

MINUTES OF THE CLAY TOWNSHIP ZONING BOARD OF APPEALS HELD ON THURSDAY, JULY 20, 2006 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: Michael Kras, Clay Township Building and Zoning Administrator
John Mc Namee, Clay Township Attorney

2. APPROVAL/AMENDMENTS TO AGENDA

Nelson: Add 4A, rescind decision 2006-002, Russell Island Boathouses

**Moved by Antkowiak, supported by Shirkey, to approve the agenda as amended.
AYES: All. NAYES: None. MOTION CARRIED.**

3. APPROVAL OF MINUTES OF JUNE 15, 2006

Antkowiak: Correction, p. 3. Should read as: Planning Commission close to finalizing several ordinance amendments and enclosed boathouses in some situation is being considered.

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

4A. OLD BUSINESS

RE: Rescind motion for 2006-002, Russell Island Boathouses.

Mc Namee: ZBA meeting of 2/16/06. Some homeowners within 300' (4 homeowners) did not receive the advisement letter from Clay Township. These homeowners should have received the letter to attend the meeting and share their opinion. Mr. Mc Namee's recommendation is to rescind ZBA decision due to the lack of the notice. Recommend to continue 2006-002 at the August 17, 2006 ZBA meeting to allow for the deficiencies and proper procedure.

Shirkey: Date of 2/12/-06 should be changed to 2/16/06.

Nelson: ZBA should accept the resolution submitted and Diss, secretary to make the changes.

Motion by Makuch, supported by Shirkey, to rescind the ZBA decision because of lack of notification, contact the four other homeowners and rehear the appeal, 2006-002.

Roll Call: AYES, Shirkey, Makuch, Nelson, Diss, Antkowiak. NAYES: None. ABSENT: None. MOTION CARRIED.

**CLAY TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF JULY 20, 2006
PAGE TWO (2)**

5. APPEALS

2006-014 Rick Yohnicki 2976 Fruit Rd.
 Carleen Budinger

No one present for or against. Appeal is for a lot split.

Makuch to Antkowiak: Has this come to Planning Commission? Antkowiak: Yes.

Makuch: There are two homes on the lot, one to keep, one to sell.

Request for variance from Ordinance #123, to consider a lot split. The parent parcel will have a frontage of 60', a variance of 5' is needed. The application was denied because Ordinance #123, Article XVIII, section 18.03 (1).

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

**Motion by Makuch, supported by Shirkey, to approve the lot split, 2006-014, west 5' variance as applies due to uniqueness of size of lot, homes have been in existence.
AYES: All. NAYES: None. MOTION CARRIED.**

2006-015 Nick Gojcevic 3634 Pointe Tremble (Ref. Grillo's)

Appellate requesting to make the building into a family restaurant, lack of off street parking.

Nelson to Antkowiak: Has the appellate contacted Planning Commission: Antkowiak: No.

Kras: The Site Plan Review Committee has been contacted but not Planning Commission.

Request for variance from Ordinance #123, to consider variances for Nick's Country Oven. The application was denied because Ordinance #123, Article XXVII, section 27.05.

Variances: (1) Ordinance #123, sections 18.08 (7) for building setbacks, (2) section 18.08 (3&7) for landscape setbacks, (3) section 22.05 off street parking space layout and adjustments to ordinance, (4) interpretation of south access drive and provide landscaping, (5) require site plan review for showing all structures 200' to each side of the property, (6) full brick exterior.

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

MINUTES OF JULY 20, 2006
PAGE THREE (3)

Continuation: 2006-015

Antkowiak: Site Plan Review Committee: (1) 24' front encroachment and southwest corner, (2) required landscaping of 20' allowing the 13'-16' as exists to the landscape as proposed, (3) two parallel parking spaces at left side of building to provide proper maneuverability for ingress and egress and fire lane, (4) interpretation of south access drive and provide landscaping, (5) require site plan review for showing all structures 200' to each side of property, (6) full brick exterior. Number 4-6 has not been interpreted by Planning Commission.

Antkowiak: Suggested to deal with variances and not Planning Commission interpretation.

Antkowiak: Deal with the variances for southwest corner setback and 24' front encroachment, landscaping 13' – 16', two parallel parking spaces at left side for proper maneuverability for egress and ingress and allow for fire lane.

Makuch: ZBA should make a decision for number 1-3.

Motion by Antkowiak, supported by Makuch, to approve variances for southwest corner and 24 ft. front encroachment, required landscaping of 20 ft. allowing 13' – 16', as exists to be landscaped as proposed, and two parallel parking spaces at left side of building to provide proper maneuverability for ingress and egress and fire lane; based on position of existing buildings, existing parking lot and drainage ditch do not allow for 20 ft. landscaping and position of existing building prevents usual parking configuration.

AYES All. NAYES: None. MOTION CARRIED.

Motion by Antkowiak, supported by Shirkey, to postpone #2006-015, parts 4,5,6 maintaining the existing entrance drives, showing all structures within 200 ft on site plan, and allowing for painted block on proposed addition until after Planning Commission has reviewed and made interpretations.

AYES: All. NAYES: None. MOTION CARRIED.

2006-016 John Spasich 7291 Dyke Rd (Ref. Brisbay restaurant)

Appellate requesting greenbelt setbacks on both sides and parking requirements.

Request a variance Ordinance #123 for greenbelt setbacks and parking requirements. Original application was denied because Ordinance #123, Article XVIII, section 18.07 appendix A&B (E) and 3.10 and section 22.06, (25).

Nelson: ZBA was just presented with survey today.

Kras: Today is the site plan survey. Four parking spots can remain in parking right of way. MDOT has to approve.

Shirkey: Upset because of lack of information before the meeting.

Antkowiak: Appeal has not been before the Planning commission but has been to the site plan review committee.

Public Participation:

In favor: No comment

Opposed: Bill and Mary Lorraine, 7303 Dyke Rd.; Gerald Shiloff, 7307 Dyke Rd.

Close Public Participation.

Antkowiak: Approximately how many parking spaces are there? Appellate: About 20??

Kras, there are 23 spaces. Antkowiak: Requires 39 spaces.

**CLAY TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF JULY 20, 2006
PAGE FOUR (4)**

Continued: 2006-016

Makuch: Suggests to postpone to have the Planning Commission look at Tiki Bar (not shown on survey) and look at greenbelt.

Antkowiak: Does the Planning commission enforce Tiki Bar (patio). Kras. No. There is no liquor served on patio.

Antkowiak: This is a legal non-conforming business. 20' landscape can't be allowed on both sides. Can there be a taller than 6' barrier?

**Motion by Makuch, supported by Shirkey, to postpone until information can be reviewed.
AYES: All. NAYES: None. MOTION CARRIED.**

6. Member Comments

Makuch: Commented on the fence granted by ZBA near the Harsen's Island Ferry.

Nelson: Thank you to Mr. Mc Namee.

Antkowiak: Commented about PUD (Planned Unit Development)

7. Public Comment

None.

8. Adjournment

**Moved by Makuch, supported by Shirkey to adjourn at 8:45 p.m.
AYES: All. NAYES: None. MOTION CARRIED.**

Respectfully submitted,

Dolores M. Nelson
Recording Secretary