

**MINUTES OF THE CLAY TOWNSHIP ZONING BOARD OF APPEALS HELD ON
JULY 19, 2007 AT 7:30 P.M. IN THE CLAY TOWNSHIP MEETING HALL, 4710
POINTE TREMBLE ROAD, CLAY TOWNSHIP, MICHIGAN**

Chairman Ronald Nelson called the meeting to order at 7:30 p.m.

1. ROLL CALL

Present: Joanne Shirkey, Marianne Diss, Anthony Antkowiak, John Makuch, Ronald Nelson

Absent: None

Building Administrator Michael Kras arrived at 7:40 p.m.

2. APPROVAL/AMENDMENTS TO AGENDA

Motion by Antkowiak, supported by Shirkey, to approve the agenda as presented

Ayes: All

Nays: None

MOTION CARRIED

3. APPROVAL OF MINUTES OF JUNE 21, 2007

Motion by Shirkey, supported by Makuch, to approve the minutes of June 21, 2007 as presented

Ayes: All

Nays: 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, you have the right to take it to the Circuit Court. You have thirty (30) 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 BUSINESS

2007-007

Matt/Jeannie Mauchline

8329 Colony Drive

Chairman: Refresh my memory because we didn't get anything in our packet

Appellate: Was here two months ago requesting a variance for a boathouse on the canal side of my property at 8329 Colony Drive. Was suggested to postpone based on a new ordinance.

Wasn't sure of the status of the ordinance. Have spoke with the Building Administrator a few times and he advised me to come before the ZBA again based on other decisions that have been made on boathouses. Also working on finding some documents on the property dating back to the 1920s that suggest use for servant's quarters and enclosed boathouses.

Makuch: Also working with Building Administrator to tailor that building down somewhat?

Appellate: We think we can do something with the height.

Antkowiak: At the original appeal we had three (3) variances to deal with; an enclosed boathouse, the height exceeding 15 feet, and the lot coverage of more than 30%.

Appellate: The lot coverage issue, there is a patio in the back I believe that is not included in the lot coverage.

MINUTES OF THE CLAY TOWNSHIP ZBA MEETING HELD JULY 19, 2007

PAGE 2

Nelson: Wasn't there three (3) dug in boatwells and space for a garage?

Appellate: Actually one boatwell, dug in another boat slip and there is space for the garage. I am requesting is to enclose one of the two wells as a boathouse that would be attached to the garage and just to cover the boat well, open on three sides.

Diss: What is the overall height of the boathouse.

Makuch: Twenty-nine and a half (29 ½) feet

Diss: How much are they requesting?

Antkowiak: Five feet more

Kras: That is to the mid-span. It is too close to the lot line to get more height.

Antkowiak: Which lot is pie shaped?

Appellate: Both. River side is narrow at 50' and it opens up to 75' on the canal. Boatwell is 3' from the property line at its closest point and 7' towards the canal side.

Antkowiak: Are these two separate lots?

Kras: No

Antkowiak: So the 30% is of the whole total of the two lots?

Kras: The road originally was their property, when it was repaved he lost a 66' portion.

Appellate: Security is my concern

Nelson: Is the house unoccupied?

Appellate: It is a summer home

Antkowiak: What is the practical difficulty?

Nelson: Shape of Lot

Makuch: Size of lot and security. When you take into account percentage of space of lot coverage. Don't think neighbors to the west would be too happy if he brought half his boathouse across Colony Drive.

Kras: 8329 makes a jog, looks almost as if setting out in the road and there is an indentation on the other side too.

Antkowiak: Looking at all the standards, "D" says the requested variance will not confer special privileges that are denied other properties similarly situated in the same zone. Seems variance would allow what is allowed for similar properties in that area. The Colony has the two waterfronts and so you have a unique feature. I understand this subdivision was built to have the home on the riverside and the boathouse on the canal side. We not giving him something others don't have in that area.

Makuch: New ordinance is addressing some of these issues, not all of them though. The fact that it is not a year around is not of concern. Only issue is size of house, although Building Administrator brought out that because of the curve of the road the house looks really big.

Upstairs storage is not additional square footage. Could argue for uniqueness of property.

Shirkey: Height is a concern; he has created that by design.

Makuch: If want to get a boat in you have to have clearance, but if that upstairs storage was eliminated you would take some height out of it, would you not?

Appellate: Height needed to clear hoist. The Colony Association Board has approved my plans.

Antkowiak: Plan shows if facing proposed boathouse, it would be enclosed on left side there would be a garage in the middle and a covered well, so the enclosure we are talking about would be the garage and the left boat well, correct?

Appellate: yes

Diss: The area that is going to be covered is the garage? Permanent stairs will be going into the area over the garage? How high will the center of that room be?

Appellate: These plans don't show that.

Shirkey: No way you can cut some of the height off?

MINUTES OF THE CLAY TOWNSHIP ZBA MEETING HELD JULY 19, 2007

PAGE 3

Appellate: Not sure how much we could take off. Is it an option to ask for two of the three variances and come back for the other?

Shirkey: Rather see you come back for the whole thing.

Diss: Have a problem with a 7-foot ceiling, it is no longer storage, it becomes living area.

Kras: Colony Association has a strong association; don't think they would ever allow living space on that side of the road.

Nelson: When you go either right or left from that structure, you have some of the same on both sides.

Makuch: Percentage of lot coverage, how much is needed?

Kras 3.25%

Motion by Makuch, to approve the request at 8329 Colony Road to allow lot coverage to exceed no more than 33.25%, allow the portion of the boathouse as presented to be enclosed and postpone a decision on the height restriction until presented with a new architectural drawings for the following reasons:

1. Uniqueness and shape of property
2. Boathouse will be enclosed on two sides
3. Within design of Colony Subdivision
4. Security

Motion died for lack of support

Antkowiak: Would support if would not include height being postponed, that would be a given.

Motion by Makuch, supported by Antkowiak, to approve the request at 8329 Colony Drive, allowing 33.25% lot coverage and to enclose two sides of the boathouse based on the following reasons:

1. Uniqueness and shape of property
2. Enclosing boathouse on two sides
3. Within intent of design of Colony Subdivision
4. Security

Ayes: All

Nayes: None

MOTION CARRIED

Motion by Makuch, supported by Shirkey, to postpone the request at 8329 Colony Drive for the height variance until the applicant can revisit his architectural drawings and come back with something a little less.

Ayes: All

Nayes: None

MOTION CARRIED

Antkowiak: Questioned what the wording in the Zoning Ordinance, Sec. 301. 7(c), "All boathouses that exceed 15' in height with wells to accommodate more than two boats shall be subject to the prior approval of the Zoning Board of Appeals" means. Does that mean a variance?

Shirkey: I would think it should say "a variance". A variance means we gave approval.

Kras: You are a quasi-judicial board; you can determine what it means

Antkowiak: Let's look at this before the next meeting and see what we determine.

Nelson: Can make it an agenda item for the next meeting

MINUTES OF THE CLAY TOWNSHIP ZBA MEETING HELD JULY 19, 2007
PAGE 4

6. NEW BUSINESS

2007-010

Robert Pazdernik

6960 Middle Channel Drive

Requesting a variance to allow the construction of a fully enclosed boathouse/garage at 6960 Middle Channel Drive.

Appellate: This will be on a side canal. Have received a DEQ and a corp. permit. Will actually be over the water. I am surrounded by enclosed boathouses and I would like to have it for security.

Antkowiak: In relation to your neighbor's boathouse and that big tree on your property, where will you be putting that?

Appellate: Five feet from where the seawall stops.

Chairman Nelson opened the Public Hearing:

Anyone in the audience who would like to speak in favor of the request at 6960 Middle Channel Drive?

None

Anyone opposed to the request?

None

Chairman Nelson closed the Public Hearing

Motion by Shirkey, supported by Makuch, to allow a variance as requested based on the practical difficulty of the security and it will not interfere with the neighbors view because it is on a side canal.

Antkowiak: Could we get some reasons such as the uniqueness of the property and is basically isolated piece of property and its sided by a canal and Middle Channel.

Motion amended by Shirkey and supported by Makuch, to allow a variance as requested based on the practical difficulty of the security and it will not interfere with the neighbors view because it is on a side canal and the uniqueness of the property and on a dual waterway.

AYES: All

NAYES: None

MOTION CARRIED

2007-011

Patrick Drummond

2358 North Channel Drive

Requesting a 5' 1" setback variance of the required 15' side yard to allow the connecting construction of a detached accessory structure to their single-family dwelling.

Appellate: Currently have 9' 11", have 4' 11" on house side and 5' on garage side. Some of the hardships are it is a narrow lot, 100' wide, the house is 40' wide and the garage is 28' wide.

Want to attach the garage to the house with a breezeway.

Nelson: The accessory structure is already there.

Antkowiak: You indicated on your application that you have a practical difficulty, can you explain what that is.

Appellate: The location of the septic field and the driveway. Can't move the garage over because of the septic field and the driveway is not wide enough.

Minutes of the Clay Township ZBA Board Meeting Held Thursday July 19, 2007

Page 5

Antkowiak: Were you not here before for a variance for the height of that accessory building?

Appellate: Yes

Antkowiak: Are you now telling us that you are going to connect that to the house and are you going to lower the roof so it is the same height as the house?

Appellate: Want to resolve the issue, connecting the accessory structure to the house makes it part of the house.

Kras: If that is attached it becomes part of the main structure and that height is allowed, a 30' height is allowed.

Antkowiak: The need for the variance is still the height of that accessory building and it is self created. Stop work orders were ignored and didn't do the building according to the plan.

Appellate: The height issue should be a null point because we are attaching the two structures together.

Antkowiak: Still asking for a variance

Appellate: Just trying to resolve the issue

Antkowiak: You have a stop work order from the court don't you?

Makuch: By connecting the two the height would be okay but you still need a variance for the setbacks.

Nelson: Does a breezeway connecting two structures make it a whole?

Kras: Yes

Diss: Isn't this a non-conforming structure?

Kras: They have a house that is built properly, they have a garage that is built improperly which is exceeding the height by about 5' and can't get a variance on that. The garage has 42" footings and they now want to add a breezeway, a fully enclosed breezeway, connecting the house and the garage. That would allow the garage height to exceed 15', it would be allowed to go to 30' because it is part of the main structure. The problem is the garage sits 5' feet from the property line; the house sits 5' on the other side so they don't have the required 15'.

Shirkey: If the garage connected to the house, can they have living quarters up there?

Kras: Yes

Appellate: Height is not the issue, need the setbacks.

Makuch: The ordinance is set for 65' lots, you have 100' lot, the argument that it is a narrow lot doesn't fly.

Appellate: Agree it is poor planning, just trying to resolve the problem

Antkowiak: You had the plans approved but you built the garage higher, if it had been done correctly and then you came for this variance it would be okay, you created the need for a variance.

Chairman Nelson opened the Public Hearing

Two letters received

In favor: Letter received from Vincent Schwartz read by J. Makuch

D. Drummond, 16761 East Jefferson, Grosse Pointe

Martin Murphy, 71346 Veronica Dr, Richmond, Michigan

Opposed: Letter received from Concerned Citizen of Harsens Island read by J. Makuch

Chairman Nelson closed the Public Hearing

Appellate: Want to resolve the issue, is it your intent to make us take the roof down? Looking for some type of direction.

Minutes of the Clay Township ZBA Board meeting held Thursday, July 19, 2007

Page 6

Nelson: You can lower the roof but still have the side yard set back issue

Kras: They need the variance to connect the buildings. If there is no variance he has to remove the high roof.

Makuch: If the applicant decided to remove the roof and still wanted to connect the two buildings he would still need a variance on the side yard setback.

Shirkey: Need the variance because of a self-created issue, was not built according to plans.

Makuch: The stop work orders were ignored, told there would be no living quarters and it is obvious that is the intent, that is a lot of what has created the past.

Motion by Makuch, supported by Shirkey, to deny the variance based on:

It is self-created

There is no uniqueness of this property

The lot is not any different, and falls with in the zoning ordinance

AYES: All

NAYES: None

MOTION CARRIED

7. BOARD MEMBER COMMENTS

Shirkey: We don't have to worry about what Tony brought up earlier about "more than two boat wells"?

Makuch: Can look into.

Kras: Means an approval of a variance

Nelson: Mentioned the passing of Ray Cooks

8. PUBLIC COMMENTS

None

9. ADJOURNMENT

Motion by Diss, supported by Makuch to adjourn the meeting at 8:48 p.m.

AYES: All

NAYES: None

MOTION CARRIED

Dorothy DeBoyer

Clay Township Deputy Clerk