

CLEARWATER TOWNSHIP ZONING BOARD OF APPEALS  
REGULAR MEETING  
April 8, 2013

**DRAFT MINUTES**

Meeting called to order by Acting Chair Tina Fields at 7:02p.m., followed by the Pledge of Allegiance.

Board members present: Tina Fields, Jim Adams, Dave Lawicki, Kathy Eldridge

Also present: Guy Molby, Township Zoning Administrator; Teresa O'Hara, ZBA Recording Secretary; Margaret Kramer, Resident

In the absence of Chairperson Lucy Gerlach, Tina Fields acted as Chairperson. Fields recognized and welcomed newly-appointed member Kathy Eldridge.

Fields requested the board review agenda for meeting. Dave Lawicki made a motion to approve, Kathy Eldridge seconded and the agenda was approved.

Fields asked for a disclosure of actual or potential conflicts of interest. There was no conflict of interest.

Fields directed board to review and approve the January 14, 2013 meeting minutes. Jim Adams made a motion to approve, Dave Lawicki seconded and the minutes were approved.

After asking for Public Comment, Fields noted a late amendment to the agenda, adding additional time for Public Comment at the end of the meeting.

**OLD BUSINESS:**

Acting Chair Fields asked Township Zoning Administrator Guy Molby for an update on the status of the Schurman shed. Molby stated that he had discussed the situation with Ms. Schurman on January 17, 2013, 9:30a.m. and she has agreed to move the shed five feet to the west but has requested that she wait until warmer weather to the move the shed. Ms. Schurman also stated to Molby that she intends to build a fence on the east side and apologized to Molby for not communicating with him first, before building the shed. Fields updated Eldridge on the Schurman decision. Lawicki asked Molby if Ms. Schurman would move the shed within a reasonable time and Molby stated he "doesn't foresee any problems."

## **NEW BUSINESS:**

Acting Chair Fields noted that there has been an amendment made to zoning ordinances. Fields distributed updated ordinance; an amendment to Article XXVI that modifies Sections 26.07, 26.11, 26.14 and 26.16.

Fields directed the board to go over proposed changes put forth by absent Chairperson Lucy Gerlach. Many of the proposals, the board viewed as “housekeeping” and Fields asked board for a general consensus.

### **26.08**

After discussion, the board removed the words “if needed” as the by-law’s require inspection by board members.

### **26.09**

Fields directed board to look over STAY PENDING APPEAL. After discussion, the board agreed to change wording to be in compliance to MZEA 125.3604 (3). Fields stated, this “needs to be in compliance, this gives us our authority.”

26.09 now reads: An appeal to the zoning board of appeals stays all proceedings in furtherance of the action appealed. However, if the body or officer from whom the appeal is taken certifies to the zoning board of appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, proceedings may be stayed only by a restraining order issued by the zoning board of appeals or a circuit court.

### **26.10**

After discussion, the board concurred that DETERMINATION NOT FINAL be removed from the title, to be in compliance with state law.

### **26.10A**

The board changed “appeals” to “an appeal.”

### **26.10C**

Guy Molby stated, “This board has no authority to consider hardship.” The board discussed and concurred that the section must be deleted as the board only has the authority to review dimensional variances. The board discussed at length. Molby stated that the only recourse for a resident is through the Circuit Court. Adams made a motion, and Lawicki seconded the motion to delete 26.10C, re-numbering B to become C.

### **26.10D**

Fields directed the board to look over proposed changes for 26.10D, to insure compliance to MZEA 125.3605 and 125.3606. Acting Chair Fields suggested to the board that they delete 26.10D and “craft 26.16.” After much debate and discussion, Eldridge made a motion, Lawicki seconded the motion and it was approved unanimously.

Therefore, 26.16 headed with DETERMINATIONS NOT FINAL reads: A decision of the zoning board of appeals may not be overturned by the township board or any other township agency or official. Any party aggrieved by a decision of the zoning board of appeals may appeal the decision within thirty days to the appropriate circuit court. (MZEA 125.3605 and 125.3606)

Acting Chair Fields reminded the board that they are modifying zoning ordinances to adhere to State Law.

## **26.12**

Fields directed board to review 26.12. Molby had concerns over the 20 day period allotted to organize information, publish notices in newspapers and contacting neighboring residents. Molby stated, "I could foresee situations that could come up that we wouldn't be able to meet the 20 days deadline." Fields related that adhering to a specific time limit gives "boundaries upon which a resident must act." Lawicki stated that the board needs to further review information, stating, "We should table it and look at it more." Lawicki went on to state that the board serves the public and that the board must review cases in a "efficient, timely manner." Board members agreed to table discussion. Fields stated, "Research and prepare for further discussion at the July meeting."

## **26.13**

The board discussed and concurred that 26.13 should be re-titled to read: APPEALS FROM AN ADMINISTRATIVE DECISION. Lawicki made a motion, Adams seconded the motion and the board approved unanimously.

## **26.13A**

The board discussed and concurred to change the first line to read: "an appeal" Fields asked the board, if they had any objections to interchanging the order so that the order is reversed and will change 26.12 to 26.13 and 26.13 to 26.12. The board approved by general consensus.

Acting Chair Fields presented the board with both old and new versions of the Notice of Appeal and Final Decision Form for review. The forms include newly-updated standards. After discussion, Lawicki made a motion to approve the Notice of Appeal form, with the updated standards, revised form dated April 2013. Adams seconded the motion and the board approved unanimously. Fields requested the board to examine and discuss the updated Final Decision Form. The board reviewed and discussed. Adams made a motion, Lawicki seconded the motion and the board approved the Final Decision Form unanimously.

## **PUBLIC COMMENT**

Resident Margaret Kramer, in attendance, had two questions for the board. Ms. Kramer wondered if posting public notices on the websites of local papers would satisfy the public notification. Fields stated that this would not satisfy ordinance, stating, announcements must be published in “a newspaper in general circulation.” Ms. Kramer also asked if the township ever inspects existing property? Fields and Molby discussed. Fields stated that if an ordinance violation is observed and the township receives a complaint, an existing property would be inspected. Fields thanked Ms. Kramer for her attendance and comments.

Adams made a motion to adjourn the meeting, Lawicki seconded the motion, and the board approved. The meeting was adjourned at 8:26p.m.

Respectfully submitted,

Teresa O’Hara, ZBA Recording Secretary

The next regular meeting will be held on Monday, July 8, 2013 at 7:00p.m.

## **ATTACHMENTS:**

Updated ordinance - Article XXVI 26.07  
Proposed Additional changes to ZBA Section ..  
Updated Final Decision Form  
Updated Notice of Appeal