

MINUTES OF THE CLAY TOWNSHIP PLANNING COMMISSION REGULAR MEETING HELD ON SEPTEMBER 13, 2006 IN THE CLAY TOWNSHIP MEETING HALL, 4710 PTE. TREMBLE ROAD, CLAY TOWNSHIP, MICHIGAN 48001.

1. Chairperson Dorothy DeBoyer called the meeting to order at 7:30 p.m.

2. **ROLL CALL:**

PRESENT: Chairperson DeBoyer, Vice Chair Anthony Antkowiak, Pat Sharrow, Whitey Simon, George Lyle, Kathie Schweikart, Thomas Krueger, Edward Keller II.

ABSENT: Earl Lines (Excused)

Also present was Community Planning Peter Briddick.

Chairperson DeBoyer: Before our agenda tonight, there is something I would like to address. There have been public comments made with reference to this board and the comments made reflect on the integrity of this board. This Planning Commission Board is probably one of the best you will ever encounter and stand on the integrity of each member of this board. I will share with you the advice of our Attorney John McNamee. There was a public hearing held two weeks ago and everyone had an opportunity to speak at that public hearing. A motion was made and the public hearing has been closed. If anyone is planning on speaking tonight on the subject they will not be allowed. We must give due process to everyone that comes before the Board.

Richard Baker: Interrupted the meeting, public meeting, we can speak if we want.

Chairperson DeBoyer: The applicant is not here to respond to anything, we will take comments on anything else. You can write a letter and it will be read. This advice is on legal counsel and you could put this Township in legal jeopardy. Refer now to our Planner for his comments.

Community Planner Peter Briddick: Further explained the legal reasons not allowed to take any comments on the subject matter. State Law Enabling Act is a set of guidelines all Planning Commission Boards must follow. Strongly stated once a public hearing has been heard and closed, you shall not or enter any other comments from the applicant or from the Commission on a whole. Extreme dire risk of litigation because the applicant's due process through the Michigan Enabling Act has been jeopardized. In a nutshell can only discuss the process.

3. **AMENDMENTS TO THE AGENDA:** None.

4. **APPROVAL OF MINUTES:** August 9, 2006

Motion by Sharrow, supported by Simon to approve the August 9, 2006 Minutes.

Changes to the minutes: Page 4, #7 Site Plan Consideration: Nick's Country Oven: comment by Pat Sharrow, 3rd paragraph from the bottom, error of the year when Mr. Grillo purchased the property, should be changed to **1991 or 1992**.

Page 3, 2nd paragraph from the bottom, statement by Tom Burgess: typo on the 2nd line should be changed to "we probably won't have a permanent generator."

Minutes approved with the above corrections as stated.

AYES: All. NAYS: None. EXCUSED: Earl Lines. **MOTION CARRIED.**

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5. **LOT SPLIT:** 06-11 – John Horvath

74-14-631-0060-000/74-14-631-0060-100/74-14-631-0060-200 Golf Course Road

Chairperson DeBoyer: Applicant Mr. Horvath present, do you have any comments?

John Horvath: Did the Commission get their copy of the title search? Title does indicate we do own the property, water bill paid and have a receipt, property taxes deferred to December. This split will clean things up and now the 8 acres will conform. Third parcel has 300 plus feet and meets the 5 to 1.

Motion by Krueger to recommend to the Township Board the Lot Split 06-11 for John Horvath. Supported by Lyle.

Discussion:

Chairperson DeBoyer: In reviewing each of these parcels, “D” there is an uncompleted house.

John Horvath: Original home we were going to build but built the garage and put the footings in and ended up not building in the back. It is a garage with a complete foundation only no light in it. Mr. Kras said we could only have one6 dwelling at a time. We decided to split lot so it would conform to your rules.

Chairperson DeBoyer: Problem is it is not a house and would be classified as an accessory structure; our Ordinance does not allow an accessory building on a lot w/o a house. You would have to obtain a building permit and complete the house.

John Horvath: No problem, accessory structure has been there since the 40’s.

Chairperson DeBoyer: Planning Commission is bound by the Ordinance.

Pat Sharrow: He could go before the ZBA and request a variance.

John Horvath: Once a year drive a nail into the structure to keep the permit valid.

Chairperson DeBoyer: Cannot separate Parcel D off with that structure if not a house.

Pat Sharrow: We need every building and pond drawn to scale and certified by engineer. Usually a split is to sell, not your intention at all.

John Horvath: Intention is stay on the property, raise pigs and chickens; split would help.

Chairperson DeBoyer: Engineer David Little did drawing in 2006, helpful to the Commission if the drawing showed where the buildings are. Cannot create a nonconforming lot, where are the lot lines, no eng. certification to verify.

Specifically need the following:

- Drawing indicating where the buildings are in relationship to the lot lines must not encroach on any lot lines.

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Anthony Antkowiak: Referred to the lot split application, #7, specifically states existing improvements shall be included on the drawing, therefore not our responsibility telling Mr. Horvath what he has to have.

John Horvath: Existing buildings have been there many years.

Anthony Antkowiak: The information we need has to be on these plans in order for us to do anything with this. Building on proposed Parcel D, therefore you must apply for a variance or build a house or 3rd option is tear down the structure.

MOTION TO RECOMMEND APPROVAL TO THE TOWNSHIP BOARD FOR LOT SPLIT 06-11 AS PRESENTED. R/C VOTE: AYES: NONE. NAYS: LYLE, KELLER, SCHWEIKART, KRUEGER, SIMON ANTKOWIAK, SHARROW, DEBOYER. ABSENT: LINES. **MOTION DEFEATED.**

MOTION BY SHARROW TO POSTPONE A DECISION ON LOT SPLIT 06-11 UNTIL THE APPLICANT JOHN HORVATH HAS AN OPPORTUNITY TO RETURN THE DRAWING TO THE ENGINEER DAVE LITTLE TO ADD ALL THE EXISTING BUILDINGS AND WHERE THE BUILDINGS ARE IN RELATIONSHIP TO THE LOT LINES ON THE PROPERTY AND IMPROVEMENTS SUCH AS WELLS, SEPTIC SYSTEMS, DRIVEWAYS ARE INDICATED IN THE APPLICATION AND A CERTIFIED LETTER FROM THE ENGINEER VERIFYING HE HAS DONE THOSE THINGS FOR THE PLANNING COMMISSION. SUPPORTED BY SIMON.

Discussion of motion:

Anthony Antkowiak: Amend motion to include the statement: “Mr. Horvath be allowed to seek a variance from the ZBA if it is his wish to leave the building on Parcel D.”

MOTION TO AMEND BY SHARROW, SUPPORTED BY SIMON, TO INCLUDE THE ABOVE STATEMENT AS PART OF THE ORIGINAL MOTION.

R/C VOTE: AYES: LYLE, KRUEGER, KELLER, SCHWEIKART, SHARROW, SIMON, ANTKOWIAK, DEBOYER. NAYS: NONE. ABSENT: LINES. **MOTION CARRIED.**

6. DISCUSSION ON SURVEY:

Chairperson DeBoyer: Received 675 surveys, deadline is Friday, will accept surveys until actually tallying has started. Need to start compiling information, 28 questions some with four possible comments.

Pauline Dueweke with the DDA has knowledge that would save us some time. Set up a workshop to process them and determine how many people we need to work on them.

Dates were discussed. Decided on an organizational meeting will be held on **Thursday, September 28, 2006 at 7:00 p.m. in the Township Hall.**

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7. PLANNING CONSULTANT'S REPORT

Community Planning Peter Briddick: Reaffirmed the importance of the applicant of a land use project is given the procedural due process and there was not the perceived violation of due process or a violation of their constitutional rights. Cited examples of how the subject matter before the Commission can be misconstrued, i.e. informal conversations outside the formal meeting, as professionals we have to be careful how we petition for our personal redress.

Chairperson DeBoyer: Our position as Commissioners is we want to do things the way they are suppose to be done and we have to protect our applicant. Feel strongly this Commission is an ethical and well-educated commission; we know what is expected of us and live by it.

Peter Briddick: Patrick Meagher and myself when we teach at the state level we hold this Planning Commission as a benchmark and an example.

8. Z.B.A. REPRESENTATIVE'S REPORT

Anthony Antkowiak: Reiterate the need to have the enclosed boathouse rules and regulations reviewed in the Ordinance; very important we do some corrections there.

9. CHAIRPERSON'S REPORT

Update re: Ordinance amendments – the new Zoning Enabling Law we have to amend our Ordinance. Attorney McNamee has finished his portion and the Planner Patrick Meagher is very close to completing. Per Mr. Antkowiak's ZBA report re: enclosed boathouses: good time to ask that of our planner how to handle this, unique community, some rules and regulations just do not fit and are causing a problem. The Ordinance Committee will meet and will bring the amendments to the Board as a decision.

10. PLANNING COMMISSION MEMBER'S COMMENTS

Pat Sharrow: Referred to two past projects (Channelview and Seaway Drive-in) that came before the Planning Commission and were denied and the outcomes.

Planner Briddick: Court makes a consent judgment and a mutual agreement is made.

Chairperson DeBoyer: Excellent examples to abide by the law or we will be in trouble.

George Lyle: Waste water system for the McKinley Farm Project, waiting to find out where we can go see a similar system to that one, will let Chair DeBoyer know.

Pat Sharrow: Clerk Pellerito attended the MTA Educational Conference and concern was how will a waste water system be enforced 25 years from now, answer was a special assessment.

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Chairperson DeBoyer: Plan to invite the Township Board of Trustees for a joint meeting with the Planning Commission within the next six weeks. Good time to discuss things coming up in our community. Extend the invite to Attorney John McNamee and our Planners.

11. PUBLIC COMMENTS

Richard Baker, Stone Road: Rights are taken away by the building industry. This is my community and have the right to stand up and say something.

Chair DeBoyer: Other people have rights and you cannot infringe on their rights.

Richard Baker: Houses built has a large impact on the community we live in, it takes away from everyone. Does the Commission consider the school, police, fire, etc?

Chair DeBoyer: Reports are gathered from all those Departments (Engineer, Road Commission, Drain Commission, Water Dept., Fire, Police) that are impacted by any kind of development, they have to give comments to us.

John Horvath, Harsens Island: Comment re: earlier proposed lot split.

Bill Cope: If going to observe one of those wastewater treatment sites, need to look at two with different ages.

12. ADJOURNMENT

Motion by Antkowiak, supported by Schweikart, to adjourn at 9:04 p.m. Ayes: All. Nay: None. MOTION CARRIED.

Valerie J. Kulba
Recording Secretary