

**MINUTES OF THE CLAY TOWNSHIP ZONING BOARD OF APPEALS HELD ON THURSDAY,
JULY 21, 2005 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, John Makuch, Marianne Diss, Anthony Antkowiak.
Also present: Tim Wiggle, Clay Township Zoning, Planning, Code Enforcement Officer.

2. APPROVAL/AMENDMENTS TO AGENDA

Moved by Antkowiak, supported by Shirkey, to approve the agenda as presented.

AYES: All. NAYES: None. MOTION CARRIED.

3. APPROVAL OF MINUTES OF JUNE 16, 2005

Amend p.2, delete "such as."

Moved by Diss, supported by Shirkey, to approve the minutes as amended.

AYES: All. NAYES: None. MOTION CARRIED.

4. ZONING BOARD OF APPEALS PREFACE

Chairman: The ZBA addresses mainly practical difficulty 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

2005-007 Lester Keene 8138 Anchor Bay Dr.
Eric Flenn (sp), attorney, representative

Former appeal 2005-001.

Mr. Keene: 6350 sq. ft. size lot, expanded seawall, 1822.5 sq. ft. Additional 8 ft. to house, 2122.5 sq. ft. Addition would be 8 ft. x 37.5 ft. (creates more than 30% coverage of lot). Photos passed to board.

Appellate: There are medical problems and current house has no handicap access. Addition would create handicap facilities.

Attorney discussed various other properties ZBA allowed over 30% coverage.

Makuch: At the original ZBA hearing, Mr. Brennan represented.

Request for variance from Ordinance #123, to construct an 8' x 37.5' addition to the north side of the single family residential dwelling in an R1 district. Maximum coverage allowed is 30%, with addition would be 33% of lot coverage. The application was denied because Ordinance #123, Article XVIII, section 18.03 (5).

Letter, opposed: Marie Best, 8126 Anchor Bay.

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Public Participation:

In favor: Claudia Stevens, 8148 Anchor Bay Dr.

Opposed: Mr. Kruger, 8108 Anchor Bay Dr.; Chuck Meldrum, 8107 Anchor Bay Dr.; Anna Mae Lines, 8128 Anchor Bay Dr.; Gene David, 8154 Anchor Bay Dr.; Lisa David, 8154 Anchor Bay Dr.

Close Public Participation.

Makuch to Wiggle: What size is lot? Wiggle: 127' x 50', 6350 sq. ft. Current home is 1822.5 sq. ft. addition would be 2122.5 sq. ft. 6350 sq. ft. x 30% equals 1905 sq. ft.

Nelson: When was the house built? Appellate: 1990.

Antkowiak: Will addition be two story? Appellate: Yes.

Antkowiak to Wiggle: Are there variances on the setbacks? Wiggle: Setbacks are OK.

Nelson: Is the addition on the side? Appellate: Yes, north side.

Antkowiak to Mr. Flenn: What is Federal Land? Mr. Flenn: Gained 11+ ft at seawall from end of lot.

Wiggle: He used survey by James Survey and physical measurement, added an addition 2' on the 127'.

Wiggle: Used survey scale of the stamped survey.

Makuch: What is the purpose of the addition? Attorney: Addition will allow year round home because of medical conditions.

Makuch: What is needed for an entry way. Attorney: Needed for halls and bathroom.

Shirkey: 8' x 12' addition would be just over 30%. Down sizing to 8' x 24' would be 31.72% coverage.

Diss: What is square foot overall (both levels)?

Wiggle: Can only go by coverage of lot (first level).

Makuch: 8' x 15' = 30.6% coverage, 8' x 16' = 30.7%', x 20' = 31.2%,

Motion by Shirkey, supported by Diss, to allow variance for addition 8' x 16' giving 30.7% coverage.

Mr. Keene: That would only allow 1200 sq. ft. for downstairs.

Mr. Brennan, builder: That is not enough room for a bathroom at 8' x 16'.

Motion withdrawn.

Antkowiak: Lot size is small but normal for the area with a potential of additional Federal Land.

Makuch: Applicant has submitted additional information but not stamped. ZBA can only use stamped information.

Wiggle: 66' x 115' would equal 32.0% coverage.

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Makuch: The lot is non-conforming in character.

Motion by Makuch, supported by Diss, because of non-conforming lot with others in the neighborhood and no adequate burden to show lot itself is no practical difficulty, deny based on the facts and can be used as is. AYES: All. NAYES: None. MOTION CARRIED.

2005-008 Tony Peterson 7764 Phillips
 Scott Rumely, Patio Rooms, Inc., builder, representative

Representative is requesting to build a 12' x 19' sun roof on the second floor.

Request for variance from Ordinance #123, to have an enclosure with solid vertical sides placed on a deck (solid side not allowed), to place enclosure on a second story deck (needs dwelling units to be firmly attached to a permanent foundation), north rear yard setback of 31.1' (variance of 8.9'), and total lot coverage of 31.29% coverage (allowed 30%). The application was denied because Ordinance #123, Articles III, section 3.05 (1), section 3.16 (5), and Article XVIII, section 18.03 (5).

Makuch: This is not enclosed?

Nelson: Is the sun roof on the second floor? Builder: Yes. Needs to have a foundation for the deck.

Shirkey: Is there a permit issued?

Wiggle: The deck has a cover.

Antkowiak: The sun roof is attached permanently to the house?

Wiggle: Need sufficient footing of the deck.

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

Makuch: Is there an issue with obstructing view? Wiggle: Yes.

Shirkey: The covered deck is larger than the permit.

Motion by Makuch, supported by Shirkey, to deny, the lot falls within the character of the neighborhood, no practical difficulty shown and the lot could be used as is.

Builder: Could the deck be reduced in size? Nelson: That is a possibility.

Shirkey: See the building inspector for the township.

AYES: All. NAYES: None. MOTION CARRIED.

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2005-009 Anthony M. Schade 8418 Anchor Bay
 Ricky Schade, representing 8418 Anchor Bay

Representative requesting to replace an old boat house. The old boat house was enclosed (destroyed due to fire).

Nelson: What is the original wall. Representative: The north wall is original.

Nelson: What looks like an upside down barge? Appellate: It is a barge and is used to work on.

Request a variance Ordinance #123 to have a variance to have an enclosed 15' x 24' boathouse. Ordinance requires all sides open. Original application was denied because Ordinance #123, Article III, section 3.01 (7d).

Shirkey: Is there a garage? Representative: No, the roof is part of original walls.

Makuch: Does this one have a roof? Representative: Yes.

Shirkey: Is this two story? Representative: No.

Diss: Is height 15' to mid span? Representative: Roof is taken off.

Wiggle: Appellate has a permit for garage roof and needs a variance for boathouse.

Diss: What is original height? Appellate: 7' x 12' allows room for storage.

Wiggle: Average height to plate to ridge is 13'. Request is for a 24' x 15' replacement boathouse on steel seawall.

Representative presented additional letters in favor.

Public Participation:

In favor: No comment.

Opposed: No comment.

Close Public Participation.

Diss: What is unique to this boathouse as compared to "Bird" street?

Antkowiak: Why the closed boathouse?

Makuch: Closed to the elements. This boathouse is not obstructing view.

Motion by Makuch, supported by Shirkey, to approve request to replacing boathouse and garage, showing practical difficulty and no problem with obstructing view.

AYES: All. NAYES: None. MOTION CARRIED.

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2005-010

Alan and Sandra Jeske

6488 Marina Dr.

Appellate is requesting a fence from seawall to the house (would be adding 24' fence, 29' total), 4' high, cyclone. Medical necessity and there are two dogs on a cable. Fence is on one side already. Neighbor is encroaching on her property.

Request a variance Ordinance #123 to place 24' of 4' high cyclone fence on north waterside yard of their property. Original application was denied because Ordinance #123, section 2.02 (definitions).

Letter, opposed: Robert Holmes, 6490 Marina.

Diss: How long has there been an existing fence? Appellate: Since they purchased the home.

Public Participation:

In favor: No comment.

Opposed: No comment.

Close Public Participation.

Antkowiak: Referring to the definition of fences, other fences in the area but being on the water denies fences.

Wiggle: If a swimming pool, the fence has to be granted around the pool.

Appellate: The garden of the neighbor obstructs her view.

Makuch: There is an existing fence and a short fence only 4' high is requested.

Diss: Have we allowed fences?

Antkowiak: ZBA does not want obstructed view but this is unique because of water denying the fence.

Shirkey: Is there an option? Appellate: No. Shirkey: All water front property is unique.

Makuch: Fence is only for a short distance.

Motion by Diss, to deny request as presented. There is no practical difficulty.

No support. Motion dies.

Motion by Antkowiak, supported by Makuch, to approve the variance due to an existing fence, unique water front and not obstructing view; ZBA can allow a small fence.

AYES: Makuch, Antkowiak, Nelson. NAYES: Diss, Shirkey. MOTION CARRIED.

2005-011

George Crown

3074 S. Channel Dr. (building)

3061 S. Channel Dr. (home)

Appellate is requesting a permanent sign for Island Grill and Crown Studios. Sign is 6' x 6' on an upright post.

Nelson: Sign would be too close to the easement.

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Nelson: House is 32' x 38'? 60' x 120' is the size of a lot. Too large.

Makuch: Could this be tailored down some?

Nelson: You have the option to postpone.

Antkowiak: Re-evaluate the size.

Representative? What is the smaller size? Will be all cement flooring.

Motion by Diss, supported by Makuch, to alter or amend the appeal, to not be more than 4800 sq. ft.

Antkowiak: What reason? Diss: Based on unique parcel and characteristics of the neighborhood.

Representative: Motion will be acceptable for 4800 sq. ft.

AYES: Shirkey, Nelson Diss, Makuch. NAYES: Antkowiak MOTION CARRIED.

2005-013 Joseph Zpezia 7248 Flamingo

Appellate requesting to construct an accessory building 6" from main structure. Appeal to replace wood shed. Shed was in place.

Request a variance Ordinance #123 to place an accessory building 6" from the main structure requiring a variance of 9'6" and to be 6" from the south side lot line, variance of 2'6". Original application was denied because Ordinance #123, Article III, section 3.01 (3).

Shirkey: This will not be attached to the house?

Makuch: For fire reasons 6" from the house too close.

Wiggle: State building code requires shed to be detached.

Shirkey: What is the side yard? 6" from the house, 6" from the lot line.

Wiggle: Ordinance #30 requires control of the water (down spouts). Cement foundation is already in place.

Public Participation:

In favor: Dave Van Daele, 7250 Flamingo

Opposed: No comment.

Close Public Participation.

Makuch: Concern to connect to the house. Shed will be 6" from the house.

Shirkey: Some are attached.

Nelson: Some sheds are connected to the house.

Makuch: It is OK to replace a shed.

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Antkowiak: It will be unobstructed view.

Nelson: Take to the Planning Commission. Makuch: No.

**Motion by Diss, supported by Shirkey, to grant request to replace the destroyed original structure.
AYES: Shirkey, Makuch, Diss, Antkowiak. NAYES: Nelson. MOTION CARRIED.**

6. Member Comments

Election of Officers for ZBA: Chairman, Ron Nelson; Vice Chairman, Tony Antkowiak; Secretary, Diss.
Unanimous approval.

Diss: Appeals should be limited to five per meeting.

Nelson: If approved in time to process appeal has to be on the agenda.

Makuch: Write a letter to the Planning Commission so the representative can bring to the ZBA meeting.

Makuch: Fences should be unobstructed.

Planning Commission representative, Antkowiak, to present ZBA's concern to Planning Commission, discuss 30% land coverage of smaller lot sizes such as Anchor Bay Dr. and Perch Point Isles, issue of fences in unobstructed yard space.

There will be a joint meeting/workshop with Planning Commission on the 4th Wednesday of August (August 24, 2005)

7. Public Comment

None.

8. Adjournment

**Moved by Makuch, supported by Shirkey, to adjourn at 10:15 p.m.
AYES: All. NAYES: None. MOTION CARRIED.**

Respectfully submitted,

Dolores M. Nelson
Recording Secretary