

**ONEKAMA TOWNSHIP
BOARD SPECIAL MEETING
AND PUBLIC HEARING
FOLLOWED WITH
REGULAR MEETING
WEDNESDAY, FEBRAURY 9, 2022
3:00 PM**

Meeting called to order by Supervisor David Meister at 3:00 p.m.

Pledge of Allegiance

Attendance: Bob Blackmore, Allen Taylor, Ed Bradford, Shelli Johnson, and Meister.

MINUTES: **Motion** by Blackmore, Second by Taylor to Approve the Minutes of the January 12, 2022 Regular Board Meeting. M/C

AMEND AGENDA: Add Poverty Guidelines and Asset Test Resolutions to New Business. Move Cooks vs Onekama Township to the beginning before the Clerk's Report. Move the Zoning Report before the Fire Report. Add the Watershed/Invasives Reports above the Fire Report.

PUBLIC COMMENT OF AGENDA ITEMS: None.

OPEN PUBLIC HEARING ON COOK PARCEL @ 3:03 PM

Public Comment:

Faye Backie, Jeneanne Fitzgerald, Karen Mayhew, Bonnie Brooks-Garbrecht, Attorney Houle, Al Garbrecht, Judith Spohn, Paula Vanecek, Tom and Connie Anderson, Paul Fairchild, Elaine Maylen, Dave Vanecek, Sue Frey, Dan Norbeck, Libby Schleiffarth, Armin Schleiffarth, and Attorney Wilson spoke at the Public Hearing and their addresses and letters submitted are attached to these minutes.

CLOSE PUBLIC HEARING @ 3:49 PM

OPEN REGULAR BOARD MEETING @ 3:49 PM

Motion by Johnson, Second by Blackmore to go into Closed Session Regarding Attorney-Client Privileges Discussion, using MCL 15.261 in Accordance with the "Open Meetings Act" Reason. M/C @ 3:50 PM

Motion by Johnson, Second by Taylor to Reconvene the Regular Board Meeting at 4:51 PM. M/C

CLERK'S REPORT received by Johnson. Revenue & Expense report and the Trial Balance report was distributed. There will be an Election in May for the School. Budget Work Session, February 22 at 3:00 PM

TREASURER'S REPORT received for all Cash and Investment Balances on all funds. Also included is the Revenue Report for all funds from Bradford.

PUBLIC COMMENT: None

COUNTY COMMISSIONERS: Absent

NEW BUSINESS:

Survey: Table until March so Board Members can review

Poverty Guidelines: **Motion** by Johnson, Second by Blackmore to assign Resolution # 22-001 accepting Poverty Guidelines from the State Tax Commission for 2022 Assessment Year. M/C

Asset Test: **Motion** by Johnson, Second by Blackmore to assign Resolution # 22-002 for adoption for the Poverty Guideline Asset Test for 2022. M/C

UNFINISHED BUSINESS:

Website Update: Development of the website is up and running. Bradford, Johnson, and Amber Sedelmaier have received training and are inputting content onto the site and its pages. Materials from MS Creative from the old website were uploaded and shared with developers.

Surplus Township Property: Sample property description sheets are being compiled and won't be available until Spring.

Chart of Accounts: BS&A provided final reports and sign-off was submitted. Bradford has spent a tremendous amount of time on this project. Thank you for the support on this! The Final data conversion is being scheduled. Project will be done in time for our new fiscal year.

Onekama Township Vs. Cook: **Motion** by Bradford, Second by Blackmore to table any action until the next meeting, have the Cooks prepare a building envelope with detail and clarifications of structure, setbacks, site plan, etc to be given to the Sub-Committee for review. M/C

FIRE/RESCUE: Report given from Asst Chief Rob Johnson. Update given on vehicle status. Budget preparations, meetings within the department have been postponed due to COVID spreading, and personnel in the fire academy are doing quite well and enjoying it.

ROADS: No action taken.

ZONING ADMINISTRATOR: Report received. Mehl also gave an update regarding Emerald Ridge, stating that after a site visit and a discussion with the owners of the property, discrepancies were given to the contractor.

ASSESSOR: Report received from Ginny Martz. The organizational meeting for the March Board of Review is scheduled for March 8, 2022 at 9:00 am. No appeals will be heard at this meeting. Appeals will be heard during the regular Board meetings which are Monday March 14th from 9:00 am until 12:00 pm and 1:00 pm until 4:00 pm also on Wednesday, March 16th from 2:00 pm until 5:00 pm and 6:00 pm until 9:00 pm. Written appeals must be received by March 14th, 2022. This year, in order to limit everyone's exposure, we are suggesting appealing by mail, dropping off your appeal at the Township

office or by using the Township drop box. We are in the process of completing our work for the 2022 assessments, updating field inspected parcels and calculating new and ongoing construction. Sam, from Equalization, came out to the Township on January 26th and updated the computer with the new GIS lines and the 2021 aerials.

TLSA: Work continues on assembling the answers to the 300+ questions received from the public body. The next meeting will be Wednesday, March 2, 2022.

PARKS & REC: Report given by Vice-Chair and Secretary Lara Treemore-Spears. Michelle Ervin is now the Chairperson of the Committee. **Motion** by Blackmore, Second by Bradford to allow the Committee to submit a letter of intent for the Pollinator Grant by February 17. M/C The WAM Grant was awarded. The Committee also has permission to work with the Clerk in completing information to get submitted to the National Environmental Education Foundation. **Motion** by Johnson, Second by Blackmore to approve up to \$7,000 to get gravel for the trails at North Point Park. M/C

RECYCLE: Property on Eight Mile Road cannot have a Level I performed for months. **Motion** by Bradford, Second by Blackmore to abandoned the purchase of the property on Eight Mile Road. M/C

PLA: Report given by Al Taylor. Moving forward with things and there is an increase in website usage from 14,000 to 24,000.

WATERSHED: Update given by Armin Schleiffarth. Portage Lake Watershed Forever (PLWF) was asked by Al Taylor to put together a proposal for how PLWF should interact with the Township's Invasive Species Committee. Towards that goal PLWF recommends that that Township Invasive Species Committee consist of 5 members. PLWF would provide the Township with recommendations for two of those members. The 2 members PLWF recommends would be subject to Township Board approval. The remaining 3 members would be selected by the Township using its normal procedures.

INVASIVE SPECIES: Taylor gave an update regarding developing By-Laws and the committee as well. The Special Assessment Committee needs more people to join. A recommendation was made by David Wallace, for Chelsea Cooper from the Conservation District.

CORRESPONDENCE: Attached

PUBLIC COMMENT: None

BILLS TO BE PAID: **Motion** by Blackmore, Second by Bradford to pay all regular and incoming bills for February. M/C.

Meeting adjourned 6:26 p.m.

Shelli Johnson, Clerk

February 2, 2022

Onekama Township Board:

The Cook issue has been a time consuming, stressful issue for you and also the residents of O.T.

I believe the ZBA decision came from established procedures in accord with current ordinances.

I am not in favor of anyone building on this type of lot.

Beatriz Capper



Gene Frost

Shelli Johnson

From: Armin <armin@meanderlaw.com>
Sent: Tuesday, February 8, 2022 11:06 AM
To: Shelli Johnson
Subject: Cook Lot

Hi Shelli,

Please accept this as my public comment.

My legal opinion is that the subcommittee's proposal constitutes a replat.

Armin Schleiffarth

Find messages, documents, photos or people

Home

Compose

Back Forward Reply Reply All Archive Move Delete Spam



Re: Cook property variance requests

Yahoo/Onekam...



Steve Lang <stephenrlang1@gmail.com>

Wed, Jan 26 at 9:36 PM

To: supervisor@onekamatwp.org, bblackmore@onekamatwp.org, ataylor@onekamatwp.org; Cc: Lang, Alison

To all,

My name is Steve Lang. My wife (Alison) and I are Residents of Onekama and live at 8900 Lakeside Avenue. I am writing to express concern about the possibility that the Township might approve a series of variances to allow the Cook's to build a home on their property on Portage Point Road just south of the Marina at Portage Point Inn.

I will keep my concern simple. Having seen this property, it is clear that it was never intended for use as a residential property but merely an access for Portage Lake. As I understand it, it doesn't meet any of the current zoning requirements for a home. It is simply not of sufficient size and there isn't sufficient space for a septic system. This is why I believe that the Zoning Board has rejected requests for variances in the past and continued to reject them as recently as 2021. I don't know the Cooks and have no personal interest in this specific matter. I understand, however, that when the Cooks bought this property, it was with full knowledge that the property was "not buildable".

My primary concern is the precedent that variance approvals such as these might mean to the rest of Portage Point and Onekama. If you approve this variance, you have now lowered the bar to allow excessive building on this delicate peninsula which will create congestion and environmental risks. The mere threat of legal action cannot justify a change in zoning philosophy and practice. There are hundreds of lots that will become "buildable" by precedent if you approve these variances. Variances seem harmless until you consider that others will follow with similar requests that will become impossible to reject.

On another note, I understand that many local residents have volunteered to serve on the Zoning Board and have tried to enforce the Zoning rules; in this case by rejecting the obvious flaws in the Cook's request. To unfairly override these past Board decisions will make it very difficult for others to feel compelled to step forward to serve in the future.

Thank you,

Stephen R. Lang
8900 Lakeside
Onekama, Michigan 49675
stephenrlang1@gmail.com
515-783-7721



Reply, Reply All or Forward



Inbox

Unread

Starred

Drafts

Sent

Archive

Spam

Trash

Less

Views

Show

Folders

Hide

+ New Folder

2020Subaru

ACS

66

AON

7

Arizona

1

Bank

70

Bills

5

Christina D.

15

Christmas 14-15

59

Church

1

Computer

28

Credit Cards

127

Deleted Messa...

Drafts

Hilton Head

1

Iceland

1

Insurance

1

Junk

Keystone

11

LCM

1

Lifelock

1

Mackinaw

Medical

21

Medicare-Soc...

33

Minneapolis

2

ND

8

Notes

Onekama To...

Cook variance application re parcel # 51-11-410-055-00

Michael Carpenter <mgcarpenter889@comcast.net>

Mon 2/7/2022 9:20 AM

To: kmehl@manistee-county-mi.gov <kmehl@manistee-county-mi.gov>; David Meister <supervisor@onekamatwp.org>; Shelli Johnson <clerk@onekamatwp.org>; Bob Blackmore <bblackmore@onekamatwp.org>; Allen Taylor <ataylor@onekamatwp.org>

Dear Township Officials:

My name is Whitey Carpenter and I have owned my own cottage at 8981 Lakeside since 1985. My stepmother, Marj Carpenter spent her first year at Portage Point in 1913 and her family still owns property in Onkama Township. My maternal grandparents built the cottage on the north side of the channel in 1952. I have spent over sixty-five summers at Portage Lake with time out for service in Viet Nam with the US Marine Corps and to start a family. I am writing to express my strong opposition to the Cook building application, request for variances and special treatment not afforded other Onkama Township property owners that is adverse to the value and use of our property.

Please bear with me but I know a lot about the property in question and I think this information should be considered by those who will decide the issue. In the early 1960's Bun Beneke moved into the house on Lake Michigan at the end of Ninth Street which is now owned by Dan Monahan. Bun wanted a lakefront lot on Portage Lake to moor and dock his boats so he acquired the lot in question for that purpose. He also had it surveyed and this reflected the fact that the road was in the wrong place, running through the property. I tended bar for him periodically at his cocktail parties and later played golf with him in the Portager group at the Manistee Country Club. He knew the lot was unbuildable and would never build a structure on the lot.

The lake level was receding during this time so one year, probably 1964, he put in a sea wall and backfilled inside this perimeter. His purpose in doing this was because that was where his boats floated due to the receding lake levels. He could then put a dock out to access boat lifts on either side of it. He used it solely to access the lake and his boats. Before he put in the seawall and backfilled, the lot looked no different than all the other lots to the south along Portage Point Road, a beach lot that depended on the lake level for its size. The important thing for decision makers to remember, though, in my opinion, is that the sea wall and back fill were for the sole purpose of accessing the lake and his boats. That is the only reason it sticks out further than adjoining lots to the south, because since that time the lake levels have increased to the high in 1986 as well as recently. **The irony of the present building application is that Mr. Cook wants to take advantage of a sea wall and backfill that were put in to access boat moorings, not for the purpose of building a dwelling house.** I would be more than happy to testify under oath regarding this matter if necessary, because I saw what happened, knew the individual involved and am familiar with the history of the lot.

Eventually the house and lot were sold to Al Turner who used the lot for the same purpose, to access the lake and his boats. Mr. Turner sold the house without the lot. The lot was up for sale alone. In the meantime, Mr. and Mrs. Cook purchased a condo at the inn. He became involved with the condo owners association and Mr. Devoe as well as the Portage Lake Environmental Association which is where I met him. We socialized and I feel Andy and Barb Cook are wonderful people, but this is wrong. He asked me about the lot and I told him what I knew. 'What could be done with the lot' was a topic of conversation and I got the impression that he agreed that it could not be built on. This was twenty years ago but that is the memory I have of conversations regarding the lot. He bought the lot and for many years has used it just like Turner did and just like Beneke did.

Now there's an application for a building permit seeking setback variances and non-conforming uses to build a dwelling house and a garage on the lot. Portage Lake people don't agree on much but there is almost unanimous opposition to this application for obvious reasons. As a rhetorical question to think about, what if there were no seawall and backfill from the 1960's and the Cook's application included putting a sea wall out now, backfilling it and building a house on it? It's a question worth pondering because the sea wall and back fill were not put in for the purpose of a dwelling house.

I attended the Zoning Board of Appeals meeting last summer where Mr. Wilson representing the Cooks did not enhance his reputation. The meeting was well run, well researched, transparent and resulted in a unanimous denial of all requests. Since then, the proceedings can only be described as Kafkaesque, nightmarishly complex, bizarre and illogical. It's impossible to understand at this juncture who has authority to grant or deny relief and why. We all thought the ZBA's decision was final unless appealed to Circuit Court where a judge would render a decision. Apparently there was an appeal but why is a decision now pending at the township level? Perhaps there should be a special assessment to pay attorneys fees to successfully oppose the appeal? What has happened to the good people who put in so much time and effort with the ZBA? Who would ever volunteer to serve when the township board and supervisor undermine their work? Why would any good person volunteer time and effort that results in nothing?

In conclusion, it is clear to all that the lot is too small for an inhabited dwelling house even without a garage. The increase in the impervious area would adversely affect adjoining landowners as well as pollute the lake with road, driveway and excess rain runoff. Traffic would be adversely affected by this approval because the site is right at the end of the blind curve coming from behind the hotel. It's clearly a dangerous situation that should not be tolerated. But most importantly, doesn't the township serve **ALL** of its property owners who faithfully abide by the rules, honor the setbacks, avoid polluting the lakes and expect a government that acts reasonably? Zoning ordinances with setbacks are enacted for a purpose; the general good of the township and its natural resources. Deviations such as those proposed here undermine the whole plan. If this project is approved, in my opinion, there will be a serious question about the equal application of rules in the township as well as the legitimacy of the township overall.

Respectfully submitted
Whitey Carpenter

Shelli Johnson

From: dan e liechty <mdliechty@hotmail.com>
Sent: Wednesday, January 19, 2022 9:21 AM
To: Shelli Johnson
Subject: public access

To whom it may concern:

We are property owners of a cottage on the tight curve at the east end of Little Eden Camp across from and adjacent to the public access. We oppose marking the public access there because there is no place for people to park to use the access. There is no safe place for anyone to even pull off parallel to Portage Point Road near that curve. It's a dangerous curve anyway and marking the access and people using it will increase unsafe traffic maneuvering through that curve, making it more dangerous.

Thank you.

Mary and Dan Liechty
1301 Wilson Ave.
Goshen IN 46526
574-536-7852

Fw: Cook variance

kangasu@aol.com <kangasu@aol.com>

Mon 2/7/2022 8:04 AM

To: David Meister <supervisor@onekamatwp.org>

----- Forwarded Message -----

From: kangasu@aol.com <kangasu@aol.com>

To: DavidMeistersupervisor@onekamatwp.org <davidmeistersupervisor@onekamatwp.org>

Sent: Monday, February 7, 2022, 07:58:25 AM EST

Subject: Fw: Cook variance

----- Forwarded Message -----

From: kangasu@aol.com <kangasu@aol.com>

To: davemeistersupervisor@onekamatwp.org <davemeistersupervisor@onekamatwp.org>

Sent: Monday, February 7, 2022, 07:47:59 AM EST

Subject: Fw: Cook variance

----- Forwarded Message -----

From: kangasu@aol.com <kangasu@aol.com>

To: libbymatthews@att.net <libbymatthews@att.net>

Sent: Sunday, February 6, 2022, 07:52:54 PM EST

Subject: Cook variance

Feb. 6, 2022

David,

I am writing this letter to express my concern over the variances the Cooks are asking for to build their home. I have no personal interest in this other than how I feel these variances affect our zoning. Just as a point of interest, my parents owned that lot and were going to build their retirement home there, I believe it was late 70's or early 80's and were later told that it was too small to build on. They then sold to the Benekes who used it strictly as a lake access lot.

The two things that bother me are the 30' set back from the water and the garage set back. I believe that the water set back is something so important to adhere to for all the reasons it was set as 40' in the first place, this would set a precedent we will come to regret. I'm judging the garage set back comparing it to the house built in town, sorry, I'm in Florida, so can't give address. It's near St. John's by the Lake. His truck was almost in the road it was so close. The location of the Cook's home is approaching a curve and I don't think there is even a place for visitors to pull off. I might be wrong but think it would present an awkward and dangerous situation.

This is just my personal opinion and I realize a variance is needed from time to time, but the lake set back is just too important to be ignored.

Thank you for taking the time to read my letter,

Gail Drake
8620 Portage Point Dr.

To: David Meister, Supervisor

Cc: Shelli Johnson, Robert Blackmore, Allen Taylor

Thank you to the Onekama board for all your time working on the continued requests from the Cooks who are submitting plans to build on lot 5111-410-055-00. Thank you, also, for continuing to rule against these requests. Thank you to the Cooks for recognizing the rulings and making modifications to their proposed plans. The only problem, that I see, is that the Cooks are still asking for variance forgiveness on a piece of property, that we all agree, has never been a buildable site.

In addition to the door that becomes wide open for any lake front lot, no matter how small, to begin to request these variance allowances, the following list are additional issues that arise with this construction request.

- Safety on a very sharp curve
- Children and adults that are using Angel Slide
- Water degradation
- Septic tank placement
- Safety for runners, walkers, and bikers

Another thought, once the lake level goes down property owners could begin to build sea walls and then come to the township and ask for permission to build on these lots!!!

Let's remember there are rules on the books for a reason, not to be broken but upheld. In the words from Jim Trout "The village would have a blighted waterfront full of structures the size of oversize ice shanties"

Please put an end to these requests with a final denial.

Ann Wipperman Volk

Wipperman Family LLC

Parcel Numbers 5111-410-062-00, 5111-410-058-00, 5111-410-064-00

Shelli Johnson

From: David Meister
Sent: Tuesday, February 8, 2022 12:17 PM
To: Shelli Johnson
Subject: Fw: Cook vs Onekama Township Board building ordinances

From: JOHNandTRISH CECCONI <cecconi@bellsouth.net>
Sent: Sunday, January 23, 2022 5:52 PM
To: David Meister <supervisor@onekamatwp.org>; Shelli Johnson <clerk@onekamatwp.org>; Bob Blackmore <bblackmore@onekamatwp.org>; Allen Taylor <ataylor@onekamatwp.org>
Subject: Cook vs Onekama Township Board building ordinances

My husband John W. Cecconi Jr and I, Patricia Hollingsworth-Cecconi have recently been informed regarding this request for multiple zoning ordinance variances,. We wish to express our opposition to granting relief of these requirement and ask the township board to deny the initial and the latest update "Draft 9".

It is our understanding this particular property was purchased by the Cook family in and around 2003, approximately 10 years after the current zoning ordinances were established in 1993. It is our understanding that the purpose of zoning ordinances is to optimize safety and preserve the economic, infrastructural, and environmental sustainability of the community they serve. At the time this property was purchased by the current owners , it was and remains a noncompliant parcel and not an optimal building site for the type of structure they are wishing to erect. As we are sure you are aware, these building ordinances are available for anyone interested in purchasing property or initiating a building project and failure to know what they are is not a valid reason to have them changed.

If any of the ordinances are outdated or deemed needed to be updated or changed, there are proper democratic processes in place in order to ensure all those effected by the change has a voice and chance to communicate their concern and have their vote counted. Asking for an initial request to change 10 variances and negotiating it down to five and then threatening costly litigation is an obvious strategic tactic used by self serving parties to impose their will. There seems to be a growing trend around Portage Lake and Onekama Township to build or buy now and pay the fine or negotiate later. This request sets a dangerous precedent and opens these ordinances to recurrent negotiation and litigation. You cannot bend the rules for one party and then not for another. It creates a revolving door open to chronic litigation.

Your collective decision here sets a precedent that will impact the future sustainability of the Portage Lake Watershed for generations to come. The growth, viability, and future of Onekama Township will be greatly effected by your decision whether to allow these concessions and your ability to defend these ordinances to future requests to bypass or blatantly disregard them. It is our feeling and impression that should your committee and board decide to dig in and deny these requests for the best interest of your community, your community will support you. I am sure each and everyone of you has been considering this over the past several months. Your willingness to negotiate and come up with alternative solutions is commendable but not likely the best long term solution. As property owners, taxpayers, and individuals who are dedicated to the future of Onekama Township and Portage Lake we do not support granting multiple variances of the zoning or building ordinances to accommodate building on this property. We do not mind if our tax dollars are used to defend this position.

Respectfully,

John W. Cecconi and Patricia Hollingsworth-Cecconi
7682 Leonard Ave
Manistee, MI 49660

Shelli Johnson

From: David Meister
Sent: Tuesday, February 8, 2022 12:17 PM
To: Shelli Johnson
Subject: Fw: Cook appeal - Say No.

From: Ann H. <annhep@yahoo.com>
Sent: Wednesday, January 26, 2022 2:44 PM
To: Shelli Johnson <clerk@onekamatwp.org>
Cc: David Meister <supervisor@onekamatwp.org>
Subject: Cook appeal - Say No.

Hi Shelli,
I'm writing to encourage the Township Board to NOT approve the exception to Township ordinances to allow the Cook house to be built.

I think a key point for the Township to consider: if the Township makes an exception for this planned house, does it mean that anyone who is willing to take the case to court can build any nonconforming structure they want? aka, **the legal fees simply become part of the project budget.**

As a taxpayer, I don't want the Township to set the path that will required ongoing legal fees paid by the Township as people sue to get their building plans approved!!!

I urge the Township to enforce the the zoning ordinances.
If they no longer meet the needs of the community, then change the zoning rules and the building requirements to update them where needed.
Do not grant one-off exceptions.

thank you.

Ann Hepenstal
Onekama Township Taxpayer

Find messages, documents, photos or people



Home

Compose

← Back ↶ ↷ → Archive ↗ Move 🗑 Delete 🛡 Spam ⋮ ▲ ▼ ✕



Re: Cook property variance requests

Yahoo/Onekam...



Steve Lang <stephenrlang1@gmail.com>
To: supervisor@onekamatwp.org,
bblackmore@onekamatwp.org,
ataylor@onekamatwp.org
Cc: Lang, Alison

Wed, Jan 26 at 9:36 PM

To all,

My name is Steve Lang. My wife (Alison) and I are Residents of Onekama and live at 8900 Lakeside Avenue. I am writing to express concern about the possibility that the Township might approve a series of variances to allow the Cook's to build a home on their property on Portage Point Road just south of the Marina at Portage Point Inn.

I will keep my concern simple. Having seen this property, it is clear that it was never intended for use as a residential property but merely an access for Portage Lake. As I understand it, it doesn't meet any of the current zoning requirements for a home. It is simply not of sufficient size and there isn't sufficient space for a septic system. This is why I believe that the Zoning Board has rejected requests for variances in the past and continued to reject them as recently as 2021. I don't know the Cooks and have no personal interest in this specific matter. I understand, however, that when the Cooks bought this property, it was with full knowledge that the property was "not buildable".

My primary concern is the precedent that variance approvals such as these might mean to the rest of Portage Point and Onekama. If you approve this variance, you have now lowered the bar to allow excessive building on this delicate peninsula which will create congestion and environmental risks. The mere threat of legal action cannot justify a change in zoning philosophy and practice. There are hundreds of lots that will become "buildable" by precedent if you approve these variances. Variances seem harmless until you consider that others will follow with similar requests that will become impossible to reject.

On another note, I understand that many local residents have volunteered to serve on the Zoning Board and have tried to enforce the Zoning rules; in this case by rejecting the obvious flaws in the Cook's request. To unfairly override these past Board decisions will make it very difficult for others to feel compelled to step forward to serve in the future.

Thank you,

Stephen R. Lang
8900 Lakeside
Onekama, Michigan 49675
stephenrlang1@gmail.com
515-783-7721



Reply, Reply All or Forward



Inbox

Unread

Starred

Drafts

Sent

Archive

Spam

Trash

^ Less

Views Show

Folders Hide

+ New Folder

2020Subaru 7

ACS 66

AON 7

Arizona 1

Bank 70

Bills 5

Christina D. 15

Christmas 14-15 59

Church 1

Computer 28

Credit Cards 127

Deleted Messa...

Drafts

Hilton Head 1

Iceland 1

Insurance 1

Junk

Keystone 11

LCM 1

Lifelock 1

Mackinaw

Medical 21

Medicare-Soc... 33

Minneapolis 2

ND 8

Notes

Onekama To...

Cook variance application re parcel # 51-11-410-055-00

Michael Carpenter <mgcarpenter889@comcast.net>

Mon 2/7/2022 9:20 AM

To: kmehl@manistee-county-mi.gov <kmehl@manistee-county-mi.gov>; David Meister <supervisor@onekamatwp.org>; Shelli Johnson <clerk@onekamatwp.org>; Bob Blackmore <bblackmore@onekamatwp.org>; Allen Taylor <ataylor@onekamatwp.org>

Dear Township Officials:

My name is Whitey Carpenter and I have owned my own cottage at 8981 Lakeside since 1985. My stepmother, Marj Carpenter spent her first year at Portage Point in 1913 and her family still owns property in Onekama Township. My maternal grandparents built the cottage on the north side of the channel in 1952. I have spent over sixty-five summers at Portage Lake with time out for service in Viet Nam with the US Marine Corps and to start a family. I am writing to express my strong opposition to the Cook building application, request for variances and special treatment not afforded other Onekama Township property owners that is adverse to the value and use of our property.

Please bear with me but I know a lot about the property in question and I think this information should be considered by those who will decide the issue. In the early 1960's Bun Beneke moved into the house on Lake Michigan at the end of Ninth Street which is now owned by Dan Monahan. Bun wanted a lakefront lot on Portage Lake to moor and dock his boats so he acquired the lot in question for that purpose. He also had it surveyed and this reflected the fact that the road was in the wrong place, running through the property. I tended bar for him periodically at his cocktail parties and later played golf with him in the Portager group at the Manistee Country Club. He knew the lot was unbuildable and would never build a structure on the lot.

The lake level was receding during this time so one year, probably 1964, he put in a sea wall and backfilled inside this perimeter. His purpose in doing this was because that was where his boats floated due to the receding lake levels. He could then put a dock out to access boat lifts on either side of it. He used it solely to access the lake and his boats. Before he put in the seawall and backfilled, the lot looked no different than all the other lots to the south along Portage Point Road, a beach lot that depended on the lake level for its size. The important thing for decision makers to remember, though, in my opinion, is that the sea wall and back fill were for the sole purpose of accessing the lake and his boats. That is the only reason it sticks out further than adjoining lots to the south, because since that time the lake levels have increased to the high in 1986 as well as recently. **The irony of the present building application is that Mr. Cook wants to take advantage of a sea wall and backfill that were put in to access boat moorings, not for the purpose of building a dwelling house.** I would be more than happy to testify under oath regarding this matter if necessary, because I saw what happened, knew the individual involved and am familiar with the history of the lot.

Eventually the house and lot were sold to Al Turner who used the lot for the same purpose, to access the lake and his boats. Mr. Turner sold the house without the lot. The lot was up for sale alone. In the meantime, Mr. and Mrs. Cook purchased a condo at the inn. He became involved with the condo owners association and Mr. Devoe as well as the Portage Lake Environmental Association which is where I met him. We socialized and I feel Andy and Barb Cook are wonderful people, but this is wrong. He asked me about the lot and I told him what I knew. 'What could be done with the lot' was a topic of conversation and I got the impression that he agreed that it could not be built on. This was twenty years ago but that is the memory I have of conversations regarding the lot. He bought the lot and for many years has used it just like Turner did and just like Beneke did.

Now there's an application for a building permit seeking setback variances and non-conforming uses to build a dwelling house and a garage on the lot. Portage Lake people don't agree on much but there is almost unanimous opposition to this application for obvious reasons. As a rhetorical question to think about, what if there were no seawall and backfill from the 1960's and the Cook's application included putting a sea wall out now, backfilling it and building a house on it? It's a question worth pondering because the sea wall and back fill were not put in for the purpose of a dwelling house.

I attended the Zoning Board of Appeals meeting last summer where Mr. Wilson representing the Cooks did not enhance his reputation. The meeting was well run, well researched, transparent and resulted in a unanimous denial of all requests. Since then, the proceedings can only be described as Kafkaesque, nightmarishly complex, bizarre and illogical. It's impossible to understand at this juncture who has authority to grant or deny relief and why. We all thought the ZBA's decision was final unless appealed to Circuit Court where a judge would render a decision. Apparently there was an appeal but why is a decision now pending at the township level? Perhaps there should be a special assessment to pay attorneys fees to successfully oppose the appeal? What has happened to the good people who put in so much time and effort with the ZBA? Who would ever volunteer to serve when the township board and supervisor undermine their work? Why would any good person volunteer time and effort that results in nothing?

In conclusion, it is clear to all that the lot is too small for an inhabited dwelling house even without a garage. The increase in the impervious area would adversely affect adjoining landowners as well as pollute the lake with road, driveway and excess rain runoff. Traffic would be adversely affected by this approval because the site is right at the end of the blind curve coming from behind the hotel. It's clearly a dangerous situation that should not be tolerated. But most importantly, doesn't the township serve **ALL** of its property owners who faithfully abide by the rules, honor the setbacks, avoid polluting the lakes and expect a government that acts reasonably? Zoning ordinances with setbacks are enacted for a purpose; the general good of the township and its natural resources. Deviations such as those proposed here undermine the whole plan. If this project is approved, in my opinion, there will be a serious question about the equal application of rules in the township as well as the legitimacy of the township overall.

Respectfully submitted
Whitey Carpenter

Shelli Johnson

From: dan e liechty <mdliechty@hotmail.com>
Sent: Wednesday, January 19, 2022 9:21 AM
To: Shelli Johnson
Subject: public access

To whom it may concern:

We are property owners of a cottage on the tight curve at the east end of Little Eden Camp across from and adjacent to the public access. We oppose marking the public access there because there is no place for people to park to use the access. There is no safe place for anyone to even pull off parallel to Portage Point Road near that curve. It's a dangerous curve anyway and marking the access and people using it will increase unsafe traffic maneuvering through that curve, making it more dangerous.

Thank you.

Mary and Dan Liechty
1301 Wilson Ave.
Goshen IN 46526
574-536-7852

Fw: Cook variance

kangasu@aol.com <kangasu@aol.com>

Mon 2/7/2022 8:04 AM

To: David Meister <supervisor@onekamatwp.org>

----- Forwarded Message -----

From: kangasu@aol.com <kangasu@aol.com>

To: DavidMeistersupervisor@onekamatwp.org <davidmeistersupervisor@onekamatwp.org>

Sent: Monday, February 7, 2022, 07:58:25 AM EST

Subject: Fw: Cook variance

----- Forwarded Message -----

From: kangasu@aol.com <kangasu@aol.com>

To: davemeistersupervisor@onekamatwp.org <davemeistersupervisor@onekamatwp.org>

Sent: Monday, February 7, 2022, 07:47:59 AM EST

Subject: Fw: Cook variance

----- Forwarded Message -----

From: kangasu@aol.com <kangasu@aol.com>

To: libbymatthews@att.net <libbymatthews@att.net>

Sent: Sunday, February 6, 2022, 07:52:54 PM EST

Subject: Cook variance

Feb. 6, 2022

David,

I am writing this letter to express my concern over the variances the Cooks are asking for to build their home. I have no personal interest in this other than how I feel these variances affect our zoning. Just as a point of interest, my parents owned that lot and were going to build their retirement home there, I believe it was late 70's or early 80's and were later told that it was too small to build on. They then sold to the Benekes who used it strictly as a lake access lot.

The two things that bother me are the 30' set back from the water and the garage set back. I believe that the water set back is something so important to adhere to for all the reasons it was set as 40' in the first place, this would set a precedent we will come to regret. I'm judging the garage set back comparing it to the house built in town, sorry, I'm in Florida, so can't give address. It's near St. John's by the Lake. His truck was almost in the road it was so close. The location of the Cook's home is approaching a curve and I don't think there is even a place for visitors to pull off. I might be wrong but think it would present an awkward and dangerous situation.

This is just my personal opinion and I realize a variance is needed from time to time, but the lake set back is just too important to be ignored.

Thank you for taking the time to read my letter,

Gail Drake
8620 Portage Point Dr.

To: David Meister, Supervisor

Cc: Shelli Johnson, Robert Blackmore, Allen Taylor

Thank you to the Onekama board for all your time working on the continued requests from the Cooks who are submitting plans to build on lot 5111-410-055-00. Thank you, also, for continuing to rule against these requests. Thank you to the Cooks for recognizing the rulings and making modifications to their proposed plans. The only problem, that I see, is that the Cooks are still asking for variance forgiveness on a piece of property, that we all agree, has never been a buildable site.

In addition to the door that becomes wide open for any lake front lot, no matter how small, to begin to request these variance allowances, the following list are additional issues that arise with this construction request.

- Safety on a very sharp curve
- Children and adults that are using Angel Slide
- Water degradation
- Septic tank placement
- Safety for runners, walkers, and bikers

Another thought, once the lake level goes down property owners could begin to build sea walls and then come to the township and ask for permission to build on these lots!!!

Let's remember there are rules on the books for a reason, not to be broken but upheld. In the words from Jim Trout "The village would have a blighted waterfront full of structures the size of oversize ice shanties"

Please put an end to these requests with a final denial.

Ann Wipperman Volk

Wipperman Family LLC

Parcel Numbers 5111-410-062-00, 5111-410-058-00, 5111-410-064-00

Shelli Johnson

From: David Meister
Sent: Tuesday, February 8, 2022 12:17 PM
To: Shelli Johnson
Subject: Fw: Cook vs Onekama Township Board building ordinances

From: JOHNandTRISH CECCONI <cecconi@bellsouth.net>
Sent: Sunday, January 23, 2022 5:52 PM
To: David Meister <supervisor@onekamatwp.org>; Shelli Johnson <clerk@onekamatwp.org>; Bob Blackmore <bblackmore@onekamatwp.org>; Allen Taylor <ataylor@onekamatwp.org>
Subject: Cook vs Onekama Township Board building ordinances

My husband John W. Cecconi Jr and I, Patricia Hollingsworth-Cecconi have recently been informed regarding this request for multiple zoning ordinance variances,. We wish to express our opposition to granting relief of these requirement and ask the township board to deny the initial and the latest update "Draft 9".

It is our understanding this particular property was purchased by the Cook family in and around 2003, approximately 10 years after the current zoning ordinances were established in 1993. It is our understanding that the purpose of zoning ordinances is to optimize safety and preserve the economic, infrastructural, and environmental sustainability of the community they serve. At the time this property was purchased by the current owners , it was and remains a noncompliant parcel and not an optimal building site for the type of structure they are wishing to erect. As we are sure you are aware, these building ordinances are available for anyone interested in purchasing property or initiating a building project and failure to know what they are is not a valid reason to have them changed.

If any of the ordinances are outdated or deemed needed to be updated or changed, there are proper democratic processes in place in order to ensure all those effected by the change has a voice and chance to communicate their concern and have their vote counted. Asking for an initial request to change 10 variances and negotiating it down to five and then threatening costly litigation is an obvious strategic tactic used by self serving parties to impose their will. There seems to be a growing trend around Portage Lake and Onekama Township to build or buy now and pay the fine or negotiate later. This request sets a dangerous precedent and opens these ordinances to recurrent negotiation and litigation. You cannot bend the rules for one party and then not for another. It creates a revolving door open to chronic litigation.

Your collective decision here sets a precedent that will impact the future sustainability of the Portage Lake Watershed for generations to come. The growth, viability, and future of Onekama Township will be greatly effected by your decision whether to allow these concessions and your ability to defend these ordinances to future requests to bypass or blatantly disregard them. It is our feeling and impression that should your committee and board decide to dig in and deny these requests for the best interest of your community, your community will support you. I am sure each and everyone of you has been considering this over the past several months. Your willingness to negotiate and come up with alternative solutions is commendable but not likely the best long term solution. As property owners, taxpayers, and individuals who are dedicated to the future of Onekama Township and Portage Lake we do not support granting multiple variances of the zoning or building ordinances to accommodate building on this property. We do not mind if our tax dollars are used to defend this position.

Respectfully,

John W. Cecconi and Patricia Hollingsworth-Cecconi
7682 Leonard Ave
Manistee, MI 49660

Shelli Johnson

From: David Meister
Sent: Tuesday, February 8, 2022 12:17 PM
To: Shelli Johnson
Subject: Fw: Cook appeal - Say No.

From: Ann H. <annhep@yahoo.com>
Sent: Wednesday, January 26, 2022 2:44 PM
To: Shelli Johnson <clerk@onekamatwp.org>
Cc: David Meister <supervisor@onekamatwp.org>
Subject: Cook appeal - Say No.

Hi Shelli,

I'm writing to encourage the Township Board to NOT approve the exception to Township ordinances to allow the Cook house to be built.

I think a key point for the Township to consider: if the Township makes an exception for this planned house, does it mean that anyone who is willing to take the case to court can build any nonconforming structure they want? aka, **the legal fees simply become part of the project budget.**

As a taxpayer, I don't want the Township to set the path that will required ongoing legal fees paid by the Township as people sue to get their building plans approved!!!

I urge the Township to enforce the the zoning ordinances.

If they no longer meet the needs of the community, then change the zoning rules and the building requirements to update them where needed.

Do not grant one-off exceptions.

thank you.

Ann Hepenstal
Onekama Township Taxpayer

Shelli Johnson

From: David Meister
Sent: Tuesday, February 8, 2022 12:17 PM
To: Shelli Johnson
Subject: Fw: Cook Propoasl

From: Armin <armin@meanderlaw.com>
Sent: Friday, January 28, 2022 6:33 AM
To: avo49675@yahoo.com <avo49675@yahoo.com>; David Meister <supervisor@onekamatwp.org>
Subject: FW: Cook Propoasl

Hi Dave,

Following through on the request below even though it is not my job.

I'm not responsible for its content so don't blame the messenger.

Armin

From: derby62 <onekama@cinci.rr.com>
Date: Wednesday, January 26, 2022 at 2:20 PM
To: Armin <armin@meanderlaw.com>
Subject: FW: Cook Propoasl

I couldn't get this to send
Can you forward it or copy it and send to Meister.
I sent one to Shelli and it was not returned?

Sent from [Mail](#) for Windows

From:
Sent: Wednesday, January 26, 2022 2:17 PM
To: supervisor@onekamatwp
Subject: Cook Propoasl

Dear Mr Meister,

I am writing to you with concern over the subcommittee proposal to allow building on this nonconforming lot. I am sure there are may other lots like this but you and Mr Trout decided to make an example of this one.

As and elected official I continue to be baffled why you feel obligated to grant the Cooks a favor? What about protecting the rest of the taxpayers that voted for you. To my knowledge the Cooks are not even voters? What do you know about them that we don't know and what kind of pressure are they putting on the township board?

You have said letting this go to court would cost the taxpayers too much money. Not so if we count have much you have already paid to Mr Grier and now yet you hired another attorney. Now you have yet hired another attorney. Why are you afraid of being sued?

It seems the township attorney has done nothing to help the taxpayers.....just bending over to pressure from Cooks, their attorney, and apparently you!

We are convinced you don't care about the taxpayers, voters, and property owners.

We are also tired of all the legalback and forth and are concerned that you and Mr Trout did not uphold the ruling of the ZBA. Now you are losing valuable committee members. How can we expect you to uphold our zoning laws?

Please let this go back to court where it belongs and stop trying to dictate.

I would be delighted for you to use my tax money to defend this suit!

Allowing this proposal would set a dangerous precedent that would basically allow unwanted construction and endanger the safety and environment of our lake.

Do the job we elected you for!

Respectfully submitted,

Catherine Bradford

8368 Portage Point dr

Onkama,Mi 49675

Sent from [Mail](#) for Windows

Shelli Johnson

From: Armin <armin@meanderlaw.com>
Sent: Tuesday, February 8, 2022 11:06 AM
To: Shelli Johnson
Subject: Cook Lot

Hi Shelli,

Please accept this as my public comment.

My legal opinion is that the subcommittee's proposal constitutes a replat.

Armin Schleiffarth

Shelli Johnson

From: David Meister
Sent: Tuesday, February 8, 2022 12:15 PM
To: Shelli Johnson
Subject: Fw: Cook Zoning fiasco

From: Daniel Berger <danoberger@gmail.com>
Sent: Wednesday, February 2, 2022 5:43 PM
To: David Meister <supervisor@onekamatwp.org>; Shelli Johnson <clerk@onekamatwp.org>
Subject: Cook Zoning fiasco

I write, yet again, concerning the application by Mr. and Mrs. Andrew Cook for multiple zoning variances to build a home and garage on their postage stamp lot catty-corner to Angel Slide on Portage Point Drive.

By way of personal background, I am a retired lawyer who specialized in real estate law, including representation of individuals and developers in numerous zoning matters. As a law student at University of Michigan Law School, I took courses in land use planning, environmental and water law. I am also a former member of our local, Warren County, Ohio Board of Zoning Appeals. In short, I am familiar with the purposes and effects of zoning laws and their administration.

I am also a lifelong summer resident of Onekama and love the lake like it were part of my family. Over my 77 years I have seen the health and natural beauty of the lake slowly degraded by human use and development of its shoreline. More seawalls, more buildings, more septic systems. It has been painful to watch this occur.

Now come the Cooks who desire to build on a lot that exists only because of the presence of a seawall that projects far out beyond the natural shoreline. If the Cooks can build there, what will prevent any other riparian owner from building out an artificial seawall lot and slapping up another residence with its obstruction of the shoreline view and building, driveway and lawn runoff directly into the lake? For the long-term health and beauty of the lake, the Cook's proposed development would create a horrible precedent.

Building on the Cook's lot poses other problems because of its particular location, on Portage Point Drive, immediately past Angel Slide. This is a high volume vehicular, bike and pedestrian traffic area, and any vehicle coming into or leaving the Cook lot will create a serious risk of an accident.

When the Cooks bought their lot, it was subject to the zoning code, and their disregard of the laws governing the use of their lot does not constitute a "hardship" or a "taking" of their property, both of which are nonsense legal theories in this case. They simply want to build something not permitted under the zoning code, and there is no reason to permit them to do so any more than if I decided I wanted to build a four-story condominium (imagine the profit!) on my lakefront property on M-22.

While I pay thousands of dollars in taxes each year to the Village and Township of Onekama, because I am not a resident, I can not vote for our local government representatives. But as a taxpayer, I expect my local representatives to fulfill their duties for the long-term common good of the community. In this case, that requires a strict application of the Onekama Township zoning code, and denial of any variance in connection with building on the Cook lot.

I know that many other property owners on Portage Lake similarly oppose the Cook's proposal, but because they are not winter-time residents they are not available to participate at any hearing or meeting regarding this matter, and are not tuned into the continuing developments. But as you may recall, when a hearing was conducted regarding this matter during the summer, there was a significant expression of opposition from property owners all around the lake. Those voices should still be heard.

Thank you for considering this communication in connection with the upcoming proceedings concerning this matter.

Respectfully submitted<

- Dan Berger

Shelli Johnson

From: David Meister
Sent: Tuesday, February 8, 2022 12:15 PM
To: Shelli Johnson
Subject: Fw: Cook Zoning

From: Yahoo Plus <jeneannefitz@sbcglobal.net>
Sent: Saturday, January 29, 2022 11:24 AM
To: David Meister <supervisor@onekamatwp.org>
Subject: Cook Zoning

Dear David,

Once again, I am writing a letter to you to reaffirm our concern about the Cook proposals. We have attended many meetings and written several letters. And as you can see, we are not giving up. It is very important to our community to do the best we can to keep the safety and environmental objectives front and center and enforced.

The only way to support our community is to trust our elected board members and appointed communities to represent us. Good zoning is most valuable in any area. Our house values and the development of the area depend on these decisions. Please consider our investment. Thank you,
Sincerely, Bill and Jeneanne Fitzgerald

Shelli Johnson

From: Jim Claire <coloradoriley@msn.com>
Sent: Tuesday, February 8, 2022 12:04 PM
To: Shelli Johnson
Subject: Re: Cook Property Public Hearing

On Feb 3, 2022, at 9:52 AM, Jim Claire <coloradoriley@msn.com> wrote:

To: Onekama Township Board

We are writing this email in response to the Townships pending review of the Cook property located on Portage Point Road.

We have concerns about the current process being followed by the Cook's and the Township on the review of a site plan for this property. We reference the December 27, 2021 OTB Cook subcommittee proposed "resolution to the impasse."

As we review the recently published materials for the upcoming Public Hearing we do not believe that there is a formal submittal of the required Site Plan/ Plot Plan by the Cook's. There is a "Plan C" and a letter from the Cook's

attorney discussing issues and adjustments made to the attached drawing which no one has called a Site Plan/Plot Plan submittal. Without an officially submitted site plan it is impossible for the average person to completely understand the impacts of the suggested variance approvals. We understand the desires of the Cook's to determine the criteria within which they need to design and construct their building, but putting approval of specific variances in this agreement prior to a submitted and adequately reviewed site plan seems to be jumping several administrative steps in the process. This proposed agreement would essentially be amending the current zoning ordinances for one specific lot. We strongly object to committing the Onekama Township Board to approve this agreement prior to adequate review of all aspects of a site plan.

It does appear that the Cook's and the Township are both cooperatively trying to resolve issues for this parcel that are caused by the "as built location" of Portage Point Road. No matter how this land use application is processed, it

is apparent that the current roadway location and appropriate Right of Way need to be revised to reflect the actual roadway the Public uses for access and egress. A replat of the Cooks Parcel reflecting the roadway should be included as part of this application. Setback criteria for the west property line and the impervious area calculations are impossible to adequately address with the existing lot. In none of the official correspondence have we found any direct discussion of the roadway location and its impacts. Additionally the road has been in existence for decades and it is unlikely that the Cook's did not consider the roadway impact on the ability to build on the property prior to their acquisition.

As with any other land use application, a plot plan/ site plan submitted by the Cook's and reviewed by the Planning Commission for compliance with required ordinances should happen prior to the Board conducting a public hearing on that application. After this review by the Planning Commission (made available to the Public) people can and will be better informed to

provide appropriate public comments regarding this land use.

The legal procedures initiated by the Cook's should not require the Township to alter its normal course of business, perform the appropriate reviews to protect the residents of Onekama Township, and maintain the legal criteria for land use approvals.

Sincerely,

Jim and Claire Riley
9034 Lakeside Avenue
Onekama, MI 49675

Shelli Johnson

From: Jay Siwek <siwekj@georgetown.edu>
Sent: Tuesday, February 8, 2022 10:07 AM
To: Shelli Johnson
Subject: ATTN: Township Board: Cooks' hearing

To: Onekama Township Board
Re: Cooks' variance hearing of February 9

Looking over all the online documents relating to this hearing, I can see the remarkable amount of work done by members of the Township Board and its committees. I don't want to second-guess their decisions, and so I defer to the Board and Zoning Board of Appeals regarding the various ordinances in question and their enforcement. My main point in writing is to express my strong support for uniform application of these ordinances. I am concerned that the Township may be bowing to threats of a lawsuit and overruling the previous rulings (denials) by the ZBA. If so, I think this is a bad precedent. It suggests that anyone with enough money and determination can simply strong-arm their way to get what they want, regardless of established ordinances and legitimate rulings by the ZBA or Township Board. I think it is important that property owners know that there is a fair and uniform process enjoyed by all, and not subject to manipulation by lawsuit. Otherwise, why have ordinances? I realize there are financial costs related to defending against such lawsuits, but simply bowing to that pressure sets a precedent for anyone to follow. I appreciate the thoughtful consideration and hard work done by the Board (in this and every situation).

Sincerely,
Jay Siwek, MD
9335 Lakeside Ave.
Onekama, MI

February 7, 2022

Onekama Zoning Board of Appeals:

This a letter stands against the zoning variance appeal by Mr. & Mrs. Cook (Parcel # 51-11-410-055-00 to build a 27'6" x 55'6" house on this parcel. The Cook's request variances that will create multiple risks and dangerous zoning variance precedents. While I understand septic placement is not part of the appeal, lack of clarity related to identification of septic location and remaining open space on the Parcel creates a high probability of hazardous affluent runoff into Portage Lake. I find this proposal's lack of clarity regarding the septic location and safety concerns related to pedestrians in an already congested area more than sufficient to warrant a firm denial of any zoning variance request.

Second, the house building site creates environmental concerns to Portage Lake and the immediate wetlands.

Risk to human safety if the proposed variances are approved. A setback variance from the roadside property line (Avenue A) is requested that **WILL** create a safety concern to pedestrian traffic along Avenue A in an already congested area.

Risk to environmental safety if the proposed variances are approved.

A setback variance from the lakeside property line is requested that **WILL** create an environmental hazard to Portage Lake. Very recently lake water levels were extraordinarily high and although they are a bit lower at present, all scientifically based predictions of Lake Michigan/Huron lake levels indicate water level will, on the average, rise over time.

Thank you for the opportunity to voice my concerns and hope that the Cooks' proposed improvement to Parcel # 51-11-410-055-00 and the zoning variances that would be necessary if the project goes forward and are denied by the zoning appeals board.



Brooks Applegate, Manager
Peter Pan at Portage Lake LLC
2074 6th Street

Shelli Johnson

From: derby62 <onekama@cinci.rr.com>
Sent: Monday, February 7, 2022 1:02 PM
To: Shelli Johnson
Cc: Armin; robert schle
Subject: Cook Building Lot Proposal

Dear Onekama Township Board of Trustees

I believe by now you know that I own the property at 8368 Portage Point Dr immediately south of the Cook lot; as well as cross the road where my home is located.

Since May of 2021 I have gone to numerous meetings , pubic hearings, listened to legal opinions, written letters and emails, and have suffered undue stress over what granting their request would do to my property and my home.

I guess my final question to you is WHY?

Why are you willing to overturn the ZBA ruling denying the variances that were requested?

Why are you willing to risk setting a precedent that would encourage others to request building on unbuildable non conforming lots?

Why are you willing to risk the danger to the environment and safety of our lake and our neighborhood?
No matter what stipulations you put in place to protect them ,who will enforce violations?

Why are you willing to allow a possible septic tank issue with all the other ones that you have around the lake? You say its not your job ,so you can look the other way.

Why do you claim it would cost the township too much money to let the court decide this case? You have already paid the township attorney over \$7,000, and all he wants to do is compromise and not litigate.
What about having him represent the taxpayers who pay him? Let the court decide.

Why do you feel the Cooks have been deprived of using their lot as intended. They use it as beach access and now with an approved dock. Nothing has been "taken" from them.

Why would you negotiate with people who have NO respect for you, the ZBA, and your decisions. Clearly by now you must realize they only want it "their way".

If you grant this request everyone loses. The ZBA, the neighbors and the neighborhood, the lake, the environment, safety, the credibility of our elected township officials, our property values, and the reputation of Portage Lake and Onekama as a "place of great beauty"

Please reject this proposed building request.

Respectfully submitted,

Catherine Bradford
8368 Portage Point dr
Onekama, Mi 49675

Sent from [Mail](#) for Windows

Shelli Johnson

From: Richard M. Wilson <RWilson@mikameyers.com>
Sent: Monday, February 7, 2022 9:46 AM
To: Shelli Johnson
Subject: RE: Cook family request for zoning variances

Thanks, Shelli

Mika Meyers^{PLC}

Richard M. Wilson, Jr.

Mika Meyers PLC

414 Water Street

PO Box 537

Manistee, MI 49660

Tel: 231-723-8333

Fax: 231-723-3888

mikameyers.com

E-mail: rwilson@mikameyers.com

This message is for the addressee only. It may be confidential, and may include communications protected by the attorney-client privilege, attorney work product protected from discovery in litigation, and/or insider information regarding business transactions. Unauthorized use, disclosure or copying is prohibited, and may be unlawful. If you have received this message in error, please call the sender at (231) 723-8333 and delete the message from your system.

From: Shelli Johnson [mailto:clerk@onekamatwp.org]

Sent: Monday, February 7, 2022 9:34 AM

To: Edward Bradford <treasurer@onekamatwp.org>; Bob Blackmore <bblackmore@onekamatwp.org>; Allen Taylor <ataylor@onekamatwp.org>; avo49675@yahoo.com; Richard M. Wilson <RWilson@mikameyers.com>

Subject: FW: Cook family request for zoning variances

-----Original Message-----

From: Allison and Gary Haworth <haworth210@gmail.com>

Sent: Wednesday, February 2, 2022 6:05 PM

To: Shelli Johnson <clerk@onekamatwp.org>

Cc: kneh@manisteecountymi.gov; Andrew & Kathleen Mackie <akmackie1972@gmail.com>

Subject: Cook family request for zoning variances

We are part owners of a cottage (parcel 51-11-410-055100) a couple of doors from the Cooks' property. We want the area, especially Portage Lake, protected from harmful effects. We love the region and want it preserved.

We know that the Cook family really would like to have you override zoning variances long established, as they keep coming back with different proposals to get around those zoning regulations. We hope that you will uphold rules that have been enforced in the past. If those regulations are not maintained why were they developed in the first place?

We hope that you will support the Zoning Board on this matter.

Thank you,
Allison Mackie Haworth
Gary Haworth

Total Control Panel

[Login](#)

To: rwilson@mikameyers.com

[Remove](#) this sender from my allow list

From: clerk@onekamatwp.org

You received this message because the sender is on your allow list.

Shelli Johnson

From: Katie Mehl <kmehl@manisteecountymi.gov>
Sent: Monday, February 7, 2022 8:47 AM
To: Jon Marty; Shelli Johnson
Cc: armin@meanderlaw.com; Kristyn Houle
Subject: RE: Cook Vs Onekama Township

Received, thank you.

Katie Mehl
Planning and Zoning Administrator
Manistee County
(231) 398-3525
kmehl@manisteecountymi.gov



From: Jon Marty <jonm@tedmarty.com>
Sent: Friday, February 4, 2022 5:58 PM
To: clerk@onekamatwp.org; Katie Mehl <kmehl@manisteecountymi.gov>
Cc: armin@meanderlaw.com; Kristyn Houle <kristynhoule@hotmail.com>
Subject: Cook Vs Onekama Township

[WARNING: External Message]

Dear Onekama Township:

I am a property owner at 2114 Sixth Street in Onekama. I appreciate the hard work of the ZBA and the Board and all that it does for the township. I understand that your position involves public trust and often times it is a thankless job. You have the opportunity before you to demonstrate that you honor that trust and your efforts in this situation will not go unnoticed.

The Zoning Board correctly voted to deny the Cook lot multiple variance requests for the very reason the ZBA exists in the first place- to enforce *responsible* ordinance. Any decision to the contrary is irresponsible based upon the facts and plans submitted. Along with our own previous written concerns to the Township, there have been many more public concerns and opposition to this proposed plan. We understand the Cook proposal is now in front of Township board to approve or deny. Once again, we will reiterate our reasons we are **OPPOSED TO THIS PROPOSED DEVELOPMENT:**

- If the township approves this request, it will severely **erode public trust** in the Onekama Township's governance by subverting the very governing body that exists to enforce responsible ordinance not only now, but in the future as well.
- It will create a **slippery slope of zoning variance requests** all along the Portage lake waterfront and set a dangerous precedent to the protection of the watershed.
- It will cause a **negative impact on adjacent property owners real estate values**; As a property owner at 2114 Sixth Street and with a boundary property line of uninhibited lakefront views, we will have our property values declined by a view overlooking a roof, rather than a lake.
- We also would strongly fight ANY placement of a septic field or tank on our land and would claim **Adverse Possession** if allowed.
- It will create **substantial environmental issues due to the impervious surfaces** and the fact that this proposed development substantially violates set backs from the waterfront, on the eastern waterfront setback *AND* the southern waterfront setback line, the environmental damage increases exponentially. (the lot has water on both sides). If any lot ever needed **STRICT** adherence to the set-backs for the obvious environmental reasons, this would be the one.
- It will create **substantially higher traffic and public safety hazards** at a location which has already been known to be a bottleneck on Portage Point Road with its close proximity to The Portage Point Inn, Marina, Angel Slide and the S-Curve immediately to the north. Many pedestrians and children congregate in this area and play on the sand dunes across the street. As adjacent property owners we've witnessed this in the peak summer season for decades. Children on foot or bicycles will have no chance, with shortened setback requirements of a garage this close to the roadway.
- This lot is a beach and boat access lot and not a residential building lot, everyone knows this. **The Cooks, have enjoyed the use of this lot for years, for that exact purpose** (*see photo taken in July 2021 below*).
- The township must recognize that by approving this action, **it creates far more liability and the potential for further legal action**, than it would by denying the Cook plan.
- **We respectfully ask for a final time, that the Township, back its Zoning Bord of Appeals decision and deny the Cook Proposal.**

Respectfully,

Jon Marty, Marty Properties LLC

2114 Sixth St.
Onkama, MI 49675





Shelli Johnson

From: Jim Claire <coloradoriley@msn.com>
Sent: Thursday, February 3, 2022 11:53 AM
To: Shelli Johnson
Subject: Fwd: Cook Property Public Hearing

To: Onekama Township Board

We are writing this email in response to the Townships pending review of the Cook property located on Portage Point Road.

We have concerns about the current process being followed by the Cook's and the Township on the review of a site plan for this property. We reference the December 27, 2021 OTB Cook subcommittee proposed "resolution to the impasse."

As we review the recently published materials for the upcoming Public Hearing we do not believe that there is a formal submittal of the required Site Plan/ Plot Plan by the Cook's. There is a "Plan C" and a letter from the Cook's attorney discussing issues and adjustments made to the attached drawing which no one has called a Site Plan/Plot Plan submittal. Without an officially submitted site plan it is impossible for the average person to completely understand the impacts of the suggested variance

approvals. We understand the desires of the Cook's to determine the criteria within which they need to design and construct their building, but putting approval of specific variances in this agreement prior to a submitted and adequately reviewed site plan seems to be jumping several administrative steps in the process. This proposed agreement would essentially be amending the current zoning ordinances for one specific lot. We strongly object to committing the Onekama Township Board to approve this agreement prior to adequate review of all aspects of a site plan.

It does appear that the Cook's and the Township are both cooperatively trying to resolve issues for this parcel that are caused by the "as built location" of Portage Point Road. No matter how this land use application is processed, it is apparent that the current roadway location and appropriate Right of Way need to be revised to reflect the actual roadway the Public uses for access and egress. A replat of the Cooks Parcel reflecting the roadway should be included as part of this application. Setback criteria for the west property line and the impervious area calculations are impossible to adequately address with the existing lot. In none of the official correspondence have we found any direct discussion of the roadway location and its impacts. Additionally the road has been in

existence for decades and it is unlikely that the Cook's did not consider the roadway impact on the ability to build on the property prior to their acquisition.

As with any other land use application, a plot plan/ site plan submitted by the Cook's and reviewed by the Planning Commission for compliance with required ordinances should happen prior to the Board conducting a public hearing on that application. After this review by the Planning Commission (made available to the Public) people can and will be better informed to provide appropriate public comments regarding this land use.

The legal procedures initiated by the Cook's should not require the Township to alter its normal course of business, perform the appropriate reviews to protect the residents of Onekama Township, and maintain the legal criteria for land use approvals.

Sincerely,

Jim and Claire Riley
9034 Lakeside Avenue
Onekama, MI 49675

From: [Allison and Gary Haworth](#)
To: [Katie Meh](#)
Subject: Sorry, misspelled your name
Date: Wednesday, February 2, 2022 6:18:03 PM

[WARNING: External Message]

We are part owners of a cottage a couple of doors from the property in question (parcel 51-11-410-055100). We want the area, especially Portage Lake, protected from harmful effects. We love the region and want it preserved.

We know that the Cook family really would like to have you override zoning variances long established, as they keep coming back with different proposals to get around those zoning regulations. We hope that you will uphold rules that have been enforced in the past. If those regulations are not maintained why were they developed in the first place?

We hope that you will support the Zoning Board on this matter.

Thank you, Allison Mackie Haworth
Gary Haworth

Shelli Johnson

From: Tim Marty <timm@tedmarty.com>
Sent: Friday, February 4, 2022 2:55 PM
To: Shelli Johnson
Cc: Kristyn Houle; Armin; onekama@cinci.rr.com; Jon Marty; Tuck Marty (tsmarty59@gmail.com)
Subject: Cook Vs Onekama

Good Afternoon- Short and Sweet. First I would like to thank the folks on the ZBA, Township Board and those that support the Township. It's a thankless job and I know this issue has taken a lot of time and created un needed stress. So, Thank You.

Additionally, this issue is not a 'personal' issue with the Cook Family. For me its just a logical decision based on Zoning, plus, nobody wins. There is A LOT of negative chatter going on in this community right now. So, for the following reasons, I believe the Township Board should defend the ZBA's well reasoned decision.

- The Cook Lot was built into Portage Lake, it is 'in the lake'. If approved in any capacity PL Watershed Loses.
- Originally the Cooks sought 4 variances, if approved in any capacity Township Board loses because of the precedent it will set for current and future board members.
- If approved in any capacity, ZBA Loses
- If approved in any capacity, Neighbors Lose
- If approved in any capacity, Neighborhood Loses
- If approved in any capacity, Public Safety Loses

Many, many Onekama Township taxpayers oppose approving any new dwelling on the Cook lot. As a neighbor (2114 Sixth Street) of The Cook Family Lot, I have witnessed how the Cook Family has used this lot for many, many years- for its intended use, access to the lake. For this reason, the 'taking' argument has zero credibility.

It is my hope that the Township Board unanimously support the ZBA's decision. Thank You for your efforts!

Respectfully,

Timothy E Marty, CIC
2536 Crecent Beach Rd
Onekama, MI 49660

Andrew F. Mackie
8632 Valley Brook Drive
Raleigh, NC 27613
Cell (919) 917 5339
akmackie1972@gmail.com

February 1, 2022

Onekama Township Hall
Attn: Township Board
5435 Main St.
Onekama, MI 49675

Re: Special Meeting February 9, 2022 regarding proposal provided by the Cook Sub-Committee.

My family is a joint owner of the home at 8324 Portage Point Drive We are just a short distance from the Cook property. The property is identified as Parcel ID 51-11-410-055100.

During the past several months we have expressed our objection to the Onekama Zoning Board of Appeals (ZBA) regarding the proposed plans for building a house on this parcel. In August the ZBA denied the Cooks request. We feel that the Township Board should support the ZBA, and not overrule their well thought decision.

The Cooks purchased the property with full knowledge of the limitations it included. Even with the various changes to their plans, they have requested variances that are an unreasonable encroachment on the set back requirements that were thoughtfully put into place by the Zoning Ordinances. The new dwelling would not only have a negative impact on environmental safety but set a precedent that could lead to several other unwanted impacts.

We ask that you support the decision of the ZBA, represent the best interest of all Onekama township citizens, and deny the Cooks request for these variances.

Thanks for your consideration.

Andrew and Kathleen Mackie

January 27, 2022

Onekama Township Board of Trustees
Onekama Township Hall
5435 Main Street
Onekama, MI 49675

From: Kay Vee and Paul Rhoads

Subject: Cook Property

Dear Trustees:

We are part-year residents of Onekama. We purchased our home at 9280 Lakeside in 1979, although the Rhoads family visits to the area began in the mid-1950s. Our only interest in the matter under consideration below is a sincere desire to see that the Portage Lake area retain the property and aesthetic standards that sustain the community we all share and treasure.

With respect to the Cook Subcommittee's Proposal for Resolution dated December 27, 2021 ("Proposal"), we question the reasonableness of authorizing a building of the requested size and location on this lot.

The Board certainly has the authority to approve of variations from existing rules but should consider the extent that any variations result in departures from norms that have been established for all of our residents and codified in the Township's ordinances. The precedent thereby set may be substantial.

The Proposal describes the following details.

Lot Size: We do not understand a comparison of 5,360 square feet of "workable area" (a term unfamiliar to us) versus a minimum lot size of 15,000 square feet. The Board will have to determine just how much smaller this lot is than what the ordinance normally requires. Whatever the result of that inquiry, is the resulting percentage variation reasonable?

Setbacks: The Proposal contains some very specific differences in language when addressing setbacks. We are not sophisticated enough to understand the meanings of the terms utilized, but some of these differences are sufficiently noticeable to draw one's attention to them. We assume that the Board will observe any variations between the language used and the apparent intent of the ordinances.

Side setbacks: These must be 10 feet minimum "from the dwelling drip line or other parts of the building." Under the Proposal, the south side must be measured to the "eave / rake edge and drip line" whereas the north side omits reference to the drip line. The "other parts" language would seem to satisfy the objective of the ordinance. However, we assume the Board will be aware of whether any meaningful variation may have been intended. If so, is it reasonable?

Waterfront setback: There must be a 40-foot setback "from the roof drip line," whereas the Proposal requires only a 30-foot setback from the "eave / rake edge drip line." (We do not understand what is being said with the additional language requiring maintenance "along the edge of parcel abutting the edge of roadway pavement."). If no difference in the points of reference was intended, then the Proposal would seem to allow a full 25% reduction in the distance from the lake. Is that reasonable?

Roadside setback: There must be minimum 25-foot setback from the roadside, but the Proposal would allow a setback of 21-feet "from inside the east edge of the pavement surface to the eave / rake edge dripline." We have seen indications that the road may lie partly within the lot, which might be a reason for this odd measurement description. But whatever the facts on that question, would a 25-foot roadside ordinance be designed at least in part as a safety issue? Is it reasonable to permit a 16% reduction, by allowing construction separated 21 feet from vehicular traffic?

We appreciate the difficulties that are so often encountered by public servants such as yourselves and are confident that you will use your best judgments in reaching your decisions. Thank you for considering these thoughts.

Kay Vee and Paul Rhoads

Handwritten signature in blue ink, appearing to read "Kay Vee Rhoads" and "Paul Rhoads" on two lines.

Shelli Johnson

From: Jim Trout <ibfishwich@aol.com>
Sent: Sunday, January 30, 2022 6:25 AM
To: avo49675@yahoo.com; Shelli Johnson; bbonekama@gmail.com; Edward Bradford
Cc: ddw.hft@gmail.com
Subject: "Confusion" >>>>> "Lack of transparency?" YAH, I'm confused too!!!

FYI >>>>> JRT

-----Original Message-----

From: Jim Trout <ibfishwich@aol.com>
To: **dbehring@charter.net** <**dbehring@charter.net**>
Cc: windsongmi@aol.com <windsongmi@aol.com>
Sent: Sun, Jan 30, 2022 6:18 am
Subject: "Confusion" >>>>> "Lack of transparency?" YAH, I'm confused too!!!

Dan - Thank you for copying me in your recent e-mail on "confusion" regarding the OTB COOK sub-committee report to the OTB. You reference the recent letter to the Manistee Advocate from Libby Schlieffarth as ".....detailing many of them." That letter also omitted a number of facts that Ms. Schlieffarth was definitely informed of - she simply choose not to include them in her screed.

Given your experience as a former Chair of the OTPC, you of all people should be aware that a formal "Public Hearing" mandated by the Michigan Zoning Enabling Act for zoning changes, ordinance amendments, variances (ZBA) and similar *ZONING* related issues is **NOT** relevant to the COOK appeal of the denial of the application for variance to construct on the vacant parcel, now before the Onekama Township Board of Trustees.

Publication of notices that are required for "*Public Hearings*" by the Planning Commission and Z.B.A. on Zoning related issues are **NOT** required by the law in this instance. The Board determined that it is in the public interest to include discussion of the proposed answer to the appellants' (COOKS) lawsuit, now before the Circuit Court in Manistee County, in a public forum and scheduled that public forum in conjunction with the regular monthly meeting of the OTB. Again, this does not require publication or posting under the MZEA as nothing here involves a zoning change, etc.

Claims that the process is defective and violates the MZEA because the notice that was published referenced the COOK parcel as "vacant" though it has has a temporary "garden shed" building placed on it are absurd. An ice fishing shanty pulled up on the shore of a "vacant" parcel does not render the parcel "UN-vacant," nor does placement of dock materials for the winter months. This is absurd, Dan.

The OTB COOK Sub-Committee (which I Chaired, as you know), was charged with coming up with a compromise that would be acceptable to both the appellants and Township. The COOKS had submitted a plan ("C") for a dwelling significantly smaller than that previously denied by the ZBA. Pursuing this case thru the Circuit Court process could resulting costs to the Township taxpayers \$30,000 - \$100,000. >> *Note: It is **NOT** a matter of going to Court. We are IN Court!! > The Township has been sued (the appeal process is delineated by the MZEA and the Ordinance) and is responding to the suit now before the Judge of the Circuit Court.* The Circuit Court may impose whatever settlement it deems appropriate for the case.

Regarding "discussion about septic and well placement," both the ZBA and the OTB COOK Sub-Committee had "discussions" on this. Again you of all people should realize that purview - and permitting - of all such issues are entirely - entirely!! - in the control of the Manistee County Health Department - NOT the Township Board, P.C., Z.B.A. or a Sub-Committee appointed to devise a compromise on the issue.

You mention "transparency." The Township Board publically appointed a Sub-Committee with the charge of trying to reach reasonable a compromise before proceeding further down the path of the Circuit Court process. The Sub-Committee held public meetings which were posted and noticed on the website - and attended by citizens, including Ms. Schlieffarth, who spent her public comment time demanding to be informed what the exact annual costs incurred for all Township legal fees were (see video broadcast of the meeting, with was viewed by at least dozens).

In discussion with Supervisor Meister, Ms. Schleiffarth was informed that he personally had no access to post anything to the website - (a website that has been problematic for some time but which will be replaced by a far superior system very shortly) - *the Clerk of Onekama Township has exclusive authority to "post" for security reasons.....no one else.* Clerk Shelli Johnson was on vacation and could not "post," as the Supervisor pointedly informed the letter writer.

Given the openness of the Board and appointed authorities, I am baffled by the constant charges of obfuscation. The Township is posting notices - though not required - and holding public meetings on all issues. Meetings of all types are being broadcast via video. Minutes are available for review on the website (problems are acknowledged and being addressed, as noted). And yet, somehow the Township Board and Commissions are falsely accused of concealment, subterfuge, and chicanery by members of our community. This not rational behavior, Dan.

A prime example was the late 2021 hysteria over a claim - made by your neighbors - that the DNR was selling the Public Access and lands around PORTAGE LAKE and that ***the sale was "imminent"*** > ***".....on the DNR Director's desk for signature."*** Totally false, unsubstantiated, etc.but widely circulated as "fact," ***a fait accompli.***"

Lack of transparency? Please review this morning's e-mail from Al Taylor on what is currently posted on the website and get back with me on a supposed lack of transparency. ><> JRT

Shelli Johnson

From: JOHNandTRISH CECCONI <cecconi@bellsouth.net>
Sent: Sunday, January 23, 2022 5:52 PM
To: David Meister; Shelli Johnson; Bob Blackmore; Allen Taylor
Subject: Cook vs Onekama Township Board building ordinances

My husband John W. Cecconi Jr and I, Patricia Hollingsworth-Cecconi have recently been informed regarding this request for multiple zoning ordinance variances,. We wish to express our opposition to granting relief of these requirement and ask the township board to deny the initial and the latest update "Draft 9".

It is our understanding this particular property was purchased by the Cook family in and around 2003, approximately 10 years after the current zoning ordinances were established in 1993. It is our understanding that the purpose of zoning ordinances is to optimize safety and preserve the economic, infrastructural, and environmental sustainability of the community they serve. At the time this property was purchased by the current owners , it was and remains a noncompliant parcel and not an optimal building site for the type of structure they are wishing to erect. As we are sure you are aware, these building ordinances are available for anyone interested in purchasing property or initiating a building project and failure to know what they are is not a valid reason to have them changed.

If any of the ordinances are outdated or deemed needed to be updated or changed, there are proper democratic processes in place in order to ensure all those effected by the change has a voice and chance to communicate their concern and have their vote counted. Asking for an initial request to change 10 variances and negotiating it down to five and then threatening costly litigation is an obvious strategic tactic used by self serving parties to impose their will. There seems to be a growing trend around Portage Lake and Onekama Township to build or buy now and pay the fine or negotiate later. This request sets a dangerous precedent and opens these ordinances to recurrent negotiation and litigation. You cannot bend the rules for one party and then not for another. It creates a revolving door open to chronic litigation.

Your collective decision here sets a precedent that will impact the future sustainability of the Portage Lake Watershed for generations to come. The growth, viability, and future of Onekama Township will be greatly effected by your decision whether to allow these concessions and your ability to defend these ordinances to future requests to bypass or blatantly disregard them. It is our feeling and impression that should your committee and board decide to dig in and deny these requests for the best interest of your community, your community will support you. I am sure each and everyone of you has been considering this over the past several months. Your willingness to negotiate and come up with alternative solutions is commendable but not likely the best long term solution. As property owners, taxpayers, and individuals who are dedicated to the future of Onekama Township and Portage Lake we do not support granting multiple variances of the zoning or building ordinances to accommodate building on this property. We do not mind if our tax dollars are used to defend this position.

Respectfully,

John W. Cecconi and Patricia Hollingsworth-Cecconi
7682 Leonard Ave
Manistee, MI 49660

Amber Sedelmaier

From: Shelli Johnson
Sent: Wednesday, February 9, 2022 9:34 AM
To: Amber Sedelmaier; Edward Bradford; Edward Bradford; Bob Blackmore; avo49675@yahoo.com; Allen Taylor
Subject: FW: Township board meeting- Public Comment. Feb

From: Tenley LAST_NAME <tlippie@comcast.net>
Sent: Wednesday, February 9, 2022 6:16 AM
To: Shelli Johnson <clerk@onekamatwp.org>
Subject: Township board meeting- Public Comment. Feb

Good morning!

This letter has been submitted before, so it is already on file. I am just making sure it moves forward with the case. In Indiana, where the Cook's are from, this cottage would be allowed. It could be built edge to edge. It seems each time a property turns over, the cottage gets bigger. However, the lakes have only sea walls, the waves from the bounce back are bad. The lakes are too dangerous to use on the weekends. Many bad accidents have happened. A certain amount of construction debris ends in the lake. The lakes have been developed for tourism so the year rounders are run over in the summer and want to leave during prime time. Think Traverse City. I guess it depends on the long term vision for this lake. I would like to see a thriving community for the year rounders. This would favor home development, which would provide jobs for the trades, an income to raise a family on. Meanwhile following the zoning laws.

We support the ZBA and the Onekama Township Board and Planning Committee.
We support using our tax dollars to defend the zoning.

Hoping for the best, for everyone,
Tenley Lippie

Dear Township board,

Please do not accept the subcommittee's hard work on the Cook proposal. JUST SAY NO.

I do not know of ANY reason someone is entitled to build on a lot that does not support the zoning laws. Why would a judge say they are entitled?

PROTECT THE LAKE:: The proposed building is not 40 feet back from the seawall, which is the edge of the lake. If the zoning laws are wrong or this French drain will accomplish the intent of the 40 foot set back then, it is time to change the zoning law so others can follow without suing the township.

I have not seen a plan to keep all silt, soil and debris out of the lake and/or provide clean up for when that happens.

My understanding is the hotel was gifted the public access adjoining this property in exchange for a public fishing pier. ANY silt, soil, debris will harm the fish in front of the public fishing pier! What is the plan for prevention and any clean up?

I do appreciate the subcommittee maintaining the ordinary 10 foot set back to the north and the south. I believe this will be the best for the long term for all.

I do appreciate the subcommittee's attention to road safety and putting the house car traffic as far from the curve and angel slide.

I do not believe it is the planning commissions job to spend so much time on all the house drawings. It is a distraction from the zoning laws. I believe they can build what they want with in the zoning and lake polluting laws.

I do understand the subcommittee was trying to work out a compromise to prevent this from going to court. My understanding is around \$7,000 has been spent on this compromise. However, I do believe it is teaching people to sue the township when they want a variance, so in the long game this will be more costly to the township. I do not want to see that happen to the township or the tax payers.

Thank you for allowing me to share my opinion,
Tenley Lippie
51-11-410-059-00
11-410-063-00

February 8, 2022

To: Onekama Township Board

From: Faye Backie and Steve Szilvagy
3047 Vanessa's Way
Onekama, MI 49675

Handwritten signatures of Faye Backie and Steve Szilvagy in blue ink.

RE: Cook appeal – Variance 51-11-410-050

Dear Sirs,

We write (once again) in reference to the Cook appeal. Faye attended the August 18th meeting (along with approximately 40 year-round and summer residents) at which the Zoning Board of Appeals (ZBA) after reviewing the Cook's proposal and the governing ordinances and procedures, denied the Cook's request. We should note that approximately 30 letters were submitted regarding the appeal. Only one was not opposed to the Cook's request.

So, we are wondering why we are being notified of a public hearing rather than a judicial hearing. We worry that the Onekama Township Board sets a dangerous precedent by disregarding the careful, thorough and thoughtful analysis of the Zoning Ordinances as they apply to these variance requests.

We don't believe that undermining the established Zoning Board of Appeals procedure, negotiating the ZBA's decision, bypassing the legal safeguards for municipalities and negotiating with a private citizen serves the best interest of all the citizens of Onekama Township. It is quite clear to us that the vast majority of people interested in this issue back the Zoning Board of Appeals' decision.

Therefore, we respectfully request that you, the members of the Onekama Township Board, follow the procedures established by the township ordinances, support the ZBA's decision, defeat the subcommittee's recommendation and let the Courts handle the matter going forward.

Cc: Katie Mehl

To: Onekama Township Board
From: Mary Fairgrieve, resident

RE: Township meeting on 2-9-2022
at 3pm to discuss the Cook property

Dear Township Board,

I have concerns about the safety of our residents and visitors who frequent the turnaround beach during the year, especially during the summer months. Those are the same months that new construction is most likely to be fully engaged at the Cook property. A hundred or more people walk, bike and drive the narrow stretch of road between their lot and the beach on a summer day.

If emergency vehicles are needed to reach the beach or any home beyond the property under construction, there is a real danger to all concerned. Time is of the essence during an emergency and delays caused by construction vehicles, materials etc. can create a serious, or even deadly, problem.

It is my opinion that the Cook property would be a liability for the township if it is built upon as planned.

Please consider this when you decide today how to proceed.

Sincerely,
Mary Fairgrieve
Onekama, MI



2-7-22

Shelli Johnson

From: Karen Ruth <kruth1@gmail.com>
Sent: Wednesday, January 19, 2022 11:00 AM
To: Shelli Johnson
Subject: Public Access point on Portage Point Dr.

As property owners at 3806 Portage Point Dr., and 3796 Portage Point Dr., we are concerned about clearing the public access point adjacent to our property. The curve there is a dangerous spot, with limited visibility and dangerous speeds. Our concern is that people might potentially park on that curve to access the lake and add to the danger. We would also advocate for a reduced speed on that road, perhaps 25 mph.

We hope you will consider the safety implications of clearing that access point.

Thank you,

Karen and Dan Ruth

Libby's personal comments at Cook Public Hearing

I am Libby Matthews Schleiffarth, and my family has been nourished by the waters of the Two Lake Town for over 100 years. I support the concerns that have been expressed by other speakers, letters and emails regarding public safety, environmental protections, following prescribed procedures and establishing dangerous precedents.

Before retiring to Onekama in 2014, I served on former Governor William G. Milliken's staff, as Village Clerk of Three Oaks and as member of the Niles Community School Board. So for today's public comments, I am speaking to you as former public servant and public official.

From these perspectives, the approval of the sub-committee's recommendation would represent a major "setback" in public trust... a setback that isn't measured in feet but in participation, engagement and confidence in government.

As a former public official, I am shocked, disappointed and quite frankly embarrassed, that the Township Board would post on it's website, Tom Grier's opinion letter on this matter four hours before the public hearing. The incorrect email address for the public comments was never updated, even after the error was pointed out last week. This seem to be inconsistent with "serving the public interest or a "level playing field."

The citizens need to have confidence that the Board's intentions, words and actions reflect the best interest of the public. There needs to be accuracy in your information and transparency in your decision making process. Private emails of board members should not be used for public business. Citizens need to know everyone is subject to same rules and is being held to the same standards. Democracy is built on these foundations, and the public deserves nothing less.

To be a vibrant and growing community, Onekama relies on its citizens to share their time, treasure and talent on various boards, committees and charitable organizations. Without these citizens, there is no Zoning Board of Appeals, Board of Review, Parks and Recreation Committee, Garden Club or Near and Farr Friends, to name a few. These citizen volunteers need to trust that the Onekama Township Board respects their efforts, supports their decisions and honors their contributions to the betterment of our Two Lake Town. There have already been several resignations from these boards and committees. This is regrettable and preventable. As a community, we cannot afford to lose volunteers and their vital participation.

As a board, you cannot afford to lose the public's trust. Listen to your constituents; protect public safety and our environment; be transparent and accurate, and apply the ordinances, procedures and laws equally to all citizens. Please vote down the sub-committee's recommendations and proceed to court.

Elizabeth Matthews Schleiffarth (Libby)
9060 Lakeside Ave.
2-9-2022

To be read on February 9, 2022 at 3 PM Township meeting

From: Yahoo Plus (jeneannefitz@sbcglobal.net)

To: fitzproud@sbcglobal.net

Date: Monday, February 7, 2022, 12:59 PM EST

My name is Jeneanne Fitzgerald

My husband and I are year around residence at 2809 Pine Run Dr. and moved here from Chicago 18 years ago.

Once again, I am here to reaffirm our concerns about the Cook proposals.

We have attended many meetings and written several letters. And as you can see, we are not giving up.

It is very important to our community to do the best we can to keep the safety and environmental objectives front and center and enforced. An effective zoning board is necessary for the safety of our roads and for the health of our lake. We strongly object to the Cook variances.

I yield my remaining time to Armond.

Thank you.

FEBRUARY 9, 2022

PUBLIC HEARING re: COOK PROPERTY

We think it is a dangerous precedent for the township to protect people from their own bad choices.

30 years ago we wrote a purchase agreement for our lot here in Onekama. Being lakefront property, it was not inexpensive by 1992 standards and was assumed to be a buildable property. Assumptions and expectations don't secure permits, the laws and the rules do. Therefore we included contingencies in our purchase agreement that the lot perk, and that we be able to secure permits allowing us to build a house no smaller than a certain number of square feet. Common sense dictates that one protect ones investment.

Had we not done so, and the lot failed to comply with numerous building standards we would NOT have expected the township or any agency to change their rules to bail us out.

We would NOT have asked the township to endanger its residents to help us get what we wanted.

We would NOT have asked the township to hold us above the importance of the environmental impact.

We would NOT have asked the township to set precedent to allow the development of a multitude of non-conforming properties.

We would NOT have asked the township to approve something the majority of its residents were rightfully opposed to.

Please support the ZBAs denial of the Cook project.

Karen and Dale Mayhew

9420 Lakeside Avenue, Onekama

Good Afternoon. My name is Bonnie Brooks Garbrecht. My husband and I reside at 1985 2nd Street off of Portage Point Road on property which has been in my family for 102 years. I am intimately familiar with the property under consideration because I either walk or drive by it on a daily basis. I am a graduate of Onekama High School and served for two terms as At-Large City Commissioner for the city of Battle Creek.

What I would like to share this afternoon are some numbers which collectively add context to the importance of this issue to people living and paying taxes in our community.

- To date, there have been more than 7,500 Face Book views of the seven meetings held thus far relating to this issue. Thank you, Al Taylor, for taping these meetings, informing citizens and encouraging participation.
- Approximately 50 people attended the May 28th Zoning Board of Appeals meeting in person.
- Approximately 40 people attended the August 18th Zoning Board of Appeals public hearing in person and in addition approximately 30 letters were submitted. All but one of the public comments made and letters submitted expressed opposition to the granting of the requested variances for this property.
- Despite the fact that today is a cold February day, the public — your public — is here once again to share their concerns with the granting of these variances.
- As a point of comparison: just 300 people cast votes in the 2021 August election and 355 in the 2020 November general election.
- Together, voting totals from the two previous elections are less than 10% of people who have demonstrated concerns about this proposal by writing, attending hearings, and watching meetings on Facebook over the last nine months.
- The Zoning Board of Appeals has done its due diligence. I urge you to support their work and their recommendations.
- And further more, I urge you to follow the process outlined in your own ordinance.
- Please be a government that is as President Abraham Lincoln so eloquently expressed it “of the people, by the people and for the people.”

Thank you.

Bonnie Garbrecht, 1985 2nd Street, Onekama, 49675 231-889-7134

To: David Meister, Supervisor

Cc: Shelli Johnson, Robert Blackmore, Allen Taylor

Thank you to the Onekama board for all your time working on the continued requests from the Cooks who are submitting plans to build on lot 5111-410-055-00. Thank you, also, for continuing to rule against these requests. Thank you to the Cooks for recognizing the rulings and making modifications to their proposed plans. The only problem, that I see, is that the Cooks are still asking for variance forgiveness on a piece of property, that we all agree, has never been a buildable site.

In addition to the door that becomes wide open for any lake front lot, no matter how small, to begin to request these variance allowances, the following list are additional issues that arise with this construction request.

- Safety on a very sharp curve
- Children and adults that are using Angel Slide
- Water degradation
- Septic tank placement
- Safety for runners, walkers, and bikers

Another thought, once the lake level goes down property owners could begin to build sea walls and then come to the township and ask for permission to build on these lots!!!

Let's remember there are rules on the books for a reason, not to be broken but upheld. In the words from Jim Trout "The village would have a blighted waterfront full of structures the size of oversize ice shanties"

Please put an end to these requests with a final denial.

Ann Wipperman Volk

Wipperman Family LLC

Parcel Numbers 5111-410-062-00, 5111-410-058-00, 5111-410-064-00

To: David Meister, Supervisor

Cc: Shelli Johnson, Robert Blackmore, Allen Taylor

Thank you to the Onekama board for all your time working on the continued requests from the Cooks who are submitting plans to build on lot 5111-410-055-00. Thank you, also, for continuing to rule against these requests. Thank you to the Cooks for recognizing the rulings and making modifications to their proposed plans. The only problem, that I see, is that the Cooks are still asking for variance forgiveness on a piece of property, that we all agree, has never been a buildable site.

In addition to the door that becomes wide open for any lake front lot, no matter how small, to begin to request these variance allowances, the following list are additional issues that arise with this construction request.

- Safety on a very sharp curve
- Children and adults that are using Angel Slide
- Water degradation
- Septic tank placement
- Safety for runners, walkers, and bikers

Another thought, once the lake level goes down property owners could begin to build sea walls and then come to the township and ask for permission to build on these lots!!!

Let's remember there are rules on the books for a reason, not to be broken but upheld. In the words from Jim Trout "The village would have a blighted waterfront full of structures the size of oversize ice shanties"

Please put an end to these requests with a final denial.

Ann Wipperman Volk

Wipperman Family LLC

Parcel Numbers 5111-410-062-00, 5111-410-058-00, 5111-410-064-00

February 8, 2022

To: Onekama Township Board

From: Faye Backie and Steve Szilvagy
3047 Vanessa's Way
Onekama, MI 49675



RE: Cook appeal – Variance 51-11-410-050

Dear Sirs,

We write (once again) in reference to the Cook appeal. Faye attended the August 18th meeting (along with approximately 40 year-round and summer residents) at which the Zoning Board of Appeals (ZBA) after reviewing the Cook's proposal and the governing ordinances and procedures, denied the Cook's request. We should note that approximately 30 letters were submitted regarding the appeal. Only one was not opposed to the Cook's request.

So, we are wondering why we are being notified of a public hearing rather than a judicial hearing. We worry that the Onekama Township Board sets a dangerous precedent by disregarding the careful, thorough and thoughtful analysis of the Zoning Ordinances as they apply to these variance requests.

We don't believe that undermining the established Zoning Board of Appeals procedure, negotiating the ZBA's decision, bypassing the legal safeguards for municipalities and negotiating with a private citizen serves the best interest of all the citizens of Onekama Township. It is quite clear to us that the vast majority of people interested in this issue back the Zoning Board of Appeals' decision.

Therefore, we respectfully request that you, the members of the Onekama Township Board, follow the procedures established by the township ordinances, support the ZBA's decision, defeat the subcommittee's recommendation and let the Courts handle the matter going forward.

Cc: Katie Mehl

To: Onekama Township Board
From: Mary Fairgrieve, resident

RE: Township meeting on 2-9-2022
at 3pm to discuss the Cook property

Dear Township Board,

I have concerns about the safety of our residents and visitors who frequent the turnaround beach during the year, especially during the summer months. Those are the same months that new construction is most likely to be fully engaged at the Cook property. A hundred or more people walk, bike and drive the narrow stretch of road between their lot and the beach on a summer day. If emergency vehicles are needed to reach the beach or any home beyond the property under construction, there is a real danger to all concerned. Time is of the essence during an emergency and delays caused by construction vehicles, materials etc. can create a serious, or even deadly, problem. It is my opinion that the Cook property would be a liability for the township if it is built upon as planned. Please consider this when you decide today how to proceed.

Sincerely,
Mary Fairgrieve
Onekama, MI



2-7-22

Shelli Johnson

From: David Meister
Sent: Tuesday, February 8, 2022 12:17 PM
To: Shelli Johnson
Subject: Fw: Cook appeal - Say No.

From: Ann H. <annhep@yahoo.com>
Sent: Wednesday, January 26, 2022 2:44 PM
To: Shelli Johnson <clerk@onekamatwp.org>
Cc: David Meister <supervisor@onekamatwp.org>
Subject: Cook appeal - Say No.

Hi Shelli,

I'm writing to encourage the Township Board to NOT approve the exception to Township ordinances to allow the Cook house to be built.

I think a key point for the Township to consider: if the Township makes an exception for this planned house, does it mean that anyone who is willing to take the case to court can build any nonconforming structure they want? aka, **the legal fees simply become part of the project budget.**

As a taxpayer, I don't want the Township to set the path that will required ongoing legal fees paid by the Township as people sue to get their building plans approved!!!

I urge the Township to enforce the the zoning ordinances.

If they no longer meet the needs of the community, then change the zoning rules and the building requirements to update them where needed.

Do not grant one-off exceptions.

thank you.

Ann Hepenstal
Onekama Township Taxpayer

Shelli Johnson

From: David Meister
Sent: Tuesday, February 8, 2022 12:15 PM
To: Shelli Johnson
Subject: Fw: Cook Zoning fiasco

From: Daniel Berger <danoberger@gmail.com>
Sent: Wednesday, February 2, 2022 5:43 PM
To: David Meister <supervisor@onekamatwp.org>; Shelli Johnson <clerk@onekamatwp.org>
Subject: Cook Zoning fiasco

I write, yet again, concerning the application by Mr. and Mrs. Andrew Cook for multiple zoning variances to build a home and garage on their postage stamp lot catty-corner to Angel Slide on Portage Point Drive.

By way of personal background, I am a retired lawyer who specialized in real estate law, including representation of individuals and developers in numerous zoning matters. As a law student at University of Michigan Law School, I took courses in land use planning, environmental and water law. I am also a former member of our local, Warren County, Ohio Board of Zoning Appeals. In short, I am familiar with the purposes and effects of zoning laws and their administration.

I am also a lifelong summer resident of Onekama and love the lake like it were part of my family. Over my 77 years I have seen the health and natural beauty of the lake slowly degraded by human use and development of its shoreline. More seawalls, more buildings, more septic systems. It has been painful to watch this occur.

Now come the Cooks who desire to build on a lot that exists only because of the presence of a seawall that projects far out beyond the natural shoreline. If the Cooks can build there, what will prevent any other riparian owner from building out an artificial seawall lot and slapping up another residence with its obstruction of the shoreline view and building, driveway and lawn runoff directly into the lake? For the long-term health and beauty of the lake, the Cook's proposed development would create a horrible precedent.

Building on the Cook's lot poses other problems because of its particular location, on Portage Point Drive, immediately past Angel Slide. This is a high volume vehicular, bike and pedestrian traffic area, and any vehicle coming into or leaving the Cook lot will create a serious risk of an accident.

When the Cooks bought their lot, it was subject to the zoning code, and their disregard of the laws governing the use of their lot does not constitute a "hardship" or a "taking" of their property, both of which are nonsense legal theories in this case. They simply want to build something not permitted under the zoning code, and there is no reason to permit them to do so any more than if I decided I wanted to build a four-story condominium (imagine the profit!) on my lakefront property on M-22.

While I pay thousands of dollars in taxes each year to the Village and Township of Onekama, because I am not a resident, I can not vote for our local government representatives. But as a taxpayer, I expect my local representatives to fulfill their duties for the long-term common good of the community. In this case, that requires a strict application of the Onekama Township zoning code, and denial of any variance in connection with building on the Cook lot.

I know that many other property owners on Portage Lake similarly oppose the Cook's proposal, but because they are not winter-time residents they are not available to participate at any hearing or meeting regarding this matter, and are not tuned into the continuing developments. But as you may recall, when a hearing was conducted regarding this matter during the summer, there was a significant expression of opposition from property owners all around the lake. Those voices should still be heard.

Thank you for considering this communication in connection with the upcoming proceedings concerning this matter.

Respectfully submitted<

- Dan Berger

Shelli Johnson

From: Jim Claire <coloradoriley@msn.com>
Sent: Tuesday, February 8, 2022 12:04 PM
To: Shelli Johnson
Subject: Re: Cook Property Public Hearing

On Feb 3, 2022, at 9:52 AM, Jim Claire <coloradoriley@msn.com> wrote:

To: Onekama Township Board

We are writing this email in response to the Townships pending review of the Cook property located on Portage Point Road.

We have concerns about the current process being followed by the Cook's and the Township on the review of a site plan for this property. We reference the December 27, 2021 OTB Cook subcommittee proposed "resolution to the impasse."

As we review the recently published materials for the upcoming Public Hearing we do not believe that there is a formal submittal of the required Site Plan/ Plot Plan by the Cook's. There is a "Plan C" and a letter from the Cook's

attorney discussing issues and adjustments made to the attached drawing which no one has called a Site Plan/Plot Plan submittal. Without an officially submitted site plan it is impossible for the average person to completely understand the impacts of the suggested variance approvals. We understand the desires of the Cook's to determine the criteria within which they need to design and construct their building, but putting approval of specific variances in this agreement prior to a submitted and adequately reviewed site plan seems to be jumping several administrative steps in the process. This proposed agreement would essentially be amending the current zoning ordinances for one specific lot. We strongly object to committing the Onekama Township Board to approve this agreement prior to adequate review of all aspects of a site plan.

It does appear that the Cook's and the Township are both cooperatively trying to resolve issues for this parcel that are caused by the "as built location" of Portage Point Road. No matter how this land use application is processed, it

is apparent that the current roadway location and appropriate Right of Way need to be revised to reflect the actual roadway the Public uses for access and egress. A replat of the Cooks Parcel reflecting the roadway should be included as part of this application. Setback criteria for the west property line and the impervious area calculations are impossible to adequately address with the existing lot. In none of the official correspondence have we found any direct discussion of the roadway location and its impacts. Additionally the road has been in existence for decades and it is unlikely that the Cook's did not consider the roadway impact on the ability to build on the property prior to their acquisition.

As with any other land use application, a plot plan/ site plan submitted by the Cook's and reviewed by the Planning Commission for compliance with required ordinances should happen prior to the Board conducting a public hearing on that application. After this review by the Planning Commission (made available to the Public) people can and will be better informed to

provide appropriate public comments regarding this land use.

The legal procedures initiated by the Cook's should not require the Township to alter its normal course of business, perform the appropriate reviews to protect the residents of Onekama Township, and maintain the legal criteria for land use approvals.

Sincerely,

Jim and Claire Riley
9034 Lakeside Avenue
Onekama, MI 49675

February 7, 2022

Onekama Township Board of Trustees
5435 Main St.
Onekama, MI 49675

Re: *Cook v Onekama Township* - Public Comment re: Settlement Proposal
Public Hearing 2/9/22

Dear Onekama Township Board Members:

Please accept this letter as public input for the *Cook v Onekama Township* public hearing scheduled for February 9, 2022.

The Variances Requested

The Cooks applied for 4 variances from zoning ordinance requirements, all of which were denied by the ZBA on August 18, 2021. The requested variances included: **reducing by 50% the water protection setback distance** (Section 1007 Water Protection) from 40 feet to 20 feet; **reducing the rear minimum setback by approximately 68%** from 25 feet to 8 feet 10 inches; **reducing the north minimum side setback by 20%** from 10 feet to 8 feet and **reducing the front setback by 36%** from 25 feet to 16 feet. Basically, the Cooks requested that they be permitted to build a relatively large dwelling (1,695 sq ft building envelope, 2.5 stories high) on a very small waterfront lot (5,630 sq ft of "workable area"), which is proposed to be located dangerously close to a very pedestrian-active roadway and environmentally-sensitive lake.

Denial of the Variance Requests do Not Constitute a Regulatory Taking

The Cooks' Variance Application states:

[s]trict enforcement of the Onekama Township Zoning Ordinance will result in the parcel being unbuildable for any use currently permitted in the RR-3 District and **therefore deny the Owners all reasonable uses of their property, including its use for the placement of a boat dock.** Sec 4202A.4; Sec 1025. Accordingly, strict enforcement of the Zoning Ordinance would constitute a regulatory taking of the Owners' property.

In September of last year, the planning commission amended the zoning ordinance to allow lakefront lots in residential zones to install a dock for lake access (Section 1025 of zoning ordinance, amended 9/2021). **With this permitted use, the Cooks cannot continue to claim that they, "have been denied all reasonable use of their property, including its use for the placement of a boat dock."** They now have the *permitted* right to a dock.

Further, the lot has historically been used for lake access and installation of a dock and therefore, has always qualified as a legal nonconforming use under the zoning ordinance.

**The Variances Requested are not the Minimum Variances
that Will allow the Reasonable Use of the Land**

The variances requested by the Cooks did not meet the criteria under Section 9603 of the Onekama Zoning Ordinance, and therefore, the ZBA rightly denied the Cooks' application. Under the ordinance, variances must be the *minimum necessary* – and the ZBA found that the Cooks' variance requests were *not* the minimum necessary for the reasonable use of the land. Sec. 9603(C) states:

The Board of Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

As stated above, the Cooks have always had the use of the lot as access to the lake and installation of a dock (legal non-conforming use), but they now have the *permitted* right to install and use a boat dock (since the amendment of Section 1025 in September, 2021). Therefore, they have a valid and reasonable use of the land and the ZBA can justifiably deny any variances requested for a dwelling. This continued and now permitted use of a lake access lot with a boat dock will be in harmony with the neighborhood and not alter the essential character of the Portage Point area per Section 9603A(4).

Nonetheless, if the Township believes a dwelling is the only reasonable use of the lot, the variances requested by the Cooks were far from the minimum variances necessary for a dwelling (50% and 68% variances from the lake and road setbacks are more like *maximum* variances requested). For example, the variances for a dwelling could include a 10-foot setback variance from the waterfront (instead of 20-foot), and 5-foot variance from the rear setback (instead of 16.9-foot). This would allow for an 813 square foot building envelope and an area for 2 cars to be parked off road on the south side of the structure. (See attached **Exhibit A**, Architect's Sketch, submitted as Ex. J to my Public Input Letter 8/18/21). This is just one example of a reasonably-sized dwelling with minimum setback variances under the ordinance. This would also fit the essential character of the Portage Point area – which is made up of the historic Inn, narrow winding road, summer cottages and lake access lots.

The Appeal

Instead of discussing the matter with the Zoning Administrator and/or the township attorney to try to figure out a potentially acceptable variance request, the Cooks filed an appeal of the ZBA's decision. The Court is very likely to uphold the ZBA's well-reasoned, well-supported decision. The record on appeal is over 200 pages and the findings of facts for each standard under the variance section of the ordinance are well documented.

Settlement Proposal

In an attempt to settle the matter out of court, the township and the Cooks have put the appeal in abeyance. A township subcommittee was assembled to create a settlement proposal to be presented to the Cooks. First, I do not think settlement is necessary in this matter due to the strength of the township's position. Further, if the judge upholds the ZBA decision, the Cooks can simply apply for more minimal variances from the ZBA just like any other property owner.

Second, because the township has the likelihood of prevailing in the appeal (at relatively minimal cost to the Township since an appeal is based on an established record - there is no additional discovery permitted) I do not think the board should accept the subcommittee's recommendation of Draft 9 of the offer to the Cooks. Draft 9 is not necessarily a counter-offer to the Cooks' proposal, in fact, Draft 9 states that the township, "accepts the basics submitted by the Cooks for ... a total footprint of 1,320 sq. ft..."

Instead of entertaining Draft 9 as a proposal for settlement, it is my opinion that the subcommittee's Draft 4 **plus** the auger pile construction system recommended on 1/10/22 be adopted by the board and proposed to the Cooks as a way to settle the appeal. (See attached, **Exhibit B**, Draft 4 plus the 1/10/22 Auger Pile System email). The auger pile foundation engineering method is designed to minimize excavations and the threat to the environment and waters of Portage Lake. Draft 4 proposes an 800 square foot building footprint plus a 240 square foot garage on the south side of the lot - a very reasonable and generous offer to settle the case.

Alternatively, and because the township is likely to prevail in the appeal, I would suggest the board offer in settlement the attached architect's sketch showing an 813 square foot building footprint with no garage, and an off-street parking area for 2 cars on the south side of the lot (along with the additional Draft 4 provisions and the auger pile construction method). This would provide for maximum setbacks from the road and water and therefore be more protective of the lake and provide more safety to pedestrians using the shoulder of the road.

If the proposed settlement offer is rejected by the Cooks, the township board should ask its attorney to zealously defend the ZBA's well-reasoned and defensible decision in Court and allow the appeal to be decided by the Judge.

Very truly yours,

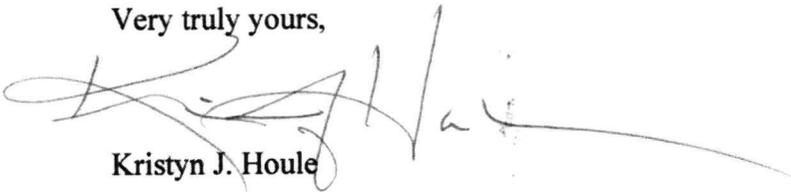

Kristyn J. Houle

EXHIBIT A

SKETCH: STUDY 2

Study showing the buildable area of land if the Owners get a lesser variance of:

- Break the 40' Water Line setback by 10'
- Break the 25' Road Right-Of-Way setback by 5'

This would meet the minimum square footage requirements (800 sf), 4204 D

This would meet the minimum dwelling width requirement (20 ft), 4204 E.

Provides space for a 2 car driveway

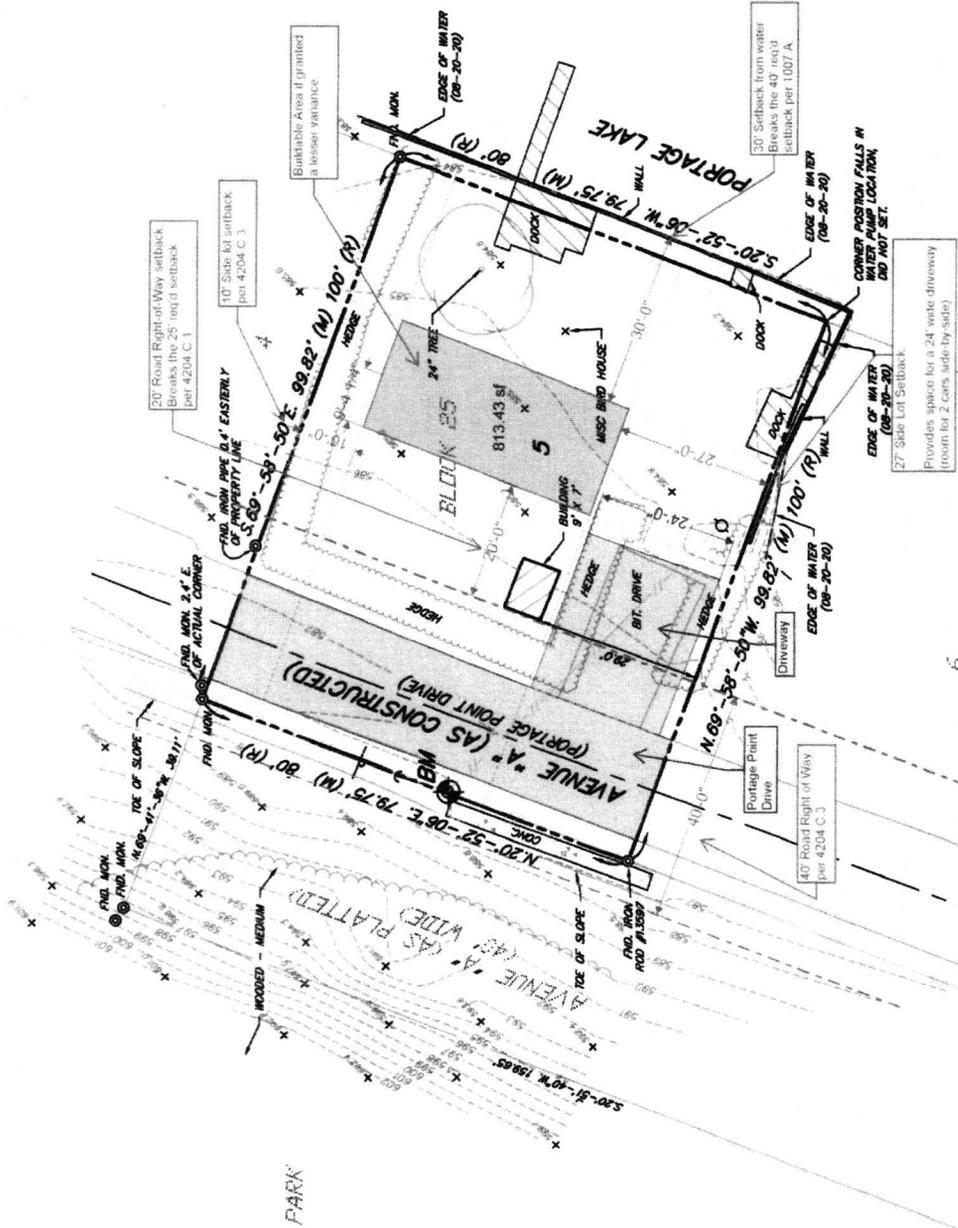


EXHIBIT B

December 14, 2021

>> DRAFT - 4 << JRT

SUBJECT: (Draft- 4) RE: COOK > Proposal for Resolution

The following is pertinent to this issue:

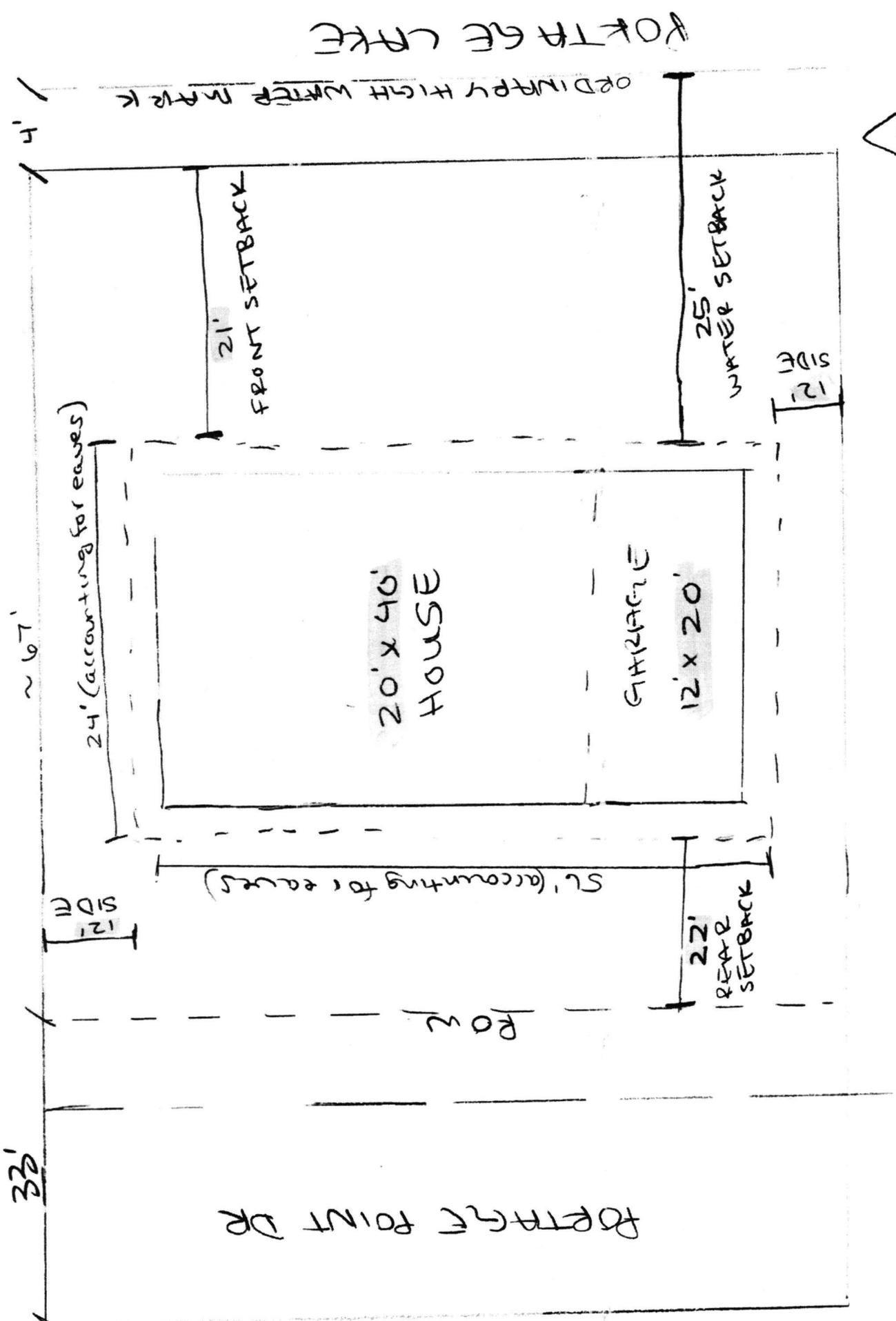
- 1) The subject parcel (ID# 51-11-410-055-00) owned by the Cooks is a *waterfront* non-conforming lot-of-record with an actual "workable area" of 5,360 sq. ft.
- 2) The *waterfront* parcel is located on Ave. A in residential district RR-3.
- 3) Minimum parcel size of a conforming lot-of-record in district RR-3 is fifteen thousand (15,000) sq. ft. in area.
- 4) Article 10 – Sec. 1017 of the Onekama Township Zoning Ordinance allows the construction of a "dwelling" with a minimum size building footprint of 800 sq.ft. of living area in district RR-3., as does Article 42 - RESORT RESIDENTIAL – RR-3.
- 5) The Ordinance (Sec. 1017) also requires a minimum measurement of 20 ft. X 20 ft. in the living area of the dwelling, exclusive of wings, porches, decks, and other extensions.
- 6) Article 10 – Sec.1008 restricts building heights to two and one half (2.5 stories) or a maximum of 35 ft., whichever is less.
- 7) Article 10 – Sec. 1028 requires a maximum impervious area of 35%.
- 8) Article 42 – RESORT RESIDENTIAL – RR 3 requires minimum setbacks of ten (10) ft. from the dwelling drip line or other parts of the building to the side property line of the parcel; and twenty-five (25) ft. from the roadside of the parcel.
- 9) Forty (40) feet from the roof dripline is the minimum setback on the waterfront (front) side of the parcel (see Article 10 - Sec. 1007 – WATER PROTECTION).

>> The subcommittee established by the Onekama Township Board on December 8, 2021 recommends the following to resolve the impasse:

STIPULATIONS:

- A. The Onekama Township Board will authorize issuance of a Land Use Permit for construction of a dwelling with a building footprint not exceeding eight hundred (800) sq. ft. of floor area, subject to all stipulations herein and compliance with all / other applicable sections of the Zoning Ordinance.
- B. The Land Use Permit may include an attached garage with a building footprint not exceeding two hundred forty (240) sq. ft. of floor area (a standard 12 x 20 single car garage),
- C. Minimum required side setbacks of ten (10) feet shall be maintained.
- D. A minimum waterfront setback of no less than twenty-five (25) ft. is required and shall be maintained.

- E. Setback calculations shall include overhanging eaves and any / all other extensions beyond the building's foundation footprint.
- F. An earthen berm one (1) foot in height above the average grade of the parcel shall be placed and maintained at the waterfront edges of the existing seawall to impede runoff.
- G. Other required measures to control direct runoff into Portage Lake shall include:
 - 1) Installation and maintenance of a French drain inside the waterfront berming - with discharge to a dry well catch basin located on the non-waterside section of the parcel.
 - 2) Gutters on all eave lines, with discharge routed by pipe to the catch basin.
 - 3) All exterior ground surfaces - sidewalks, driveway, patios, decks, etc. - shall be constructed of porous materials to allow runoff water to percolate directly into the soils of the parcel. Pea gravel, permeable pavers, plastic grid paving, and rigid plastic pavers are examples of acceptable materials for ground surfaces.
- H. As a measure to improve sightlines and public safety, all trees (arborvitae / cedars / others) forming a screen at the sides of the parcel shall be removed from the roadside corners of the structure – extended - west to the existing roadway prior to the start of any construction. For the same reason, all trees (arborvitae / cedars / others) at the road side of the parcel shall be removed prior to commencement of construction.
- I. The submitted design shall be “flipped” to have the garage at the south side of the dwelling structure.
- J. Trees removed (“H.” – above) may be replaced by low growing shrubbery not exceeding three (3) ft. in height. Such landscaping shall be perpetually maintained at a height of three (3) feet or less in height, maintaining sightlines for the public safety of pedestrians, cyclists, and vehicular traffic on Ave. A.
- K. Remaining trees at parcel sides shall be enhanced or replaced with larger, densely growing trees such as Arborvitae Nigra.
- L. Prior to or in conjunction with issuance of a Land Use Permit under these listed stipulations, all required permits from County, State, or Federal agencies must be obtained and filed with the Onekama Township zoning administrator.
- M. The Cooks and their contractors and / or agents agree to the conditions delineated above and agree that all other applicable sections of the ONEKAMA TOWNSHIP ZONING ORDINANCE shall be strictly adhered to before, during, and after any construction on parcel #51-11-410-055-00.



KORTAGE LAKE

ORDINARY HIGH WATER MARK

h'

21' FRONT SETBACK

25' WATER SETBACK

12' SIDE

24' (accounting for eaves)

~67'

20' x 40' HOUSE

GARAGE 12' x 20'

24' (accounting for eaves)

12' SIDE

22' REAR SETBACK

ROAD

32'

PORTAGE POINT DR

RE: COOK Parcel >> AUGER Piling & Grade Beam Foundations >> Amendment

Jim Trout <ibfishwich@aol.com>

Mon 1/10/2022 10:49 AM

To: clerk@onekamatwp.org <clerk@onekamatwp.org>; treasurer@onekamatwp.org <treasurer@onekamatwp.org>; avo49675@yahoo.com <avo49675@yahoo.com>; windsongmi@aol.com <windsongmi@aol.com>; bbonekama@gmail.com <bbonekama@gmail.com>; kmehl@manisteecountymi.gov <kmehl@manisteecountymi.gov>

Cc: tag@runningwise.com <tag@runningwise.com>; rwilson@mikameyers.com <rwilson@mikameyers.com>; kristynhoule@hotmail.com <kristynhoule@hotmail.com>; Jim Trout <ibfishwich@aol.com>

1/10/22

TO: Onekama Township Board

FROM: Jim Trout - Chair > OTB COOK Sub-Committee

SUBJECT: RECOMMENDATION > Amended - RE: Use of AUGER PILE footings for close waterfront construction Environmental Benefit.

I apologize for not recalling the Auger Pile methodology for constructing foundation footers as the COOK Sub-Committee deliberated on a recommendation to the OTB. By consensus of members, the OTB COOK Sub-committee strongly recommends that this methodology be considered as a requirement in any settlement final agreement regarding this case.

Subsequent to the last meeting of the COOK sub-committee, both Al Taylor and I have heard from citizens, including an experienced P.E. with long experience in heavy building construction, concerned about the shoreline environment disruption related to excavating for a building footer, be it a 42" trench footer or "Michigan Box Basement / crawl space" that requires removal of at least 42" of soil.

The AUGER PILE technique is particularly well suited for use on waterfront parcels as the disturbance to surface and sub-surface soils is greatly minimized and it addresses the issue of notoriously unstable soils often present in waterfront areas. The technique is environmentally friendly due to the minimal impact on a parcel and is generally completed in just a few days.

Were I to build on a parcel such as the COOKS, this is the minimally invasive, economical, and effective foundation technique I would use. (See below - para. 4) Ideal for a waterfront parcel.

By consensus, the sub-committee amends the recommendation to the OTB and recommends requiring the use of the AUGER PILE system, OR comparable foundation engineering, to minimize excavations and minimize any threat to the environment and the waters of Portage Lake.

Firms that do this type of construction are found located especially along the Lakeshore from Holland north.

FYI >>>>> >> Jim Trout - Chair > COOK Sub-committee

<https://www.channelcustombuilders.com/blog/piling-and-grade-beam-foundations-for-home-additions>

Piling & Grade Beam Foundations For Home Additions

September 18, 2018

If you are planning a main-level home addition, most renovation contractors will ask if you are considering a full basement under your new addition. This will be a decision based on cost, living space requirement and construction equipment accessibility. The question will be – do you really need that extra square footage, despite significant extra cost and yard destruction?

If the answer is NO, you then have a few other less costly options. The first would be to excavate a four foot deep trench around the perimeter of the addition area, then install a concrete footing and “frost-wall”, then backfill. This is the most commonly used approach, but still a costly one, an invasive one and one that could require a complete rebuild of your yard. The next option, and a much less costly and invasive one, is the piling/grade-beam foundation system. This system consists of the augering of a series of six foot deep holes which then are filled with concrete and rebar, with a three-ply 2x8” pressure treated grade-beam being placed on top of the piles around the perimeter of the addition. Channel Custom Builders has been advocating and implementing this methodology for more than twenty years, with great success, while these engineered piles have been widely utilized in commercial construction (and less so in residential) for over one hundred years.

>> However now, with the advent of the helical “screw-pile”, we are beginning to save our Customers time and money by replacing the concrete piles with a series of engineered, thermal “screw-piles” that are simply drilled into the ground. No excavation, no muss, no fuss. The process is pretty much the same from that point on. The grade-beam is placed on top of the screw-piles, then a shallow “pony-wall” with the floor joists being placed over all to complete the basic foundation/floor structure. The interior of this shallow space (can’t really call it a “crawl-space”, as it will typically be very low in height) would have thick rigid insulation panels covering the grade area, with black poly sheeting over top that is then sealed to the grade-beam/pony-wall assembly. Fourteen mm. washed rock is then spread over all at a depth of approx. four to six inches to complete the insulation value required. The perimeter wall and joist-end assembly is then sprayed with two pound expanding foam to the R-value dictated by the building code. <<

You now have a clean, dry, sealed under-floor space that can be economically heated to maintain warm, comfortable floors in your new addition! Finally, everything from the floor up is standard construction where you can put more of your hard-earned cash into nicer finishings, instead of into the ground.

Contact a Channel Custom Builders representative today for more information about this slick new system!

1

1

1

1

1

1

Shelli Johnson

From: Richard M. Wilson <RWilson@mikameyers.com>
Sent: Monday, February 7, 2022 9:46 AM
To: Shelli Johnson
Subject: RE: Cook family request for zoning variances

Thanks, Shelli

Mika Meyers^{PLC}

Richard M. Wilson, Jr.

Mika Meyers PLC

414 Water Street

PO Box 537

Manistee, MI 49660

Tel: 231-723-8333

Fax: 231-723-3888

mikameyers.com

E-mail: rwilson@mikameyers.com

This message is for the addressee only. It may be confidential, and may include communications protected by the attorney-client privilege, attorney work product protected from discovery in litigation, and/or insider information regarding business transactions. Unauthorized use, disclosure or copying is prohibited, and may be unlawful. If you have received this message in error, please call the sender at (231) 723-8333 and delete the message from your system.

From: Shelli Johnson [mailto:clerk@onekamatwp.org]

Sent: Monday, February 7, 2022 9:34 AM

To: Edward Bradford <treasurer@onekamatwp.org>; Bob Blackmore <bblackmore@onekamatwp.org>; Allen Taylor <ataylor@onekamatwp.org>; avo49675@yahoo.com; Richard M. Wilson <RWilson@mikameyers.com>

Subject: FW: Cook family request for zoning variances

-----Original Message-----

From: Allison and Gary Haworth <haworth210@gmail.com>

Sent: Wednesday, February 2, 2022 6:05 PM

To: Shelli Johnson <clerk@onekamatwp.org>

Cc: kmeh@manisteecountymi.gov; Andrew & Kathleen Mackie <akmackie1972@gmail.com>

Subject: Cook family request for zoning variances

We are part owners of a cottage (parcel 51-11-410-055100) a couple of doors from the Cooks' property. We want the area, especially Portage Lake, protected from harmful effects. We love the region and want it preserved.

We know that the Cook family really would like to have you override zoning variances long established, as they keep coming back with different proposals to get around those zoning regulations. We hope that you will uphold rules that have been enforced in the past. If those regulations are not maintained why were they developed in the first place?

We hope that you will support the Zoning Board on this matter.

Thank you,
Allison Mackie Haworth
Gary Haworth

Total Control Panel

[Login](#)

To: rwilson@mikameyers.com [Remove](#) this sender from my allow list

From: clerk@onekamatwp.org

You received this message because the sender is on your allow list.

To: Onekama Township Board and Supervisor, Cook Subcommittee, Zoning Board of Appeals, and Zoning Administrator (3/4/2022)

I would like to enter the following requests, concerns, and questions into the public record regarding any settlement of the Cook v. Onekama Township lawsuit.

1. **Public Safety.** The Township Board and Supervisor should require the Cooks to provide a statement from a certified traffic safety expert that the proposed driveway and parking area does not pose an undue risk to a child darting unseen into the road from behind a parked vehicle. As proposed, vehicles would be parked parallel to and just five feet off of the hard pavement.
2. Onekama Township Zoning requires two parking spaces (10' x 20' each) "off the right-of-way."
3. Previous drawings provided by the Cooks, with the assistance of a licensed surveyor, show a right-of-way 20 feet from the centerline of Portage Point Drive. The proposed parking spaces encroach on this right-of-way.
4. Plan D as currently provided by the Cooks is a drawing, not a legally recorded or stamped survey. Other than the surface of the pavement, it does not indicate a "right-of-way" for the road.
5. Is there a legally recorded description of the Portage Point Drive right-of-way? If not, MCL 221.20, PA 283 of 1909 states that the right-of-way is 33 feet to either side of the center line. As proposed, the Cook structure appears to be within this right-of-way.
6. The Sub-committee previously stipulated a 15' x 24' garage. Plan D does not satisfy this stipulation.
7. **Protection of Portage Lake.** The Township Board and Supervisor should require the Cooks to provide certifications from a Professional Engineer that the design, construction, and maintenance of the proposed berms, French drains, gutter collection system, and dry well will serve the intended purpose of protecting Portage Lake without harm to adjacent properties.
8. The elevation of the water table on the Cook property must be determined at the high water mark of Portage Lake.
9. As proposed, the bottom of the dry well may be below the current water

table. If so, this would discharge pesticides, herbicides, fertilizer, and road contaminants directly into the ground water.

10. As drawn, the 48" x 36" dimensions of the dry well below the inlet provide a volume of 65,111 cubic inches. One inch of rain on a 1000 square foot roof will deliver 144,000 cubic inches of water to the dry well. Additional water will be delivered to the dry well from the lot and road. Given the proximity to the water table, it is very unlikely that the proposed dry well could handle one inch of rain, let alone the 4 to 8 inch downpours the area has experienced in recent years.
11. Underground discharge of water from the dry well has the potential to undermine Portage Point Drive or flow onto adjacent properties.
12. The site plan does not show the final grade. Other than the one foot berms, is the Sub-committee permitting or requiring any alterations to the existing topography?
13. The southeast corner of the proposed structure is approximately 15 feet from the water's edge.
14. **Septic System.** It is understood that permitting a septic system is the responsibility of the District 10 Health Department.
15. Plan D proposes a septic field across the road from the Cook property, within the west side right-of-way of Portage Point Drive, on or near privately owned property, and within the "As Platted" right-of-way of the non-extant "Avenue A."
16. Does Onekama Township, Manistee County Road Commission, or other government entity have the authority to grant the right to use this land for a private septic system?
17. Any waste line under Portage Point Drive will have to be several feet deep to prevent freezing and ensure structural integrity. Therefore, a lift station would be required on the west side of the road, with or without a septic mound.
18. **Conclusion.** As a matter of law, liability, and precedent, Onekama Township should allow the Court to decide if the Cook's have the right to build a dwelling on their property. The Zoning Board of Appeals found correctly that the Cook Property lacks the *unique* circumstance required by Michigan law for a variance.
19. In 1984, the Supreme Court of Michigan, in upholding the decision of Robinson Township to deny a simple dimensional variance for a substandard lot, stated that "The Zoning Board of Appeals was surely correct in foreseeing that, if these plaintiffs could obtain the requested variance, there would be little basis to ever deny a subsequent similar request."
20. Under the Equal Protection Clause of the Fourteenth Amendment,

Onkama Township would be hard pressed indeed to insist that other property owners, in the interest of protecting the lake and public welfare, should ever bear a heavier burden than the Cooks.

Dan Norbeck

Correspondence

1-12-2022

Shelli Johnson

From: Tenley LAST_NAME <tlippie@comcast.net>
Sent: Wednesday, January 12, 2022 1:56 PM
To: Shelli Johnson
Subject: Jan 12 Township board meeting- Public Comment

Dear Township board,

Please do not accept the subcommittee's hard work on the Cook proposal. JUST SAY NO.

I do not know of ANY reason someone is entitled to build on a lot that does not support the zoning laws. Why would a judge say they are entitled?

PROTECT THE LAKE:: The proposed building is not 40 feet back from the seawall, which is the edge of the lake. If the zoning laws are wrong or this French drain will accomplish the intent of the 40 foot set back then, it is time to change the zoning law so others can follow without suing the township.

I have not seen a plan to keep all silt, soil and debris out of the lake and/or provide clean up for when that happens.

My understanding is the hotel was gifted the public access adjoining this property in exchange for a public fishing pier. ANY silt, soil, debris will harm the fish in front of the public fishing pier! What is the plan for prevention and any clean up?

I do appreciate the subcommittee maintaining the ordinary 10 foot set back to the north and the south. I believe this will be the best for the long term for all.

I do appreciate the subcommittee's attention to road safety and putting the house car traffic as far from the curve and angel slide.

I do not believe it is the planning commissions job to spend so much time on all the house drawings. It is a distraction from the zoning laws. I believe they can build what they want with in the zoning and lake polluting laws.

I do understand the subcommittee was trying to work out a compromise to prevent this from going to court. My understanding is around \$7,000 has been spent on this compromise. However, I do believe it is teaching people to sue the township when they want a variance, so in the long game this will be more costly to the township. I do not want to see that happen to the township or the tax payers.

Thank you for allowing me to share my opinion,
Tenley Lippie
51-11-410-059-00

Shelli Johnson

From: Tenley LAST_NAME <tlippie@comcast.net>
Sent: Wednesday, December 1, 2021 11:45 AM
To: Shelli Johnson
Subject: Cook Meeting

Dear Onekama Township Board,

My understanding is there is a short notice meeting on the Cook property. I have attempted to find the agenda and if there will be a vote on anything and I was not able to.

Will the meeting be available to attend remotely and if so how do I access it.

My understanding is that the Cook's have submitted new plans and requesting variances to several of the zoning ordinances. The zoning ordinances that were in place when they purchased the property. I believe Michigan is a buyer beware state, not a seller problem.

1. PROTECT THE LAKE: This includes holding to all of the zoning ordinances that protect the lake. Specifically the 40 foot setback and any run off ordinances. All Sewage requirements.

2. PROTECT THE PUBLIC SAFETY: This includes the ability to see walkers, joggers, bikers on the street and corner when entering and exiting their property. When something happens there, it will be a predictable event. Not an accident.

These zoning ordinances are in place for good reasons, by good people who spent many hours of research to determine these. The ZBA has spent many hours on this and made a decision for GOOD REASONS.

Why would the township board NOT protect the lake and the public safety?

Thank you for your attention,

David and Tenley Lippie
Bluewaters LLC

Parcel ID: 11-410-063-00
11-410-059-00

Shelli Johnson

From: Tom Grier <tag@runningwise.com>
Sent: Wednesday, December 1, 2021 3:39 PM
To: avo49675@yahoo.com; 'Jim Trout'; Shelli Johnson
Subject: FW: Cook zoning matter

Dear All,

FYI.

Thanks

Tom Grier

From: Daniel Berger <danoberger@gmail.com>
Sent: Wednesday, December 1, 2021 3:23 PM
To: Tag@runningwise.com; Katie Mehl <kmehl@manisteecountymi.gov>
Subject: Cook zoning matter

I write regarding the ongoing zoning issue resulting from Mr. Andrew Cook's proposal to construct a residence on his lot on Portage Point Drive.

I am a retired real estate attorney and former member of my local county Zoning Board. From my time as a student at University of Michigan Law School, where I took courses in Land Use Planning, Environmental Law and Water Law, through my years as an attorney where I represented individuals and developers in a wide range of construction and zoning matters, I have become very familiar with the purposes, concepts and practical effects of zoning.

I am also a lifelong summer resident of Onekama. I know the Lake like the back of my hand and have witnessed the steady degradation of the shoreline resulting from the installation of seawalls, shoreline residences and non-native vegetation. The shoreline is an essential component of the Lake's ecosystem; its degradation degrades the entire Lake. With all this in mind, I offer the following observations regarding the Cook matter;

1. The Cook lot is in itself an environmental affront, created to a large extent by the construction of a seawall jutting far out into the lake, thereby destroying the shoreline.
2. Construction of the proposed Cook residence will create substantial non-pervious surfaces which will result in unfiltered runoff into the Lake, carrying with it whatever chemicals and nutrients from the roof, driveway and lawn that are introduced onto the property.
3. The location of the residence, and its attendant garage, so close to Portage Point Drive and just past the curve around Angel's Slide, will create a serious risk of vehicular, bicycle and pedestrian accidents. One incident of a distracted or inattentive driver entering or exiting the Cook lot on that busy stretch of road could result in a disaster.
4. Permitting the Cooks to build a residence pursuant to multiple significant variances from the Zoning Code will create a terrible precedent that could ruin Portage Lake. One need only look at the north shore of Crystal Lake to see how the beautiful natural resource that everyone wants to enjoy can be destroyed by permitting its exploitation.

For the foregoing reasons, I urge you to resist any proposal for construction on the Cook lot that does not strictly comply with the Township Zoning Code.

- Dan Berger

Shelli Johnson

From: Allison and Gary Haworth <haworth210@gmail.com>
Sent: Wednesday, December 1, 2021 3:41 PM
To: Shelli Johnson
Cc: Andrew + Kathleen Mackie; Ann Volk; Tenley Lippie
Subject: Special Zoning Board meeting

It has come to our attention that there is a special Board meeting today. We know that it concerns a court case involving the Cook property but nothing else.

We hope that the Zoning Board is willing to stand by its decision concerning the variances the Cooks were requesting as it helps protect our property which is three lots from the site.

Thank you, Allison Mackie Haworth and Gary N. Haworth Parcels 51-11-410-058-00, 51-11-410-062-00, 51-11-410-064-00

Shelli Johnson

From: Yahoo Plus <jeneannefitz@sbcglobal.net>
Sent: Thursday, December 2, 2021 3:56 PM
To: Shelli Johnson
Subject: Cook zoning issue

Dear Shelley,

We are concerned about the zoning situation for the Cook prosperity. Why can't there be restrictions on the size of a house built? Many of us think there is a safety and environment problem. At last night's meeting it seemed that that Katie and the township board wanted suggestions from the public. Is it legal to backfill your property to extend your property size along Portage Lake? Can large homes be built on small lots near Portage Lake? Can permanent docks and structures be built over Portage Lake? (Round Lake in Charlevoix has docks and boat houses extending out so far reducing the size of the lake.) Is the area around Portage Lake ten years from now going to be so built up that it will be impossible to view the lake from the road? Some citizens are concerned about the future. We have had many come to meetings over the the last year. I guess we don't understand what else can be done.

I was relieved and happy to hear we have a zoning board. It is so important to have responsible development. I just hope they can do their job.

Jeneanne Fitzgerald

Shelli Johnson

From: Ann H. <annhep@yahoo.com>
Sent: Wednesday, January 26, 2022 2:44 PM
To: Shelli Johnson
Cc: David Meister
Subject: Cook appeal - Say No.

Hi Shelli,
I'm writing to encourage the Township Board to NOT approve the exception to Township ordinances to allow the Cook house to be built.

I think a key point for the Township to consider: if the Township makes an exception for this planned house, does it mean that anyone who is willing to take the case to court can build any nonconforming structure they want? aka, **the legal fees simply become part of the project budget.**

As a taxpayer, I don't want the Township to set the path that will required ongoing legal fees paid by the Township as people sue to get their building plans approved!!!

I urge the Township to enforce the the zoning ordinances.
If they no longer meet the needs of the community, then change the zoning rules and the building requirements to update them where needed.
Do not grant one-off exceptions.

thank you.

Ann Hepenstal
Onkama Township Taxpayer

Shelli Johnson

From: Yahoo Plus <jeneannefitz@sbcglobal.net>
Sent: Saturday, January 29, 2022 12:29 PM
To: Shelli Johnson
Subject: Fw: Cook Zoning

----- Forwarded Message -----

From: Yahoo Plus <jeneannefitz@sbcglobal.net>
To: supervisor@onekamatwp.org <supervisor@onekamatwp.org>
Sent: Saturday, January 29, 2022, 11:24:01 AM EST
Subject: Cook Zoning

Dear David,

Once again, I am writing a letter to you to reaffirm our concern about the Cook proposals. We have attended many meetings and written several letters. And as you can see, we are not giving up.

It is very important to our community to do the best we can to keep the safety and environmental objectives front and center and enforced.

The only way to support our community is to trust our elected board members and appointed communities to represent us. Good zoning is most valuable in any area. Our house values and the development of the area depend on these decisions. Please consider our investment. Thank you,

Sincerely, Bill and Jeneanne Fitzgerald

Shelli Johnson

From: mbardeen@aol.com
Sent: Saturday, January 29, 2022 7:47 AM
To: Shelli Johnson
Subject: Cook variance application

Dear Ms. Johnson,
As 60 year residents of Onekama, we would like to voice our objection to the Cook variance application. It represents a violation of the spirit and letter of the zoning law. It also sets a dangerous precedent for the future. This is particularly relevant because of the possibility of the future sewer which will doubtless spur a possible building boom. Please consider the future as you make this decision.
Maxwell D. Bardeen Jr and Norman Bardeen

Shelli Johnson

From: Paul Mueller <jane-paul@sbcglobal.net>
Sent: Friday, January 28, 2022 8:31 PM
To: Shelli Johnson
Subject: Cook Variances

Dear township board,

We are writing to state our disapproval of the most recent Cook variance proposal. We understand that the property owner has a right to build but the structure that they build should be within the established guidelines. A 25% or 10' variance at waters edge is excessive by anyone's standards. The same applies to the roadside setback.

As you've heard repeatedly, the precedent that will be established by allowing these excessive variances can lead to a possible further degradation of the ordinances in the future.

The Cooks purchased their land after the ordinances were put in place and they knew full well the limits on the property. It appears to many people that they are just attempting to bully the township into meeting their demands.

As long term residents and voters we voice our opposition to their current plan.

Sincerely,

Jane and Paul Mueller

January 27, 2022

Onkama Township Board of Trustees
Onkama Township Hall
5435 Main Street
Onkama, MI 49675

From: Kay Vee and Paul Rhoads

Subject: Cook Property

Dear Trustees:

We are part-year residents of Onkama. We purchased our home at 9280 Lakeside in 1979, although the Rhoads family visits to the area began in the mid-1950s. Our only interest in the matter under consideration below is a sincere desire to see that the Portage Lake area retain the property and aesthetic standards that sustain the community we all share and treasure.

With respect to the Cook Subcommittee's Proposal for Resolution dated December 27, 2021 ("Proposal"), we question the reasonableness of authorizing a building of the requested size and location on this lot.

The Board certainly has the authority to approve of variations from existing rules but should consider the extent that any variations result in departures from norms that have been established for all of our residents and codified in the Township's ordinances. The precedent thereby set may be substantial.

The Proposal describes the following details.

Lot Size: We do not understand a comparison of 5,360 square feet of "workable area" (a term unfamiliar to us) versus a minimum lot size of 15,000 square feet. The Board will have to determine just how much smaller this lot is than what the ordinance normally requires. Whatever the result of that inquiry, is the resulting percentage variation reasonable?

Setbacks: The Proposal contains some very specific differences in language when addressing setbacks. We are not sophisticated enough to understand the meanings of the terms utilized, but some of these differences are sufficiently noticeable to draw one's attention to them. We assume that the Board will observe any variations between the language used and the apparent intent of the ordinances.

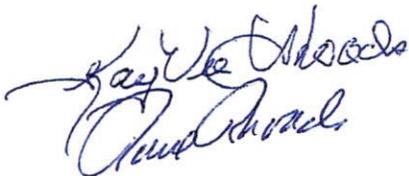
Side setbacks: These must be 10 feet minimum "from the dwelling drip line or other parts of the building." Under the Proposal, the south side must be measured to the "eave / rake edge and drip line" whereas the north side omits reference to the drip line. The "other parts" language would seem to satisfy the objective of the ordinance. However, we assume the Board will be aware of whether any meaningful variation may have been intended. If so, is it reasonable?

Waterfront setback: There must be a 40-foot setback "from the roof drip line," whereas the Proposal requires only a 30-foot setback from the "eave / rake edge drip line." (We do not understand what is being said with the additional language requiring maintenance "along the edge of parcel abutting the edge of roadway pavement."). If no difference in the points of reference was intended, then the Proposal would seem to allow a full 25% reduction in the distance from the lake. Is that reasonable?

Roadside setback: There must be minimum 25-foot setback from the roadside, but the Proposal would allow a setback of 21-feet "from inside the east edge of the pavement surface to the eave / rake edge dripline." We have seen indications that the road may lie partly within the lot, which might be a reason for this odd measurement description. But whatever the facts on that question, would a 25-foot roadside ordinance be designed at least in part as a safety issue? Is it reasonable to permit a 16% reduction, by allowing construction separated 21 feet from vehicular traffic?

We appreciate the difficulties that are so often encountered by public servants such as yourselves and are confident that you will use your best judgments in reaching your decisions. Thank you for considering these thoughts.

Kay Vee and Paul Rhoads

Handwritten signatures of Kay Vee Rhoads and Paul Rhoads in blue ink.

Shelli Johnson

From: Jim Trout <ibfishwich@aol.com>
Sent: Sunday, January 30, 2022 6:25 AM
To: avo49675@yahoo.com; Shelli Johnson; bbonekama@gmail.com; Edward Bradford
Cc: ddw.hft@gmail.com
Subject: "Confusion" >>>>> "Lack of transparency?" YAH, I'm confused too!!!

FYI >>>>> JRT

-----Original Message-----

From: Jim Trout <ibfishwich@aol.com>
To: **dbehring@charter.net** <dbehring@charter.net>
Cc: windsongmi@aol.com <windsongmi@aol.com>
Sent: Sun, Jan 30, 2022 6:18 am
Subject: "Confusion" >>>>> "Lack of transparency?" YAH, I'm confused too!!!

Dan - Thank you for copying me in your recent e-mail on "confusion" regarding the OTB COOK sub-committee report to the OTB. You reference the recent letter to the Manistee Advocate from Libby Schlieffarth as ".....detailing many of them." That letter also omitted a number of facts that Ms. Schlieffarth was definitely informed of - she simply choose not to include them in her screed.

Given your experience as a former Chair of the OTPC, you of all people should be aware that a formal "Public Hearing" mandated by the Michigan Zoning Enabling Act for zoning changes, ordinance amendments, variances (ZBA) and similar ZONING related issues is **NOT** relevant to the COOK appeal of the denial of the application for variance to construct on the vacant parcel, now before the Onekama Township Board of Trustees. Publication of notices that are required for "Public Hearings" by the Planning Commission and Z.B.A. on Zoning related issues are **NOT** required by the law in this instance. The Board determined that it is in the public interest to include discussion of the proposed answer to the appellants' (COOKS) lawsuit, now before the Circuit Court in Manistee County, in a public forum and scheduled that public forum in conjunction with the regular monthly meeting of the OTB. Again, this does not require publication or posting under the MZEA as nothing here involves a zoning change, etc.

Claims that the process is defective and violates the MZEA because the notice that was published referenced the COOK parcel as "vacant" though it has has a temporary "garden shed" building placed on it are absurd. An ice fishing shanty pulled up on the shore of a "vacant" parcel does not render the parcel "UN-vacant," nor does placement of dock materials for the winter months. This is absurd, Dan.

The OTB COOK Sub-Committee (which I Chaired, as you know), was charged with coming up with a compromise that would be acceptable to both the appellants and Township. The COOKS had submitted a plan ("C") for a dwelling significantly smaller than that previously denied by the ZBA. Pursuing this case thru the Circuit Court process could result in costs to the Township taxpayers \$30,000 - \$100,000. >> Note: It is **NOT** a matter of going to Court. We are IN Court!! > The Township has been sued (the appeal process is delineated by the MZEA and the Ordinance) and is responding to the suit now before the Judge of the Circuit Court. The Circuit Court may impose whatever settlement it deems appropriate for the case.

Regarding "discussion about septic and well placement," both the ZBA and the OTB COOK Sub-Committee had "discussions" on this. Again you of all people should realize that purview - and permitting - of all such issues are entirely - entirely!! - in the control of the Manistee County Health Department - NOT the Township Board, P.C., Z.B.A. or a Sub-Committee appointed to devise a compromise on the issue.

You mention "transparency." The Township Board publically appointed a Sub-Committee with the charge of trying to reach reasonable a compromise before proceeding further down the path of the Circuit Court process. The Sub-Committee held public meetings which were posted and noticed on the website - and attended by citizens, including Ms. Schlieffarth, who spent her public comment time demanding to be informed what the exact annual costs incurred for all Township legal fees were (see video broadcast of the meeting, with was viewed by at least dozens).

In discussion with Supervisor Meister, Ms. Schleiffarth was informed that he personally had no access to post anything to the website - (a website that has been problematic for some time but which will be replaced by a far superior system very shortly) - *the Clerk of Onkama Township has exclusive authority to "post" for security reasons.....no one else.* Clerk Shelli Johnson was on vacation and could not "post," as the Supervisor pointedly informed the letter writer.

Given the openness of the Board and appointed authorities, I am baffled by the constant charges of obfuscation. The Township is posting notices - though not required - and holding public meetings on all issues. Meetings of all types are being broadcast via video. Minutes are available for review on the website (problems are acknowledged and being addressed, as noted). And yet, *somehow* the Township Board and Commissions are falsely accused of concealment, subterfuge, and chicanery by members of our community. This not rational behavior, Dan.

A prime example was the late 2021 hysteria over a claim - made by your neighbors - that the DNR was selling the Public Access and lands around PORTAGE LAKE and that *the sale was "imminent"*> *".....on the DNR Director's desk for signature."* Totally false, unsubstantiated, etc.but widely circulated as "fact," *a fait accompli.*"

Lack of transparency? Please review this morning's e-mail from Al Taylor on what is currently posted on the website and get back with me on a supposed lack of transparency. ><> JRT

Shelli Johnson

From: JOHNandTRISH CECCONI <cecconi@bellsouth.net>
Sent: Sunday, January 23, 2022 5:52 PM
To: David Meister; Shelli Johnson; Bob Blackmore; Allen Taylor
Subject: Cook vs Onekama Township Board building ordinances

My husband John W. Cecconi Jr and I, Patricia Hollingsworth-Cecconi have recently been informed regarding this request for multiple zoning ordinance variances,. We wish to express our opposition to granting relief of these requirement and ask the township board to deny the initial and the latest update "Draft 9".

It is our understanding this particular property was purchased by the Cook family in and around 2003, approximately 10 years after the current zoning ordinances were established in 1993. It is our understanding that the purpose of zoning ordinances is to optimize safety and preserve the economic, infrastructural, and environmental sustainability of the community they serve. At the time this property was purchased by the current owners , it was and remains a noncompliant parcel and not an optimal building site for the type of structure they are wishing to erect. As we are sure you are aware, these building ordinances are available for anyone interested in purchasing property or initiating a building project and failure to know what they are is not a valid reason to have them changed.

If any of the ordinances are outdated or deemed needed to be updated or changed, there are proper democratic processes in place in order to ensure all those effected by the change has a voice and chance to communicate their concern and have their vote counted. Asking for an initial request to change 10 variances and negotiating it down to five and then threatening costly litigation is an obvious strategic tactic used by self serving parties to impose their will. There seems to be a growing trend around Portage Lake and Onekama Township to build or buy now and pay the fine or negotiate later. This request sets a dangerous precedent and opens these ordinances to recurrent negotiation and litigation. You cannot bend the rules for one party and then not for another. It creates a revolving door open to chronic litigation.

Your collective decision here sets a precedent that will impact the future sustainability of the Portage Lake Watershed for generations to come. The growth, viability, and future of Onekama Township will be greatly effected by your decision whether to allow these concessions and your ability to defend these ordinances to future requests to bypass or blatantly disregard them. It is our feeling and impression that should your committee and board decide to dig in and deny these requests for the best interest of your community, your community will support you. I am sure each and everyone of you has been considering this over the past several months. Your willingness to negotiate and come up with alternative solutions is commendable but not likely the best long term solution. As property owners, taxpayers, and individuals who are dedicated to the future of Onekama Township and Portage Lake we do not support granting multiple variances of the zoning or building ordinances to accommodate building on this property. We do not mind if our tax dollars are used to defend this position.

Respectfully,

John W. Cecconi and Patricia Hollingsworth-Cecconi
7682 Leonard Ave
Manistee, MI 49660

February 2, 2022

Onekama Township Board:

The Cook issue has been a
time consuming, stressful issue
for you and also the residents of O.T.

I believe the ZBH decision
came from established procedures
in accord with current ordinances.

I am not in favor of anyone
building on this type of lot.

Beatrice Capper

Shelli Johnson

From: David Meister
Sent: Tuesday, February 8, 2022 12:15 PM
To: Shelli Johnson
Subject: Fw: Cook Zoning fiasco

From: Daniel Berger <danoberger@gmail.com>
Sent: Wednesday, February 2, 2022 5:43 PM
To: David Meister <supervisor@onekamatwp.org>; Shelli Johnson <clerk@onekamatwp.org>
Subject: Cook Zoning fiasco

I write, yet again, concerning the application by Mr. and Mrs. Andrew Cook for multiple zoning variances to build a home and garage on their postage stamp lot catty-corner to Angel Slide on Portage Point Drive.

By way of personal background, I am a retired lawyer who specialized in real estate law, including representation of individuals and developers in numerous zoning matters. As a law student at University of Michigan Law School, I took courses in land use planning, environmental and water law. I am also a former member of our local, Warren County, Ohio Board of Zoning Appeals. In short, I am familiar with the purposes and effects of zoning laws and their administration.

I am also a lifelong summer resident of Onekama and love the lake like it were part of my family. Over my 77 years I have seen the health and natural beauty of the lake slowly degraded by human use and development of its shoreline. More seawalls, more buildings, more septic systems. It has been painful to watch this occur.

Now come the Cooks who desire to build on a lot that exists only because of the presence of a seawall that projects far out beyond the natural shoreline. If the Cooks can build there, what will prevent any other riparian owner from building out an artificial seawall lot and slapping up another residence with its obstruction of the shoreline view and building, driveway and lawn runoff directly into the lake? For the long-term health and beauty of the lake, the Cook's proposed development would create a horrible precedent.

Building on the Cook's lot poses other problems because of its particular location, on Portage Point Drive, immediately past Angel Slide. This is a high volume vehicular, bike and pedestrian traffic area, and any vehicle coming into or leaving the Cook lot will create a serious risk of an accident.

When the Cooks bought their lot, it was subject to the zoning code, and their disregard of the laws governing the use of their lot does not constitute a "hardship" or a "taking" of their property, both of which are nonsense legal theories in this case. They simply want to build something not permitted under the zoning code, and there is no reason to permit them to do so any more than if I decided I wanted to build a four-story condominium (imagine the profit!) on my lakefront property on M-22.

While I pay thousands of dollars in taxes each year to the Village and Township of Onekama, because I am not a resident, I can not vote for our local government representatives. But as a taxpayer, I expect my local representatives to fulfill their duties for the long-term common good of the community. In this case, that requires a strict application of the Onekama Township zoning code, and denial of any variance in connection with building on the Cook lot.

I know that many other property owners on Portage Lake similarly oppose the Cook's proposal, but because they are not winter-time residents they are not available to participate at any hearing or meeting regarding this matter, and are not tuned into the continuing developments. But as you may recall, when a hearing was conducted regarding this matter during the summer, there was a significant expression of opposition from property owners all around the lake. Those voices should still be heard.

Thank you for considering this communication in connection with the upcoming proceedings concerning this matter.
Respectfully submitted<

- Dan Berger

Shelli Johnson

From: David Meister
Sent: Tuesday, February 8, 2022 12:15 PM
To: Shelli Johnson
Subject: Fw: Cook Zoning

From: Yahoo Plus <jeneannefitz@sbcglobal.net>
Sent: Saturday, January 29, 2022 11:24 AM
To: David Meister <supervisor@onekamatwp.org>
Subject: Cook Zoning

Dear David,

Once again, I am writing a letter to you to reaffirm our concern about the Cook proposals. We have attended many meetings and written several letters. And as you can see, we are not giving up. It is very important to our community to do the best we can to keep the safety and environmental objectives front and center and enforced.

The only way to support our community is to trust our elected board members and appointed communities to represent us. Good zoning is most valuable in any area. Our house values and the development of the area depend on these decisions. Please consider our investment. Thank you,
Sincerely, Bill and Jeneanne Fitzgerald

Shelli Johnson

From: Jim Claire <coloradoriley@msn.com>
Sent: Tuesday, February 8, 2022 12:04 PM
To: Shelli Johnson
Subject: Re: Cook Property Public Hearing

On Feb 3, 2022, at 9:52 AM, Jim Claire <coloradoriley@msn.com> wrote:

To: Onekama Township Board

We are writing this email in response to the Townships pending review of the Cook property located on Portage Point Road.

We have concerns about the current process being followed by the Cook's and the Township on the review of a site plan for this property. We reference the December 27, 2021 OTB Cook subcommittee proposed "resolution to the impasse."

As we review the recently published materials for the upcoming Public Hearing we do not believe that there is a formal submittal of the required Site Plan/ Plot Plan by the Cook's. There is a "Plan C" and a letter from the Cook's

attorney discussing issues and adjustments made to the attached drawing which no one has called a Site Plan/Plot Plan submittal. Without an officially submitted site plan it is impossible for the average person to completely understand the impacts of the suggested variance approvals. We understand the desires of the Cook's to determine the criteria within which they need to design and construct their building, but putting approval of specific variances in this agreement prior to a submitted and adequately reviewed site plan seems to be jumping several administrative steps in the process. This proposed agreement would essentially be amending the current zoning ordinances for one specific lot. We strongly object to committing the Onekama Township Board to approve this agreement prior to adequate review of all aspects of a site plan.

It does appear that the Cook's and the Township are both cooperatively trying to resolve issues for this parcel that are caused by the "as built location" of Portage Point Road. No matter how this land use application is processed, it

is apparent that the current roadway location and appropriate Right of Way need to be revised to reflect the actual roadway the Public uses for access and egress. A replat of the Cooks Parcel reflecting the roadway should be included as part of this application. Setback criteria for the west property line and the impervious area calculations are impossible to adequately address with the existing lot. In none of the official correspondence have we found any direct discussion of the roadway location and its impacts. Additionally the road has been in existence for decades and it is unlikely that the Cook's did not consider the roadway impact on the ability to build on the property prior to their acquisition.

As with any other land use application, a plot plan/ site plan submitted by the Cook's and reviewed by the Planning Commission for compliance with required ordinances should happen prior to the Board conducting a public hearing on that application. After this review by the Planning Commission (made available to the Public) people can and will be better informed to

provide appropriate public comments regarding this land use.

The legal procedures initiated by the Cook's should not require the Township to alter its normal course of business, perform the appropriate reviews to protect the residents of Onekama Township, and maintain the legal criteria for land use approvals.

Sincerely,

Jim and Claire Riley
9034 Lakeside Avenue
Onekama, MI 49675

Shelli Johnson

From: Jay Siwek <siwekj@georgetown.edu>
Sent: Tuesday, February 8, 2022 10:07 AM
To: Shelli Johnson
Subject: ATTN: Township Board: Cooks' hearing

To: Onekama Township Board
Re: Cooks' variance hearing of February 9

Looking over all the online documents relating to this hearing, I can see the remarkable amount of work done by members of the Township Board and its committees. I don't want to second-guess their decisions, and so I defer to the Board and Zoning Board of Appeals regarding the various ordinances in question and their enforcement. My main point in writing is to express my strong support for uniform application of these ordinances. I am concerned that the Township may be bowing to threats of a lawsuit and overruling the previous rulings (denials) by the ZBA. If so, I think this is a bad precedent. It suggests that anyone with enough money and determination can simply strong-arm their way to get what they want, regardless of established ordinances and legitimate rulings by the ZBA or Township Board. I think it is important that property owners know that there is a fair and uniform process enjoyed by all, and not subject to manipulation by lawsuit. Otherwise, why have ordinances? I realize there are financial costs related to defending against such lawsuits, but simply bowing to that pressure sets a precedent for anyone to follow. I appreciate the thoughtful consideration and hard work done by the Board (in this and every situation).

Sincerely,
Jay Siwek, MD
9335 Lakeside Ave.
Onkama, MI

February 7, 2022

Onekama Zoning Board of Appeals:

This a letter stands against the zoning variance appeal by Mr. & Mrs. Cook (Parcel # 51-11-410-055-00 to build a 27'6" x 55'6" house on this parcel. The Cook's request variances that will create multiple risks and dangerous zoning variance precedents. While I understand septic placement is not part of the appeal, lack of clarity related to identification of septic location and remaining open space on the Parcel creates a high probability of hazardous affluent runoff into Portage Lake. I find this proposal's lack of clarity regarding the septic location and safety concerns related to pedestrians in an already congested area more than sufficient to warrant a firm denial of any zoning variance request.

Second, the house building site creates environmental concerns to Portage Lake and the immediate wetlands.

Risk to human safety if the proposed variances are approved. A setback variance from the roadside property line (Avenue A) is requested that **WILL** create a safety concern to pedestrian traffic along Avenue A in an already congested area.

Risk to environmental safety if the proposed variances are approved.

A setback variance from the lakeside property line is requested that **WILL** create an environmental hazard to Portage Lake. Very recently lake water levels were extraordinarily high and although they are a bit lower at present, all scientifically based predictions of Lake Michigan/Huron lake levels indicate water level will, on the average, rise over time.

Thank you for the opportunity to voice my concerns and hope that the Cooks' proposed improvement to Parcel # 51-11-410-055-00 and the zoning variances that would be necessary if the project goes forward and are denied by the zoning appeals board.



Brooks Applegate, Manager
Peter Pan at Portage Lake LLC
2074 6th Street

Shelli Johnson

From: derby62 <onekama@cinci.rr.com>
Sent: Monday, February 7, 2022 1:02 PM
To: Shelli Johnson
Cc: Armin; robert schle
Subject: Cook Building Lot Proposal

Dear Onekama Township Board of Trustees

I believe by now you know that I own the property at 8368 Portage Point Dr immediately south of the Cook lot; as well as cross the road where my home is located.

Since May of 2021 I have gone to numerous meetings , pubic hearings, listened to legal opinions, written letters and emails, and have suffered undue stress over what granting their request would do to my property and my home.

I guess my final question to you is WHY?

Why are you willing to overturn the ZBA ruling denying the variances that were requested?

Why are you willing to risk setting a precedent that would encourage others to request building on unbuildable non conforming lots?

Why are you willing to risk the danger to the environment and safety of our lake and our neighborhood?
No matter what stipulations you put in place to protect them ,who will enforce violations?

Why are you willing to allow a possible septic tank issue with all the other ones that you have around the lake? You say its not your job ,so you can look the other way.

Why do you claim it would cost the township too much money to let the court decide this case? You have already paid the township attorney over \$7,000, and all he wants to do is compromise and not litigate.
What about having him represent the taxpayers who pay him? Let the court decide.

Why do you feel the Cooks have been deprived of using their lot as intended. They use it as beach access and now with an approved dock. Nothing has been "taken" from them.

Why would you negotiate with people who have NO respect for you, the ZBA, and your decisions. Clearly by now you must realize they only want it "their way".

If you grant this request everyone loses. The ZBA, the neighbors and the neighborhood, the lake, the environment, safety, the credibility of our elected township officials, our property values, and the reputation of Portage Lake and Onekama as a "place of great beauty"

Please reject this proposed building request.

Respectfully submitted,

Catherine Bradford
8368 Portage Point dr
Onekama, Mi 49675

Sent from [Mail](#) for Windows

Shelli Johnson

From: Richard M. Wilson <RWilson@mikameyers.com>
Sent: Monday, February 7, 2022 9:46 AM
To: Shelli Johnson
Subject: RE: Cook family request for zoning variances

Thanks, Shelli

Mika Meyers^{PLC}

Richard M. Wilson, Jr.

Mika Meyers PLC

414 Water Street

PO Box 537

Manistee, MI 49660

Tel: 231-723-8333

Fax: 231-723-3888

mikameyers.com

E-mail: rwilson@mikameyers.com

This message is for the addressee only. It may be confidential, and may include communications protected by the attorney-client privilege, attorney work product protected from discovery in litigation, and/or insider information regarding business transactions. Unauthorized use, disclosure or copying is prohibited, and may be unlawful. If you have received this message in error, please call the sender at (231) 723-8333 and delete the message from your system.

From: Shelli Johnson [mailto:clerk@onekamatwp.org]

Sent: Monday, February 7, 2022 9:34 AM

To: Edward Bradford <treasurer@onekamatwp.org>; Bob Blackmore <bblackmore@onekamatwp.org>; Allen Taylor <ataylor@onekamatwp.org>; avo49675@yahoo.com; Richard M. Wilson <RWilson@mikameyers.com>

Subject: FW: Cook family request for zoning variances

-----Original Message-----

From: Allison and Gary Haworth <haworth210@gmail.com>

Sent: Wednesday, February 2, 2022 6:05 PM

To: Shelli Johnson <clerk@onekamatwp.org>

Cc: kneh@manisteecountymi.gov; Andrew & Kathleen Mackie <akmackie1972@gmail.com>

Subject: Cook family request for zoning variances

We are part owners of a cottage (parcel 51-11-410-055100) a couple of doors from the Cooks' property. We want the area, especially Portage Lake, protected from harmful effects. We love the region and want it preserved.

We know that the Cook family really would like to have you override zoning variances long established, as they keep coming back with different proposals to get around those zoning regulations. We hope that you will uphold rules that have been enforced in the past. If those regulations are not maintained why were they developed in the first place?

We hope that you will support the Zoning Board on this matter.

Thank you,
Allison Mackie Haworth
Gary Haworth

Total Control Panel

[Login](#)

To: rwilson@mikameyers.com [Remove](#) this sender from my allow list
From: clerk@onekamatwp.org

You received this message because the sender is on your allow list.

Shelli Johnson

From: Katie Mehl <kmehl@manisteecountymi.gov>
Sent: Monday, February 7, 2022 8:47 AM
To: Jon Marty; Shelli Johnson
Cc: armin@meanderlaw.com; Kristyn Houle
Subject: RE: Cook Vs Onekama Township

Received, thank you.

Katie Mehl
Planning and Zoning Administrator
Manistee County
(231) 398-3525
kmehl@manisteecountymi.gov



From: Jon Marty <jonm@tedmarty.com>
Sent: Friday, February 4, 2022 5:58 PM
To: clerk@onekamatwp.org; Katie Mehl <kmehl@manisteecountymi.gov>
Cc: armin@meanderlaw.com; Kristyn Houle <kristynhoule@hotmail.com>
Subject: Cook Vs Onekama Township

[WARNING: External Message]

Dear Onekama Township:

I am a property owner at 2114 Sixth Street in Onekama. I appreciate the hard work of the ZBA and the Board and all that it does for the township. I understand that your position involves public trust and often times it is a thankless job. You have the opportunity before you to demonstrate that you honor that trust and your efforts in this situation will not go unnoticed.

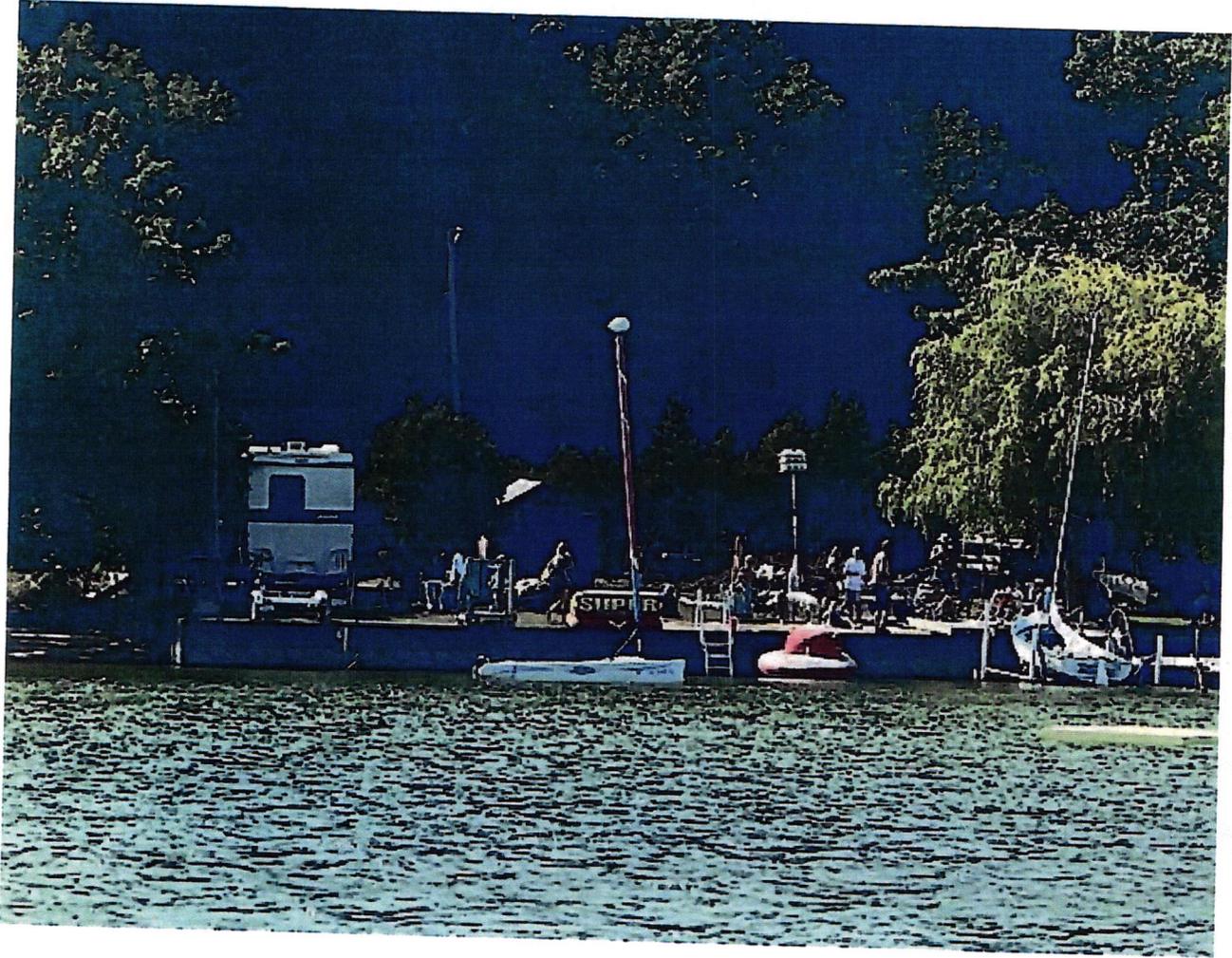
The Zoning Board correctly voted to deny the Cook lot multiple variance requests for the very reason the ZBA exists in the first place- to enforce *responsible* ordinance. Any decision to the contrary is irresponsible based upon the facts and plans submitted. Along with our own previous written concerns to the Township, there have been many more public concerns and opposition to this proposed plan. We understand the Cook proposal is now in front of Township board to approve or deny. Once again, we will reiterate our reasons we are **OPPOSED TO THIS PROPOSED DEVELOPMENT:**

- If the township approves this request, it will severely **erode public trust** in the Onekama Township's governance by subverting the very governing body that exists to enforce responsible ordinance not only now, but in the future as well.
- It will create a **slippery slope of zoning variance requests** all along the Portage lake waterfront and set a dangerous precedent to the protection of the watershed.
- It will cause a **negative impact on adjacent property owners real estate values**; As a property owner at 2114 Sixth Street and with a boundary property line of uninhibited lakefront views, we will have our property values declined by a view overlooking a roof, rather than a lake.
- We also would strongly fight ANY placement of a septic field or tank on our land and would claim **Adverse Possession** if allowed.
- It will create **substantial environmental issues due to the impervious surfaces** and the fact that this proposed development substantially violates set backs from the waterfront, on the eastern waterfront setback **AND** the southern waterfront setback line, the environmental damage increases exponentially. (the lot has water on both sides). If any lot ever needed STRICT adherence to the set-backs for the obvious environmental reasons, this would be the one.
- It will create **substantially higher traffic and public safety hazards** at a location which has already been known to be a bottleneck on Portage Point Road with its close proximity to The Portage Point Inn, Marina, Angel Slide and the S-Curve immediately to the north. Many pedestrians and children congregate in this area and play on the sand dunes across the street. As adjacent property owners we've witnessed this in the peak summer season for decades. Children on foot or bicycles will have no chance, with shortened setback requirements of a garage this close to the roadway.
- This lot is a beach and boat access lot and not a residential building lot, everyone knows this. **The Cooks, have enjoyed the use of this lot for years, for that exact purpose (see photo taken in July 2021 below).**
- The township must recognize that by approving this action, **it creates far more liability and the potential for further legal action**, than it would by denying the Cook plan.
- **We respectfully ask for a final time, that the Township, back its Zoning Bord of Appeals decision and deny the Cook Proposal.**

Respectfully,

Jon Marty, Marty Properties LLC

2114 Sixth St.
Onekama, MI 49675





Shelli Johnson

From: Jim Claire <coloradoriley@msn.com>
Sent: Thursday, February 3, 2022 11:53 AM
To: Shelli Johnson
Subject: Fwd: Cook Property Public Hearing

To: Onekama Township Board

We are writing this email in response to the Townships pending review of the Cook property located on Portage Point Road.

We have concerns about the current process being followed by the Cook's and the Township on the review of a site plan for this property. We reference the December 27, 2021 OTB Cook subcommittee proposed "resolution to the impasse."

As we review the recently published materials for the upcoming Public Hearing we do not believe that there is a formal submittal of the required Site Plan/ Plot Plan by the Cook's. There is a "Plan C" and a letter from the Cook's attorney discussing issues and adjustments made to the attached drawing which no one has called a Site Plan/Plot Plan submittal. Without an officially submitted site plan it is impossible for the average person to completely understand the impacts of the suggested variance

approvals. We understand the desires of the Cook's to determine the criteria within which they need to design and construct their building, but putting approval of specific variances in this agreement prior to a submitted and adequately reviewed site plan seems to be jumping several administrative steps in the process. This proposed agreement would essentially be amending the current zoning ordinances for one specific lot. We strongly object to committing the Onekama Township Board to approve this agreement prior to adequate review of all aspects of a site plan.

It does appear that the Cook's and the Township are both cooperatively trying to resolve issues for this parcel that are caused by the "as built location" of Portage Point Road. No matter how this land use application is processed, it is apparent that the current roadway location and appropriate Right of Way need to be revised to reflect the actual roadway the Public uses for access and egress. A replat of the Cooks Parcel reflecting the roadway should be included as part of this application. Setback criteria for the west property line and the impervious area calculations are impossible to adequately address with the existing lot. In none of the official correspondence have we found any direct discussion of the roadway location and its impacts. Additionally the road has been in

existence for decades and it is unlikely that the Cook's did not consider the roadway impact on the ability to build on the property prior to their acquisition.

As with any other land use application, a plot plan/ site plan submitted by the Cook's and reviewed by the Planning Commission for compliance with required ordinances should happen prior to the Board conducting a public hearing on that application. After this review by the Planning Commission (made available to the Public) people can and will be better informed to provide appropriate public comments regarding this land use.

The legal procedures initiated by the Cook's should not require the Township to alter its normal course of business, perform the appropriate reviews to protect the residents of Onekama Township, and maintain the legal criteria for land use approvals.

Sincerely,

Jim and Claire Riley
9034 Lakeside Avenue
Onekama, MI 49675

From: [Allison and Gary Haworth](#)
To: [Katie Meh](#)
Subject: Sorry, misspelled your name
Date: Wednesday, February 2, 2022 6:18:03 PM

[WARNING: External Message]

We are part owners of a cottage a couple of doors from the property in question (parcel 51-11-410-055100). We want the area, especially Portage Lake, protected from harmful effects. We love the region and want it preserved.

We know that the Cook family really would like to have you override zoning variances long established, as they keep coming back with different proposals to get around those zoning regulations. We hope that you will uphold rules that have been enforced in the past. If those regulations are not maintained why were they developed in the first place?

We hope that you will support the Zoning Board on this matter.

Thank you, Allison Mackie Haworth
Gary Haworth

Shelli Johnson

From: Tim Marty <timm@tedmarty.com>
Sent: Friday, February 4, 2022 2:55 PM
To: Shelli Johnson
Cc: Kristyn Houle; Armin; onekama@cinci.rr.com; Jon Marty; Tuck Marty (tsmarty59@gmail.com)
Subject: Cook Vs Onekama

Good Afternoon- Short and Sweet. First I would like to thank the folks on the ZBA, Township Board and those that support the Township. It's a thankless job and I know this issue has taken a lot of time and created un needed stress. So, Thank You.

Additionally, this issue is not a 'personal' issue with the Cook Family. For me its just a logical decision based on Zoning, plus, nobody wins. There is A LOT of negative chatter going on in this community right now. So, for the following reasons, I believe the Township Board should defend the ZBA's well reasoned decision.

- The Cook Lot was built into Portage Lake, it is 'in the lake'. If approved in any capacity PL Watershed Loses.
- Originally the Cooks sought 4 variances, if approved in any capacity Township Board loses because of the precedent it will set for current and future board members.
- If approved in any capacity, ZBA Loses
- If approved in any capacity, Neighbors Lose
- If approved in any capacity, Neighborhood Loses
- If approved in any capacity, Public Safety Loses

Many, many Onekama Township taxpayers oppose approving any new dwelling on the Cook lot. As a neighbor (2114 Sixth Street) of The Cook Family Lot, I have witnessed how the Cook Family has used this lot for many, many years- for its intended use, access to the lake. For this reason, the 'taking' argument has zero credibility.

It is my hope that the Township Board unanimously support the ZBA's decision. Thank You for your efforts!

Respectfully,

Timothy E Marty, CIC
2536 Crecent Beach Rd
Onekama, MI 49660

Andrew F. Mackie
8632 Valley Brook Drive
Raleigh, NC 27613
Cell (919) 917 5339
akmackie1972@gmail.com

February 1, 2022

Onekama Township Hall
Attn: Township Board
5435 Main St.
Onekama, MI 49675

Re: Special Meeting February 9, 2022 regarding proposal provided by the Cook Sub-Committee.

My family is a joint owner of the home at 8324 Portage Point Drive We are just a short distance from the Cook property. The property is identified as Parcel ID 51-11-410-055100.

During the past several months we have expressed our objection to the Onekama Zoning Board of Appeals (ZBA) regarding the proposed plans for building a house on this parcel. In August the ZBA denied the Cooks request. We feel that the Township Board should support the ZBA, and not overrule their well thought decision.

The Cooks purchased the property with full knowledge of the limitations it included. Even with the various changes to their plans, they have requested variances that are an unreasonable encroachment on the set back requirements that were thoughtfully put into place by the Zoning Ordinances. The new dwelling would not only have a negative impact on environmental safety but set a precedent that could lead to several other unwanted impacts.

We ask that you support the decision of the ZBA, represent the best interest of all Onekama township citizens, and deny the Cooks request for these variances.

Thanks for your consideration.

Andrew and Kathleen Mackie

January 27, 2022

Onekama Township Board of Trustees
Onekama Township Hall
5435 Main Street
Onekama, MI 49675

From: Kay Vee and Paul Rhoads

Subject: Cook Property

Dear Trustees:

We are part-year residents of Onekama. We purchased our home at 9280 Lakeside in 1979, although the Rhoads family visits to the area began in the mid-1950s. Our only interest in the matter under consideration below is a sincere desire to see that the Portage Lake area retain the property and aesthetic standards that sustain the community we all share and treasure.

With respect to the Cook Subcommittee's Proposal for Resolution dated December 27, 2021 ("Proposal"), we question the reasonableness of authorizing a building of the requested size and location on this lot.

The Board certainly has the authority to approve of variations from existing rules but should consider the extent that any variations result in departures from norms that have been established for all of our residents and codified in the Township's ordinances. The precedent thereby set may be substantial.

The Proposal describes the following details.

Lot Size: We do not understand a comparison of 5,360 square feet of "workable area" (a term unfamiliar to us) versus a minimum lot size of 15,000 square feet. The Board will have to determine just how much smaller this lot is than what the ordinance normally requires. Whatever the result of that inquiry, is the resulting percentage variation reasonable?

Setbacks: The Proposal contains some very specific differences in language when addressing setbacks. We are not sophisticated enough to understand the meanings of the terms utilized, but some of these differences are sufficiently noticeable to draw one's attention to them. We assume that the Board will observe any variations between the language used and the apparent intent of the ordinances.

Side setbacks: These must be 10 feet minimum "from the dwelling drip line or other parts of the building." Under the Proposal, the south side must be measured to the "eave / rake edge and drip line" whereas the north side omits reference to the drip line. The "other parts" language would seem to satisfy the objective of the ordinance. However, we assume the Board will be aware of whether any meaningful variation may have been intended. If so, is it reasonable?

Waterfront setback: There must be a 40-foot setback "from the roof drip line," whereas the Proposal requires only a 30-foot setback from the "eave / rake edge drip line." (We do not understand what is being said with the additional language requiring maintenance "along the edge of parcel abutting the edge of roadway pavement."). If no difference in the points of reference was intended, then the Proposal would seem to allow a full 25% reduction in the distance from the lake. Is that reasonable?

Roadside setback: There must be minimum 25-foot setback from the roadside, but the Proposal would allow a setback of 21-feet "from inside the east edge of the pavement surface to the eave / rake edge dripline." We have seen indications that the road may lie partly within the lot, which might be a reason for this odd measurement description. But whatever the facts on that question, would a 25-foot roadside ordinance be designed at least in part as a safety issue? Is it reasonable to permit a 16% reduction, by allowing construction separated 21 feet from vehicular traffic?

We appreciate the difficulties that are so often encountered by public servants such as yourselves and are confident that you will use your best judgments in reaching your decisions. Thank you for considering these thoughts.

Kay Vee and Paul Rhoads

Handwritten signature in blue ink, appearing to read "Kay Vee Rhoads".

Shelli Johnson

From: Jim Trout <ibfishwich@aol.com>
Sent: Sunday, January 30, 2022 6:25 AM
To: avo49675@yahoo.com; Shelli Johnson; bbonekama@gmail.com; Edward Bradford
Cc: ddw.hft@gmail.com
Subject: "Confusion" >>>>> "Lack of transparency?" YAH, I'm confused too!!!

FYI >>>>> JRT

-----Original Message-----

From: Jim Trout <ibfishwich@aol.com>
To: **dbehring@charter.net <dbehring@charter.net>**
Cc: windsongmi@aol.com <windsongmi@aol.com>
Sent: Sun, Jan 30, 2022 6:18 am
Subject: "Confusion" >>>>> "Lack of transparency?" YAH, I'm confused too!!!

Dan - Thank you for copying me in your recent e-mail on "confusion" regarding the OTB COOK sub-committee report to the OTB. You reference the recent letter to the Manistee Advocate from Libby Schlieffarth as ".....detailing many of them." That letter also omitted a number of facts that Ms. Schlieffarth was definitely informed of - she simply choose not to include them in her screed.

Given your experience as a former Chair of the OTPC, you of all people should be aware that a formal "Public Hearing" mandated by the Michigan Zoning Enabling Act for zoning changes, ordinance amendments, variances (ZBA) and similar *ZONING* related issues is **NOT** relevant to the COOK appeal of the denial of the application for variance to construct on the vacant parcel, now before the Onekama Township Board of Trustees.

Publication of notices that are required for "*Public Hearings*" by the Planning Commission and Z.B.A. on Zoning related issues are **NOT** required by the law in this instance. The Board determined that it is in the public interest to include discussion of the proposed answer to the appellants' (COOKS) lawsuit, now before the Circuit Court in Manistee County, in a public forum and scheduled that public forum in conjunction with the regular monthly meeting of the OTB. Again, this does not require publication or posting under the MZEA as nothing here involves a zoning change, etc.

Claims that the process is defective and violates the MZEA because the notice that was published referenced the COOK parcel as "vacant" though it has has a temporary "garden shed" building placed on it are absurd. An ice fishing shanty pulled up on the shore of a "vacant" parcel does not render the parcel "UN-vacant," nor does placement of dock materials for the winter months. This is absurd, Dan.

The OTB COOK Sub-Committee (which I Chaired, as you know), was charged with coming up with a compromise that would be acceptable to both the appellants and Township. The COOKS had submitted a plan ("C") for a dwelling significantly smaller than that previously denied by the ZBA. Pursuing this case thru the Circuit Court process could resulting costs to the Township taxpayers \$30,000 - \$100,000. >> *Note: It is **NOT** a matter of going to Court. We are IN Court!! > The Township has been sued (the appeal process is delineated by the MZEA and the Ordinance) and is responding to the suit now before the Judge of the Circuit Court.* The Circuit Court may impose whatever settlement it deems appropriate for the case.

Regarding "discussion about septic and well placement," both the ZBA and the OTB COOK Sub-Committee had "discussions" on this. Again you of all people should realize that purview - and permitting - of all such issues are entirely - entirely!! - in the control of the Manistee County Health Department - NOT the Township Board, P.C., Z.B.A. or a Sub-Committee appointed to devise a compromise on the issue.

You mention "transparency." The Township Board publically appointed a Sub-Committee with the charge of trying to reach reasonable a compromise before proceeding further down the path of the Circuit Court process. The Sub-Committee held public meetings which were posted and noticed on the website - and attended by citizens, including Ms. Schlieffarth, who spent her public comment time demanding to be informed what the exact annual costs incurred for all Township legal fees were (see video broadcast of the meeting, with was viewed by at least dozens).

In discussion with Supervisor Meister, Ms. Schleiffarth was informed that he personally had no access to post anything to the website - (a website that has been problematic for some time but which will be replaced by a far superior system very shortly) - *the Clerk of Onkama Township has exclusive authority to "post" for security reasons.....no one else.* Clerk Shelli Johnson was on vacation and could not "post," as the Supervisor pointedly informed the letter writer.

Given the openness of the Board and appointed authorities, I am baffled by the constant charges of obfuscation. The Township is posting notices - though not required - and holding public meetings on all issues. Meetings of all types are being broadcast via video. Minutes are available for review on the website (problems are acknowledged and being addressed, as noted). And yet, somehow the Township Board and Commissions are falsely accused of concealment, subterfuge, and chicanery by members of our community, This not rational behavior, Dan.

A prime example was the late 2021 hysteria over a claim - made by your neighbors - that the DNR was selling the Public Access and lands around PORTAGE LAKE and that ***the sale was "imminent"***> "***.....on the DNR Director's desk for signature.***" Totally false, unsubstantiated, etc.but widely circulated as "fact," ***a fait accompli.***"

Lack of transparency? Please review this morning's e-mail from Al Taylor on what is currently posted on the website and get back with me on a supposed lack of transparency. ><> JRT

Shelli Johnson

From: JOHNandTRISH CECCONI <cecconi@bellsouth.net>
Sent: Sunday, January 23, 2022 5:52 PM
To: David Meister; Shelli Johnson; Bob Blackmore; Allen Taylor
Subject: Cook vs Onekama Township Board building ordinances

My husband John W. Cecconi Jr and I, Patricia Hollingsworth-Cecconi have recently been informed regarding this request for multiple zoning ordinance variances,. We wish to express our opposition to granting relief of these requirement and ask the township board to deny the initial and the latest update "Draft 9".

It is our understanding this particular property was purchased by the Cook family in and around 2003, approximately 10 years after the current zoning ordinances were established in 1993. It is our understanding that the purpose of zoning ordinances is to optimize safety and preserve the economic, infrastructural, and environmental sustainability of the community they serve. At the time this property was purchased by the current owners , it was and remains a noncompliant parcel and not an optimal building site for the type of structure they are wishing to erect. As we are sure you are aware, these building ordinances are available for anyone interested in purchasing property or initiating a building project and failure to know what they are is not a valid reason to have them changed.

If any of the ordinances are outdated or deemed needed to be updated or changed, there are proper democratic processes in place in order to ensure all those effected by the change has a voice and chance to communicate their concern and have their vote counted. Asking for an initial request to change 10 variances and negotiating it down to five and then threatening costly litigation is an obvious strategic tactic used by self serving parties to impose their will. There seems to be a growing trend around Portage Lake and Onekama Township to build or buy now and pay the fine or negotiate later. This request sets a dangerous precedent and opens these ordinances to recurrent negotiation and litigation. You cannot bend the rules for one party and then not for another. It creates a revolving door open to chronic litigation.

Your collective decision here sets a precedent that will impact the future sustainability of the Portage Lake Watershed for generations to come. The growth, viability, and future of Onekama Township will be greatly effected by your decision whether to allow these concessions and your ability to defend these ordinances to future requests to bypass or blatantly disregard them. It is our feeling and impression that should your committee and board decide to dig in and deny these requests for the best interest of your community, your community will support you. I am sure each and everyone of you has been considering this over the past several months. Your willingness to negotiate and come up with alternative solutions is commendable but not likely the best long term solution. As property owners, taxpayers, and individuals who are dedicated to the future of Onekama Township and Portage Lake we do not support granting multiple variances of the zoning or building ordinances to accommodate building on this property. We do not mind if our tax dollars are used to defend this position.

Respectfully,

John W. Cecconi and Patricia Hollingsworth-Cecconi
7682 Leonard Ave
Manistee, MI 49660

Amber Sedelmaier

From: Shelli Johnson
Sent: Wednesday, February 9, 2022 9:34 AM
To: Amber Sedelmaier; Edward Bradford; Edward Bradford; Bob Blackmore; avo49675@yahoo.com; Allen Taylor
Subject: FW: Township board meeting- Public Comment. Feb

From: Tenley LAST_NAME <tlippie@comcast.net>
Sent: Wednesday, February 9, 2022 6:16 AM
To: Shelli Johnson <clerk@onekamatwp.org>
Subject: Township board meeting- Public Comment. Feb

Good morning!

This letter has been submitted before, so it is already on file. I am just making sure it moves forward with the case. In Indiana, where the Cook's are from, this cottage would be allowed. It could be built edge to edge. It seems each time a property turns over, the cottage gets bigger. However, the lakes have only sea walls, the waves from the bounce back are bad. The lakes are too dangerous to use on the weekends. Many bad accidents have happened. A certain amount of construction debris ends in the lake. The lakes have been developed for tourism so the year rounders are run over in the summer and want to leave during prime time. Think Traverse City. I guess it depends on the long term vision for this lake. I would like to see a thriving community for the year rounders. This would favor home development, which would provide jobs for the trades, an income to raise a family on. Meanwhile following the zoning laws.

We support the ZBA and the Onekama Township Board and Planning Committee.
We support using our tax dollars to defend the zoning.

Hoping for the best, for everyone,
Tenley Lippie

Dear Township board,

Please do not accept the subcommittee's hard work on the Cook proposal. JUST SAY NO.

I do not know of ANY reason someone is entitled to build on a lot that does not support the zoning laws. Why would a judge say they are entitled?

PROTECT THE LAKE:: The proposed building is not 40 feet back from the seawall, which is the edge of the lake. If the zoning laws are wrong or this French drain will accomplish the intent of the 40 foot set back then, it is time to change the zoning law so others can follow without suing the township.

I have not seen a plan to keep all silt, soil and debris out of the lake and/or provide clean up for when that happens.

My understanding is the hotel was gifted the public access adjoining this property in exchange for a public fishing pier. ANY silt, soil, debris will harm the fish in front of the public fishing pier! What is the plan for prevention and any clean up?

I do appreciate the subcommittee maintaining the ordinary 10 foot set back to the north and the south. I believe this will be the best for the long term for all.

I do appreciate the subcommittee's attention to road safety and putting the house car traffic as far from the curve and angel slide.

I do not believe it is the planning commissions job to spend so much time on all the house drawings. It is a distraction from the zoning laws. I believe they can build what they want with in the zoning and lake polluting laws.

I do understand the subcommittee was trying to work out a compromise to prevent this from going to court. My understanding is around \$7,000 has been spent on this compromise. However, I do believe it is teaching people to sue the township when they want a variance, so in the long game this will be more costly to the township. I do not want to see that happen to the township or the tax payers.

Thank you for allowing me to share my opinion,
Tenley Lippie
51-11-410-059-00
11-410-063-00

February 8, 2022

To: Onekama Township Board

From: Faye Backie and Steve Szilvagy
3047 Vanessa's Way
Onekama, MI 49675



RE: Cook appeal – Variance 51-11-410-050

Dear Sirs,

We write (once again) in reference to the Cook appeal. Faye attended the August 18th meeting (along with approximately 40 year-round and summer residents) at which the Zoning Board of Appeals (ZBA) after reviewing the Cook's proposal and the governing ordinances and procedures, denied the Cook's request. We should note that approximately 30 letters were submitted regarding the appeal. Only one was not opposed to the Cook's request.

So, we are wondering why we are being notified of a public hearing rather than a judicial hearing. We worry that the Onekama Township Board sets a dangerous precedent by disregarding the careful, thorough and thoughtful analysis of the Zoning Ordinances as they apply to these variance requests.

We don't believe that undermining the established Zoning Board of Appeals procedure, negotiating the ZBA's decision, bypassing the legal safeguards for municipalities and negotiating with a private citizen serves the best interest of all the citizens of Onekama Township. It is quite clear to us that the vast majority of people interested in this issue back the Zoning Board of Appeals' decision.

Therefore, we respectfully request that you, the members of the Onekama Township Board, follow the procedures established by the township ordinances, support the ZBA's decision, defeat the subcommittee's recommendation and let the Courts handle the matter going forward.

Cc: Katie Mehl

To: Onekama Township Board
From: Mary Fairgrieve, resident

RE: Township meeting on 2-9-2022
at 3pm to discuss the Cook property

Dear Township Board,

I have concerns about the safety of our residents and visitors who frequent the turnaround beach during the year, especially during the summer months. Those are the same months that new construction is most likely to be fully engaged at the Cook property. A hundred or more people walk, bike and drive the narrow stretch of road between their lot and the beach on a summer day.

If emergency vehicles are needed to reach the beach or any home beyond the property under construction, there is a real danger to all concerned. Time is of the essence during an emergency and delays caused by construction vehicles, materials etc. can create a serious, or even deadly, problem.

It is my opinion that the Cook property would be a liability for the township if it is built upon as planned.

Please consider this when you decide today how to proceed.

Sincerely,
Mary Fairgrieve
Onekama, MI



2-7-22

Shelli Johnson

From: Karen Ruth <kruth1@gmail.com>
Sent: Wednesday, January 19, 2022 11:00 AM
To: Shelli Johnson
Subject: Public Access point on Portage Point Dr.

As property owners at 3806 Portage Point Dr., and 3796 Portage Point Dr., we are concerned about clearing the public access point adjacent to our property. The curve there is a dangerous spot, with limited visibility and dangerous speeds. Our concern is that people might potentially park on that curve to access the lake and add to the danger. We would also advocate for a reduced speed on that road, perhaps 25 mph.

We hope you will consider the safety implications of clearing that access point.

Thank you,

Karen and Dan Ruth

Libby's personal comments at Cook Public Hearing

I am Libby Matthews Schleiffarth, and my family has been nourished by the waters of the Two Lake Town for over 100 years. I support the concerns that have been expressed by other speakers, letters and emails regarding public safety, environmental protections, following prescribed procedures and establishing dangerous precedents.

Before retiring to Onekama in 2014, I served on former Governor William G. Milliken's staff, as Village Clerk of Three Oaks and as member of the Niles Community School Board. So for today's public comments, I am speaking to you as former public servant and public official.

From these perspectives, the approval of the sub-committee's recommendation would represent a major "setback" in public trust... a setback that isn't measured in feet but in participation, engagement and confidence in government.

As a former public official, I am shocked, disappointed and quite frankly embarrassed, that the Township Board would post on it's website, Tom Grier's opinion letter on this matter four hours before the public hearing. The incorrect email address for the public comments was never updated, even after the error was pointed out last week. This seem to be inconsistent with "serving the public interest or a "level playing field."

The citizens need to have confidence that the Board's intentions, words and actions reflect the best interest of the public. There needs to be accuracy in your information and transparency in your decision making process. Private emails of board members should not be used for public business. Citizens need to know everyone is subject to same rules and is being held to the same standards. Democracy is built on these foundations, and the public deserves nothing less.

To be a vibrant and growing community, Onekama relies on its citizens to share their time, treasure and talent on various boards, committees and charitable organizations. Without these citizens, there is no Zoning Board of Appeals, Board of Review, Parks and Recreation Committee, Garden Club or Near and Farr Friends, to name a few. These citizen volunteers need to trust that the Onekama Township Board respects their efforts, supports their decisions and honors their contributions to the betterment of our Two Lake Town. There have already been several resignations from these boards and committees. This is regrettable and preventable. As a community, we cannot afford to lose volunteers and their vital participation.

As a board, you cannot afford to lose the public's trust. Listen to your constituents; protect public safety and our environment; be transparent and accurate, and apply the ordinances, procedures and laws equally to all citizens. Please vote down the sub-committee's recommendations and proceed to court.

Elizabeth Matthews Schleiffarth (Libby)
9060 Lakeside Ave.
2-9-2022

To be read on February 9, 2022 at 3 PM Township meeting

From: Yahoo Plus (jeneannefitz@sbcglobal.net)

To: fitzproud@sbcglobal.net

Date: Monday, February 7, 2022, 12:59 PM EST

My name is Jeneanne Fitzgerald

My husband and I are year around residence at 2809 Pine Run Dr. and moved here from Chicago 18 years ago.

Once again, I am here to reaffirm our concerns about the Cook proposals.

We have attended many meetings and written several letters. And as you can see, we are not giving up.

It is very important to our community to do the best we can to keep the safety and environmental objectives front and center and enforced. An effective zoning board is necessary for the safety of our roads and for the health of our lake. We strongly object to the Cook variances.

I yield my remaining time to Armond.

Thank you.

FEBRUARY 9, 2022

PUBLIC HEARING re: COOK PROPERTY

We think it is a dangerous precedent for the township to protect people from their own bad choices.

30 years ago we wrote a purchase agreement for our lot here in Onekama. Being lakefront property, it was not inexpensive by 1992 standards and was assumed to be a buildable property. Assumptions and expectations don't secure permits, the laws and the rules do. Therefore we included contingencies in our purchase agreement that the lot perk, and that we be able to secure permits allowing us to build a house no smaller than a certain number of square feet. Common sense dictates that one protect ones investment.

Had we not done so, and the lot failed to comply with numerous building standards we would NOT have expected the township or any agency to change their rules to bail us out.

We would NOT have asked the township to endanger its residents to help us get what we wanted.

We would NOT have asked the township to hold us above the importance of the environmental impact.

We would NOT have asked the township to set precedent to allow the development of a multitude of non-conforming properties.

We would NOT have asked the township to approve something the majority of its residents were rightfully opposed to.

Please support the ZBAs denial of the Cook project.

Karen and Dale Mayhew

9420 Lakeside Avenue, Onekama

Good Afternoon. My name is Bonnie Brooks Garbrecht. My husband and I reside at 1985 2nd Street off of Portage Point Road on property which has been in my family for 102 years. I am intimately familiar with the property under consideration because I either walk or drive by it on a daily basis. I am a graduate of Onekama High School and served for two terms as At-Large City Commissioner for the city of Battle Creek.

What I would like to share this afternoon are some numbers which collectively add context to the importance of this issue to people living and paying taxes in our community.

- To date, there have been more than 7,500 Face Book views of the seven meetings held thus far relating to this issue. Thank you, Al Taylor, for taping these meetings, informing citizens and encouraging participation.
- Approximately 50 people attended the May 28th Zoning Board of Appeals meeting in person.
- Approximately 40 people attended the August 18th Zoning Board of Appeals public hearing in person and in addition approximately 30 letters were submitted. All but one of the public comments made and letters submitted expressed opposition to the granting of the requested variances for this property.
- Despite the fact that today is a cold February day, the public — your public — is here once again to share their concerns with the granting of these variances.
- As a point of comparison: just 300 people cast votes in the 2021 August election and 355 in the 2020 November general election.
- Together, voting totals from the two previous elections are less than 10% of people who have demonstrated concerns about this proposal by writing, attending hearings, and watching meetings on Facebook over the last nine months.
- The Zoning Board of Appeals has done its due diligence. I urge you to support their work and their recommendations.
- And further more, I urge you to follow the process outlined in your own ordinance.
- Please be a government that is as President Abraham Lincoln so eloquently expressed it “of the people, by the people and for the people.”

Thank you.

Bonnie Garbrecht, 1985 2nd Street, Onekama, 49675 231-889-7134

To: David Meister, Supervisor

Cc: Shelli Johnson, Robert Blackmore, Allen Taylor

Thank you to the Onekama board for all your time working on the continued requests from the Cooks who are submitting plans to build on lot 5111-410-055-00. Thank you, also, for continuing to rule against these requests. Thank you to the Cooks for recognizing the rulings and making modifications to their proposed plans. The only problem, that I see, is that the Cooks are still asking for variance forgiveness on a piece of property, that we all agree, has never been a buildable site.

In addition to the door that becomes wide open for any lake front lot, no matter how small, to begin to request these variance allowances, the following list are additional issues that arise with this construction request.

- Safety on a very sharp curve
- Children and adults that are using Angel Slide
- Water degradation
- Septic tank placement
- Safety for runners, walkers, and bikers

Another thought, once the lake level goes down property owners could begin to build sea walls and then come to the township and ask for permission to build on these lots!!!

Let's remember there are rules on the books for a reason, not to be broken but upheld. In the words from Jim Trout "The village would have a blighted waterfront full of structures the size of oversize ice shanties"

Please put an end to these requests with a final denial.

Ann Wipperman Volk

Wipperman Family LLC

Parcel Numbers 5111-410-062-00, 5111-410-058-00, 5111-410-064-00

Correspondence

1-12-2022

Shelli Johnson

From: Tenley LAST_NAME <tlippie@comcast.net>
Sent: Wednesday, January 12, 2022 1:56 PM
To: Shelli Johnson
Subject: Jan 12 Township board meeting- Public Comment

Dear Township board,

Please do not accept the subcommittee's hard work on the Cook proposal. JUST SAY NO.

I do not know of ANY reason someone is entitled to build on a lot that does not support the zoning laws. Why would a judge say they are entitled?

PROTECT THE LAKE:: The proposed building is not 40 feet back from the seawall, which is the edge of the lake. If the zoning laws are wrong or this French drain will accomplish the intent of the 40 foot set back then, it is time to change the zoning law so others can follow without suing the township.

I have not seen a plan to keep all silt, soil and debris out of the lake and/or provide clean up for when that happens.

My understanding is the hotel was gifted the public access adjoining this property in exchange for a public fishing pier. ANY silt, soil, debris will harm the fish in front of the public fishing pier! What is the plan for prevention and any clean up?

I do appreciate the subcommittee maintaining the ordinary 10 foot set back to the north and the south. I believe this will be the best for the long term for all.

I do appreciate the subcommittee's attention to road safety and putting the house car traffic as far from the curve and angel slide.

I do not believe it is the planning commissions job to spend so much time on all the house drawings. It is a distraction from the zoning laws. I believe they can build what they want with in the zoning and lake polluting laws.

I do understand the subcommittee was trying to work out a compromise to prevent this from going to court. My understanding is around \$7,000 has been spent on this compromise. However, I do believe it is teaching people to sue the township when they want a variance, so in the long game this will be more costly to the township. I do not want to see that happen to the township or the tax payers.

Thank you for allowing me to share my opinion,
Tenley Lippie
51-11-410-059-00

Shelli Johnson

From: Tenley LAST_NAME <tlippie@comcast.net>
Sent: Wednesday, December 1, 2021 11:45 AM
To: Shelli Johnson
Subject: Cook Meeting

Dear Onekama Township Board,

My understanding is there is a short notice meeting on the Cook property. I have attempted to find the agenda and if there will be a vote on anything and I was not able to.

Will the meeting be available to attend remotely and if so how do I access it.

My understanding is that the Cook's have submitted new plans and requesting variances to several of the zoning ordinances. The zoning ordinances that were in place when they purchased the property. I believe Michigan is a buyer beware state, not a seller problem.

1. PROTECT THE LAKE: This includes holding to all of the zoning ordinances that protect the lake. Specifically the 40 foot setback and any run off ordinances. All Sewage requirements.

2. PROTECT THE PUBLIC SAFETY: This includes the ability to see walkers, joggers, bikers on the street and corner when entering and exiting their property. When something happens there, it will be a predictable event. Not an accident.

These zoning ordinances are in place for good reasons, by good people who spent many hours of research to determine these. The ZBA has spent many hours on this and made a decision for GOOD REASONS.

Why would the township board NOT protect the lake and the public safety?

Thank you for your attention,

David and Tenley Lippie
Bluewaters LLC

Parcel ID: 11-410-063-00
11-410-059-00

Shelli Johnson

From: Allison and Gary Haworth <haworth210@gmail.com>
Sent: Wednesday, December 1, 2021 3:41 PM
To: Shelli Johnson
Cc: Andrew + Kathleen Mackie; Ann Volk; Tenley Lippie
Subject: Special Zoning Board meeting

It has come to our attention that there is a special Board meeting today. We know that it concerns a court case involving the Cook property but nothing else.

We hope that the Zoning Board is willing to stand by its decision concerning the variances the Cooks were requesting as it helps protect our property which is three lots from the site.

Thank you, Allison Mackie Haworth and Gary N. Haworth Parcels 51-11-410-058-00, 51-11-410-062-00, 51-11-410-064-00

Shelli Johnson

From: Yahoo Plus <jeneannefitz@sbcglobal.net>
Sent: Thursday, December 2, 2021 3:56 PM
To: Shelli Johnson
Subject: Cook zoning issue

Dear Shelley,

We are concerned about the zoning situation for the Cook prosperity. Why can't there be restrictions on the size of a house built? Many of us think there is a safety and environment problem. At last night's meeting it seemed that that Katie and the township board wanted suggestions from the public. Is it legal to backfill your property to extend your property size along Portage Lake? Can large homes be built on small lots near Portage Lake? Can permanent docks and structures be built over Portage Lake? (Round Lake in Charlevoix has docks and boat houses extending out so far reducing the size of the lake.) Is the area around Portage Lake ten years from now going to be so built up that it will be impossible to view the lake from the road? Some citizens are concerned about the future. We have had many come to meetings over the the last year. I guess we don't understand what else can be done.

I was relieved and happy to hear we have a zoning board. It is so important to have responsible development. I just hope they can do their job.

Jeneanne Fitzgerald

February 7, 2022

Onkama Township Board of Trustees
5435 Main St.
Onkama, MI 49675

Re: *Cook v Onkama Township* - Public Comment re: Settlement Proposal
Public Hearing 2/9/22

Dear Onkama Township Board Members:

Please accept this letter as public input for the *Cook v Onkama Township* public hearing scheduled for February 9, 2022.

The Variances Requested

The Cooks applied for 4 variances from zoning ordinance requirements, all of which were denied by the ZBA on August 18, 2021. The requested variances included: **reducing by 50% the water protection setback distance** (Section 1007 Water Protection) from 40 feet to 20 feet; **reducing the rear minimum setback by approximately 68%** from 25 feet to 8 feet 10 inches; **reducing the north minimum side setback by 20%** from 10 feet to 8 feet and **reducing the front setback by 36%** from 25 feet to 16 feet. Basically, the Cooks requested that they be permitted to build a relatively large dwelling (1,695 sq ft building envelope, 2.5 stories high) on a very small waterfront lot (5,630 sq ft of "workable area"), which is proposed to be located dangerously close to a very pedestrian-active roadway and environmentally-sensitive lake.

Denial of the Variance Requests do Not Constitute a Regulatory Taking

The Cooks' Variance Application states:

[s]trict enforcement of the Onkama Township Zoning Ordinance will result in the parcel being unbuildable for any use currently permitted in the RR-3 District and **therefore deny the Owners all reasonable uses of their property, including its use for the placement of a boat dock.** Sec 4202A.4; Sec 1025. Accordingly, strict enforcement of the Zoning Ordinance would constitute a regulatory taking of the Owners' property.

In September of last year, the planning commission amended the zoning ordinance to allow lakefront lots in residential zones to install a dock for lake access (Section 1025 of zoning ordinance, amended 9/2021). **With this permitted use, the Cooks cannot continue to claim that they, "have been denied all reasonable use of their property, including its use for the placement of a boat dock."** They now have the *permitted* right to a dock.

Further, the lot has historically been used for lake access and installation of a dock and therefore, has always qualified as a legal nonconforming use under the zoning ordinance.

**The Variances Requested are not the Minimum Variances
that Will allow the Reasonable Use of the Land**

The variances requested by the Cooks did not meet the criteria under Section 9603 of the Onekama Zoning Ordinance, and therefore, the ZBA rightly denied the Cooks' application. Under the ordinance, variances must be the *minimum necessary* – and the ZBA found that the Cooks' variance requests were *not* the minimum necessary for the reasonable use of the land. Sec. 9603(C) states:

The Board of Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

As stated above, the Cooks have always had the use of the lot as access to the lake and installation of a dock (legal non-conforming use), but they now have the *permitted* right to install and use a boat dock (since the amendment of Section 1025 in September, 2021). Therefore, they have a valid and reasonable use of the land and the ZBA can justifiably deny any variances requested for a dwelling. This continued and now permitted use of a lake access lot with a boat dock will be in harmony with the neighborhood and not alter the essential character of the Portage Point area per Section 9603A(4).

Nonetheless, if the Township believes a dwelling is the only reasonable use of the lot, the variances requested by the Cooks were far from the minimum variances necessary for a dwelling (50% and 68% variances from the lake and road setbacks are more like *maximum* variances requested). For example, the variances for a dwelling could include a 10-foot setback variance from the waterfront (instead of 20-foot), and 5-foot variance from the rear setback (instead of 16.9-foot). This would allow for an 813 square foot building envelope and an area for 2 cars to be parked off road on the south side of the structure. (See attached **Exhibit A**, Architect's Sketch, submitted as Ex. J to my Public Input Letter 8/18/21). This is just one example of a reasonably-sized dwelling with minimum setback variances under the ordinance. This would also fit the essential character of the Portage Point area – which is made up of the historic Inn, narrow winding road, summer cottages and lake access lots.

The Appeal

Instead of discussing the matter with the Zoning Administrator and/or the township attorney to try to figure out a potentially acceptable variance request, the Cooks filed an appeal of the ZBA's decision. The Court is very likely to uphold the ZBA's well-reasoned, well-supported decision. The record on appeal is over 200 pages and the findings of facts for each standard under the variance section of the ordinance are well documented.

Settlement Proposal

In an attempt to settle the matter out of court, the township and the Cooks have put the appeal in abeyance. A township subcommittee was assembled to create a settlement proposal to be presented to the Cooks. First, I do not think settlement is necessary in this matter due to the strength of the township's position. Further, if the judge upholds the ZBA decision, the Cooks can simply apply for more minimal variances from the ZBA just like any other property owner.

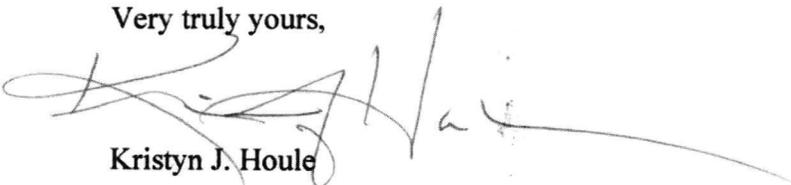
Second, because the township has the likelihood of prevailing in the appeal (at relatively minimal cost to the Township since an appeal is based on an established record - there is no additional discovery permitted) I do not think the board should accept the subcommittee's recommendation of Draft 9 of the offer to the Cooks. Draft 9 is not necessarily a counter-offer to the Cooks' proposal, in fact, Draft 9 states that the township, "accepts the basics submitted by the Cooks for ... a total footprint of 1,320 sq. ft..."

Instead of entertaining Draft 9 as a proposal for settlement, it is my opinion that the subcommittee's Draft 4 **plus** the auger pile construction system recommended on 1/10/22 be adopted by the board and proposed to the Cooks as a way to settle the appeal. (See attached, **Exhibit B**, Draft 4 plus the 1/10/22 Auger Pile System email). The auger pile foundation engineering method is designed to minimize excavations and the threat to the environment and waters of Portage Lake. Draft 4 proposes an 800 square foot building footprint plus a 240 square foot garage on the south side of the lot - a very reasonable and generous offer to settle the case.

Alternatively, and because the township is likely to prevail in the appeal, I would suggest the board offer in settlement the attached architect's sketch showing an 813 square foot building footprint with no garage, and an off-street parking area for 2 cars on the south side of the lot (along with the additional Draft 4 provisions and the auger pile construction method). This would provide for maximum setbacks from the road and water and therefore be more protective of the lake and provide more safety to pedestrians using the shoulder of the road.

If the proposed settlement offer is rejected by the Cooks, the township board should ask its attorney to zealously defend the ZBA's well-reasoned and defensible decision in Court and allow the appeal to be decided by the Judge.

Very truly yours,



Kristyn J. Houle

EXHIBIT A

SKETCH: STUDY 2

Study showing the buildable area of land if the Owners get a lesser variance of

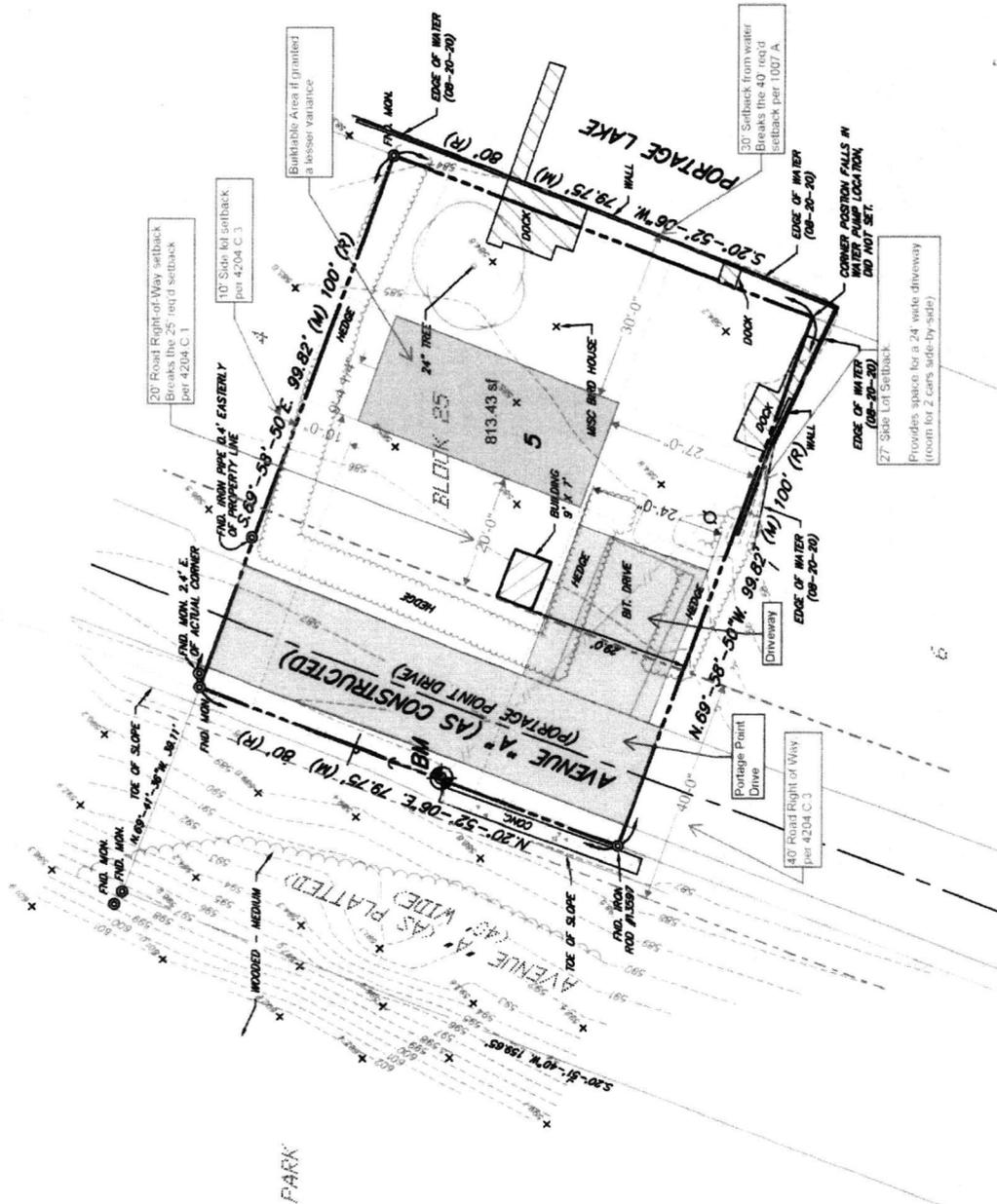
-Break the 40' Water Line setback by 10'

-Break the 25' Road Right-Of-Way setback by 5'

This would meet the minimum square footage requirements (800 sf), 4204.D

This would meet the minimum dwelling width requirement (20 ft), 4204.E.

Provides space for a 2 car driveway



01

3

EXHIBIT B

December 14, 2021

>> DRAFT - 4 << JRT

SUBJECT: (Draft- 4) RE: COOK > Proposal for Resolution

The following is pertinent to this issue:

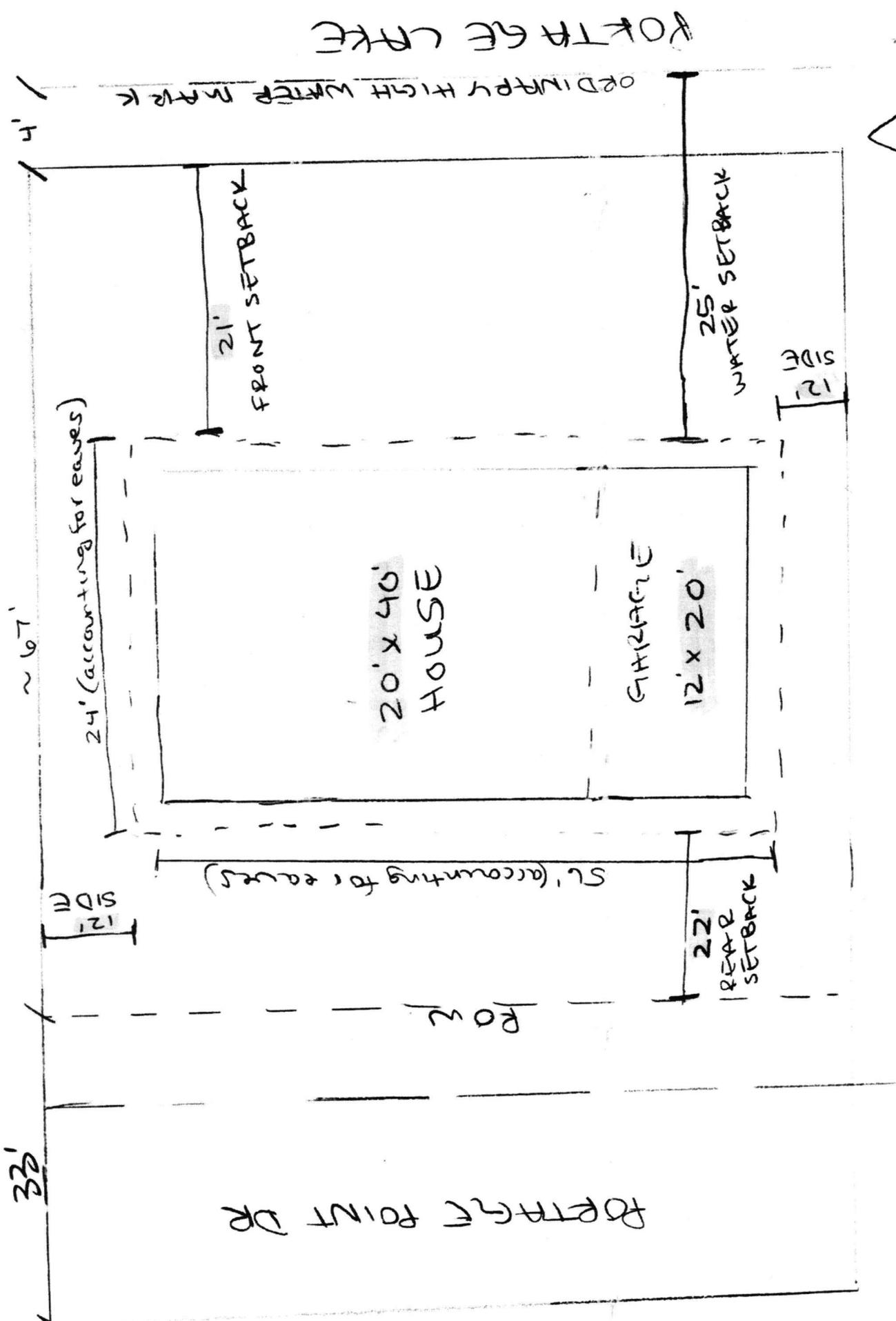
- 1) The subject parcel (ID# 51-11-410-055-00) owned by the Cooks is a *waterfront* non-conforming lot-of-record with an actual "workable area" of 5,360 sq. ft.
- 2) The *waterfront* parcel is located on Ave. A in residential district RR-3.
- 3) Minimum parcel size of a conforming lot-of-record in district RR-3 is fifteen thousand (15,000) sq. ft. in area.
- 4) Article 10 – Sec. 1017 of the Onekama Township Zoning Ordinance allows the construction of a "dwelling" with a minimum size building footprint of 800 sq.ft. of living area in district RR-3., as does Article 42 - RESORT RESIDENTIAL – RR-3.
- 5) The Ordinance (Sec. 1017) also requires a minimum measurement of 20 ft. X 20 ft. in the living area of the dwelling, exclusive of wings, porches, decks, and other extensions.
- 6) Article 10 – Sec.1008 restricts building heights to two and one half (2.5 stories) or a maximum of 35 ft., whichever is less.
- 7) Article 10 – Sec. 1028 requires a maximum impervious area of 35%.
- 8) Article 42 – RESORT RESIDENTIAL – RR 3 requires minimum setbacks of ten (10) ft. from the dwelling drip line or other parts of the building to the side property line of the parcel; and twenty-five (25) ft. from the roadside of the parcel.
- 9) Forty (40) feet from the roof dripline is the minimum setback on the waterfront (front) side of the parcel (see Article 10 - Sec. 1007 – WATER PROTECTION).

>> The subcommittee established by the Onekama Township Board on December 8, 2021 recommends the following to resolve the impasse:

STIPULATIONS:

- A. The Onekama Township Board will authorize issuance of a Land Use Permit for construction of a dwelling with a building footprint not exceeding eight hundred (800) sq. ft. of floor area, subject to all stipulations herein and compliance with all / other applicable sections of the Zoning Ordinance.
- B. The Land Use Permit may include an attached garage with a building footprint not exceeding two hundred forty (240) sq. ft. of floor area (a standard 12 x 20 single car garage),
- C. Minimum required side setbacks of ten (10) feet shall be maintained.
- D. A minimum waterfront setback of no less than twenty-five (25) ft. is required and shall be maintained.

- E. Setback calculations shall include overhanging eaves and any / all other extensions beyond the building's foundation footprint.
- F. An earthen berm one (1) foot in height above the average grade of the parcel shall be placed and maintained at the waterfront edges of the existing seawall to impede runoff.
- G. Other required measures to control direct runoff into Portage Lake shall include:
 - 1) Installation and maintenance of a French drain inside the waterfront berming - with discharge to a dry well catch basin located on the non-waterside section of the parcel.
 - 2) Gutters on all eave lines, with discharge routed by pipe to the catch basin.
 - 3) All exterior ground surfaces - sidewalks, driveway, patios, decks, etc. - shall be constructed of porous materials to allow runoff water to percolate directly into the soils of the parcel. Pea gravel, permeable pavers, plastic grid paving, and rigid plastic pavers are examples of acceptable materials for ground surfaces.
- H. As a measure to improve sightlines and public safety, all trees (arborvitae / cedars / others) forming a screen at the sides of the parcel shall be removed from the roadside corners of the structure – extended - west to the existing roadway prior to the start of any construction. For the same reason, all trees (arborvitae / cedars / others) at the road side of the parcel shall be removed prior to commencement of construction.
- I. The submitted design shall be “flipped” to have the garage at the south side of the dwelling structure.
- J. Trees removed (“H.” – above) may be replaced by low growing shrubbery not exceeding three (3) ft. in height. Such landscaping shall be perpetually maintained at a height of three (3) feet or less in height, maintaining sightlines for the public safety of pedestrians, cyclists, and vehicular traffic on Ave. A.
- K. Remaining trees at parcel sides shall be enhanced or replaced with larger, densely growing trees such as Arborvitae Nigra.
- L. Prior to or in conjunction with issuance of a Land Use Permit under these listed stipulations, all required permits from County, State, or Federal agencies must be obtained and filed with the Onekama Township zoning administrator.
- M. The Cooks and their contractors and / or agents agree to the conditions delineated above and agree that all other applicable sections of the ONEKAMA TOWNSHIP ZONING ORDINANCE shall be strictly adhered to before, during, and after any construction on parcel #51-11-410-055-00.



RE: COOK Parcel >> AUGER Piling & Grade Beam Foundations >> Amendment

Jim Trout <ibfishwich@aol.com>

Mon 1/10/2022 10:49 AM

To: clerk@onekamatwp.org <clerk@onekamatwp.org>; treasurer@onekamatwp.org <treasurer@onekamatwp.org>; avo49675@yahoo.com <avo49675@yahoo.com>; windsongmi@aol.com <windsongmi@aol.com>; bbonekama@gmail.com <bbonekama@gmail.com>; kmehl@manistee-county-mi.gov <kmehl@manistee-county-mi.gov>

Cc: tag@runningwise.com <tag@runningwise.com>; rwilson@mikameyers.com <rwilson@mikameyers.com>; kristynhoule@hotmail.com <kristynhoule@hotmail.com>; Jim Trout <ibfishwich@aol.com>

1/10/22

TO: Onekama Township Board

FROM: Jim Trout - Chair > OTB COOK Sub-Committee

SUBJECT: RECOMMENDATION > Amended - RE: Use of AUGER PILE footings for close waterfront construction Environmental Benefit.

I apologize for not recalling the Auger Pile methodology for constructing foundation footers as the COOK Sub-Committee deliberated on a recommendation to the OTB. By consensus of members, the OTB COOK Sub-committee strongly recommends that this methodology be considered as a requirement in any settlement final agreement regarding this case.

Subsequent to the last meeting of the COOK sub-committee, both Al Taylor and I have heard from citizens, including an experienced P.E. with long experience in heavy building construction, concerned about the shoreline environment disruption related to excavating for a building footer, be it a 42" trench footer or "Michigan Box Basement / crawl space" that requires removal of at least 42" of soil.

The AUGER PILE technique is particularly well suited for use on waterfront parcels as the disturbance to surface and sub-surface soils is greatly minimized and it addresses the issue of notoriously unstable soils often present in waterfront areas. The technique is environmentally friendly due to the minimal impact on a parcel and is generally completed in just a few days.

Were I to build on a parcel such as the COOKS, this is the minimally invasive, economical, and effective foundation technique I would use. (See below - para. 4) Ideal for a waterfront parcel.

By consensus, the sub-committee amends the recommendation to the OTB and recommends requiring the use of the AUGER PILE system, OR comparable foundation engineering, to minimize excavations and minimize any threat to the environment and the waters of Portage Lake.

Firms that do this type of construction are found located especially along the Lakeshore from Holland north.

FYI >>>>> >> Jim Trout - Chair > COOK Sub-committee

<https://www.channelcustombuilders.com/blog/piling-and-grade-beam-foundations-for-home-additions>

Piling & Grade Beam Foundations For Home Additions

September 18, 2018

If you are planning a main-level home addition, most renovation contractors will ask if you are considering a full basement under your new addition. This will be a decision based on cost, living space requirement and construction equipment accessibility. The question will be – do you really need that extra square footage, despite significant extra cost and yard destruction?

If the answer is NO, you then have a few other less costly options. The first would be to excavate a four foot deep trench around the perimeter of the addition area, then install a concrete footing and “frost-wall”, then backfill. This is the most commonly used approach, but still a costly one, an invasive one and one that could require a complete rebuild of your yard. The next option, and a much less costly and invasive one, is the piling/grade-beam foundation system. This system consists of the augering of a series of six foot deep holes which then are filled with concrete and rebar, with a three-ply 2x8” pressure treated grade-beam being placed on top of the piles around the perimeter of the addition. Channel Custom Builders has been advocating and implementing this methodology for more than twenty years, with great success, while these engineered piles have been widely utilized in commercial construction (and less so in residential) for over one hundred years.

>> However now, with the advent of the helical “screw-pile”, we are beginning to save our Customers time and money by replacing the concrete piles with a series of engineered, thermal “screw-piles” that are simply drilled into the ground. No excavation, no muss, no fuss. The process is pretty much the same from that point on. The grade-beam is placed on top of the screw-piles, then a shallow “pony-wall” with the floor joists being placed over all to complete the basic foundation/floor structure. The interior of this shallow space (can’t really call it a “crawl-space”, as it will typically be very low in height) would have thick rigid insulation panels covering the grade area, with black poly sheeting over top that is then sealed to the grade-beam/pony-wall assembly. Fourteen mm. washed rock is then spread over all at a depth of approx. four to six inches to complete the insulation value required. The perimeter wall and joist-end assembly is then sprayed with two pound expanding foam to the R-value dictated by the building code. <<

You now have a clean, dry, sealed under-floor space that can be economically heated to maintain warm, comfortable floors in your new addition! Finally, everything from the floor up is standard construction where you can put more of your hard-earned cash into nicer finishings, instead of into the ground.

Contact a Channel Custom Builders representative today for more information about this slick new system!

Shelli Johnson

From: mbardeen@aol.com
Sent: Saturday, January 29, 2022 7:47 AM
To: Shelli Johnson
Subject: Cook variance application

Dear Ms. Johnson,

As 60 year residents of Onekama, we would like to voice our objection to the Cook variance application. It represents a violation of the spirit and letter of the zoning law. It also sets a dangerous precedent for the future. This is particularly relevant because of the possibility of the future sewer which will doubtless spur a possible building boom. Please consider the future as you make this decision.

Maxwell D. Bardeen Jr and Norman Bardeen

Shelli Johnson

From: Paul Mueller <jane-paul@sbcglobal.net>
Sent: Friday, January 28, 2022 8:31 PM
To: Shelli Johnson
Subject: Cook Variances

Dear township board,

We are writing to state our disapproval of the most recent Cook variance proposal. We understand that the property owner has a right to build but the structure that they build should be within the established guidelines. A 25% or 10' variance at waters edge is excessive by anyone's standards. The same applies to the roadside setback.

As you've heard repeatedly, the precedent that will be established by allowing these excessive variances can lead to a possible further degradation of the ordinances in the future.

The Cooks purchased their land after the ordinances were put in place and they knew full well the limits on the property. It appears to many people that they are just attempting to bully the township into meeting their demands.

As long term residents and voters we voice our opposition to their current plan.

Sincerely,

Jane and Paul Mueller

January 27, 2022

Onekama Township Board of Trustees
Onekama Township Hall
5435 Main Street
Onekama, MI 49675

From: Kay Vee and Paul Rhoads

Subject: Cook Property

Dear Trustees:

We are part-year residents of Onekama. We purchased our home at 9280 Lakeside in 1979, although the Rhoads family visits to the area began in the mid-1950s. Our only interest in the matter under consideration below is a sincere desire to see that the Portage Lake area retain the property and aesthetic standards that sustain the community we all share and treasure.

With respect to the Cook Subcommittee's Proposal for Resolution dated December 27, 2021 ("Proposal"), we question the reasonableness of authorizing a building of the requested size and location on this lot.

The Board certainly has the authority to approve of variations from existing rules but should consider the extent that any variations result in departures from norms that have been established for all of our residents and codified in the Township's ordinances. The precedent thereby set may be substantial.

The Proposal describes the following details.

Lot Size: We do not understand a comparison of 5,360 square feet of "workable area" (a term unfamiliar to us) versus a minimum lot size of 15,000 square feet. The Board will have to determine just how much smaller this lot is than what the ordinance normally requires. Whatever the result of that inquiry, is the resulting percentage variation reasonable?

Setbacks: The Proposal contains some very specific differences in language when addressing setbacks. We are not sophisticated enough to understand the meanings of the terms utilized, but some of these differences are sufficiently noticeable to draw one's attention to them. We assume that the Board will observe any variations between the language used and the apparent intent of the ordinances.

Side setbacks: These must be 10 feet minimum "from the dwelling drip line or other parts of the building." Under the Proposal, the south side must be measured to the "eave / rake edge and drip line" whereas the north side omits reference to the drip line. The "other parts" language would seem to satisfy the objective of the ordinance. However, we assume the Board will be aware of whether any meaningful variation may have been intended. If so, is it reasonable?

Waterfront setback: There must be a 40-foot setback "from the roof drip line," whereas the Proposal requires only a 30-foot setback from the "eave / rake edge drip line." (We do not understand what is being said with the additional language requiring maintenance "along the edge of parcel abutting the edge of roadway pavement."). If no difference in the points of reference was intended, then the Proposal would seem to allow a full 25% reduction in the distance from the lake. Is that reasonable?

Roadside setback: There must be minimum 25-foot setback from the roadside, but the Proposal would allow a setback of 21-feet "from inside the east edge of the pavement surface to the eave / rake edge dripline." We have seen indications that the road may lie partly within the lot, which might be a reason for this odd measurement description. But whatever the facts on that question, would a 25-foot roadside ordinance be designed at least in part as a safety issue? Is it reasonable to permit a 16% reduction, by allowing construction separated 21 feet from vehicular traffic?

We appreciate the difficulties that are so often encountered by public servants such as yourselves and are confident that you will use your best judgments in reaching your decisions. Thank you for considering these thoughts.

Kay Vee and Paul Rhoads

Handwritten signatures of Kay Vee Rhoads and Paul Rhoads in blue ink.

Shelli Johnson

From: Jim Trout <ibfishwich@aol.com>
Sent: Sunday, January 30, 2022 6:25 AM
To: avo49675@yahoo.com; Shelli Johnson; bbonekama@gmail.com; Edward Bradford
Cc: ddw.hft@gmail.com
Subject: "Confusion" >>>>> "Lack of transparency?" YAH, I'm confused too!!!

FYI >>>>> JRT

-----Original Message-----

From: Jim Trout <ibfishwich@aol.com>
To: **dbehring@charter.net** <**dbehring@charter.net**>
Cc: windsongmi@aol.com <windsongmi@aol.com>
Sent: Sun, Jan 30, 2022 6:18 am
Subject: "Confusion" >>>>> "Lack of transparency?" YAH, I'm confused too!!!

Dan - Thank you for copying me in your recent e-mail on "confusion" regarding the OTB COOK sub-committee report to the OTB. You reference the recent letter to the Manistee Advocate from Libby Schlieffarth as ".....detailing many of them." That letter also omitted a number of facts that Ms. Schlieffarth was definitely informed of - she simply choose not to include them in her screed.

Given your experience as a former Chair of the OTPC, you of all people should be aware that a formal "Public Hearing" mandated by the Michigan Zoning Enabling Act for zoning changes, ordinance amendments, variances (ZBA) and similar ZONING related issues is **NOT** relevant to the COOK appeal of the denial of the application for variance to construct on the vacant parcel, now before the Onekama Township Board of Trustees.

Publication of notices that are required for "Public Hearings" by the Planning Commission and Z.B.A. on Zoning related issues are **NOT** required by the law in this instance. The Board determined that it is in the public interest to include discussion of the proposed answer to the appellants' (COOKS) lawsuit, now before the Circuit Court in Manistee County, in a public forum and scheduled that public forum in conjunction with the regular monthly meeting of the OTB. Again, this does not require publication or posting under the MZEA as nothing here involves a zoning change, etc.

Claims that the process is defective and violates the MZEA because the notice that was published referenced the COOK parcel as "vacant" though it has has a temporary "garden shed" building placed on it are absurd. An ice fishing shanty pulled up on the shore of a "vacant" parcel does not render the parcel "UN-vacant," nor does placement of dock materials for the winter months. This is absurd, Dan.

The OTB COOK Sub-Committee (which I Chaired, as you know), was charged with coming up with a compromise that would be acceptable to both the appellants and Township. The COOKS had submitted a plan ("C") for a dwelling significantly smaller than that previously denied by the ZBA. Pursuing this case thru the Circuit Court process could resulting costs to the Township taxpayers \$30,000 - \$100,000. >> Note: It is **NOT** a matter of going to Court. We are IN Court!! > The Township has been sued (the appeal process is delineated by the MZEA and the Ordinance) and is responding to the suit now before the Judge of the Circuit Court. The Circuit Court may impose whatever settlement it deems appropriate for the case.

Regarding "discussion about septic and well placement," both the ZBA and the OTB COOK Sub-Committee had "discussions" on this. Again you of all people should realize that purview - and permitting - of all such issues are entirely - entirely!! - in the control of the Manistee County Health Department - NOT the Township Board, P.C., Z.B.A. or a Sub-Committee appointed to devise a compromise on the issue.

You mention "transparency." The Township Board publically appointed a Sub-Committee with the charge of trying to reach reasonable a compromise before proceeding further down the path of the Circuit Court process. The Sub-Committee held public meetings which were posted and noticed on the website - and attended by citizens, including Ms. Schlieffarth, who spent her public comment time demanding to be informed what the exact annual costs incurred for all Township legal fees were (see video broadcast of the meeting, with was viewed by at least dozens).

In discussion with Supervisor Meister, Ms. Schleiffarth was informed that he personally had no access to post anything to the website - (a website that has been problematic for some time but which will be replaced by a far superior system very shortly) - *the Clerk of Onkama Township has exclusive authority to "post" for security reasons.....no one else.* Clerk Shelli Johnson was on vacation and could not "post," as the Supervisor pointedly informed the letter writer.

Given the openness of the Board and appointed authorities, I am baffled by the constant charges of obfuscation. The Township is posting notices - though not required - and holding public meetings on all issues. Meetings of all types are being broadcast via video. Minutes are available for review on the website (problems are acknowledged and being addressed, as noted). And yet, somehow the Township Board and Commissions are falsely accused of concealment, subterfuge, and chicanery by members of our community. This not rational behavior, Dan.

A prime example was the late 2021 hysteria over a claim - made by your neighbors - that the DNR was selling the Public Access and lands around PORTAGE LAKE and that *the sale was "imminent"*> *".....on the DNR Director's desk for signature."* Totally false, unsubstantiated, etc.but widely circulated as "fact," *a fait accompli.*"

Lack of transparency? Please review this morning's e-mail from Al Taylor on what is currently posted on the website and get back with me on a supposed lack of transparency. ><> JRT

Shelli Johnson

From: JOHNandTRISH CECCONI <cecconi@bellsouth.net>
Sent: Sunday, January 23, 2022 5:52 PM
To: David Meister; Shelli Johnson; Bob Blackmore; Allen Taylor
Subject: Cook vs Onekama Township Board building ordinances

My husband John W. Cecconi Jr and I, Patricia Hollingsworth-Cecconi have recently been informed regarding this request for multiple zoning ordinance variances,. We wish to express our opposition to granting relief of these requirement and ask the township board to deny the initial and the latest update "Draft 9".

It is our understanding this particular property was purchased by the Cook family in and around 2003, approximately 10 years after the current zoning ordinances were established in 1993. It is our understanding that the purpose of zoning ordinances is to optimize safety and preserve the economic, infrastructural, and environmental sustainability of the community they serve. At the time this property was purchased by the current owners , it was and remains a noncompliant parcel and not an optimal building site for the type of structure they are wishing to erect. As we are sure you are aware, these building ordinances are available for anyone interested in purchasing property or initiating a building project and failure to know what they are is not a valid reason to have them changed.

If any of the ordinances are outdated or deemed needed to be updated or changed, there are proper democratic processes in place in order to ensure all those effected by the change has a voice and chance to communicate their concern and have their vote counted. Asking for an initial request to change 10 variances and negotiating it down to five and then threatening costly litigation is an obvious strategic tactic used by self serving parties to impose their will. There seems to be a growing trend around Portage Lake and Onekama Township to build or buy now and pay the fine or negotiate later. This request sets a dangerous precedent and opens these ordinances to recurrent negotiation and litigation. You cannot bend the rules for one party and then not for another. It creates a revolving door open to chronic litigation.

Your collective decision here sets a precedent that will impact the future sustainability of the Portage Lake Watershed for generations to come. The growth, viability, and future of Onekama Township will be greatly effected by your decision whether to allow these concessions and your ability to defend these ordinances to future requests to bypass or blatantly disregard them. It is our feeling and impression that should your committee and board decide to dig in and deny these requests for the best interest of your community, your community will support you. I am sure each and everyone of you has been considering this over the past several months. Your willingness to negotiate and come up with alternative solutions is commendable but not likely the best long term solution. As property owners, taxpayers, and individuals who are dedicated to the future of Onekama Township and Portage Lake we do not support granting multiple variances of the zoning or building ordinances to accommodate building on this property. We do not mind if our tax dollars are used to defend this position.

Respectfully,

John W. Cecconi and Patricia Hollingsworth-Cecconi
7682 Leonard Ave
Manistee, MI 49660

February 2, 2022

Onekama Township Board:

The Cook issue has been a time consuming, stressful issue for you and also the residents of O.T.

I believe the ZBH decision came from established procedures in accord with current ordinances.

I am not in favor of anyone building on this type of lot.

Beatriz Capper