

**MINUTES OF THE CLAY TOWNSHIP ZONING BOARD OF APPEALS HELD ON THURSDAY, APRIL 17, 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

Amendment: Add Hotchkiss letter to agenda.

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

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

3. APPROVAL OF MINUTES OF MARCH 20, 2003

Kirkpatrick and Michel would like to add some discussion to page 2.

**Moved by Kirkpatrick, supported by Diss, to table the minutes to April 27, 2003, to add revision by Kirkpatrick and Michel.**

**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

2003-005

Daryl Repolis/Melvynn Alexander

1100 La Croix

Mr. Alexander: Consider a lot split variance from the State of Michigan, Land Division Act. (Harsens Island Airport). Zoned R1 per State Land Act.

Michel: ZBA can't act on lot split. Appellate:

This is a Public Utility Airport. Kirkpatrick: Why

is it zoned R1 instead of RS?

Michel: ZBA can't vary state statute (4:1 ratio). Recommend to Clay Township Board that the appellate be refunded the cost of ZBA appeal.

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Continued: 2003-005

Nelson: ZBA can't act on the lot split.

Wiggle: Property needs to be rezoned.

Nelson: This appeal should go back to the Planning Commission to rezone.

**Request for variance from Ordinance #123, to continue process of lot split. The application was denied because Michigan Land Div. Act. Property needs to be rezoned.**

**Motion by Kirkpatrick, supported by Michel to postpone until the property is rezoned by Clay Township Planning Commission and refund the ZBA fee. AYES: All. NAYES: None. MOTION CARRIED. Wiggle to make request to Clay Township Board for refund.**

2003-006	Jim and Kim Flutter	(Vacant) 8837 Colony
	Trevor Adams, representative	8438 Anchor Bay

Mr. Adams: Request to construct a new residence with accessory building.

Letter: In favor: Ken Zapczynski, 8841 Colony Dr.

**Request for variance from Ordinance #123, to construct a new single family dwelling and accessory building. The application was denied because Ordinance #123, section 3.01 (5), section 3.01 (7d), section 18.02 (4), section 18.03 (5).**

Mr. Adams: Appellate is requesting the following variances: Construction of House: (1) To encroach into the average setback in rear yard (south, waterside yard); (2) lot coverage of 32 percent 30 percent allowed; (3) 9' west side yard setback where 10' is required. Construct Garage/Accessory Building: (4) Height of 25' where 15' is allowed for accessory building; (5) second story in accessory building; (6) totally enclosed boathouse 8' open walls above grade required; (7) front (roadside) setback of 1', minimum of 15' front yard setback required; (8) setback of 6' on canal rear yard where 55' required.

Letters: Opposed: Dennis and Karen Robinson, 7365 Flamingo; Clement Heyza, 7353 Flamingo; Paul Bridgeman (pictures submitted), 7985 Colony.

Diss: Why are we addressing two lots with same address? Lots #270 and #18.

Wiggle: A lot with an accessory building cannot be split.

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Public Participation:

In favor: Ronald Puwal, 8466 Colony; Joann \_\_\_\_\_, 7777 Colony; J.R.Allen, 7761 Colony;  
John Niebieszczanski, 7759 Colony.

Opposed: Jim Leacock, 5127 Taft; Ray Sanker, 7361 Flamingo.

Close Public Participation.

Kirkpatrick: Opposed. Boat house is too large.

**Motion by Kirkpatrick, supported by Diss to deny all.**

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

Diss: Lot is 60', too much (percentage) coverage of lot, boat house too big.

Shirkey: Boat house is too large, oppose height.

Nelson: Problem with height.

Michel: Could be redesigned.

Nelson: Should go by average setback.

Appellate: What can be approved?

Nelson: Discussion, appeal needs to be considered as a whole.

Michel: Advertised as a whole, can't split individual variances.

2003-007	Lyle's Marina	6207 Pte. Tremble
	Brian Wells	6207 Pte. Tremble

Appellate requesting to reconstruct a sign on commercial property.

**Request a variance Ordinance #123 to reconstruct the sign that is currently located on commercial property requiring variance to raise sign to height of 20% add additional signage totaling 112 sq. ft. and keep sign in current location. Original application was denied because Ordinance #123, Article XXHI, section 23.02(4), and section 23.06 (1a) and section 23.09 (1).**

Wiggle: Size of sign should be 96 sq. ft. not 112 sq. ft. There is a metal building, pole building and house. The ordinance is unclear.

Appellate: The sign is at the road, but the business is on the channel. The second sign will be negated.

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Diss: There is no survey: Wiggle: Yes, had to cut and paste.

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

**Motion by Diss, supported by Kirkpatrick to grant appeal as corrected from 112 sq. ft. to 96 sq. ft. total size. No more than 20 ft. high.**

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

2003-008                      Andre Suykerbuyk                      7290 S. Channel Dr.

Appellate requesting to construct a new residence.

**Request a variance Ordinance #123 to construct a single family dwelling. Original application was denied because Ordinance #123, Article XXm, section 18.03(5).**

Appellate requesting variance to have rear yard setback 21'3" where 40 is required because of location of septic field already in place. Location of property is an island.

Michel: Is there an easement? Appellate: Yes.

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

Hardship" Location of septic field and lot size and shape.

**Motion by Michel, support by Kirkpatrick to grant variance as presented.**

**Ayes: All. Naves: None. Motion carried.**

2003-009                      John and Jill Niebieszczanski                      7759 Colony Dr.

Appellate requesting an 18' x 50' addition to the rear of single family dwelling. Requesting variances to rear yard, west side yard, east side yard and lot coverage.

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**Request a variance Ordinance #123 to construct an addition of 18' x 50' to the rear of single family dwelling. Original application was denied because Ordinance #123, Section 18.03(5). Variances are requested for rear yard setback to 38'3" where 55' is required and be less than average setback of adjacent homes, 4' west side yard where minimum of 5' is required and 5.4' east side yard setback where 10' is required, and total lot coverage of 34.23 percent where 30 percent is allowed.**

Letter: Opposed: Paul Bridgeman, 7985 Colony.

Letters: In Favor: Ken Regal, 7745 Colony; Frederick E. Jasmund, 7328 Aqua Isle Dr.; Randal A. Dennis, 7771 Colony Dr.; Dan and Carol Lasky, 7764 Colony; Ronald and Bernadine Puwal, 8466 Colony; Mr. and Mrs. Ernie Van Dale, 7332 Aqua Isle Dr.; Sandra M. Rieck, 7760 Colony; James A. Rieck, 7760 Colony; Lawrence R. and Judith L. Myers, 7754 Colony; Gene and Sharon Allen, 7761 Colony; Gloria Isaacs, 7625 Colony; William J. and M. Catherine Me Grail, 45841 Remer, Utica; Michael and Patricia Delmotte, 7773 Colony.

Public Participation:

In favor: Puwal, 8466 Colony; John \_\_\_\_\_, \_\_\_\_\_; Kim Flutter, 8837 Colony; J.R. Allen, 7761 Colony.

Opposed: Paul Bridgeman, 7985 Colony.

Closed Public Participation.

Nelson: No problem with side yards, rather rear yard be average setback and problem with lot coverage.

Appellate: Could size be reduced to 16' x 50'? Wiggle: 32.8% coverage. 12' x 50', 30.1% coverage.

Diss: Don't see hardship. Suggested 12'x 50'. Appellate: Too small.

Appellate discussed health reasons for size of room. Nelson: Health reasons have no bearing for ZBA.

Nelson: Will this continue to be a one story home? Appellate: Yes.

Michel: What is hardship? Nelson: 60' lot size creates some hardship and front yard setback.

Michel: Average setback would be OK for 16'.

Diss: Could you go up? Kirkpatrick: Can't always go up.

Shirkey: Suggested 12' x 50' with 30.1% coverage.

**Motion by Kirkpatrick, support by Diss to grant variance 14' x 50% 31.4% lot coverage, side yards OK as current, 42.3' rear yard, 45.4' to porch, hardship being lot size and location of house. Ayes: All. Nays: None. Motion carried.**

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5A. Request from Edward and Judy Hotchkiss, P.O. Box 72, 120 Petoskey Ave. Harsens Island.  
**Motion by Kirkpatrick, support by Shirkey, to turn this letter over to John McNamee, Clay Township Attorney for review and response to FOIA. Send copy of Hotchkiss letter to Clay Township Board. Ayes: All. Nays: None. Motion carried.**

6. Member Comments

Kirkpatrick: ZBA needs the copy of survey and plans for each appeal prior to meeting. Refer to Tim Wiggle to follow up.

Michel: Agree. Suggested not to accept a survey older than 10 years.

Shirkey-Michel: Both attended a seminar, very informative and describing four points describing hardship.

Wiggle: Will be asking for an interpretation of Ordinance #123, section 23.06 (1a) and 3.24 (2).

7. Public Comment

Comments regarding Appeal 2003-006, Jim and Kim Flutter: Opposed: Mr. Bridgeman, 7985 Colony; Jerry Tilly, 7533 Colony.

8. Adjournment

**Moved by Kirkpatrick, supported by Shirkey to adjourn at 9:40 p.m.  
AYES: All. NAYES: None. MOTION CARRIED.**

Respectfully submitted,

Dolores M. Nelson  
Recording Secretary