

MINUTES OF THE CLAY TOWNSHIP ZONING BOARD OF APPEALS HELD ON THURSDAY, JANUARY 16, 2003 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: Tim Wiggle, Zoning, Planning, Code Enforcement Officer

2. APPROVAL/AMENDMENTS TO AGENDA

Add 6 A Elections and 6B regarding Rules of Order to the agenda.

Moved by Shirkey, supported by Michel, to approve the agenda as amended.

AYES: All. NAYES: None. MOTION CARRIED.

3. APPROVAL OF MINUTES OF DECEMBER 19, 2002

Nelson: The ordinance in the preface should be changed to Section 27.04 of Ordinance #123.

Moved by Diss, supported by Kirkpatrick, to approve the minutes as corrected. 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 27.04 of Ordinance #123. 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.

5. APPEALS

2003-001

Ralph and Maria Szejbach

523 S. Russell Dr.

Appellate requesting a zoning variance because we have built an accessory building prior to construction of main structure. There are 4-1/2 empty lots. All the permits have been issued. Waiting for DEQ approval.

Nelson: The request is an after the fact, the building has already been constructed. Appellate: Yes.

Request for variance from Ordinance #123, to approve construction of an accessory building prior to finishing the construction of the principal building. The application was denied because Ordinance #123, section 3.01 (10).

**CLAY TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF JANUARY 16, 2003 PAGE TWO (2)**

Continued: 2003-001

Kirkpatrick: Did they do the accessory building prior to talking to Zoning Officer?

Nelson: How come you finished the accessory building without any permits or did he have a contractor do it? Appellate: We did it ourselves to maintain the property. We are building a split log cabin structure. The accessory building was built to code. Needed stress analysis on the foundation and taking time.

Kirkpatrick: Except it was built before the building and you didn't have a permit or come before the ZB A. Appellate: Yes.

Nelson: When do you anticipate beginning construction of the main structure. Appellate: Some time in May as soon as the ice breaks and permits are in order.

Nelson to Wiggle: Does the construction meet code? Wiggle: To the best of our knowledge, yes it is; Issue being the construction was prior to any permits being approved and prior to the main structure. The appellate has been cooperating once they were made aware of the violation. Recommendation that a bond be posted until at least rough building has been approved of the main structure.

Kirkpatrick: Do they have any prints or plans? ZB A ~~has been~~ *has in the past made a decision even regarding* with accessory building and bond that plans and prints have to be approved. *Amended DN 2/20/03*

Nelson: Not necessarily, but I agree with most what we have. To Wiggle: There is still stress analysis on the foundation (house).

Nelson: They are progressing with the main structure. Wiggle: Waiting for DEQ approval. Plans depend on approval as submitted or not. It could be stipulated that it construction hasn't been started by a certain date, the bond could be forfeited and the building be removed.

Kirkpatrick: We would almost have to wait for DEQ.

Nelson: I have no problem, but doing construction without permits, should have been done first.

Nelson: Bond amount should be substantial because of the size of the building plus it is harder to get to (Russell Island).

Kirkpatrick: You have applied for DEQ. Did they give a rough estimate when they would give ruling? Appellate: No, Kirkpatrick: When did you apply? Appellate: Approximately two weeks ago. Wiggle: It usually takes approximately 90 days.

Kirkpatrick: When was the accessory building built? Appellate: Early spring.

**CLAY TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF JANUARY 16, 2003 PAGE THREE (3)**

Continued: 2003-001

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

Motion by Michel, supported by Kirkpatrick, to grant request with bond at (\$2,000 suggested at first) \$5,000 cash bond or letter of credit, main structure to be started by 9/1/03, bond to be held until the rough inspection is approved.

Kirkpatrick suggested \$5,000 bond.

Nelson agreed with \$5,000, that need is to cover township expense.

Diss: Should be \$5,000 to \$10,000 depending on the circumstances.

Shirkey: Are you considering June depending on ice is adequate?

Kirkpatrick: Usually progress has to be made within the first year.

Diss: Can building permit be issued by June? Wiggle: DEQ has made severe cuts but time frame should not be an issue and if necessary they could come back. If DEQ is a problem, they could be extended time frame.

Nelson: We could say Sept.

Diss: This accessory building is for storage of supplies? Nelson: Lawnmowers etc.

Diss: There isn't going to be any residency there? Appellate: Correct.

Nelson: The main structure should be started by 9/1/03.

Kirkpatrick: The building permit should be issued by 9/1/03.

AYES: AH. NAYES: None. MOTION CARRIED.

Wiggle to Nelson: Did you want to include put the stipulation when that would be returned? Kirkpatrick after the rough inspection was made.

2003-002

Patrick and Susan Feighan

1500 S. Channel Dr.

Appellate requesting to construct accessory building.

Nelson: You have the foundation in? Appellate: Yes.

Nelson: When do you plan on starting the main structure. Appellate: When frost is gone.

Nelson: That is the accessory building in the back yard? Appellate: Yes.

**CLAY TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF JANUARY 16, 2003 PAGE FOUR (4)**

Continued: 2003-002

Request for variance from Ordinance #123, to finish construction of accessory building prior to finishing the construction of the principal building. The application was denied because Ordinance #123, section 3.01 (10).

Letter: No objection, J. Lewis Cooper, Jr; 1470 S. Channel Dr.

Appellate: Brought letter for motion from owners of 211 Fraser and adjoining lot. No objection.

Kirkpatrick: Do you have house prints? Nelson: The foundation is staked out.

Kirkpatrick: Are the permits all approved? Wiggle: Everything is approved. Kirkpatrick: Are there copies of permits etc in our package? Wiggle: No. It is approved.

Kirkpatrick: Is the accessory building started? Nelson: No, foundation and just one block No nails driven. Wiggle: Footing inspection has been made.

Public Participation: In favor:

No comment. Opposed: No

comment. Close Public

Participation.

Motion by Kirkpatrick, supported by Diss, to grant request as presented with \$5,000 cash bond or letter of credit and give to 9/1/03 to show progress. The bond to be returned after the rough inspection of the home. AYES: All. NAYES: None. MOTION CARRIED.

6A. Elections

Nelson: Per the ordinance, the board should elect a chairperson, vice chairperson and secretary. That is not the recording secretary.

Motion by Shirkey, supported by Kirkpatrick, to hold the elections tonight (1/16/03).

AYES: All. NAYES: None. MOTION CARRIED.

Nelson: The only exception for elections is that the Clay Township Board representative to ZBA cannot be chairperson. Elections should be held every December.

Michel: Should be take each office one at a time? Nelson Yes.

Motion by Michel, supported by Shirkey to elect Ron Nelson as chairperson.

Kirkpatrick: Do you accept? Nelson: Yes.

Nomination closed.

AYES: All. NAYES: None. MOTION CARRIED.

**CLAY TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF JANUARY 16, 2003 PAGE FIVE (5)**

Continued: Elections

Motion by Shirkey, support by Nelson to elect Chuck Michel as vice chairperson.

Nelson: Do you accept? Michel: Yes.

Nominations closed.

AYES: All. NAYES: None. MOTION CARRIED.

Motion by Shirkey, supported by Kirkpatrick to elect Marianne Diss as secretary.

Nelson: Do you accept? Diss: Yes.

Nominations closed.

AYES: All. NAYES: None. MOTION CARRIED.

6B. Member Standing Rules.

Nelson: In the past we have accepted the ZBA preface as the standing rules.

Motion by Kirkpatrick, support by Shirkey, to accept the existing ZBA preface as the standing rules, Ordinance is #123, section #27.04.

AYES: All. NAYES: None. MOTION CARRIED.

6C. Member Comments

Shirkey: Is there a meeting next week regarding a joint meeting? Wiggle: Next week the Planning Commission is meeting. Suggested that ZBA might attend to see where there are some errors.

Kirkpatrick: Suggested Michel (Planning Commission Representative) bring back a report. Wiggle: Further discussion. Nelson: Joint meetings have been suggested. Planning Commission workshop meeting 2nd Wed. 1/22/03.

Wiggle: Suggested to make some information available to him regarding amount of bonds or letters of credit so he can inform the appellates before going to ZBA. Nelson: Amount of bonds need to vary according to each appeal. Wiggle can suggest there will be a bond but not specific. Kirkpatrick: Michel, refer to page 188 #6. regarding performance guarantee, add on authorizing any variance or granting any temporary dwelling or accessory building.

7. Public Comment

None.

8. Adjournment

Moved by Shirkey, supported by Michel, to adjourn at 8:20 p.m.

AYES: All. NAYES: None. MOTION CARRIED.

Respectfully submitted,

Dolores M. Nelson
Recording Secretary