sylvan Drive, Fort Gratiot, MI 48059
John Wyllie, 3003 Sylvan Drive, Fort Gratiot, MI 48059

Motion by Eisenhower, supported by Marlar, to approve the agenda as printed and posted.

Vote, 4/0. MOTION CARRIED. AGENDA APPROVED. Administrative errors in motion numbers were corrected.

Motion by Oprita, supported by Eisenhower, to approve the minutes of the meeting of August 17, 2021.

Vote, 4/0. MOTION CARRIED. MINUTES APPROVED.

CITIZENS WISHING TO ADDRESS THE BOARD (for items not on the agenda): None.

NEW BUSINESS:

ITEM #1: VARIANCE/CLASS A DESIGNATION – CAMPFIRE DRIVE (VACANT) / 74-20-297-0036-000:

APPLICANT: Jeff Frizzle, 3959 Bedford Road, Fort Gratiot, MI 48059

OWNER: Robert & Diane Hardy, 2985 Sylvan Drive, Fort Gratiot, MI 48059

REQUEST: Proposed dwelling: 24' east rear yard setback variance; 10' west front yard setback variance; 5' south side yard setback variance; 191 square foot lot coverage variance; Class A designation.

LOCATION: Campfire Drive (vacant)

PARCEL ID #: 74-20-297-0036-000

LEGAL: LOT 54 THE FORREST SUBDIVISION

APPLICANTS PRESENTATION:

Jeff Frizzle, speaking on behalf of Robert & Diane Hardy, is here to request variances for a proposed dwelling on vacant lot 54 in The Forrest Subdivision. Lot 54 is a nonconforming parcel and does not support the proposed structures or parking without variances, which is common for the area. They are asking for a 24' east rear yard setback variance, a 10' west front yard setback variance, as well as a 5' south side yard setback variance, lot coverage variance and Class A designation. He thanked the board for their time with this matter.

PUBLIC COMMENT:

Kyle McCalmon of 5834 Campfire Drive stated that his only concern is with the 5' south side yard variance because they intend on building a garage 10' from that property line on their property. He spoke to the township and was told that the 15' in between the Hardy's proposed home and his proposed garage will be okay. He has no other concerns.

Doug Touma of 5130 Lakeshore Road. He represents Dan & Kim Peterson who wanted to be there tonight but had a previously scheduled trip. He did provide some correspondence with some specific points that are not included in the agenda packets but wanted to make sure they received them. He has a few general comments as well. This is a very steep ask. Their firm represents 20 municipalities and he has been representing Burtchville Township for 25 years. Frankly, to see someone request a 70% rear yard setback here, he doesn't think he's ever seen a request that steep and he's certainly never seen that granted. Setbacks are very uniform across the community, everyone has them, and they serve an important purpose. *(Doug Touma continued on next page)*

When we sit as a planning commission or board of trustees, we can say, "I don't like that," or "it's too big or too small" and "you can change this or change that." But when we sit as a zoning board of appeals, we can't entertain those decisions. We can't entertain that discussion. He disagrees with the standard that talks about the basis for other members of the Fort Gratiot administration approving a request. When this zoning board is approving a request, particularly one that is this steep, you are only allowed to consider the section under 38-75 (3), as sited in his letter. Can the property otherwise be used without this request? If the answer is no, then you have to go on and consider the secondary consideration of does this adversely affect the light, air, safety of the other surrounding properties. He doesn't even think we get to that second question because when we ask can this property even be used without this request, certainly it can. You could easily have a 2-story, 1,200 square foot structure on this property without seeking a 35' setback down to 11. That's a huge request. He doesn't think we should use this meeting to negotiate, he thinks we should say we'll work with you, come back with something a little more reasonable and we'll do this at another meeting. The property can be used without that request. That should be the end of the inquiry for this group. We should get to the second level inquiry. Obviously, this affects light, air and safety. The Peterson's are going to be on their deck looking at the side of this house and that affects the light, air, line of site into the lake, into the properties to the south and into the properties to the east as well. Because it's such a steep ask and they're going so far forward toward that rear property line, that's what makes it an improper request. He doesn't think we get to that negative burden analysis and can stop at the point where can this property be used without a 24' variance on the east side. That's the big part that's offensive here and we should deny the request as it's written and encourage them to come back with something different rather than negotiate with them here tonight. The other thing he thinks is important under zoning ordinances is "is this outside of their control." No. They lived across the street, they've lived at that lot for years, they knew how the lot was and knew what the ordinances were. Not only did they buy it knowing all of those things, but then they come in with a site plan that's driven by personal preferences. One more comment. There's a huge driveway here. They have a motor home that they want to be able to park in front of their house. If they would reduce the size of their driveway, move the whole structure back, go to a 2-story structure rather than going to a 1,400 almost 1,500 square foot footprint, you can have a great house on that property without imposing on the setback to the degree that they have.

Barbara Lashbrook of 2976 Sylvan Drive believes that the structure being that far forward to the east will infringe on the park and the children that play at the park because they play ball.

Michael Studier lives across the street on Campfire Drive and is not happy with amount of setback being taken away. We think this goes against the idea of small cottages in the development, which they thought was always to be one of the goals, all cottages. This is huge. When they come up with a final proposal, he wants to look at that. That's his feeling at this time.

Julie Studier of 5837 Campfire Drive doesn't feel they need those setbacks and it infringes on the whole neighborhood. They should build up. This is lakefront property and it's just wrong in that subdivision. It's drastic for this subdivision.

Laurie Wilson of 3002 Woodland Drive mentioned that no one in that subdivision owns lakefront property. They have a lake view but not lakefront. All of the properties are within this subdivision, not lakefront. They have a beautiful view, a beautiful park that they all share, but no lakefront properties.

Diane Hardy wanted to put some people at ease and explained that the house is not a 1-story house, it is a 2-story house. The Peterson's home is a 3-story home and this one is only a 2-story home with the garage built underneath. The home is on the 2nd level. The Peterson's knew this was a buildable lot and they did not buy it. They had the opportunity because they knew the guy who owned it. Their driveway is very close in size to the Peterson's driveway. Peterson's house is even closer to the rear property line than what they will be. They will be 11' from the rear property line on the northeastern side of the home and 21' from the rear property line on the southeastern side of the home. There is a huge tree behind them and the kids don't normally play right in that area. There is an 8' deck on the east side of the house. The house is 30'x40' and is 30'x48' with the open deck. They have no intentions of ever parking their RV in the driveway on that property. They have a storage space for the RV. Her husband's truck is 22' long. Someone said they can fit 8 cars in that driveway and she stated that she doesn't know how that would be possible. Their driveway is the same size as the Peterson's. There is no parking permitted in the road.

Doug Touma said that this should be tabled because the only copy they have of this proposed structure says that it's 30'x48', not 30'x40'. It was clarified that our survey requirements include the entire footprint of the house, which would include an attached deck. He feels that the survey should differentiate between the deck and the house.

Julie Sturdier stated that the setbacks are blown out from all sides.

BOARD DISCUSSION:

Member Oprita asked if someone would be allowed to pave their entire lot and play basketball. Yes, as long as the necessary drainage requirements are met.

Member Montgomery stated that he visited the property and the survey stakes are clearly marked. The proposed house has an attached deck. As member Oprita previously mentioned, someone can cement their whole property if they choose to without permission from the township so long as water run-off is addressed. He feels that there may be some confusion with this lot due to its proximity to the water. It's not a lakefront lot because of the park behind this lot. Typically, with lakefront properties, we have to take into consideration the line of site. The line of site doesn't apply to this specific circumstance. It's definitely a lake view lot, as are many other lots in this subdivision, but it is not a lakefront lot. One other thing, going back through past data/requests to the Zoning Board of Appeals, we receive requests relatively often from The Forrest, The Manor, Desmond Beach, A Street, B Street and C Street, based on the sizes of these lots. Most of the lots are relatively small, with some of them being very small. This board typically sticks to a minimum of a 3' setback so you have 3' on each side and 6' in between structures to allow fire safety and maintenance. This variance request is one of the lesser requests we've had when comparing to past requests.

Member Oprita questioned if we knew the distance from the east side of the house to the south to the rear property line because it appears to be closer than this request.

Member Eisenhauer agreed that the house to the south appears to be closer to the rear property line.

Mr. McCalmon, property owner of the house to the south, indicated that he believes the property line is at the end of his patio which would be approximately 7' from the back of his home.

Member Oprita asked if the deck on the house to the north, 2975 Sylvan Drive, was part of the original house or was it added on? It was determined that we cannot verify when the deck was done because there are no deck permits in the property file. Oprita stated that the deck appears to be on or very close to the property line. The survey indicates that the deck is on the property line. Oprita mentioned that we wouldn't have approved a deck to be built on a property line.

Member Montgomery confirmed that we wouldn't have permitted a deck to be built any closer than 3' to a property line.

Member Oprita agreed that, after reviewing requests going back to 2012, this board and previous boards have been consistent with variance requests.

Mr. Touma stated that some of these houses were pre-dated to current ordinances, so setbacks and standards of the Zoning Board of Appeals were different. You can't look at what was done in the past, you have to look at what is in front of you today.

Member Eisenhauer said his only concern was how close the deck to the north was to the property line.

Member Oprita stated that, after visiting the property, the deck to the north is literally on the property line.

Member Marlar included that the pictures clearly showed how close the deck is to the property line.

Member Montgomery reiterated that we don't have a variance request for the deck at 2975 Sylvan Drive and, at no time, would our ordinances have allowed it to be built directly on a property line.

Member Eisenhauer mentioned that he doesn't see many cottage-style homes when looking at the aerial of this subdivision.

Member Oprita agreed and included that things and times change and progress. As he's said before, he likes when neighbors can live harmoniously together once they leave here. This request falls well within what they've granted in the past. He despises what happened on the road he lives on but realizes he didn't act on purchasing the property when he had the opportunity.

There was discussion about the neighbors not having the opportunity to purchase the lot and the lot being sold out from underneath them.

Findings of Facts:

- Platted subdivision in 1926.
- This property is not within a High-Risk Erosion Area (Area of Minimal Flood Hazard)
- This property is located in flood zone X-Shade, FEMA FIRM 05/03/2010, Panel 0230D.
- This parcel is a lawfully existing non-confirming parcel 49.53'x85' (.09 acres).

Contacts/Communications/Correspondence:

As of the date of this review, correspondence received from:

B. Lashbrook 2976 Sylvan dated 9-10-2021. Not in favor of proposed structure.

K. McCalmon 5834 Campfire called 9-14-2021, he intends on building a garage on his parcel (10' setback) was concerned about the variance request on the Hardy variance impacting his plans.

Recommendations:

- The building official recommends approval with no conditions.
- The department of public works recommends approval with no conditions.
- The fire chief recommends approval with no conditions.
- Zoning administrator recommends approval of the Class A Designation based on Reasons for Decision (1), (2), and (4). The proposed dwelling is consistent with the neighborhood, which is most crucial to public health and safety. Approval of the Setback variances; 24' rear setback (E), 10' front setback (W), 5' side yard setback (S). Approval of the lot coverage variance 191 SF.

Reasons for Decision:

*-A request may be **granted** upon findings that:*

- (1) Continuance thereof would not be contrary to public health, safety, or welfare.
- (2) The structure does not and is not likely to significantly depress the value of nearby properties.
- (3) The use or structure was lawful at the time of its inception.
- (4) No useful purposes would be served by strict application of the provisions or requirements of this chapter with which the use or structure does not conform.

*-A request may be **denied** upon finding that:*

- (1) Public services cannot be adequately provided; i.e. water, sewer, gas, electric.
- (2) The proposed construction could hinder public safety response and put the property and surrounding properties at additional risk.
- (3) A hardship (non-financial in nature) or practical difficulty (such as a natural feature of the land) has not been demonstrated.

MOTION #1-1 REAR YARD SETBACK VARIANCE – CAMPFIRE DRIVE (VACANT) / 74-20-297-0036-000:

Motion by Oprita, supported by Marlar, to grant the request from Jeff Frizzle, for a 24' east rear yard setback variance for proposed dwelling at Campfire Drive (vacant) / 74-20-297-0036-000.

Vote, 4/0. MOTION CARRIED. 11' EAST REAR YARD SETBACK GRANTED FOR PROPOSED DWELLING.

MOTION #1-2 FRONT YARD SETBACK VARIANCE – CAMPFIRE DRIVE (VACANT) / 74-20-297-0036-000:

Motion by Eisenhauer, supported by Oprita, to grant the request from Jeff Frizzle, for a 10' west front yard setback variance for proposed dwelling at Campfire Drive (vacant) / 74-20-297-0036-000.

Vote, 4/0. MOTION CARRIED. 25' WEST FRONT YARD SETBACK GRANTED FOR PROPOSED DWELLING.

MOTION #1-3 SIDE YARD SETBACK VARIANCE – CAMPFIRE DRIVE (VACANT) / 74-20-297-0036-000:

Motion by Marlar, supported by Oprita, to grant the request from Jeff Frizzle, for a 5' south side yard setback variance for proposed dwelling at Campfire Drive (vacant) / 74-20-297-0036-000.

Vote, 4/0. MOTION CARRIED. 5' SOUTH SIDE YARD SETBACK GRANTED FOR PROPOSED DWELLING.

MOTION #1-4 LOT COVERAGE VARIANCE – CAMPFIRE DRIVE (VACANT) / 74-20-297-0036-000:

Motion by Eisenhauer, supported by Marlar, to grant the request from Jeff Frizzle, for a 191' square foot lot coverage variance for proposed dwelling at Campfire Drive (vacant) / 74-20-297-0036-000.

Vote, 4/0. MOTION CARRIED. 191 SQUARE FOOT LOT COVERAGE VARIANCE GRANTED FOR PROPOSED DWELLING.

MOTION #1-5 CLASS A DESIGNATION – CAMPFIRE DRIVE (VACANT) / 74-20-297-0036-000:

Motion by Eisenhauer, supported by Oprita, to grant the request from Jeff Frizzle, for a Class A designation at Campfire Drive (vacant) / 74-20-297-0036-000.

Vote, 4/0. MOTION CARRIED. CLASS A DESIGNATION GRANTED ON LOT AND PROPOSED DWELLING.

BOARD DISCUSSION: No meeting next month.

Motion by Montgomery, supported by Eisenhauer, to adjourn. Time, 7:30 o'clock p.m. **Vote, 4/0. MEETING ADJOURNED.**

The Charter Township of Fort Gratiot complies with the "Americans with Disabilities Act" and if auxiliary aids or services are required at the meeting for individuals with disabilities, please contact Clerk, Robert C. Crawford, 3720 Keewahdin Road, Fort Gratiot, Michigan 48059 (810) 385-4489, three days prior to said meeting.