

**MINUTES OF THE CLAY TOWNSHIP ZONING BOARD OF APPEALS HELD ON THURSDAY, SEPTEMBER 15, 2005 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 Cal

Present: Joanne Shirkey, Ron Nelson, John Makuch, Marianne Diss.

Excused: Anthony Antkowiak.

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

2. APPROVAL/AMENDMENTS TO AGENDA

**Moved by Makuch, supported by Shirkey, to amend the agenda to add item No. 5-A: Discussion of the fence issue regarding the letter from Township Attorney John McNamee. AYES: All. NAYES: None. ABSENT: Antkowiak. Motion Carried.**

3. 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, four 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 involve with has finished, you are welcome to leave or stay, whatever you wish.

4. APPROVAL OF MINUTES OF AUGUST 18, 2005

**Moved by Makuch, supported by Diss, to approve the minutes as presented. AYES: All. NAYES: None. MOTION CARRIED. Excused: Anthony Antkowiak.**

5. APPEALS

2005-16          Steven Nichol          3924 Middle Channel Drive

Applicant: Asking for a variance for square footage on a garage to store my boat.

Chair Nelson: Total accessory buildings is not suppose to exceed the square footage of the home, size wise you have a substandard home according to the current ordinance.

Applicant: Originally did have two homes on the lot and a small single garage.

John Makuch: Calculated average lot size is 68' in the front and 55' in the back.

Tim Wiggle: Not near the lot coverage issue.

Joanne Shirley: Lot is really 200' not counting the one out in the water.

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Open the Public Hearing:

Chair Nelson: Property owner at 3924 Middle Channel Drive wants to build another garage, the two buildings will exceed the house square footage, house is only 800', Ordinance based on 1,000'.

In favor: No comment.

Opposed: No comment.

Close the public participation.

**Motion by Shirkey, supported by Makuch, to grant the variance as presented due to the fact the square footage of the house only 884 square feet while Ordinance 123 is based on 1,000 square feet.**

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

**2005-17 Samuel Smith 6407 Dyke Road**

Applicant Sam Smith: Sent a letter in regarding the shed put up not knowing had to go before the ZBA. Notice states I am asking for a 9' variance, tool shed is almost 7' from the house, turn the shed around have a balance of a 5' variance; live on the highway, have a small lot, everything on the lot is nonconforming, 8' square shed and a garage and still not enough room, truck broken into in April, carrying \$8,000 worth of tools from front yard to the garage, tool shed store the boating and lawn equipment.

Chairman Nelson: Were you before the ZBA some time ago?

Applicant: Maybe six years ago for a garage.

Chairman Nelson: Shed is between the garage and the house.

Applicant: Not asking for a 9' variance, shed is back close to the house.

Chairman Nelson: Lot coverage, 6 square feet over the lot coverage.

Several letters to read into the record:

- Delbert VanNest, 6486 Marina Drive - in favor of Mr. Smith's shed.
- Frank T. Valli, 6405 Dyke Road – disapprove of the shed.
- Samuel and Suzanne Smith, 6407 Dyke Road –stated reasons should be granted the variance for the shed.
- Doreen Sersali & Donald Forbes - in favor of the shed.

Any questions from the Board:

John Makuch: Your application says temporary tool shed, could you explain?

Sam Smith: Antique car in the garage restoring, hoping to have it done in a year.

Suzanne Smith: Like to keep shed permanently would be great, if we can.

Sam Smith: Don't want to be held that the shed is only needed for a year could be longer.

Marianne Diss: What is the percentage of coverage on the lot without the 80 sq. ft.?

Zoning Adm. Tim Wiggle: Even w/o the 80 sq. ft., he is still in the 36-37% range, files indicate denied variance, already in excess of the 30%

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Open the public hearing:

Chairman Nelson: Regarding the shed at 6407 Dyke Road the placement of it and the percent of square footage.

In favor: None.

Opposed: None.

Close the public portion.

Zoning Adm. Tim Wiggle: 36.35% lot coverage, 80 sq.ft. is not even going to impact it.

John Makuch: Property is nonconforming, might not have an objection if we allow him a temporary variance for a period of 18 months with a bond posted of \$500.00, merely an insurance policy.

Chairman Nelson: Explained to applicant bond can be set up at the bank or a letter of credit. Guarantees the Township if you don't take the building down in 18 months, the Township will take it down.

Marianne Diss: All those lots in that area are nonconforming, 2-story home and garage, 36% lot coverage, don't see any practical difficulty.

Chairman Nelson: ZBA action was set before.

Applicant Sam Smith: What I applied for 8 yrs. ago has nothing to do with this shed, turned down because of neighbor's comments.

John Makuch: Letters have to be read by law, emotional and personal have nothing to do with the case.

Marianne Diss: Personally don't see any practical difficulty, not our fault not ample space for storage, lot is pretty close to lots on Bealane and JoChar.

Joanne Shirkey: Prefer the shed be allowed only for 1 year.

Motion by Makuch, supported by Shirkey to approve the variance on a temporary basis on the accessory structure for a period of twelve (12) months, once the applicant can post a bond in the amount of \$500.00 and show it to the Building Department.

VOTE ON THE MOTION: AYES: Makuch, Shirkey. NAYES: Diss, Nelson. ABSENT: Antkowiak.

**MOTION A TIE.**

CHAIRMAN NELSON: REQUESTED A ROLL CALL ON THE MOTION.

R/C VOTE: AYES: Makuch, Shirkey. NAYES: Diss, Nelson.

ABSENT: Antkowiak.

Discussion:

Chairman Nelson: Two things to consider: accessory building & lot coverage; does the Building Department require where shed is so close a firewall?

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Tim Wiggle: If the structure is closer to the house than allowed requires special construction standards, will find out the specs.

Chairman Nelson: Tie vote goes back to the Ordinance.

REQUEST FOR THE VARIANCE FOR 6407 DYKE ROAD IS DENIED.

**2005-18**

**TERESA RICA**

**7374 FLAMINGO**

Applicant David Rica: Requesting a variance of .7 feet to have south side yard setback of 4.3 feet for the placement of 4' x 10 shed.

Joanne Shirkey: Is the shed to be attached to the house?

David Ricca: Fire Wall.

Tim Wiggle: Applicant hired a gentlemen recommended from one of our local company's, was told a permit was not needed, applicant was caught in a Catch "22", not their fault did not apply for a permit because of the bad information received..

The ordinance not impacting the one side, concern is the minimum of 5' only yard they are encroaching in.

Open the public participation:

Chairman Nelson: Applicant requesting a ½ ft. variance to the south side for a shed.

In favor:

Greg Smith, 7376 Flamingo

Norma Smith, 7376 Flamingo

Carolyn Ziegler, 7373 Flamingo

Jane Krecht, 7371 Flamingo

Virginia Colegrove, 8909 Anchor Bay

Opposed: None.

Public hearing closed.

Motion by Diss, supported by Shirkey, to grant the application as presented due to practical difficulty of only practical place to put shed and has minimum of 15' to the side yards.

Ayes: All. Nays: None. Excused: Antkowiak.

**MOTION CARRIED.**

**2005-19**

**KEN/DENISE KOZLOWSKI**

**8622 ANCHOR BAY DRIVE**

Mrs. D. Kozlowski: Asking for a variance to tear down the house and add an attached garage and make it more handicap accessible for her husband.

Chairman Nelson: You own both sides of the road, two reasons for the variance is the side yard setback of 10'6", ordinance requires a total side yard setback of 15' and to have the front yard setback at 14', total lot coverage will be 38%.

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Applicant: Only a 40' lot, owned since 1978, our addition would be less than the neighbors.

Marianne Diss: New garage will be 31 x 24 and a garage on the other lot too.

Timothy Wiggle: Calculating the two lots together, lot the house is being built on they actually gain, combined lots have to consider the two lots plus the structures.

Marianne Diss: Problem with combining those lots can be split just as easily.

Lengthy discussion re: lot size and the coverage on both lots.

Chairman Nelson: Reduce the size of the garage to 24' x 24', informed the owners being very cautious since a prior case, explained some of the difficulties.

Tim Wiggle: Only got about 200' sq. ft. to play with.

Diss: Allowed to replace the original footprint.

John Makuch: Setbacks no problem, lot coverage is the issue.

Chairman Nelson: Builder is Timberwood Construction, if denied would the applicant agree to see how your builder can reduce the amount of lot coverage, must hold it to the 30%.

Tim Wiggle: Directed to the applicant, come back with a new plan and will notify the ZBA and place it on the agenda.

Open the public hearing:

Chairman Nelson: Applicant is requesting a variance for a total side yard setback of 10'6", Ordinance requires a total side yard setback of 15', front yard setback of 14', required front yard setback is 25' and lot coverage will be 38.14%.

In favor: Mr. And Mrs. K. Kozlowski.

Opposed: None

Close the public portion.

Motion by Makuch, supported by Shirkey, to table the request from Mr. And Mrs. Ken Kozlowski until the applicant has time to revisit the builder and make a possible revision in order to reevaluate the percentage of lot coverage.

AYES: All. NAYS: None. ABSENT: Antkowiak. **MOTION CARRIED.**

**5-A. Discussion of the letter from Attorney John McNamee Re: Fence Issue/Dianne Owen:**

Zoning Adm. Timothy Wiggle: Updated the ZBA on the issue, Supervisor Manos asked Mr. McNamee to review the Ordinance language on "Unobstructed Yard Space" regarding the "45 degree angle".

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Lengthy discussion followed re: Ordinance language, setting a precedent, variance is forever, etc.

Chairman Nelson: ZBA opinion is that the fence stops at the waterside corner of the home, Board members agree.

Tim Wiggle will report back to Mr. McNamee.

**6. MEMBER COMMENTS:**

Zoning Adm. Timothy Wiggle: Feedback from ZBA re: tents being put up as temporary structures, time frame of what is a temporary structure.

Chairman Nelson: Tony Antkowiak can carry that back to the Committee and get some parameters set.

Chairman Nelson: Reminder special meeting on September 29, 2005.

**7. ADJOURNMENT:**

Moved by Diss, supported by Makuch, **APPROVED**, to adjourn the meeting at 9:03 p.m.

AYES: All. NAYS: None. EXCUSED: Antkowiak.

Valerie J. Kulba  
Recorder