

Milton Township
Zoning Board of Appeals
Meeting Minutes
March 9, 2006

Members present: Chairman Lein, Anderson, Atkinson, Bryant, Jankowski.

Also present: four audience members

Members absent: Llewellyn

Also absent: Weinzapfel

The chairman called the meeting to order at 7:05 p.m. and the Pledge of Allegiance was recited.

Approval of Agenda:

Lein indicated that he would amend the agenda to add: extension of Luhr's Landing Permit Motion by Atkinson, seconded by Jankowski to approve the agenda as amended. Motion carried.

Election of Officers:

Jankowski nominated as Secretary by Lein. Seconded by Atkinson. Motion carried.

Anderson nominated as Vice Chairman by Jankowski. Seconded by Lein. Motion carried.

Lein nominated for Chairman by Jankowski. Second by Atkinson. Motion carried.

Approval of past minutes dated November 10, 2005

Motion by Atkinson, seconded by Anderson to approve the minutes as presented. Motion carried.

Variance Request: Agent Mr. Jack Knol with Advantage Design is requesting a nine foot front yard (lakeside) setback for construction of an addition and porch, on behalf of owners Mr. and Mrs. Leventry and Mr. And Mrs. Lorig. Parcel Number is 05-12-775-001-00 Lot 12 Wabigama Club at 13556 Wabigama Rd., Rapid City, MI 49676.

Correspondence (letters will be a permanent part of the record)

Rosanne Whitehouse wrote a letter in support of the variance

Lester Dragstedt wrote a letter in support of the variance

Christy Sturgeon wrote a letter in support of the variance

Brian Zehnder wrote a letter in support of the variance

Conrad Thurstone wrote a letter in support of the variance

Bob Rinder wrote a letter in support of the variance

Lein discussed the rules and procedures of the ZBA variance request with the applicants.

Bruce Lorig made a presentation. As his family has grown, they are interested in a slight expansion of their cottage. A bedroom, bathroom and a screened porch will be added. The issue he would like to pose is where is the edge of the lake? He feels this is not clear. The house has

stayed put, but the lake has moved toward the cottage. When the house was built, they were probably within setback requirements. Ice keeps pushing the shoreline toward the cottage. Trees that used to be there are now stumps in the water. How do you measure where the shore is currently and does the fact that the shoreline has moved toward the cottage affect the decision? Neighbors have armored their shorelines and those have stayed in place. They did not do that and now they have a cove. A few years ago, they did put in rocks. Those rocks extend out three or four feet. Lorig referred to a map that has been presented to the board attempting to show the meandering shoreline.

Lein clarified that the shoreline is measured from the high watermark.

Jankowski stated he researched the web site of the Antrim County Drain Commissioner and read from the text: "The summertime water level of Elk Lake was established by circuit court order at 590.8 feet above sea level in 1973. On November 1st of each year, the order calls for the level to be dropped to 590.2. The following spring, the lake level is raised to the summertime level on April 15th (or ice break-up, if it occurs earlier)"

Knol asked if land was lost, what can be done? Lein said nothing could be done about erosion, unless homeowners decide to protect themselves against it.

Weinzapfel arrived at 7:30 p.m.

Knol asked if you have an irregular cove, how is it measured? Anderson said it is taken from the high water mark.

Lorig asked who decides where the high water mark is? Weinzapfel said a surveyor would be able to do that. Weinzapfel said the high water mark would probably be at the point of erosion or the vegetation line.

Lein said that the ZBA can only base our decision on what the applicant has presented. The applicant has the right to appeal to the circuit court and if you choose not to appeal, you can never come back again on this issue again. ZBA decisions are final. A survey has not been done and you have the right to table the decision until a survey has been done.

Lorig said he may like to consider tabling the issue if the surveyor is the one who can make a definitive decision regarding the high water mark.

Lein asked again if they would like the issue tabled. Lorig said yes, but he would like to talk on the subject further. Lein said there might be questions the ZBA will refuse to answer during the discussion after the issue has been tabled.

Motion by Atkinson, seconded by Jankowski to table the issue until the May meeting.

Roll Call:

Bryant: Yea

Anderson: Yea

Jankowski: Yea
Lein: Yea
Atkinson: Yea
Motion carried. 5-0

Lorig asked if the non-conformity is reduced, would that be acceptable? Anderson said the board would not discuss that since it would be commenting on the tabled issue.

Knol asked that if the addition is not in the setback and the porch is not expanded, can the porch stay? Weinzapfel said yes. Anderson read from the ordinance sec. 117.401.

If a variance request is changed, you will have to re-submit the variance and it will need to be re-noticed in the newspaper. Lein said he would encourage the applicants to read the ordinance as it relates to variances.

Knol stated some ZBA's are liberal with setbacks regarding a garage and asked if a garage is treated the same as a deck. Lein said all ZBA's should be the same and treat all things equally and carefully. Knol asked if it would be considered a hardship to not have a porch. Lein said he wouldn't comment on that. Comment was concluded and the issue tabled until the May 11th meeting.

Old Business:

Lein and Anderson met with "Milton Neighbors" (Mike Moyers and Dennis Fitzpatrick) December 8, 2005 for an informational meeting. They wanted an understanding of the roles of the ZBA and Planning Commission. Lein discussed why the ZBA makes decisions the way that it does. The Milton Neighbors would like to learn more and be an well-educated group and an asset to the township. They said they are available in any way that the township could use their help.

Bryant asked if the Milton Neighbors have an organizational structure and a mission statement? Lein said he didn't think that they did. There was discussion that any organization that requests the time of any township board should have a mission statement and an organizational structure. Lein said he would bring this issue up at the next planning commission meeting for discussion and then possibly take it to the Township Board.

Lein commented on recent training sessions that he attended MTA Annual Conference concerning platted lot issues, zoning and planning issues regarding waterfront. It was very helpful and informative.

Weinzapfel requested a permit extension:

In April 2004, ZBA hearing #04-01, Luhr's Landing, on Torch River, was approved for an expansion on a non-conforming use to put a 60 x 100 addition on a structure. The permit was pulled 2.15.05. It expires 2.15.06 and they are now ready to build. Weinzapfel asked that the permit be extended another six months. There have been no amendments or changes to the ordinance since that time.

Motion by Atkinson, seconded by Jankowski to extend the Luhr's Landing permit # 3515 until October 1, 2006. Motion carried.

Ordinance Violation Discussion: Weinzapfel discussed his spreadsheet containing all violations. He gave updates on violations.

Motion to adjourn by Anderson, seconded by Lein. Motion carried.

Respectfully Submitted,

Adam Jankowski
ZBA Secretary