

MINUTES OF THE CLAY TOWNSHIP ZONING BOARD OF APPEALS HELD ON THURSDAY, AUGUST 16, 2001 AT 7:30 P.M. IN THE CLAY TOWNSHIP BOARDROOM, 4710 PTE. TREMBLE ROAD, CLAY TOWNSHIP, MI 48001

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

1. Roll call

Present: Joanne Shirkey, Ron Nelson, Cindy Kirkpatrick, Marianne Diss, Chuck Michel.

2. APPROVAL/AMENDMENTS TO AGENDA

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

AYES: All. NAYES: None. MOTION CARRIED.

3. APPROVAL OF MINUTES OF JULY 19, 2001.

Moved by Michel, no support, to approve the minutes as presented. Motion died for lack of support.

Diss made a correction to July 19, 2001, page 4, Ordinance #89, section 303 © requires 55 ft. water side setback.

Moved by Diss, supported by Michel, to approve the minutes as corrected.

AYES: All. NAYES: None. MOTION CARRIED.

APPROVAL OF MINUTES OF JULY 26, 2001

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

AYES: All. NAYES: None. MOTION CARRIED.

4. ZONING BOARD OF APPEALS PREFACE

Chairman: The ZB A 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, all 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.

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5. APPEALS

2001 -054 Kenneth Sheets 6378 Marina Dr.

Appellate requesting to construct a new home. Lot size is 50 ft. wide. Hardship is lot being too small.

Request for variance from Ordinance #89, to construct new residence requiring variance of 3'1" east side yard, and a variance of lot coverage 37% from 30% allowed. The application was denied because Ordinance #89, section 303 (C).

Nelson: ZBA previously allowed 1-1/2 ft east side yard, 5/99. In addition on 10/00 2-1/2 ft was granted on east side.

Michel: The size of the home is a lot of coverage for lot size.

Nelson: You have 5 ft on one side and 3-1/2 ft on the other.

Nelson: Each appeal is reviewed on its own merit.

Shirkey: Are you asking for an additional 7"? Appellate: The 7" is included.

Shirkey: 7" is needed to keep the house straight.

Nelson: Lot is 50 ft on canal, increasing to 52.7".

Public Participation:

In favor: No comment.

Opposed: No comment.

Close Public Participation.

Nelson: Variances allowed in the past should be plenty.

Michel: House should have been designed to fit the lot size.

Michel: No additional hardship.

Shirkey: Was the coverage too much before?

Diss: No coverage was discussed previously.

Motion by Michel, supported by Diss to deny additional request. There is no hardship.

AYES: Michel, Diss, Nelson. NAYES: Shirkey, Kirkpatrick. MOTION CARRIED, to deny request.

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Mr. Sheets: Thinks this is unfair, hardship due to narrow lot. Kirkpatrick: You have the right to go to court.

2001-055 Troy Curtis 340 Greenwood

Appellate requesting to add a second floor on an older house and sit closer to road (addition to an already existing non-conforming residence.)

Request for variance from Ordinance #89, to construct a second story addition to an existing non-conforming single family home requiring a 1 ft. variance on northeast side yard and 10'6" variance of southwest front yard setback. The application was denied because Ordinance #89, section 303 (A) and section 813 (F).

Nelson: 1 ft. is needed on the northeast side yard and 10'6" on southwest front yard. The addition will be going straight up. Matt Wallerson, builder: We are not changing footprint. Foundation to be checked by Clay Township Building Dept.

Michel: The house is already non-conforming.

Public Participation:

In favor: Marian Belleau, 326 Greenwood; Sally Federoff, 351 Greenwood, _____, 957 Liberty.

Opposed: No comment.

Close Public Participation.

Michel: Has no problem.

Motion by Kirkpatrick, supported by Michel to grant request as presented.

AYES: All. NAYES: None. MOTION CARRIED.

2001-056 Timothy and Barbara Fontana 7888 Anchor Bay Dr.

Appellate is requesting a 9 ft. height variance to allow construction of a 48 ft. x 28 ft. garage that exceeds the 14 ft. height requirement of accessory building.

Request a variance Ordinance #89 to allow construction of a garage exceeding height requirement. Original application was denied because Ordinance #89, section 800 (E) and section 1304 (C).

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Nelson: How are you measuring height? Appellate: To peak of garage.

Nelson: Height is determined to the mid point.

Letter: Opposed. Frank and Lorraine Sarate, 7887 Anchor Bay Dr.

Nelson: Are both lots deeded together? No living quarters are allowed in an accessory building.

Michel: How do you get to the second floor? Appellate: Scuttle.

Kirkpatrick: You could find old stuff under foundation: Appellate: Pillars are to be put in foundation.

Michel: There is too much height over 14 ft.

Diss: The second floor is approximately 1344 sq. ft.

Nelson: That included dormers.

Nelson: Determined there is a 2-1/2 ft. variance. (16-1/2 ft. - 14 ft.)

Public Participation:

In favor: _____, 7808 Anchor Bay; _____, 7808 Anchor Bay, _____, Harbor Drive.

Opposed: None.

Close Public Participation.

Kirkpatrick: How do you get to the second floor. Nelson: Pull down stairs.

Michel: There are three dormers in the back, front dormers are cosmetic.

Michel: The lot is not a hardship, height is not necessary.

Kirkpatrick: We have denied others for height. Can understand the need for storage.

Diss: Lot could be deeded differently in the future.

Diss: Lot is 48 ft. wide.

Nelson: Lot is not a hardship.

**Motion by Michel, supported by Diss, to deny request because lot does not create a hardship.
AYES: All. NAYES: None. MOTION CARRIED, to deny request.**

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2001-057 Timothy Wiggle 7487 Zobl Ct.

Appellate requesting to raise house to drain water from under house.

Request a variance Ordinance #89 to allow construction to raise the existing non-conforming single family home. Original application was denied because Ordinance #89, section 303 (A) and section 813 (F-2).

Nelson: How high are you raising? Appellate: 3 blocks.

Nelson: We are not addressing shed, only the house. Letter:

In favor. Barry and Linda Decker, 7497 Zobl Ct.

Public Participation:

In favor: _____, 7511 Zobl Ct.

Opposed: Richard Grischek, Harbor Dr. (owns property in area Zobl Ct.)

Close Public Participation.

Motion by Michel, supported by Diss, to grant request to raise house without changing the foot print.

AYES: All. NAYES: None. MOTION CARRIED.

2001-058 Guy Accivatti 7265 Flamingo (vacant lot)

Appellate requesting to keep shed on property without a residence.

Request a variance Ordinance #89 to allow continued use of 10 ft. x 12 ft. shed prior to construction of the main residence on his vacant lot. Original application was denied because Ordinance #89, section 800 (L).

Nelson: Shed is 10 ft. x 12 ft on a foundation. Appellate: Foundation is on boards and has been there approximately two years. No facilities are in the shed.

Letter: In favor. Michael J. Huryn, 7264 Flamingo.

Kirkpatrick: This is an accessory building with no residence.

Michel: Appeal has nothing to do with the size of shed.

Nelson: ZBA is addressing an accessory building before a structure.

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Public Participation:

In favor: No comment.

Opposed: Frank Gitre, 7269 Flamingo, representing a neighbor.

Close Public Participation.

Diss: Appellate is keeping up the property but not building for approximately two years.

Diss: Is this a recreation area? Appellate: No.

Nelson: He can have boat on the property.

Michel: ZBA can't allow accessory building before residence. Can he post a letter of credit?

Motion by Kirkpatrick, supported by Shirkey, to grant request, have all building permits approved, post \$1,000 letter of credit or bond and to start house and show progress within two years.

AYES: All. NAYES: None. MOTION CARRIED.

2001-059

William Hamilton

8223 Morrow Rd.

Appellate requesting to construct an accessory building and enclosing existing attached garage. Addition is approximately 1536 sq. ft. and house is 1440 sq. ft.

Request a variance Ordinance #89 to allow construction of a 48 ft. x 32 ft garage. Original application was denied because Ordinance #89, section 800 (D) states accessory building cannot be larger than primary residence.

Nelson: Addition will still be part of foot print.

Kirkpatrick: Is shop area for commercial use. Appellate: No, personal use.

Michel: 34.6 ft. x 32.6 ft. on first floor.

Michel: How big is garage? Appellate: Approximately 22 ft. or 24 ft. x 20 ft.; about 500sq. ft. to 700 sq. ft. of living.

Public Participation: In

favor: No comment.

Opposed: No comment.

Close Public Participation.

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Motion by Shirkey, supported by Diss, to grant request as written, with existing attached garage to become part of living space.

Nelson: What is the size of the second floor? Appellate: Does not cover first floor because of cathedral ceiling.

AYES: All. NAYES: None. MOTION CARRIED.

2001-060

Douglas and Ronda Seley

7220 Audubon

Vacant lot #94-95

Appellate requesting to construct a new single family home, approximately 32% coverage of lot.

Request a variance Ordinance #89 to construct a new single family residence requiring 4 ft. variance on west side setback, 3 ft. variance of north water side rear yard setback and will encroach on the average setback. Original application was denied because Ordinance #89, section 303 (C), section 810 and section 1400.

Nelson: Prior request to go closer to water was denied.

Appellate: Now going wider and farther away from water.

Nelson: Lot coverage was not advertised.

Diss: How long have you owned property? Appellate: 4 years.

Nelson: Side yard is OK, but close to water is the problem.

Michel: There is 57 ft. average setback.

Diss: Is this a two story house? Appellate: Yes.

Public Participation:

In favor: Jim O'Brady, 7218 Flamingo.

Opposed: No comment.

Close Public Participation.

Nelson: No problem with side yard but does have a problem on the water side.

Nelson: Asking for a 52 ft. rear yard setback.

Kirkpatrick: Ordinance #89 is for 55 ft.

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**Motion by Kirkpatrick, supported by Shirkey, to grant request for side yard and rear yard.
AYES: Kirkpatrick, Shirkey. NAYES: Nelson, Diss, Michel. MOTION DENIED.**

Michel: House is too big, designed to beat the ordinance.

Shirkey: Could you take off house to make 55 ft. setback?

Diss: When you purchase a lot, you design the house to fit the lot. On a new home, you can adjust the design.

Nelson: No problem with 55 ft.

Motion by Michel, supported by Kirkpatrick, to grant request for side yard as stated, 4 ft. variance and water side to be no less than 55 ft.

Diss: We are not including lot coverage.

Kirkpatrick: If appellate goes to 55 ft, it will change the size of the house, may not affect lot coverage.

AYES: All. NAYES: None. MOTION CARRIED.

6. CORRESPONDENCE

ZBA requested to address a letter from John McNamee, attorney for Clay Township, dated 8/8/01 regarding minutes of ZBA meeting 6/21/01.

Nelson: Read letter from Mr. McNamee to be placed on record.

**Motion by Diss, supported by Michel, to acknowledge receipt of letter and to place on file.
*Ayes: All. Nays: None. Motion Carried. Corrected D.N. 8/31/01***

Nelson: ZBA can't correct minutes once they are approved (describing criteria not hardship).

Kirkpatrick: Minutes have already been approved. Mr. McNamee describing criteria and not hardship.

Motion by Kirkpatrick to change "hardship to "criteria". Withdrawn motion. No second. Motion dies.

7. Member Comments

Kirkpatrick: Is there another meeting this month. Nelson: Yes, August 30, 2001.

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8. Public Comment

None.

9. Adjournment

**Moved by Shirkey, supported by Michel, to adjourn at 9:30 p.m. AYES: All.
NAYES: None. MOTION CARRIED.**

Respectfully submitted,

Dolores M. Nelson Recording Secretary