

**MINUTES OF THE CLAY TOWNSHIP ZONING BOARD OF APPEALS HELD ON THURSDAY, AUGUST 19, 2004 AT 7:30 P.M. IN THE CLAY TOWNSHIP BOARD ROOM, 4710 PTE. TREMBLE ROAD, CLAY TOWNSHIP, MI 48001**

Chairman Nelson called the meeting to order at 7:30 p.m.

1. Roll call

Present: Ron Nelson, Cindy Kirkpatrick, Chuck Michel  
Excused: Joanne Shirkey, Marianne Diss

Also present: Tim Wiggle, Zoning, Planning, Code Enforcement Officer

2. APPROVAL/AMENDMENTS TO AGENDA

Amend Agenda to add MEMBERS COMMENTS

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

**AYES: All. NAYES: None. MOTION CARRIED. Excused: Shirkey, Diss**

3. APPROVAL OF MINUTES OF JULY 15, 2004

Amend minutes as follows: Page 2, 2<sup>nd</sup> paragraph, change **there** to **their**.

Page 9, last paragraph, strike out the word **not** so as to read MOTION DOES CARRY.

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

**AYES: All. NAYES: None. MOTION CARRIED. Excused: Shirkey, Diss**

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 of the ZBA, three 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

(NEW)2004-24

Brian Smith

5391 Harcus Ct.

Applicant is requesting to build a 6 ft. privacy fence.

**Request for variance from Ordinance #123 to have a 6 ft. privacy fence in the front yard. The application was denied because of Ordinance #123, Article III, Section 3.09(b).**

Nelson: How long have you owned the property? 5 years.

Nelson: You knew the easement was there when you bought the property? Yes.

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Nelson: Letters received opposed: Jerry & Michelle Maxwell at 9757 Zens Ct.  
Rhonda, Charles II, and Edward Blain at 9756 Zens Ct.  
Robert & Annette Cook at 9767 Zens Ct.

**Public Participation:**

In favor: Homeowner at 5405 Harcus Ct.  
Opposed: Rose Stellute at 5381 Harcus Ct.  
Michelle Stellute at 5381 Harcus Ct.  
Mike Castle at 5419 Harcus Ct.  
Ray Cooks at 9745 Zens Ct.  
Tom Stellute at 5381 Harcus Ct.

Close Public Participation.

Nelson: I don't see a need for the fence.

Michel: I've got mixed emotions on this. We've allowed other fences. It seems like a reasonable request for a fence on the one side.

Kirkpatrick: I agree with you Chuck regarding the easement side. One problem is maintaining the fence on the public access side. If he takes out this side, can he have a 6' fence to the garage?

Moved by Michel to alter request and grant a 6' privacy fence from house to garage and deny request on other side. Motion died – no support.

Kirkpatrick: I was going to suggest a 4' fence.

Moved by Michel to alter request and grant 6' privacy fence on easement side from house to garage and no fence on other side. Motion died – no support.

**Moved by Kirkpatrick, supported by Michel to alter request and grant a 4 ft. privacy fence from house to garage on easement side and deny request for fence on east side.**

**AYES: All. NAYS: None. MOTION CARRIED. Excused: Shirkey, Diss**

(NEW)2004-25

Paula Litteral

4884 Taft Rd.

Applicant is requesting to build a gazebo.

**Request for variance from Ordinance (#123) (1) to have a setback of 6 ft. from the primary structure (2) to have a rear yard setback of 2 ft. (3) to have a side yard setback of 19 ft. The application was denied because of Ordinance #123 Article III Section 3.01 (3) (6).**

Nelson: I didn't peek over the fence this time, but didn't you have a pool, because I thought you had to have a variance for the pool? Yes, we have a pool.

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Nelson: Letters received opposed: Mr. & Mrs. James Gillis at 9548 St. Clair

Public Participation:

In favor: None

Opposed: None

Close Public Participation.

Nelson: With all the other stuff back there I don't see the hardship.

**Moved by Michel, supported by Kirkpatrick to deny the request.**

**AYES: All. NAYS: None. MOTION CARRIED. Excused: Shirkey, Diss**

(NEW)2004-26

Les/Nichole Gilewski

7491 Zobl Ct.

Applicant is requesting a two-story detached garage.

**Request for variance from Ordinance #123 to have the height of the accessory building at 21 ft. 10 inches. Application was denied because of Ordinance #123 Article III Section 3.01 (5).**

Representative from Exclusive Builders spoke on behalf of the homeowners.

Nelson: You're going to build a three car garage? Yes.

Nelson: The problem I've got with it is something as large as that is going to be larger than some apartments.

Michel: That's 1248 sq. ft of living area, total living area on a second floor of an accessory building.

Kirkpatrick: I also have a problem with this. We start allowing the height variances to exceed the maximum; it's never going to stop.

Public Participation:

In favor: None

Opposed: None

Close Public Participation.

**Moved by Michel, supported by Kirkpatrick to deny the request.**

**AYES: All. NAYS: None. MOTION CARRIED. Excused: Shirkey, Diss**

(NEW)2004-27

Eleanor Nuar

6360 Marina Dr.

Applicant is requesting to build a new single family house.

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**Request for variance from Ordinance #123 (1) a rear yard setback of 38 ft. (2) a front yard setback of 9 ft. 5 inches (3) a total lot coverage of 40%. Application was denied because of Ordinance #123 Article XVIII Section 18.03 (5).**

Nelson: Tim, how does this compare to Mr. Sheets on Marina Dr.?

Tim Wiggle: Sheets actually is at the maximum allowed lot coverage – 29.9%. He does meet the front setback of 15 ft. The only variance that was granted to Mr. Sheets was a side yard setback.

Kirkpatrick: Yes, that is all we did, because it was new construction.

Nelson: Mr. Sheets has the same size lot.

Nelson: Letters received opposed: Michael Ghiaciuc at 6334 Marina Dr.

Public Participation:

In favor: None

Opposed: None

Close Public Participation.

**Moved by Michel, supported by Kirkpatrick to deny the request.**

**AYES: All. NAYS: None. MOTION CARRIED. Excused: Shirkey, Diss**

(NEW)2004-28

Norman Colegrove

8909 Anchor Bay Dr.

Applicant requesting to build a 4 ft. fence.

**Request a variance from Ordinance #123 to have a 4 ft. fence in the unobstructed yard. The application was denied because of Ordinance #123 Section 2.02.**

Nelson: How high is that fence? 4 ft.

Kirkpatrick: It doesn't look like it is 4 ft. high.

Nelson: It sure looks shorter than 4 ft.

Michel: Tim, did they get a permit for this fence? What happened here?

Tim Wiggle: The permit application came in and it was denied based on the ordinance for unobstructed yard space. I visited the address and saw that the fence has already been installed, so I contacted Home Depot, as the contractor and let them know they had violated the ordinance by installing the fence before a permit was issued and placement of the fence. A ticket has been issued. Homeowners were unaware of no permit and violation of the ordinance. Home Depot also stated that they would take down the fence and refund the money to the homeowner if you deny this request.

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Public Participation:

In favor: Mr. & Mrs. Smith at 7376 Flamingo

Opposed: None

Close Public Participation.

Nelson: I don't have a problem with it. It has such a small amount of fencing.

Kirkpatrick: I would like the Code Enforcement Officer to send a letter to Home Depot. Just because this fence was approved, it doesn't mean in the future the next fence will be allowed.

**Moved by Kirkpatrick, supported by Michel to grant request as presented because there is very little fencing and it does not obstruct the view.**

**AYES: All. NAYS: None. MOTION CARRIED. Excused: Shirkey, Diss**

**6. PUBLIC COMMENTS**

Brian Smith – 5391 Harcus Ct. – Questioning if he could install a greenbelt and why he couldn't install a 6 ft. fence.

Ray Cooks – 9745 Zens Ct. – Questioned the fence at 5391 Harcus Ct. and if the owner would need a legal property survey. Also questioned other fences on Harcus Ct.

**7. MEMBERS COMMENTS**

Michel: I was not present at the last meeting and I read the minutes and I was absolutely flabbergasted on giving that fence all the way around the property on Bayview Shores. We've had fences taken down, we wouldn't give one to DuVernay on Pte. Tremble, or one on Harsens Island. I don't understand why we did that. It is a disgrace to the Zoning Ordinance. My point is that house was up for sale and if it was up for sale under those circumstances, I think this board can rescind that motion. I am going to check to see if we can legally rescind that motion because we were misinformed.

Discussion followed amongst members.

**Moved by Michel, supported by Kirkpatrick to adjourn at 8:45 p.m.**

**AYES: All. NAYS: None. MOTION CARRIED. Excused: Shirkey, Diss**

Respectfully Submitted,

Patricia K. Watson  
Recording Secretary