

**Clearwater Township**  
Planning Commission  
Public Hearing of January 23, 2012  
As approved February 6, 2012

**Call to Order, Pledge of Allegiance:**

Chair Parzych called the meeting to order at 11:55 a.m., and opened with the Pledge of Allegiance.

**Roll Call of Members and Recognition of Visitors:**

We welcomed our new member, Tom Backers, to the Commission.

Commissioners present: Backers, Fields, Johnson, Parzych, Von See.

Township officials: ZA Molby

Public: Theresa Schurman, Pastor Ron Gay, Archie Kiel, Tina Osterhouse.

**Approval of Agenda:**

**MOTION** by Johnson, second by Backers, to accept the agenda as presented. Motion carried.

**Approval of Minutes:**

**MOTION** by Johnson, second by Von See, to accept the minutes of January 9, 2012 as presented. Motion carried.

**Public Comment for Matters Not on the Agenda:**

Theresa Steiner Schurman – asked the Commission to consider a specific zoning ordinance for the township’s narrow lots, rather than continue “grandfathering” them as legal non-conforming lots. She related her own recent experience requesting a variance from the setback requirements for shed placed on her property. In her opinion, the Zoning Board of Appeals did not treat her properly, and she sees the risk of “regulatory taking” of property owners’ rights due to inconsistent rulings by the ZBA. Her written comments in full are hereby incorporated into the record by reference and attached to the permanent copy of these minutes as [Att A].

**Scheduled Public Hearing on Proposed New Language for Article 12 – Signs – Off-Premise Advertising Display Signs:**

Off-premise advertising display signage is a use by right in the two commercial districts. People in other districts also have valid businesses, many of which are home occupations. At present those businesses have no access to off-premise advertising. We propose to amend Article 12 by adding the following language to the section titled *Sign Location, General Rules*:

*Off-premise advertising display signs for any district other than the Village Commercial district and the Commercial-Light-Industry district, require a special use permit, and must meet the standards found in Sections 12.03.B and 12.04.B.*

Chair Parzych first asked whether the Commissioners had any questions before proceeding, then he invited members of the public to speak for or against the amendment.

Speaking for:

*Archie Kiel* – said he thought the Commission had covered the matter pretty well and clarified the purpose to his satisfaction; he favors adding the new language.

*Theresa Schurman* – said she is in favor of adding the new language.

*Ron Gay* – said he is in favor of the new language.

Speaking against:

There was nobody to speak against the new language.

Commission Deliberations:

Johnson – commented that the Commission has discussed this matter earlier and concluded that there could be a genuine need for such signs off- premise. He believes this change will be a good thing, it will open up small business opportunity, and people will enjoy the privilege of placing off-premise signs. He believes it is the right thing to do.

Parzych – said he thinks it will help the community; many people have businesses in their homes and proper off-premise signage would help people find those businesses.

Fields – commented that home occupation signage is constrained on-site, therefore, this is a needed advantage. She supports the amendment.

Backers – remarked that a lot of people are starting businesses in their homes. Having a way to locate such businesses just makes sense.

Roll Call Vote:

Johnson – yes

Von See – yes

Backers – yes

Fields – yes

Parzych – yes; this will be a benefit to the township.

The Commission is unanimous in its support for this amendment to Article 12.

**MOTION** by Fields, second by Johnson, to recommend the Township Board adopt the proposed amendment to Article 12, adding under the section *Sign Location, General Rules* the following language: *Off-premise advertising display signs for any district other than the Village Commercial district and the Commercial-Light-Industry district, require a special use permit, and must meet the standards found in Sections 12.03.B and 12.04.B.* Motion carried.

**Closing Public Comment:**

Molby – speaking as a citizen, commented that we may have to revise *Article 17 – Agricultural District*, of the Zoning Ordinance, to move our reference to riding stables and academies from the special use section to the use by right section, because GAAMP and the Right-to-Farm Act permit them. Chair Parzych explained that at present that matter is in the court system. Until it is decided by the courts, the MTA is not giving any advice on the subject.

**Adjournment:**

**MOTION** by Johnson, second by Backers, to adjourn. Adjournment at 12:23 p.m..

**Assignments:**

- Fields to communicate to the Township Board the Commission's recommended amendment of Article 12.

**Next Meetings:**

Regular meeting: February 6, 2012 –

Public Hearing: February 21, 2012,

Both meetings to be held at 12:00 noon in the Clearwater Township Community Center (aka the Little Red Schoolhouse).

Respectfully submitted,

A handwritten signature in cursive script that reads "Tina Norris Fields".

Tina Norris Fields  
Secretary

**Discussion Points**

Request to come before Zoning Commission to discuss need for specific zoning ordinances for non-conforming lots as opposed to “grandfathering” them to the 100 foot or larger lot standards. This request stems from my recent personal experience in front of the zoning appeals board.

My history: Steiner family in area since 1800’s and spent every summer at Torch Lake which I treasure. Shared a cottage with my sister (Carol Steiner) until my husband passed away in 2008.

- Own family property in Alden
- Purchased property in 2010 50x225
- Gutted existing 1950’s cottage and garage
- Licensed builder utilized
- Worked closely with officials, purchased all permits, passed all final inspections
- Spring 2011 regulations interpreted by a builder and myself were that a portable structure under 12x14 feet could be on property line.
- After discussing with neighbors constructed portable shed 5 feet from property line to allow handicap construction and emergency vehicle ingress and egress to property
- Mr. Neiderstat and Mr. Mobey informed me that I needed to apply for a land use permit, and a set-back variance.
- Complied with requests

**Zoning Board of Appeals**

- No legal counsel to assist in application of standards to facts
- Disagreement amongst themselves about process and interpretation
- Other individuals not given opportunity to talk
- Treated rudely by two members of committee
- Obvious decision was made prior to meeting
- Standards clearly inaccurately applied to circumstances
- Did not follow precedent set by previous variances granted resulting in a risk regulatory taking.
  - Example: ¾ mile from my house 1 story cottage demolished to construct 2 story much larger cottage with garage close to property line.
  - Process of completing FOIA request for non-conforming lot variance applications and variances granted for last two years.

I am currently requesting new hearing due to improper process.

**Issue**

The Zoning Board of Appeals non-uniform application of variance standards for non-conforming lot owners in Clearwater Township, and the misinterpretation and

application of facts to variance standards have the potential to result in regulatory taking of property.

**Ordinances**

Specific zoning ordinances do not exist for non-conforming lots in Clearwater Township. Non-conforming lots are grandfathered in to 100foot and larger parcels. Additionally, current zoning ordinances do not delineate between portable and permanent structures.

**Analysis**

The lack of non-conforming lot zoning ordinances force property owners to try to conform to regulations specifically designed for larger parcels of property. Additionally they are at the mercy of the Zoning Board of Appeals to grant variances to utilize their property. This process can result in unfairness and regulatory taking by not following precedent and allowing property owners to enjoy their property equally.

As structures on non-conforming lots age and properties are sold, applications for variances will increase. Unequal application of facts to standards will increase chances of regulatory taking and legal fees.

**Conclusion**

Developing and implementing zoning ordinances for non-conforming lots would limit unequal application of standards for land use variances by allowing property owners to utilize their property equally and with less ambiguity and favoritism? This would in turn reduce Clearwater Township's legal risks for regulatory takings.

Respectfully,

Theresa (Steiner) Schurman  
6932 Crystal Beach Road  
Rapid City, Michigan  
989-860-4283