

MINUTES OF THE CLAY TOWNSHIP PLANNING COMMISSION REGULAR MEETING HELD ON NOVEMBER 12, 2003 AT 7:30 P.M. IN THE CLAY TOWNSHIP BOARD ROOM, 4710 PTE. TREMBLE ROAD, CLAY TOWNSHIP.

1. Meeting called to order by Chairperson Mark Getman at 7:30 p.m.
2. Roll Call: Present: Chairperson Mark Getman, Secretary John Makuch, Pat Sharrow, Tony Antkowiak, Chuck Michel Louise Cooper, Edward Keller, Sandra O'Conner.  
Absent: Dorothy DeBoyer (excused).

3. **COMMUNICATIONS:**

Chairman Getman: Planner has research Zoning Ordinance restricting building permit. Patrick Meagher will put some correct language together to change.

4. **APPROVAL OF THE OCTOBER 22, 2003 MINUTES:**

Moved by Cooper, supported by Michel, **MOTION CARRIED**, to approve the October 22, 2003 Minutes as submitted. AYES: All. NAYS: None. ABSENT: DeBoyer.

5. **OLD BUSINESS:** POSTPONED FROM AUGUST 4, 2003

**SITE PLAN CONSIDERATION: ALGONAC SALVAGE (Mr. & Mrs. Schulke)  
8141 MARSH ROAD**

Applicant Attorney Jeremy M\_\_\_\_\_: Planner's review received tonight, not prepared to pass on the ordinances on this short of notice.

Chairman Getman: Mr. Meagher what is your primary concern.

Patrick Meagher: Applicants operating an industrial use on residential property, no clarification if it is a legal or illegal nonconforming use, building on the industrial use would constitute an enlargement of the use, ordinance prohibits any structure on nonconforming use, additional areas of concern on the site plan i.e. screening, parking.

Tony Antkowiak: Did the applicant, Chairman, Attorney & Planner meet as suggested at the August meeting? Is applicant aware property may be an illegal nonconforming use?

Chairman Getman: Did not meet with the applicant, Attorney may have.

Attorney for Applicant: Operating as a salvage yard since 1946.

Chairman Getman: Inquiry to applicant re: State Permits.

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Ben Schulke, Applicant: Recently obtained in last six years.

Several letters in the Twp. file re: 1986 operating a junkyard, Twp. permit on this property since 1999 as a scrap yard, have did everything as required through the Bldg. Department in order to be classified as a scrap yard. Operated a scrap yard since 16 years old, always tried to comply with the Township, don't want a metal recycling facility, work on "hot rods" and get rid of the scrap metal, forced to become a mechanic and repair facility.

Chairman Getman: As a pre-existing nonconforming use cannot expand the use, cannot be enlarged physically nor can the scope of the business be changed or enlarged.

Ben Schulke: Questioned pole barn had to be torn down, cannot rebuild one.

Chairman Getman: Cannot rebuild, eventually the non-conforming use will disappear and property will go to what it is zoned.

Attorney furnished the Board with six letters dating back to 1986 re: salvage facility.

Ben Schulke: Trying to clean it up and get it into one area and plans for the future.

Chairman Getman: Reiterated the rules to follow if non-conforming property.

Attorney Dan Dalton: Circuit Court action ended in July, reviewed the background of this issue since 1999 and the steps followed by the Building Department, suit filed December 2002, resulted in a resolution as of July 2<sup>nd</sup>, required applicant to provide the Township with all current State and Local licenses & permits to operate a junkyard facility, as of this date do not have any permits.

Mrs. Schulke presented several documents to Chairman Getman for the record.

Attorney for Applicant: My Client is making every attempt possible to comply with the Township's wishes and operate facility been there for over 50 years, need closure to allow them to move forward.

Attorney Dalton: As of July, 2003 have not been provided any document as to a local junkyard license that is current, nothing else to add with respect to the site plan.

Chairman Getman: According to Assessor never been filed a personal property tax.

Mrs. Schulke: Do pay personal property tax through the State of Michigan when we file our taxes, never informed by the Twp. to pay a personal property tax.

Chairman Getman: Not questioning the existence of the junkyard, non-conforming use only.

John Makuch: Problem is zoned residential, can't expand a legal non-conforming use, possible rezoning from residential to industrial.

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Patrick Meagher: Problem with rezoning: the use becomes conforming and house becomes non-conforming, any improvements would require entire site brought up to current standards, Master Plan does not call for this area to be industrial.

Pat Sharrow: Possible to split the residential lot and driveway only.

Pat Meagher: Consider the frontage requirement, variance required to zone to industrial. Commission does not have the authority to approve the site plan based on your zoning ordinance, options to the applicant if is a legal non-conforming use may continue to operate, providing licenses and permits are current, if want to do any improvements will have to bring the entire site up to compliance with the ordinance and request the rezoning for the property, planning purposes would concentrate on the existence of the operation.

Chuck Michel: Application presented poses a zoning problem, is in violation of the zone.

**MOVED BY MICHEL, SUPPORTED BY ANTKOWIAK, TO DENY THE REQUEST FROM ALGONAC SALVAGE, 8141 MARSH ROAD, OWNED BY MR. AND MRS. BEN SCHULKE FOR A SITE PLAN BASED ON THE PLANNER'S REVIEW AND IT DOES NOT MEET THE MINIMUM STANDARDS OF THE ZONING ORDINANCE.**

Discussion:

Pat Sharrow: Use existed in 1957, have concerns on several issues, legal staff should review.

John Makuch: Shulke's attorney should work with Planning Consultant & Twp. Attorney to find a final resolution to the issue.

AYES: ALL. NAYS: NONE. ABSENT: DEBOYER.

**MOTION CARRIED.**

Chairman Getman: Recommend a meeting arranged to work these issues out with the Planning Consultant and Attorney.

**NEW BUSINESS:**

**6. PUBLIC HEARING: RE-ZONING**

**123-4 ERIC & HELEN STANCZAK 222 WILLIAMS (LOT 71 & 72) (R-1 TO C-2)**

**Open the public hearing on the Re-Zoning 123-4:**

Eric and Helen Stanczak, 222 Williams: Owners of the property, never notified of any zoning change which involves our property, always commercial want it put back the way it was.

Darlene Young, 20818 Universal, Eastpointe, MI: Own property on S. Channel, concern is what kind of business could they bring in if rezoned to commercial, add on or make it larger.

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Chairman Getman: Anything allowed in a C-2 is permissible.

John Makuch: Explained what is allowable in a C-2 zoning per the Ordinance.

Mr. Stanczak: Own other properties in Michigan and have always been notified of changes, losing on my investment, downgrading property.

Chairman Getman: New Ordinance rezoned property, hearings were posted and published in the local newspaper, all the proper procedures were followed.

Mrs. Stanczak: Want the property zoned the way it was when purchased.

No written comments were received regarding the 123-4 Re-Zoning.

No other public comments.

Close the public hearing.

**123-5 ZHIVAGO SPASOVSKI 7301 DYKE ROAD LOT 1062 (R-1 to C-2)**

**Open the public hearing on the Re-Zoning 123-5:**

Tony Spasich, 7291 Dyke Road (Mr. Spasovski's son): Family owns the Brisbay Restaurant next to 7301 Dyke Road, applying to Re-zone the property to C-2, eventually like to fold the property into one parcel with the restaurant, referred to an issue with Clay Twp. 10 yrs. ago with a lot down the street used for parking, Clay Township lost in Court.

Chairman Getman: Clarified to the applicant what happened regarding that issue.

Tony Spasich: Here since 1986, good reputation in the Township, pay a good amount of property tax, willing to make our neighbors happy and work with them.

William Lorraine, 7303 Dyke Road: Submitted a letter regarding the parking lot would be outside our property line, dumpster complaints, bright lights, etc. if approved like to see an 8' wall and greenscapes required.

Mary Lorraine: Main concern where the dumpster will be placed and will it stay, privacy, ambulance drivers stop there and leave their cars running, alcohol served, etc.

Gerald Shiloff, 7307 Dyke Road: Presented pictures to the Board of the property, own property south of 7301 Dyke Rd., lot requested for re-zoning should be used for parking only, no additions to the restaurant, 8' privacy wall should be installed between the residency and lot, not a wooden stockade type fence, wall should not continue out to the seaway, canal view blocked if wall and dumpster are located on seawall; complaints re: parking lot four lots down used for extra parking, residential lot, junk cars and vans stored for months, nonresidents use it on the weekend, trash is not picked up.

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Consultant Patrick Meagher: Applicant's application, information may be incorrect, appears the restaurant and the surrounding area is residential, will verify.

Chairman Getman: Addressed concerns from the public regarding what the applicant can do on the property, only use of this property would be for additional parking, dumpster addressed on the site plan, wall is required between commercial use and residential.

Gerald Shiloff: Reiterated the wall not to be closer than 40' from the seawall.

Patrick Meagher: Referred to the Ordinance requirement for a 15' wide greenbelt, 6' high solid wood fence.

Mr. Shiloff: Anyway as a property owner can get the applicant to cease using that lot.

Chairman Getman: You would have to talk to an attorney about that.

Applicant: Feel the Planning Commission and Clay Township has been against our family since the issues in 1992, attorneys will be here next time, feel very offended and threatened. Applicant was very angry.

Chairman Getman: Tried to calm applicant down and explain, only issue here is that one lot you are requesting for rezoning.

Public hearing closed.

**7. LOT SPLIT: 03-13 JOE STEPHENSON – VACANT MORROW ROAD**

Tony Antkowiak: Questioned Parcel J 100' on Swartout Road, does he need the 150'.

Joe Stephenson: If over the 5 acres does not require the minimum frontage.

Pat Sharrow: Questioned applicant was that found in the Land Division Act, it is not in the Zoning Ordinance. Is nine splits allowed, leaving 25 acres vacant.

Joe Stephenson: All signed by the County, it was five parcels doing them all at once.

**MOTION BY MICHEL, SUPPORTED BY COOPER TO RECOMMEND TO THE TOWNSHIP BOARD THE APPROVAL OF LOT SPLIT 03-13 FOR JOE STEPHENSON BUILDERS, VACANT MORROW ROAD AS PRESENTED.**

Discussion:

Pat Sharrow: Condition to the motion it is verified which Land Division Act allows the 100' frontage without a variance before it is presented to the Township Board.

**AMENDED MOTION:**

**MOTION BY MICHEL, SUPPORTED BY COOPER TO AMEND THE MOTION TO INCLUDE THE CONDITION IT IS VERIFIED BEFORE IT IS PRESENTED TO THE TOWNSHIP BOARD WHICH LAND DIVISION ACT ALLOWS THE 100' FRONTAGE WITHOUT A VARIANCE.**

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VOTE ON THE AMENDED MOTION: AYES: ALL. NAYS: NONE. ABSENT: DEBOYER.

**LOT SPLIT: 03-14                      SHAWN JOHNSON – 6342 SWARTOUT ROAD**

Tony Antkowiak: Frontage of 60.90' a variance is needed.

MOTION BY SHARROW, SUPPORTED BY ANTKOWIAK, **MOTION CARRIED**, TO RECOMMEND APPROVAL OF LOT SPLIT 03-04 FOR SHAWN JOHNSON, 6342 SWARTOUT ROAD PROVIDING THE APPLICANT GOES TO THE ZBA AND RECEIVES A VARIANCE TO ALLOW 60' FRONTAGE FOR THE LARGE PARCEL AND A RECOMMENDATION TO THE ZBA THEY LIMIT THE 60' X 300' STRIP AS ENTRANCE ONLY WITH NO CONSTRUCTION TO EVER OCCUR ON IT SHOULD THEY CONSIDER THE VARIANCE.

VOTE ON THE MOTION: AYES: ALL. NAYS: NONE. ABSENT: DEBOYER.

9.     **CHAIRMAN'S REPORT**   None.

10.    **PLANNING CONSULTANT'S REPORT**

Patrick Meagher: Re-Zoning comments out as soon as possible; problem with the Zoning maps on disk program, not a working copy.  
System available at the County is the GIS Program, another tool to work with.

11.    **ZONING ADMINISTRATOR COMMENTS**   None.

12.    **PLANNING COMMISSION COMMENTS**

Pat Sharrow: Questioned when will Nelson's Sand Bar come back.

Chairman Getman: 1<sup>st</sup> meeting in December.

Tony Antkowiak: Suggested a brief synopsis of procedure be provided to the public would eliminate some concerns and anxiety by the public, better idea what we are doing.

Board concurs a good idea.

13.    **PUBLIC COMMENT** (NOT PERTAINING TO RE-ZONINGS) NONE.

14.    **ADJOURNMENT**

Moved by Michel, supported by Makuch, **MOTION CARRIED**, to adjourn the meeting at 9:30 p.m. AYES: All. NAYS: None. ABSENT: DeBoyer.

Valerie J. Kulba  
Recording Secretary

