

MINUTES OF THE CLAY TOWNSHIP ZONING BOARD OF APPEALS HELD ON THURSDAY, MAY 20, 2004 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.

Absent: Chuck Michel (excused).

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

2. APPROVAL/AMENDMENTS TO AGENDA

Moved by Diss, supported by Kirkpatrick, to add the response to Mr. Wiggle from Attorney John McNamee as 6-B. AYES: All. NAYS: None. MOTION CARRIED.

3. 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, four 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.

4. APPROVAL OF MINUTES OF APRIL 15, 2004

Moved by Kirkpatrick, supported by Diss, to approve the minutes as submitted.

AYES: All. NAYS: None. MOTION CARRIED.

5. OLD BUSINESS:

2004-10 TERRY BUGG/MARK KOSANKE 1622 SOUTH CHANNEL DRIVE

Appellate: Question per last meeting how far the existing garage is from the property line, plan to tear down leaking shed behind existing garage, extend the garage, explained the contour of the property line is making the difference.

Nelson: Main appeal last time was for distance of existing garage to dwelling.

Tim Wiggle: Questioning accuracy of the set-back in the side yard, what has been submitted per this request is greater then what was originally advertised.

Nelson: Published for a 3' variance, this shows less then 4' between them.

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Applicant: Rebuttal as to why they are back again, buildings are 7' apart, 31" overhang and garage has a 17" overhang, measurements should have been from base to base.

Nelson: Would be derelict to our duty if we were to approve as is.

Tim Wiggle: Clarification if claiming overhangs still not 3' from the property line and that would require a variance that was not published with the original notice.

Nelson: Explained to applicant not informed of new info until now.

Wiggle: Referred to a note on the survey, what verifies it; date, as of now too close to the property line by 4".

Nelson: Have everything we need just have not confirmed it, information brought in earlier Bldg. Dept. could have reviewed and confirmed, as of now measurement is from the side of the building, do not have any survey with the writing on it, it was postponed to allow the appellate to clarify the survey.

Nothing the ZBA can do right now until the info get re-evaluated by the Building Department.

Wiggle: Republish it as the building is less than 3' from the property line, requires an additional variance and the distance between the house and garage.

Applicant: Clearly what issues will we be dealing with at the next meeting; can these be published and resolved?

Wiggle: Verify side yard measurements from bldg. to bldg., correct the survey with the same language & date, publication is necessary for the variance for the side yard and garage to house.

MOTION BY KIRKPATRICK, SUPPORTED BY SHIRKEY, MOTION CARRIED, TO POSTPONE APPEAL 2004-10 FOR 1622 SOUTH CHANNEL DRIVE UNTIL THE JUNE MEETING FOR VERIFICATION OF THE SURVEY. AYES: ALL. NAYS: NONE. ABSENT: MICHEL.

NEW BUSINESS:

2004-11

KENNTH & BARBARA BOLLIN

6750 SWARTOUT

Appellate Mrs. Bollin: Consider zoning variance of an accessory building for a lot split, purpose here is to have the lot split and have one of the properties have an accessory building before the primary structure.

Open the public hearing portion re: Lot split for 6750 Swartout Road:

In favor of the request: None.

Opposed to the request: None.

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Close the public portion.

Letter dated 5-13-04 from Carol and Eric Vistisen, 6733 Swartout Road have no objection to the proposed lot split of Dr. and Mrs. Bolin.

Cindy Kirkpatrick: Are they going to build on that lot with the accessory building?

Mrs. Bollin: Lot is for sale, would be up to the plans of the purchaser, zoning requirement would be sold with the requirement.

Cindy Kirkpatrick: In the past have set a cash bond for others.

Nelson: The properties are together now in one name, not split off until sold.

Discussion ensued regarding the issue of a cash bond/letter of credit for a guarantee the accessory building would not be a permanent building before a primary structure, protection future buyer will not convert it to a home.

MOTION BY KIRKPATRICK, SUPPORTED BY SHIRKEY, TO APPROVE THE LOT SPLIT 2004-11 FOR DR. KENNETH BOLLIN AND MRS. BARBARA BOLLIN FOR 6750 SWARTOUT WITH THE REQUEST REVISED TO REQUIRE A \$5,000.00 BOND OR LETTER OF CREDIT FROM THE BANK THAT WOULD INSURE THE TOWNSHIP THE ACCESSORY BUILDING NOT BE USED FOR HABITATION AND WHEN THE SALE TAKES PLACE, THE BOLLIN'S MUST CONVERT THE LETTER OF CREDIT OR \$5,000 BOND IN THE PURCHASER'S NAME AND THE PURCHASER MUST BUILD A HOME IN ONE YEAR OF PURCHASE.

AYES: ALL. NAYS: NONE.

MOTION CARRIED.

2004-12

JOHN RADZIEWICZ

8718 ANCHOR BAY DRIVE

Appellate: Requesting variance for a furnace/air conditioner enclosure on the side of the house.

Nelson: For a proposed house, last month for a rear yard setback, when built you want this enclosure out into the side yard, why couldn't this be incorporated into the new design?

Appellate: House will be 60' long & narrow, break up the slab look, allow more floor space.

Open the public hearing regarding the projection into the required side yard for property at 8718 Anchor Bay Drive:

In favor of the request: None.

Opposed to the request: None.

Close the public portion.

Kirkpatrick: No problem with it.

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Nelson: New design after the old house is torn down, should be able to find a place for the furnace/air conditioner other than have it overhang the side yard.

Discussion regarding lot size, air conditioner location, variance setback.

MOTION BY SHIRKEY, SUPPORTED BY KIRKPATRICK, **MOTION CARRIED**, TO GRANT THE VARIANCE FOR NORTH SIDE YARD SETBACK OF 7', WHERE MINIMUM WOULD BE 10' FOR THE AIR CONDITIONING/FURNACE ROOM AT 8718 ANCHOR BAY DRIVE. AYES: ALL. NAYS: NONE.

2004-13 **HARRY LEWIS** **7303 FLAMINGO**

Appellate: Normal set back is 55', average set back is 60'6" for 325' each side for four houses, proposing to build 58'2" from the water.

Nelson: You are definitely beyond the ordinance requirement .is 55'.

Shirkey: 3' piece that comes out in front of the house that makes it 58' instead of 60'

Public Hearing regarding proposed house at 7303 Flamingo asking for a variance from the average set back for 3'.

In favor of the request: Michael Stephenson, 204 Butterfield Lane.

Opposed to the request: None.

Close the public portion.

MOTION BY KIRKPATRICK, SUPPORTED BY DISS, **MOTION CARRIED**, TO GRANT THE VARIANCES AS PROPOSED FOR THE NORTH REAR YARD SETBACK OF 58.167' FOR 2004-13 FOR HARRY LEWIS OR THE PROPOSED HOUSE AT 7303 FLAMINGO. AYES: ALL. NAYS: NONE.

2004-14 **ERIK & KELLY TELESZ** **7223 BLUEBILL**

Appellate: Robert Randall, Tony V's Sunrooms and Spas, Representing the owners: Desiring to build a patio enclosure 13' x 19.7' off the back of the home, rear yard set back of 43', met the side yard requirements, house is as far forward as can be, noted adjacent neighbors would not be affected.

Public Hearing regarding the property at 7223 Bluebill to add a patio enclosure.

In favor of the request: None.

Opposed to the request:

John , 7233 Bluebill: Think it is getting out of hand, more and more people are moving close to the seawall.

Close the public portion.

Marianne Diss: Homes to the west going towards M-29 about eight homes are all in line and going to the lake 12 homes were all in line, nothing protruding.

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Tim Wiggle: The addition would intersect with the 45 degree unobstructed area by almost ½ the distance of that structure, other issue besides the variance for the 12'.
Explained the unobstructed area that this is blocking.

Diss: 43' setback cannot recall giving that big of a variance, problem is the 12' setback.
Appellate: Stated variance was granted three years ago to another property on Bluebill.

Tim Wiggle: Extend out 7' would totally clear the 45-degree angle.

Randall: Stated different ways to angle the enclosure off and how the plan could work.

MOTION BY KIRKPATRICK, SUPPROTED BY SHIRKEY, **MOTION CARRIED**, TO APPROVE THE APPEAL #2004-14 FOR ERIK & KELLY TELESZ FOR A GLASSED IN ADDITION AT 7223 BLUEBILL WITH THE STIPULATION THAT CORNER MUST NOT BE IN THE 45 DEGREE VIEW FROM NEIGHBOR TO EAST AND DEPTH REDUCED TO 11' WIDE AND NOT 13'.

AYES: KIRKPATRICK, SHIRKEY, NELSON. NAYS: DISS.

2004-15

GLENN J. GAULT

8520 ANCHOR BAY DRIVE

Appellate: Requesting a variance for a 10 x 10 accessory shed and a 10 set back.

Nelson: 10' from the road right of way to the shed, accessory structure in the front, 10' off the house.

Diss: Structure is there now.

Nelson: Required front yard is 25', house to the edge of the road property line, questioned why it can't go in the back.

Open the public hearing regarding the shed in the required front yard at 8520 Anchor Bay Drive:

In favor of the request:

8518 Anchor Bay Drive: Live next door and have no problem with the shed.

Arnold Parker, 8510 Anchor Bay Drive: No problem with it.

Opposed to the request: None.

Close the public hearing.

MOTION BY DISS, SUPPORTED BY KIRKPATRICK, **MOTION CARRIED**, TO APPROVE THE VARIANCE AS REQUESTED FOR 8520 ANCHOR BAY DRIVE DUE TO THE WIDTH AND IRREGULAR SHAPE OF THE LOT IS THE HARDSHIP FOR GLENN J. GAULT.

AYES: ALL. NAYS: NONE.

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2004-16 GARY NASIATKA 7276 BLUEBILL

APPELLATE: Requesting a 3-1/4 foot variance, plan to add on to the garage on the east side of the street and would like to have 10' additional on the garage could have a 9' door on both sides.

Nelson: Existing garage is going to stay, applicant brought pictures.

It was noted the survey was not distributed to all the ZBA members.

Wiggle: Should have had the dotted line of the addition, clarification the applicant could not put this same large overhang if the walls are going to be 2' away, lesser over hang.

Nelson: If it was an accessory structure it would be required to be 3', attached structure should be 5'.

Wiggle: Part of the primary structure would have to have special construction considerations.

Nelson: Addressed applicant, any reason the addition 9' wide allowing for only a 3' side yard.

Applicant: Wanted doors 9' and would give me the extra 1' between.

Nelson: Concerned setting a precedent only 2' off the lot line.

Open the public hearing regarding the addition of an attached garage for property at 7276 Bluebill.

Anybody in favor of the request: None.

Opposed to the request: None.

Close the public portion.

Applicant: 62' lot not a 65' lot, based on that fact asking for a 1/4 of a foot variance.

Discussion ensued regarding the garage door sizes, alignment issue, etc.

MOTION BY KIRKPATRICK, SUPPORTED BY SHIRKEY, MOTION CARRIED, TO GRANT THE REQUEST FOR APPEAL 2004-16, 7276 BLUEBILL AS PRESENTED FOR AN EAST SIDE YARD SETBACK OF 2' TO OBTAIN A TOTAL SIDE YARD SETBACK OF 15'.

AYES: ALL. NAYS: NONE.

2004-17 BERBNARD A. LAZOEN 7245 PARKLANE

APPELLATE: Requesting a variance to add a three-season room on the back of the house, will not go out closer to the canal; 18' easement in the front of house, maintain it, not allowed to use it, asking for a variance of 1.58' to the R-2 district, won't obscure the 41% angle, addition will add value to the neighborhood and our home.

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Nelson: 50' from the canal seawall.

Letters from neighbors in favor of the variance:

- Craig, Surprenant, 7246 Park Lane
- David C. Ramoth, 7241 Park Lane
- Brian Lukas, 7218 Harbor Drive
- Marvin & Bernice Clark, 7212 harbor Drive
- Kenneth Jurn, 7222 Harbor Drive
- Barb & Fred Lobeck, 7249 Park Lane

Open the Public Hearing for an addition at 7245 Park Lane:

Anyone in favor of the request: None.

Anyone opposed to the request: None.

Close the public hearing.

Nelson: No objection, variance has been granted before.

Diss: Problem with the over 31% coverage, large lot, does not seem to be a hardship.

Appellate: Way the house is set up now would have to go out of the house and into this room, why we extended it across.

Nelson: Easement is not considered as part of the lot coverage.

Diss: Granted variances for lots on Edlane, Anchor Bay, not seen one with a lot this wide asking for a variance on the coverage.

Shirkey: Suggested room dimension reduced.

Discussion re: new room design with the current roofline.

Tim Wiggle: Reduce size would not bring the 31% down a great deal.

Nelson: Hardship is the location of the existing building.

Kirkpatrick: Maintains an easement, cannot build in this area.

Appellate: Reiterated would be well within the 31% if could include this easement.

MOTION BY KIRKPATRICK, SUPPORTED BY SHIRKEY, MOTION CARRIED, TO GRANT THE VARIANCE AS REQUESTED FOR AN ADDITION TO 7245 PARK LANE FOR BERNARD A. LAZOEN, #2004-17.

AYES: KIRKPATRICK, NELSON, SHIRKEY. NAYS: DISS. ABSENT: MICHEL.

6. INTERPRETATION: ZONING ORDINANCE 123

Request from: Mark & Sandra Pyszora 9034 Field Road

Nelson: Not a public hearing. Read the letter addressed to Mr. Wiggle asking the Zoning Board Of Appeals make a determination the following:

- Classification of an unenclosed carport attached to an existing pole barn.
- Ordinance 123, Section 3.17 (4) parking semi's/commercial haulers on residential property.

Lengthy ZBA member discussion regarding the Pyszora request for an interpretation.

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Board's consensus:

(1) Unenclosed carport attached to an existing pole barn is a structure and all Ordinance requirements apply, including variances for excess square footage.

(2-a) By how the State licenses the vehicle, ZBA request this section wording be clarified.

(2-b) Anything that existed before the Ordinance change could if legal under the old Ordinance could continue, even if not allowed under the new Ordinance as a continuing non conforming use.

6-B. Letter from Attorney John McNamee:

Nelson: Information is enough for the Building Department.

Motion by Kirkpatrick, supported by Shirkey, **MOTION CARRIED**, to receive and file Attorney John McNamee's letter. AYES: All. NAYS: None. ABSENT: Michel.

7. **MEMBERS COMMENTS:** None.

8. **PUBLIC COMMENTS:**

Mark Pyszora: Board acted very professional and does a very good job.

9. **ADJOURNMENT**

Moved by Shirkey, supported by Kirkpatrick, **MOTION CARRIED**, to adjourn at 9:30 p.m. AYES: All. NAYS: None. ABSENT: Michel.

Valerie J. Kulba
Recording Secretary

