

**MINUTES OF THE CLAY TOWNSHIP ZONING BOARD OF APPEALS HELD ON THURSDAY, OCTOBER 20, 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

Diss asked to add 5B to agenda, Special Information in ZBA packet.

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

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

3. APPROVAL OF MINUTES OF SEPT. 15 AND SPECIAL MEETING SEPT. 29, 2005

Sept. 15, 2005: Correction by Diss p.3 "don't see any problem" should be changed to "don't see any practical difficulty."

**Moved by Diss, supported by Makuch, to approve the minutes as corrected.**

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

Sept. 20, 2005: **Moved by Makuch, supported by Antkowiak to approve the minutes as presented.**

**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. Old Appeal

2005-017                      Samuel Smith                      6407 Dyke Rd.

Appellate requesting to have a storage shed for tools for his job. Size 18 ft. x 10 ft.

Nelson: Shed is close to home.

**Request for variance from Ordinance #123, to place an accessory structure 1 ft. from the main structure requiring a variance of 9 ft and to have total lot coverage of 36.37%, variance of 6.37%. The application was denied because Ordinance #123, Article, III, section 3.01 (3) and Section 18.03 (5).**

Appellate: Shed is almost 3 ft. from house. Size 76 sq. ft.

Nelson: This is a temporary one year request; what is the period of time? Appellate: 18 months is probably not enough. 6405 Dyke Rd has a wood shed close to house.

Makuch: What is the size of shed? 7'6", (8 ft. x 10 ft.)

Makuch: Discussed lot coverage.

Wiggle: Lot coverage is 36.37% including shed.

Shirkey: Does 36.37% include the shed? Wiggle: Yes.

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Nelson: This appeal is back to ZBA because last vote was 2-2. Appellate is back to ZBA for a full board hearing.

Letters: In favor: Bob and Joan Pruss, 6410 Marina Dr.; D. Duncan, 6409 Dyke Rd.

Antkowiak: There is no reference to any practical difficulty. The need for storage is created by appellate.

Diss: It is not the ZBA's responsibility to find storage after the residence is constructed, only when under construction.

Antkowiak: Lot is non-conforming and lot coverage is 36%.

Diss: We would have to allow storage for others.

Public Participation:

In favor: Joan Pankrantz, 6412 Marina.

Opposed: No comment.

Close Public Participation.

Diss: Was there a variance allowed for the garage? Wiggle: Yes, 2000. ZBA is concerned with lot coverage. There is a problem with granting more coverage.

Nelson: What is practical difficulty? No answer.

Appellate: His hardship is need for storage.

Antkowiak: This is a personal difficulty, not a practical difficulty. There is no practical difficulty according to the ordinance.

Makuch: Not concerned with the location of the shed but the percentage of lot coverage.

Nelson: 65 ft. lot size.

**Motion by Diss, supported by Antkowiak to deny request due to no practical difficulty, lot coverage of 34.9% without the shed and in accordance with lot size.**

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

Appellate: Neighbors have a shed, how long does appellate have to remove the shed? Wiggle: 21 days to appeal.

New Appeals

2005-021

Robert Bryson

3272 South Channel Dr. Harsens Island

The Planning Commission asked to come to the ZBA.

Appellate is requesting a variance to eliminate the greenbelt along the south property line abutting R-1 residential zone. Request is part of Site Plan application.

**Request for variance from Ordinance #123, to eliminate the greenbelt. The application was denied because Ordinance #123, section 27.04.**

Antkowiak: Hedge would hinder the view of the marina for security.

Makuch: Is there more building in the future? Appellate: Yes.

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Letters: In favor of exemption of greenbelt: Nicholas Sarzynski, 203 Poplar St.; Chris and Bob Engel, 3272 South Channel.

Nelson: Questioned if pine trees are used for greenbelt? Appellate: Yes.

Public Participation:

In favor: No comment.

Opposed: Mr. Galati, 125 Poplar, opposed greenbelt barrier between commercial and residential.

Close Public Participation.

Shirkey: Greenbelt not involved.

Makuch: Residents legally notified within 550 ft.

Shirkey: There is no purpose for the greenbelt.

Nelson: No purpose of greenbelt for future buildings.

Antkowiak: Ordinance #123 requires greenbelt between residential and commercial property. What is practical difficulty? Is security a problem? Appellate: No problem.

Appellate: Planning commission requires a practical difficulty. Appellate had to come to ZBA because of Planning Commission request.

Makuch: There are four descriptive difficulties.

Antkowiak: Appellate needs a practical difficulty.

Shirkey: Greenbelt has no bearing, no use and should be waived.

Diss: Appellate is being forced to have a greenbelt. What right does the ZBA have to force greenbelt where it has never existed.

Shirkey: There is no purpose.

Antkowiak: Discussion.

**Motion by Shirkey, supported by Makuch, to accept appeal as presented to eliminate greenbelt, serves no practical purpose.**

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

2005-022

Ken Sheets

6378 Marina

Appellate requesting to construct an outside deck.

Nelson: Is there a patio there? Appellate: Yes.

Nelson: A deck adds to the lot coverage. This is a new house and deck should have been thought of at the time of construction. Appellate: Neighbors do not see the deck. Neighbors have decks that extend out further.

**Request a variance Ordinance #123 to construct a cover/deck over his open rear patio in an R-2 residential district, requiring a variance to have lot coverage of 32.56%, asking for a 2.56% variance. Original application was denied because Ordinance #123, Article XVIII, section 18.03 (5).**

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Wiggle: Average setback is covered in new ordinance.

Wiggle: Appellate came before ZBA (under Ordinance #89); now a covered deck becomes part of the lot coverage.

Shirkey: What is coverage without second floor deck? Wiggle: Lot coverage is OK; second story adds to lot coverage.

Diss: Is this deck open on both levels? Appellate: Only covers existing patio.

Public Participation:

In favor: No comment.

Opposed: No comment.

Close Public Participation.

Antkowiak to Wiggle: Would he be allowed to put up a larger open deck? Wiggle: Would add to lot coverage.

Nelson: Second floor deck covering the first floor will add to lot coverage.

Makuch: There is no practical difficulty.

**Motion by Diss, to grant as presented, practical difficulty being only place to locate a second story deck. It is not protruding or extending present patio.**

**MOTION DIES, NO SUPPORT.**

**Motion by Makuch, supported by Antkowiak, to deny finding no practical difficulty.**

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

Appellate discussed percentage of ratio coverage.

Antkowiak: Suggested appellate come to Planning commission to explain ratio coverage.

Makuch: Planning Commission meeting is 2<sup>nd</sup> and 4<sup>th</sup> Wednesday.

Shirkey: Go to Planning Commission.

Appellate: Does not alter neighborhood.

Nelson: Size does not change.

2005-023

Dennis Orosz

4663 Pte. Tremble

Appellate is appealing a new residence with a chimney extending 2 ft. into west side yard.

**Request a variance Ordinance #123 to have a west sideyard variance setback of 5.5 ft. (minimum total side yard setback is 15 ft. Original application was denied because Ordinance #123, Article XVIII, section 18.03 (5).**

Shirkey: How large is the chimney? Appellate: 2 ft. x 4 ft.

Antkowiak: Is it possible to move? Appellate: If moved, it would bring chimney into living area.

Antkowiak: What would you lose? Appellate: 12 ft would extend into living room.

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Makuch: This is a 50 ft. lot.

Nelson: Could it be a bay window? Wiggle: Bay window or chimney chase is not included.

Diss: How does this affect old Ordinance #89? Wiggle: It would be OK.

Makuch: Was a house there before? Appellate Yes.

Diss: Is it a conforming lot? Wiggle: The ordinance does not create practical difficulty.

Letter: In favor: William P. Ryniewicz, 4651 Pointe Tremble.

Public Participation:

In favor: Mary Ann Dudek, 4679 Pointe Tremble; Carl Dudek, 6389 Dyke; Robert Skvarce, 4719 Pointe Tremble.

Opposed: No comment.

Close Public Participation.

**Motion by Shirkey, supported by Makuch, to grant as presented, practical difficulty being lot size and chimney is localized.**

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

2005-024

Patrick Wagner

9305 N. River Rd.

Nelson: Why is appellate before the ZBA? Appellate: There is an 8 ft. chain link fence around the tennis court.

Antkowiak: There is a large portion of the lot far from the road. Home is on the river and is unique because of the large lot size.

Makuch: Be careful when discussing about lot size. Use "shape" or "size."

**Request a variance Ordinance #123 to have an eight foot high chain link fence around his tennis court in his front yard. Original application denied because Ordinance #123, Article III section 3.09 (a-b).**

Public Participation:

In favor: No comment.

Opposed: No comment.

Close Public Participation.

Antkowiak: Fence does not obstruct a view.

Shirkey: What is acreage? Wiggle: 2-1/2 acres.

**Motion by Antkowiak, supported by Makuch, to grant request because practical difficulty is the large size of the lot, home is located on the river and anything would need to be built in front of the home to the road.**

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

5B. Special Information in ZBA Packet

Diss: Regarding opinions of neighbors, does it have to be read aloud? Wiggle: Yes, discussion; letters are written for/against neighbors. Nelson: All communications concerned must be read to the public.

6. Member Comments

Antkowiak: Practical difficulty and criteria should be discussed.

Wiggle: Defined by attorney. Appellates get a copy of the ordinance.

Makuch would like to attend a Planning Commission meeting as a citizen, discuss overhang and lot coverage.

7. Public Comment

No comment.

8. Adjournment

**Moved by Makuch, supported by Shirkey, to adjourn at 9:08 p.m.**

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

Respectfully submitted,

Dolores M. Nelson  
Recording Secretary