

Corrected 8/16/01 D.N.

**MINUTES OF THE CLAY TOWNSHIP ZONING BOARD OF APPEALS HELD ON THURSDAY, JULY 19, 2001 AT 7:30 P.M. IN THE CLAY TOWNSHIP BOARD ROOM, 4710 PTE. TREMBLE ROAD, CLAY TOWNSHIP, MI 48001**

Chairman Nelson called meeting to order at 7:30 p.m.

Present: Ron Nelson, Cindy Kirkpatrick, Marianne Diss, Chuck Michel. Michael Kras, Clay Township Zoning Administrator

Excused: Joanne Shirkey

2. APPROVAL/ AMENDMENTS TO AGENDA

**Moved by Diss, supported by Michel to approve the agenda as presented.**

**AYES: AIL NAYES: None. MOTION CARRIED. Excused: Shirkey.**

3. APPROVAL OF MINUTES OF JUNE 21 . 2001

**Moved by Kirkpatrick, supported by Diss, to approve the minutes as presented.**

**AYES: All. NAYES: None. MOTION CARRIED. Excused: Shirkey.**

APPROVAL OF MINUTES OF JUNE 28. 2001 Copy of the June 28, 2001

minutes were not included in some members packet.

**Moved by Kirkpatrick, supported by Diss, to postpone approval of the minutes until July 26, 2001.**

**AYES: All. NAYES: None. MOTION CARRIED. Excused: Shirkey.**

4. ZONING BOARD OF APPEALS PREFACE

Chairman: The ZBA addresses mainly hardship based on lot size, location and/or shape or contour and location of existing buildings. We are guided by Section 1304 of Ordinance #89. There are five members on the ZBA, four of whom are present tonight. Three (3) members must vote the same way for a motion to be granted for a variance. Three (3) members constitute a quorum. You may speak when so directed. Everyone will have a chance to speak. If a particular point gets belabored, the chairman has the right to limit debate. If you should not like the board's decision, whether you are the appellate or the public, you have the right to take it to the Circuit Court. You have twenty-one (21) days to file with the Circuit Court. When the appeal you're involved with has finished, you are welcome to leave or stay, whatever you wish.

5. APPEALS

2001-048                      Sprint PCS                      3272 S. Channel Dr. Harsens Island  
Mike \_\_\_\_\_                      Scott \_\_\_\_\_ , representing

Mike \_\_\_\_\_, representing Sprint PCS, requesting variance from 25 ft. height. Tower will be a single pole, tubular type, 150 ft. in height.

**Request for variance from Ordinance #89, to construct a 150 ft wireless telecom tower on northwest corner of commercial property owned by Tashmoo Marina, 7650 S. Channel Dr., Harsens Island. The application was denied because Ordinance #89, section 603 (B) 25 ft height**

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Nelson: Tower would be located in an unpopulated area.

Nelson to Michel: What is the decision of Clay Township Planning Commission: Michel: I did not attend the meeting.

Nelson: ZBA addressing height variance only.

Diss: Have we heard anything from the local residents. Nelson: No.

Michel: Can other carriers attach to this tower? Mike \_\_\_\_ : Yes, normally Sprint and at least two other carriers.

Mike Kras: Sprint will assist for Police and Fire Emergency broadcasts, free of charge per Mike \_\_\_\_\_.

Public Participation:

In favor: John Louks, North Channel, Harsens Island: The tower near the Lions Club is not being used.

Opposed: No comment.

Close Public Participation.

**Motion by Michel, supported by Diss to approve the variance as requested.**

**AYES: All. NAYES: None. MOTION CARRIED. Excused: Shirkey.**

2001-049

Trevor Adams

Vacant Lot 308, 8438 Anchor Bay Dr.

Appellate requesting to construct a new residence. Hardship is lot size. Requesting 32% coverage where 30% is allowed.

**Request for variance from Ordinance #89, to construct a new single family home.. The application was denied because Ordinance #89, section 303 (A), 810, and 1400. Appellate requested variance of 6'5" of east waterside rear yard setback, 40" required and will encroach on average setback; a 5' variance of one side yard setback; 2\* variance of west front yard setback; and 32% coverage where 30% is required.**

Nelson: Are these two separately deeded lots? \_\_\_\_\_ : Yes, 308 and 309.

Nelson: We will assume two separate deeded lots and refer to Clay Township Building Dept.

Letter, opposed: Elizabeth Ostrowski (no address).

Diss: What is John Adams lot size? Trevor Adams: Same size and same coverage.

Nelson: Hardship is lot size 40 ft versus 65 ft.

Diss: We didn't grant water side variance. Could he be closer to road? Nelson: No, he would be in more difficulty being closer to road.

Kirkpatrick: What is the average setback off canal? Appellate: 15 ft. to 20 ft. and some are covered boat houses.

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Discussion:

Appellate: What will ZBA allow?

Michel: Is this next to 8849 Anchor Bay? Trevor Adams: Yes, between 8847 and 8849 Anchor Bay.

Public Participation: In  
favor: No comment.  
Opposed. No comment.  
Close Public Participation.

Nelson: What is the square footage of the first floor? Trevor Adams: 33 ft. x 30ft. (part garage), approximately 900 square feet.

Michel: Has a problem with exceeding 30% coverage.

Diss: Has a problem with legal issue, does owner have two separately deeded lots?

Nelson: Suggest the Clay Township Building Dept. check deed.

Mike Kras: There is no address between 8847 and 8849 Anchor Bay.

**Motion by Kirkpatrick to grant variance to meet Clay Township Building Dept requirements and stipulation of two separate deeded lots. No support.  
Motion dies for lack of support**

Nelson: Hardship is lot size being less than 120 ft. long and less than 65 ft. wide.

Nelson: No problem with 32% coverage, 2% will not make a lot of difference in lot coverage. No problem with stipulation.

Mike Kras: If the lot is not split, you can't build, lots would be less than 65 ft.

**Motion by Kirkpatrick, supported by Diss, to grant variance as requested as long as Clay Township Building Dept, OK's lot deeds.**

**AYES: Kirkpatrick, Nelson. NAYES: Diss, Michel. REQUEST DENIED. Excused: Shirkey.**

Mike Kras: Are you denying all variance? Nelson: Yes.

Nelson: Appellate must make a change and then he could come back to ZBA.

Trevor Adams: Could there be a change to 30% coverage and allow other variances?

Nelson: We have denied as requested front, rear and side yard.

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Trevor Adams: Could we be on Special ZBA Meeting, June 26, 2001 agenda?

Nelson: Too late, past deadline.

Kirkpatrick: Needs to be advertised.

**Motion by Diss, supported by Kirkpatrick, to grant front yard, rear yard, side yard, and water side variance, however, cannot exceed 30% coverage, also pending lot deed to have two separate lots.**

**AYES: All. NAYES: None. MOTION CARRIED. Excused: Shirkey.**

2001 -050

Doug and Ronda Seley

Vacant lot 94 & 95, 7220 Audubon

Appellate requesting to construct a new residence, due to hardship of lot size. Need variance of 5 ft. water side. Lot coverage will be 30.825%.

Nelson: Have you done an average setback? Seley: Yes. Site plan shows measurement from seawall to corner of house.

Diss: Bay windows will overhang. Seley: Yes, cantilever. Will get rid of shed.

**Request a variance Ordinance #89 to construct a single family home. Original application was denied because Ordinance #89, section 303 (C) requires 55 50-ft water side setback and no more than 30% lot coverage.**

Public Participation: In favor: No comment.

Opposed: No comment.

Close Public Participation.

Michel: There is an average 57 ft. setback.

Nelson: Appellate has met other setbacks.

Diss: The lot is deep enough. In future, if addition would be made it would be too close to water side. No hardship.

Michel: Thought we had denied other similar requests.

Kirkpatrick: (John McNamee, Clay Township attorney) mentioned we could stipulate no adding sun room etc, and grant only as is.

Diss: ZBA should adhere to Ord. #89 as far as setbacks,, not allowing additions to water side setback being closer than 55 ft. Often properties measured, there are three lots less than 55 ft water side and the appellate is one.

Michel: You (Seley) violated the Ord. #89 by your design.

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**Motion by Michel, supported by Diss, to deny request There is no hardship of new construction.**

**AYES: Nelson, Diss, Michel. NAYES: Kirkpatrick. REQUEST DENIED. Excused: Shirkey.**

Seley: Why does ZBA allow variances on Anchor Bay Dr. and not Audubon? I have a bigger lot. Nelson: They are two different areas.

2001 -051                      Kirk Gilewski                      8967 Colony Dr.

Appellate requesting to construct an accessory garage across the street from residence with attached garage.

**Request a variance Ordinance #89 to construct an accessory garage matching the roof design of his home. Original application was denied because Ordinance #89, section 303 (C) of height variance. 14 ft is allowed and appellate requesting 6 ft variance.**

Mike Kras: He is allowed two ft. but wants four ft. higher variance. I measure from ground to bottom of main eave, then half of roof to bottom of eave to main peak.

Nelson: Ground floor is raised. There is a pull-down stair case. Appellate is trying to match height of attached garage to house (across the street).

Kirkpatrick: This is on secondary lot? Nelson: Yes.

Nelson: Are you building garage across the street. Appellate: Yes, same address as primary lot, same utilities from residence.

Letter, opposed: Paul Bridgman, 7985 Colony.

Nelson: Request is for 6 ft. variance but really only 4 ft.

Diss: How high is the second story ceiling? Appellate: Approximately 9 ft.

Nelson: Could the ceiling drop 2 ft.? Appellate: No, other boat houses are higher. I am using for storage and keeping with architecture design.

Diss: Ceilings are 9 ft. for first level and approximately 9 ft. for second level. Square footage: 23 ft. x 40 ft., 920 square feet.

Michel: This is a three car garage.

Nelson: Where does the fourth door (9 ft. x 8 ft.) go? Appellate: Yes, three car garage and fourth door on the water side.

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Public Participation:

In favor: No comment.

Opposed: Paul Bridgman, 7985 Colony.

Close Public Participation.

Michel: Architecture design is not a hardship. You designed garage to beat Ord. #89. Appellate: There is 125 ft. distance between two structures. Appellate has presented drawings. Foundation is already existing and has been approved inspection.

Michel: You created height.

Nelson: Height is the problem.

Mike Kras: Sid Brown inspected foundation and found to be OK. Then appellate brought in prints to me, don't do anything to footing foundation.

Kirkpatrick: Has anything been altered?

Mike Kras: Requires separate building permits, one for house and one for accessory garage.

Kirkpatrick: This is an accessory garage.

**Motion by Michel, supported by Diss, to deny request because architecture design is not a hardship.**

Discussion:

Appellate: What will ZBA allow?

Paul Bridgman: Is the second floor finished? Nelson: No. There is no stairwell only a scuttle pull-down ladder and is to be used for storage.

Appellate: If I have foundation moved, two ft., can I keep same height?

Diss: Is garage attached to the house? Nelson: No.

Kirkpatrick to Kras: If moved two ft., he can keep height? Nelson: Yes, by ordinance.

Mike Kras: Each parcel is unique. Can't compare different streets.

Appellate: I need four ft? Mike Kras: Yes.

Nelson: Foundation has been inspected? Appellate: Foundation is inspected but no location. There is no blame to anyone. He thought everything was OK and didn't know he was two ft. off because of sewer limit location.

Mike Kras: Told appellate he needed permit and appellate discussed with Kras in office.

**AYES: Michel, Diss. NAYES: Kirkpatrick, Nelson. REQUEST DENIED. Excused: Shirkey.**  
Tie vote, will revert to Ord. #89.

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6. Member Comments

Kirkpatrick: Will make copies of the seminar at Thomas Edison Inn.

Mike Kras: Is ZBA interested in having someone come here for a seminar?

Nelson: We have had seminars at Clay Township before.

Mike Kras: This will be held jointly with other communities and share expenses.

Nelson: Yes, and invite other communities.

7. Public Comment

Doug Seley, vacant lot #94 and #95, Audubon: Discussed why he was denied his appeal. Paul

Bridgman, 7985 Colony: ZBA doing excellent job.

8. Adjournment

**Moved by Michel, supported by Kirkpatrick to adjourn at 9:10 p.m. AYES: All.  
NAYES: None. MOTION CARRIED. Excused: Shirkey.**

Respectfully submitted,

Dolores M. Nelson Recording  
Secretary