

MINUTES OF THE CLAY TOWNSHIP ZONING BOARD OF APPEALS HELD ON THURSDAY, AUGUST 17, 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.

2. APPROVAL/AMENDMENTS TO AGENDA

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

AYES: All. NAYES: None. MOTION CARRIED.

3. APPROVAL OF MINUTES OF JULY 20, 2006

P3: Antkowiak: Nick's Country Oven, motion by Antkowiak to approve the variance of the one 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, egress and fire lane; based on position of existing building, existing parking lot and drainage ditch do not allow for 20 ft. landscaping, and position of existing building prevents usual parking configuration.

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

AYES: All. NAYES: None. MOTION CARRIED.

P3: Antkowiak: Motion by Antkowiak to postpone requested variance for maintaining the existing entrance drives, showing all structures within 200 ft. on the site plan, and allowing for painted block on proposed addition until after Planning Commission has reviewed and made interpretations.

Motion by Antkowiak, supported by Shirkey, 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.

5. OLD APPEALS

2006-002

Rudy Y. Roodbeen

Russell Island Boathouses

Vacant Lots 211- 216

Appellate requesting for boat houses were torn down due to water level and unsafe freighter water action. Improvement and remodelized would be best. A cover is not any good; boat house destroyed and equipment stolen.

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We have replaced boats and need something to put the boat in and asking for the variance.

Nelson: Some property owners within 300 feet were not notified of July 20, 2006 ZBA meeting.

Nelson: Took public input at last meeting and approved at that time and then after the fact, the Clay Township Building Dept. was challenged because they did not mail notices out far enough (300 ft.).

Public Comment:

In favor: Rudy Roodbeen, 146 Algonac Rd, need boat houses to be rebuilt and covered, improvised and modernized; Janet Roodbeen, 146 Algonac Rd.; Joe Moosekian, 432 N. Russell Dr., adding three boat houses and replacing what existed.

Nelson: If you have an inside lot does a boat house lot go with it. It used to years ago, inside lot had a boat house.

Diss: You are replacing the structures that were there originally? How long ago was it you removed the old ones? Probably 15 years.

Opposed: Chris Truax, (photos) 5440 Pointe Tremble, should add to existing boat houses; Vincent Ohlert, view, 463 N. Russell Dr.; Leo Woodcock, (proxy) 158 Druid Dr; Mike and Monica Lambert, view, 137 Druid Dr.

Close Public Participation

Makuch: Clay Township Building Department notified and sends out notices to residents within 300' of appellate. **Motion was rescinded.**

Antkowiak: Wasn't variances for enclosed boat houses? Diss: Yes. If they don't enclose boat houses, can they be built without a variance? Nelson: Yes, per ordinance. To Mr. Truax, you mentioned about extending the boat house and Mr. Truax says yes and they will add on and go to the north. If the boat house is not enclosed, it still appears there still would be the view. People would be allowed to build a boat house without it being private. For security reasons, is there a practical difficulty or uniqueness?

Shirkey: They are allowed to bring down the sides?

Diss: We understood they were repairing but did not realize they had been gone for 15 years.

Shirkey: Agreed.

Antkowiak: They are allowed to build boat houses with open sides. Practical difficulty? What is the uniqueness?

Shirkey: They have taken boat houses down and now the ordinance says you can't enclose the boat house. It has been 15 years since being torn down.

Diss: We are looking at new construction, enclosed or not?

Antkowiak: Is there boat houses on your side of the channel? What is the uniqueness?

Nelson: If someone would want to vandalize, enclosed or not, they would have to go under the door.

Mr. Truax: Just a top would not suffice.

Antkowiak: Does anyone see any uniqueness in this property that would allow us to do that?

Nelson: No, uniqueness is the fact that the property was deeded for boat houses.

Makuch: You can come down three feet on sides per ordinance.

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Motion by Shirkey, supported by Diss to deny based on the fact, there is no uniqueness to these boat wells that would necessitate enclosing them.

Antkowiak: If granted, ZBA would be conferring special privileges to others and not allowing others to do so as well.

AYES: All. NAYES: None. MOTION CARRIED.

5. OLD APPEALS

2006-016 John Spasich 7291 Dyke Rd (Formerly Brisbay)

Postponed from previous meeting because of information received the night of the meeting.

Antkowiak: Not comfortable without representation from Water's Edge and Grill. Mr. Kras is not present either. Mr. Spasich's rights in terms of his property and in terms of the other neighbors.

Diss: They have been notified.

Makuch: He is violating a court order and using that property and he is not supposed to and this will be going before again. ZBA should direct Clay Township Building Dept. to notify appellate by certified mail.

Shirkey: What is the reason for Mr. Spasich not being here? Would like Mr. Kras to be present.

Diss: We have dealt without representation. If appellate is not here, then do without him.

Antkowiak: A postponement just postpones. Our planner checked with MDOT, get rid of situations of road right of way. We can deal with 50 ft. lot. We should postpone, 20 cars are not going in the area.

Motion by Antkowiak, supported by Shirkey to postpone until such time Mr. Spasich can be present.

Motion rescinded and withdrawn. Motion by Antkowiak, support by Makuch to postpone and then ask Clay Township Building Dept. to contact Mr. Spasich in writing via certified mail to attend next meeting date or ZBA will deny appeal if he does not show up.

AYES: All. NAYES: None. MOTION CARRIED.

5. NEW APPEALS

2006-017 William Sears 2333 North Channel

Appellate or representative not present.

Motion by Antkowiak, supported by Makuch to postpone until September 2006.

AYES: All. NAYES: None. MOTION CARRIED.

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2006-018

William M. Brandon

3905 Pte. Tremble

Appellate asking to construct a fence with variance to stop Harsen's Island ferry traffic from using driveway.

Request a variance Ordinance #123 to allow construction of a fence that will exceed the three foot requirement in the required front yard. Original application was denied because Ordinance #123, Article III, section 3.09 (a).

Nelson: Do you want a similar fence to your neighbors? Appellate: Yes, will tie into neighbor.

Makuch: Is this the same company as your neighbor? Appellate, Yes, 42" high, running back ten ft.

Public Participation:

In favor: Donna Brandon, 3905 Pte. Tremble.

Opposed: None.

Close Public Participation.

Motion by Makuch, support by Shirkey, approve 2006-018 for 3905 Pte. Tremble to allow construction of 42" high fence of same construction, tied in with neighbor to uniqueness of property located to Harsen's Island ferry, and safety issues related. I have observed cars turning around and safety issues.

Antkowiak: Fence does not block view

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

2006-020

Kathryn Brejnak
J. Young

9499 Phelps

Appellate requesting to construct an accessory structure that will exceed the total square footage of main structure for storage area onto garage for classic cars and personal storage, not including porch. Property is located next to school.

Request for variance from Ordinance #123, to allow variance for construction of accessory building The application was denied because Ordinance #123, Article III, section 3.01 (4)

Makuch: 24' x 40' with 60' x 24' addition about 2400 sq. ft., 2214 sq. ft. house with addition Open coverage of roof to garage and addition.

Shirkey: What is acreage? Appellate: 2 acres.

Makuch: School is on next property with heavy landscaping to relieve sound of school buses.

Continued: 2006-020

Public Participation:

In favor: William Bonnick, 9449 Phelps; Kathryn Brejnak, 9447 Phelps

Opposed: None.

Close Public Participation.

Motion by Antkowiak, to approve with practical difficulty being need for storage and necessity to keep special needs child away from equipment, isolated and quite narrow lot, located next to school.

Shirkey: Strike-Special needs child.

Diss: Residents are only temporary and variances stay with the property.

Makuch to Antkowiak would you rescind motion? Antkowiak Yes.

Makuch: Uniqueness would be a long, narrow lot.

Motion by Makuch, support by Shirkey, to approve variance 2006-020, 9499 Phelps road, uniqueness of property, being located next to school, and heavily green belted; uniqueness of property being a narrower than most lots.

Antkowiak: What is practical difficulty? Need for storage and need to keep special child away.

Makuch: Narrowness of unique lot.

Diss: We need to look at each appeal

Nelson: Special needs of child OK to take into consideration.

Nelson: Location near the school, and safety of children.

Makuch, amend motion to include practical difficulty being close proximity to school and the driveway to school buses in the area.

AYES: All. NAYES: None. MOTION CARRIED.

6. Member Comments

Shirkey: We have allowed a fence on a property because they had small children near the seawall for children safety and case was misrepresented to ZBA.

Antkowiak: Need practical difficulty stated with other four standards.

Diss: There could be other issues, finances are not hardships.

Antkowiak: Finances could be a practical difficulty but need to show difficulties.

7. Public Comment

William Lorraine, 7303Dyke Rd, address the certified letter from the township to the owner or designated representative.

Diss: Lot is 50 ft. wide, house is what distance from the parking lot?

Jan Bitten, 9447 Phelps, what is included in square footage?

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8. Adjournment

Moved by Makuch, supported by Shirkey, to adjourn at 9:10 p.m.
Respectfully submitted,

Dolores M. Nelson
Recording Secretary