

MINUTES OF THE CLAY TOWNSHIP ZONING BOARD OF APPEALS HELD ON THURSDAY, SEPTEMBER 16, 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, Chuck Michel.
Also present: Tim Wiggle, Zoning, Planning, Code Enforcement Officer.

2. APPROVAL/AMENDMENTS TO AGENDA

Diss asked for an amendment, 7A, regarding a letter from Mr. McNamee.

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

AYES: All. NAYES: None. MOTION CARRIED.

3. APPROVAL OF MINUTES OF AUGUST 19, 2004

Moved by Kirkpatrick, supported by Michel, to approve the minutes as presented.

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

2004-029

Thomas/Cynthia Wagner

7778 Stark Dr.

Appellate is requesting a construction of addition to the rear water side to enlarge their single family residential dwelling, which would add bathroom, laundry room and family room.

Request for variance from Ordinance #123, to construct an addition to rear water side of their single family residential dwelling in an R-1 District requiring a rear yard setback of 6 ft. from average setback. The application was denied because Ordinance #123, Article III, section 3.12 (1).

Nelson: Will you tear down garage? Too close to canal. Appellate, yes.

Michel: You have 2-1/2 lots? Appellate, yes, separate lots, combined by deed.

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Continued: 2004-029

Public Participation:

In favor: Linda Lee, 8020 Morrow; Christopher Vincent, 6337 Dyke Rd., Apt. #6; Paula and Harry Literal, 4884 Taft; and Agnes and Bill Vincent, 5080 Cove Ct.

Opposed: No comment.

Close Public Participation.

Shirley: If you take off porch and eave a 19 ft. addition.

Michel: Take 6 ft. off, 27 ft, would leave 21 ft and be within ordinance.

Nelson: Is there a second floor? Appellate, not over addition.

Michel: Could be maintained within ordinance.

Kirkpatrick: There is no blockage, obstructed view and she has no problem.

Wiggle: If addition was moved to the side, he still would not be within setback.

Diss: The new addition will not have second floor.

Motion by Kirkpatrick, supported by Shirley, to deny due to hardship of lot size 100 ft.

AYES: Shirley, Kirkpatrick. NAYES: Nelson, Diss, Michel. MOTION DENIED.

Appellate: What would be acceptable? Nelson: Talk to Mr. Wiggle, Zoning inspector.

2004-030 Paul Litteral 4884 Taft Rd.

Appellate requesting to construct a hot tub for physically disabled, put in before permit. Letters were submitted from doctors for Paula and the daughter's disabilities.

Request for variance from Ordinance #123, to a rear yard setback of 6 ft. from the primary structure, where 10 ft. is required, 2 ft. northeast corner rear yard of 2 ft. where 3 ft. is required. The application was denied because Ordinance #123, Article III, section 3.01 (3).

Nelson: Hardship not practical..

Public Participation:

In favor: Petition is support with 89 signatures. Thomas Fetter, 8810 Marsh; Christopher Vincent, 6337 Dyke; Henry Torgl, 9338 Island; Ted Hendrick, 4844 Taft; Michael Zanesnik, 9637 Seaway Dr.

Opposed: Mr. and Mrs. Gillis, 9548 St. Clair.

Close Public Participation.

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Continued: 2004-030

Linda Lee: Variance should be allowed for her niece because of physical handicap.

Nelson: New information submitted, asking for variance of 4 ft. between house and gazebo, 16 x 12 ft.

Kirkpatrick: New information allows the appellate another hearing.

Shirkey: Could be squared off and can't be attached.

Michel: Two variances have been allowed already. This is the third and ZBA does not address handicap. This should not be made precedence.

Kirkpatrick: This is not a large structure.

Diss: Should not address physical problems.

Michel: ZBA should protect the ordinance.

Motion by Michel, supported by Diss to deny request.

AYES: Diss, Michel. NAYES: Shirkey, Kirkpatrick, Nelson. MOTION DENIED.

Second motion by Kirkpatrick, supported by Shirkey, to grant appeal as requested.

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

6. Member Comments

Michel: Members have permission to request an interpretation, but disagrees that Mike Kras has any input.

Wiggle: Kras does have input.

Shirkey: Hardship is a practical difficulty and should be inserted.

Kirkpatrick: Discussion of a letter of a year ago from Mr. Dalton.

Kirkpatrick: We should change the wordage of hardship on application.

Shirkey: ZBA should not approve fences.

7. Public Comment

None.

7A. Letter from Mr. Mc Namee

Nelson: Discussion of letter from Mr. Mc Namee.

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Continued: 7A

Motion by Shirkey, support by Diss that Mr. Mc Namee should pursue court action.
AYES: All. NAYES: None. Motion carried.

8. Adjournment

Moved by Kirkpatrick, supported by Michel, to adjourn at 8:40 p.m.
AYES: All. NAYES: None. MOTION CARRIED.

Respectfully submitted,

Dolores M. Nelson
Recording Secretary