

MINUTES OF THE CLAY TOWNSHIP ZONING BOARD OF APPEALS HELD ON THURSDAY, OCTOBER 17, 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.

Excused: Chuck Michel.

Also present: Tim Wiggle, Clay Township Zoning, Planning, Code Enforcement Officer.

2. APPROVAL/AMENDMENTS TO AGENDA

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

AYES: All. NAYES: None. MOTION CARRIED. Excused: Michel.

3. APPROVAL OF MINUTES OF SPECIAL MEETING SEPTEMBER 12, 2002; SEPTEMBER 19, 2002; AND SEPTEMBER 26, 2002.

September 12, 2002 and September 19, 2002 minutes were approved as presented.

Correction to September 26, 2002, page 6, paragraph 5A, change to may be acceptable.

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

AYES: All. NAYES: None. MOTION CARRIED. Excused: Michel.

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

2002-0044 William Clifton 7257 Cardinal
Rick Hadad, Mr. Enclosure, representing

Appellate requesting to construct a 12' x 19' sunroom.

Request for variance from Ordinance #89, to construct a sun room on rear side of home requiring variances of 14' front setback (15' required) (road) and 44.3' rear yard setback (55' required) (water). The application was denied because Ordinance #89, section 303 (C), section 810 and 1409 (#89), and section 813 (B).

Mr. Hadad: Appellate is requesting a variance of rear and front yard to construct an all glass sunroom 12' x 19' with non-obstructive view.

Nelson: Lot size is 120' x 65', what is hardship?

Kirkpatrick to Wiggle: Is the rear yard setback of 44.3' based on the change from 12' to 10.7'?

Wiggle: Yes. One home projects further into rear yard.

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

Diss: Could the room be moved to east side? Mr. Hadad: No, it would be enclosing bedroom windows creating a fire hazard.

Mr. Hadad: The construction will need new footing.

Nelson: No hardship because of lot size; it is a lot of record.

Kirkpatrick: No precedent is being set, ZBA looks at each individual case.

Mr. Hadad: Could there be counter proposal?

Diss: No setbacks are further than 50', there is no hardship.

Kirkpatrick: Other appeals on the water have been turned down.

**Motion by Diss (no support) to deny appeal because there is no hardship of lot size or shape.
Motion dies.**

Motion by Kirkpatrick, supported by Diss, to deny appeal as requested and not due to stringent ordinance.

Hardship: None.

AYES: All. NAYES: None. MOTION CARRIED. Excused: Michel.

2002-0045 Thomas Kaiser 6041 Pointe Tremble

Appellate requesting to construct a 10.6' x 22' addition to current non-conforming lot. A variance is required on rear yard and west side yard setbacks. There was a previous appeal to ZBA for an addition.

Request for variance from Ordinance #89, to construct an addition requiring variances of 108.5' rear yard (encroach into average rear setback)(water) and 2.1' west side yard (10' required)setbacks. The application was denied because Ordinance #89, section 303 (A), section 810 and 1300 (#89) and section 813 (B).

Diss: Do you have the original survey? Wiggle: Should be in file.

Public Participation:
In favor: Charles Blanck, 9670 Lee.
Opposed: Thomas Hannah, 6051 and 6047 Pointe Tremble, several reasons; Wally Sampson, 6039 Pointe Tremble.
Close Public Participation.

Nelson: Opposed going toward the water.

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Shirkey: Lot #32 sets out further.

Nelson to Wiggle: Are you aware of encroachment? Wiggle: The appeal has been referred to court.

Kirkpatrick to Wiggle: Questioned compliance to previous ZBA appeal. Wiggle: Everything is in compliance to previous ZBA appeal.

Kirkpatrick: Asked to see prior survey. After searching, Wiggle suggested the survey would be in the file being reviewed by the Building Dept.

Motion by Kirkpatrick, supported by Shirkey, to table the appeal until the Kaiser survey is provided from the Building Dept.

AYES: All. NAYES: None. MOTION CARRIED. Excused: Michel.

2002-0046 Mark Magness 7495 Zobl Ct.

Appellate requesting to raise current house because of water under the house.

Request a variance Ordinance #89 to raise an existing non-conforming residential home requiring a 3' north side yard and 8'6" south side yard (5' one side and 10' other side required). Original application was denied because Ordinance #89, section 303 (A) and section 813 (B).

Nelson: You are not moving the structure? Appellate: Going straight up.

Diss: Need to show placement of house on the survey.

Nelson and Wiggle: There is no need to show placement of the house because there is no change in any footprint.

Shirkey. Appellate is not changing any part of structure.

Public Participation:

In favor: No comment.

Opposed: No comment.

Close Public Participation.

Nelson: No problem with raising structure.

Diss: We can not assume where structure is on property. Appellate has another survey at home.

Motion by Shirkey, supported by Kirkpatrick, to grant variance as stated provided the applicant can bring in current survey showing the structures on property.

AYES: Shirkey, Kirkpatrick, Nelson. NAYES: Diss. MOTION CARRIED. Excused: Michel.

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2002-0047 Turn-Key Building Co. 2600 Pointe Tremble
Mike Mentz, representing

Representative is requesting a variance of 95sq. ft. for additional signage on Pointe Tremble. Sign, 14' wide and 9' tall. This is for Farmer Jack's only.

Request a variance Ordinance #89 to construct additional signage on Pointe Tremble, giving additional 245 sq. ft. in excess of already approved building sign that is 242 sq. ft. where maximum allowed is 150 sq. ft. Original application was denied because Ordinance #89, section 819-1 (Paragraph 1) and 1400 (#75).

Nelson: Height of 20' to the top is measured from grade level.

Shirkey: Will it obstruct view of traffic? Mr. Mentz: No.

Diss: What about the other businesses? Wiggle: The other businesses will have a sign on the building only.

Kirkpatrick: Is it lit? Mr. Mentz: Yes.

Nelson: Why is it up in the air (pylon signage) versus ground level. Mr. Mentz: Pylon type signage is requested by Farmer Jack.

Kirkpatrick: Why that size of sign? Mr. Mentz: That style is chosen by Farmer Jack and will only be a Farmer Jack sign.

Public Participation:

In favor: No comment.

Opposed: Sandy Mondello, 2653 Pointe Tremble, too big; Pam Michel, 2431 Pointe Tremble, size; Mary Jane Hardy, 5244 Pointe Tremble, preferred lower sign.

Close Public Participation.

Wiggle: The height of the sign is allowed.

Nelson: Preferred ground level sign.

Diss: What is the variance?

Mr. Mentz: Other than Farmer Jack, the other businesses will only have signage on the building.

Motion by Kirkpatrick, supported by Shirkey, to grant the request as presented including the name of the plaza, no further business signs.

Diss: There is no ordinance to address a mall signage.

AYES: All. NAYES: None. MOTION CARRIED. Excused: Michel.

6. Member Comments

Nelson: there is a special ZBA meeting scheduled for October 24, 2002.

7. Public Comment

Paul Bridgeman, 7985 Colony, questioned the hardship involved in each case and the cost to the appellate or citizen taking an appeal to court.

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8. Adjournment

**Moved by Shirkey, supported by Kirkpatrick, to adjourn at 9:25 p.m.
AYES: All. NAYES: None. MOTION CARRIED. Excused: Michel.**

Respectfully submitted,

Dolores M. Nelson
Recording Secretary