

**MINUTES OF THE CLAY TOWNSHIP ZONING BOARD OF APPEALS HELD ON THURSDAY, FEBRUARY 21, 2002 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.

1. Roll call

Present: Joanne Shirkey, Ron Nelson, Cindy Kirkpatrick, Marianne Diss, Chuck Michel. Also present: Michael Kras, Clay Township Building Administrator.

2. APPROVAL/AMENDMENTS TO AGENDA

Nelson: 6A add interpretation.

**Moved by Kirkpatrick, supported by Shirkey to add to the agenda.**

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

**Moved by Shirkey, supported by Kirkpatrick to amend the agenda.**

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

3. APPROVAL OF MINUTES. JANUARY 17.2002

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

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

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, five 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

OLD BUSINESS

2002-0001          Tom/Janice Wall      9819 St. John Dr.  
Rick Gleason, builder, representing      7301 Audubon

Appellate requesting to add 24' x 26' attached garage to match residence aesthetically.

Nelson - Could have living quarters.

**Request for variance from Ordinance #89, to construct 24' x 26' attached garage and second floor living area requiring 3' variance east side yard setback and 5' variance north rear side yard setback. The application was denied because Ordinance #89, section 303 (A) and section 813 (F-2).**

Nelson - Needs 3' variance east side yard setback and 5' variance on north water side yard. Will have 34% - 35% lot coverage.

Nelson - Do you need 26'? Appellate: Yes. Michel - He is creating own hardship.

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Continued: 2002-001

Appellate: Can we go to 33% coverage?, need room for staircase.

Michel: Design doesn't have to match house.

Diss - 40' lot size is hardship.

Public Participation:

In favor: None.

Opposed: None.

Close Public Participation.

**Motion by Diss, supported by Kirkpatrick, to approve 26' wide and 22\* deep attached garage.  
AYES: All. NAYES: Michel. MOTION CARRIED.**

NEW BUSINESS 2002-0002          Michael A. Bercel          8480 Anchor Bay Dr.

Appellate requesting 1.84% additional lot coverage over the 30% allowed.

Nelson - Hardship is lot size being pie shaped.

**Request for variance from Ordinance #89, to construct an addition to an existing non-conforming house. The application was denied because Ordinance #89, section 303 (A) and section 813 (F-2). 1.84% over 30% allowed coverage.**

Kirkpatrick - Is there anything against pie shaped lot?

Michel: This is a brand new house.

Nelson: Using old foundation.

Letters: GlennWrubel, Ruth/Robert Best.

Public Participation:

In favor: None.

Opposed: None.

Close Public Participation.

Diss: Is this a two story residence? Appellate: Addition will include a center bedroom and bath.

Diss: Do you propose a garage? Appellate: Yes, part of addition.

**Motion by Kirkpatrick, supported by Shirkey, to approve as presented due to lot size and shape, lot coverage, side yard setback, encroaching average rear yard set back.  
AYES: All. NAYES: None. MOTION CARRIED.**

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2002-0003                    Antoine Nofar        2676 N. Channel, Harsens Island  
   Larry Havens, rep.    8307 Maybury, Harsens Island  
Appellate requesting to remove and reconstruct boathouse.

**Request for variance from Ordinance #89, to remove and reconstruct boathouse with enclosed sides and 2' taller than permitted height. The application was denied because Ordinance #89, section 800 (G-3.)**

Michel: Do you own lot 22-23 ?

Diss: He owns all of lot 23 and 1/2 of lot 22.

Kras: They are both together.

Kras: Other parcels are submerged in water.

Letters: No objections: Terry/Pat Kemohan, 2670 Cottage Lane; Dan Kemohan, 2764 Cottage Lane; Rose Kemohan, 2764 Cottage Lane; Bill Pulicher, 2668 Cottage Lane.

Public Participation:

In favor: None.

Opposed: None.

Close Public Participation.

Nelson: No problem, due to low water.

**Motion by Kirkpatrick supported by Michel to approve as presented.  
AYES: All. NAYES: None. MOTION CARRIED.**

2002-0004                    Donald Guay        4837 Pte. Tremble

Appellate requesting to construct an addition to existing foundation.

**Request for variance from Ordinance #89, to construct an addition to foundation of existing house, which is non-conforming use due to the side yard setbacks. He has 6' and 9'4" requiring 8" variance on east side yard setback. The application was denied because Ordinance #89, section 303 (A) and section 813 (F-2).**

Nelson: Are you tearing down existing structure? Appellate: Yes, rebuilding using same foundation.

Public Participation:

In favor: Donald Guay Jr. 4837 Pte. Tremble.

Opposed: None.

Close Public Participation.

**Motion by Michel, supported by Kirkpatrick, to grant appeal as presented due to lot size.  
AYES: All. NAYES: None. MOTION CARRIED.**

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2002-0005      David Lozon      1910S. Channel, Harsens Island

Appellate requesting to construct 30' x 24' detached accessory garage. Lot size 50'.

**Request for variance from Ordinance #89, to construct 30' x 24' detached accessory garage requiring 2'2" height variance. The application was denied because Ordinance #89, section 800 (E).**

Nelson: What are you doing on second flow? Appellate: Using for storage.

Kirkpatrick: Need special land use for living quarters.

Kras: Improper 1' to 1' height. Appellate: It is an A-frame house with a steep roof.

Kirkpatrick: What about the sheds. Kras: To be demolished.

Michel - Why not attach the garage? Appellate: Mainly because of neighbors.

Shirkey: Where is the garage going? Kras: Same location as shed.

Shirkey: If the garage is attached, he can have height.

Kras: Rear yard setback.

Nelson: If he puts accessory garage in the middle of the lot he doesn't need ZBA.

Kras: Septic field is across whole front of lot.

Nelson: He could move the garage. Appellate: Hardship would be created in pulling the car into garage.

Nelson: Drive way will be on north side.

Public Participation:

In favor: None.

Question: Bill Smith, 1800 S. Channel.

Close Public Participation.

Kirkpatrick: Does he have to go back, can he bring it forward.

Kras: Difficult because of septic field.

Nelson - He is trying to aesthetically match pitch of roof.

Kirkpatrick: Does he have to?

**Motion by Michel, supported by Diss, to deny 2'2" height variance.**

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

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Continued: 2002-0005

Nelson: No problem with height, just living quarters. Appellate: There are no living quarters intended.

Diss: Problems with similar unattached accessory buildings.

2002-0006      Paul Megal      9324 Stone Rd.

Appellate requesting to construct a second floor accessory structure. No living space but will improve house. 24' x 36' garage.

**Request for variance from Ordinance #89, to construct second floor in accessory structure requiring 2\*10" height variance. The application was denied because Ordinance #89, section 800 (G#E).**

Nelson: There is 10' height on side wall. Appellate: Need 8' garage door.

Michel: Building a permanent stairway? Appellate: Need storage area. Tearing down old sheds.

Nelson: Appellate is here for height. Appellate: Needs 2'10".

Kirkpatrick: Is this house a mobile home? Appellate: No, A-frame.

Nelson: What are you going to use mobile home for? Appellate: Storage.

Michel: He can use mobile home for storage.

Shirkey: He could move garage over.

Nelson: Would need more foundation.

Diss: Could put door on left side, leading to second story.

Nelson-Kras: Section 809 of ordinance #89 limits height of any building, must meet BOCA.

Kras: Accessory building has a 5' side yard setback.

Nelson: He needs 10" variance.

Public Participation:

In favor: Blynn Dudley, 9316 Stone Rd; Elda Clocklin, 9334 Stone Rd.

Opposed: None.

Close Public Participation.

Nelson: If we don't grant request, he can go to 16' height. Can he reduce the pitch of the roof and removed dormers?

Appellate: Trying to keep look of the house.

Kirkpatrick: This is not a house, it is accessory building.

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Continued: 2002-0006 Nelson: Pitch could be reduced, smaller dormer. Appellate: hardship is size of house.

**Motion by Kirkpatrick, supported by Michel, to deny request Diss requested to withdraw motion.**  
Amend motion by Michel to remove permanent stairway and use a pull down.

Nelson: ZBA can't dictate type of stairway. No control of stairway.

**Motion by Michel, supported by Diss, to deny height variance and deny permanent stairway per drawing submitted.**

**AYES: Diss and Michel (for denial). NAYES: Shirkey, Kirkpatrick and Nelson (against denial). MOTION FAILED.**

**Motion by Kirkpatrick, supported by Shirkey, to grant 10" variance with no permanent staircase, meet BOCA. AYES: Shirkey, Kirkpatrick, Michel. NAYES: Nelson, Diss. MOTION CARRIED.**

Kras: Still allow staircase.

Nelson: Drop 10" variance and can put in permanent staircase.

Appellate: What is recourse? Nelson: Motion passed to grant height variance. If you come down 10" you could have permanent staircase.

Kras: He has a choice of 2'10" with pull-down staircase; 2' meeting ordinance with regular staircase; or appeal to court.

Shirkey: He could leave a wide staircase down.

Kras: For every extra foot of side yard, he can go 1' in height higher.

**INTERPRETATION FOR BUILDING ADMINISTRATOR, 7888 Anchor Bay**

Tim Fontana: Land is partly submerged in water.

Kras: He is over percentage allowed.

Nelson: Section 810 of ordinance #89, if land goes in water, measurement goes by bulkhead and bank of land.

Kirkpatrick: Does he have a variance?

Diss: You can't build on water.

Nelson: Could scale down.

Diss: Don't own water. Appellate: Property in water is his.

Kirkpatrick: What is coverage of lot? Appellate 5.4% over 30%. He needs storage, and keeps classic car.

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Continued: Interpretation

Kras: Garage is on lot #195.

Kirkpatrick: What is size of structure? Appellate: 24'x56.

**Motion by Michel, supported by Shirkey, to approve the method the Building Inspector is using to interpret property should continue to be followed.**

**AYES: AH. NAYES: None. MOTION CARRIED.**

Kras: Over 30% coverage will need ZBA approval.

Appellate: What are the chances of going over 30%? Nelson: Only my opinion, NO. Each appeal is determined on its own merit.

Diss: Use square footage.

**6. Member Comments**

Nelson: ZBA Official training(annual workshop), March 12,2002 in Troy.

Nelson: Asked to be excused from March 2002 meeting, asked Michel to begin meeting.

**7. Public Comment**

Richard Baker, 9212 Stone Rd. regarding DEQ.

**8. Adjournment**

**Moved by Kirkpatrick, supported by Michel, to adjourn at 9:05 p.m.**

**AYES: AH. NAYES: None. MOTION CARRIED.**

Respectfully submitted,



Dolores M. Nelson  
Recording Secretary