

Milton Township
ZBA Meeting Minutes
August 8, 2018

Members present: Chairman Anderson, Jankowski, Atkinson, Kingon, and Burdo

No additional audience members

Anderson called the meeting to order at 7 pm and the Pledge was recited.

Motion to approve the agenda by Kingon/Jankowski. Motion carried.

Approval of Minutes dated June 14, 2018

Corrections:

Pg 1: Seventh paragraph: Correct spelling of Abaigael from Abaigaeal

Pg 1: Eighth paragraph: Correct spelling of Celarek from Celaret

Pg 3: Seventh paragraph: Currently reads "Kopkau asked why the 50 foot setback on a corner lot? If you have roads coming...."

Change to read: "Kopkau asked why the 50 foot setback on a corner lot? WEINZAPFEL REPLIED, if you have roads coming

Pg 3: Eighth paragraph, sixth line: Currently reads: "They are all less than 16 feet and it's been like always."

Change to read ""They are all less than 16 feet and it's been like THAT always."

Pg 3: Eighth paragraph, ninth line: Currently reads: "There is a section of the ordinance that says that a property that fronts a lake and is on a road end, it doesn't have to have a 50 foot setback, only a 20 foot. From Rex Terrace Drive that's a paved road that goes right to the lake and that property there only has to have a 20 foot setback"

Change to read: "There is a section of the ordinance that says that a property that fronts a lake and is on a road end, it doesn't have to have a 50 foot SIDE YARD setback, only a 20 foot SIDE YARD SET BACK. From Rex Terrace Drive that's a paved road that goes right to the lake and that property there only has to have a 20 foot SIDE YARD setback"

Pg 3: Tenth paragraph: Currently reads: "Jankowski said no they haven't."

Change to read: "Jankowski said no they haven't, THAT IS WHAT WE ARE HERE TO DECIDE."

Pg 4: Third paragraph, second line: Currently reads: "Jankowski said this in now way meets-as-a-private road."

Change to read: "Jankowski said this, in NO way, meets private road STANDARDS.

Pg 4: Sixth paragraph: Currently reads: "Kington said this is the job of the ZBA is to make exceptions. They wouldn't change the ordinance for one incidence."

Change to read: Kington said this is the job of the ZBA is to make exceptions. IN MY OPINION, THE PLANNING COMMISSION wouldn't change the ordinance for one incidence.

Pg 5: Second paragraph: Currently reads: "Anderson asked if people had enough information to make a decisions?"

Change to read: "Anderson asked if THE BOARD had enough information to make a decision."

Pg 5: Roll Call, second line: Currently reads: "Kington: Yea, it's unfortunate that there was a lack of communication regarding the 50 or 58 feet."

Change to read: "Kington: Yea, it's unfortunate that there was a lack of communication BETWEEN YOU AND YOUR CONTRACTOR regarding the 50 or 58 feet."

Motion by Jankowski/Anderson to approve the minutes as amended. Motion carried.

Correspondence:

None

ZBA Members:

Jankowski said he didn't agree with the decision of the last hearing and he wanted to share the research he's done with everyone. The reason we have a zoning code is so that there is justice and a standard for what is required. We told these people they can't put a deck 38 feet from this sandy driveway. I don't think we gave them justice. I think there were unique characteristics to the property. The whole process of getting a variance, it's a departure from standards, the ZA is by the book. Then you have him come to a board of neighbors before he goes to circuit court. There are a lot of non conformities in this township. If we did allow these people based on justice and the plight of being unique, this wouldn't be the only non conformance in this township. If a similar case came up, I would vote the same as I did. I think the ZBA is to put common sense into the situation. You don't enforce the letter of the law. You enforce the spirit of the law. I think this was an injustice to these people. It's bothered me since that hearing. I don't think we have to be that hard nosed about it. If we are going to sit here and rubber stamp what the ZA says, then let's do away with the board because we are useless and we aren't putting the human factor in there. There are cases where variances should be allowed. While I've been on the board, only one or two have been allowed.

~~Atkinson said the flip side is that if you give one foot here, someone is going to ask for~~

another two feet tomorrow. Where do you draw the line? Our job is clear to interpret the ordinance, no more or no less. If they have a practical difficulty or undue hardship, yes. Jankowski said he feels there were unique characteristics. Kingon said he'd like to discuss this when Weinzapfel is here.

Kingon said you are very persuasive. I agree with you in terms of philosophy. In this case, the way I saw it, he had a reasonable alternative. He was saying to me, I want a deck like my neighbors. I don't want a patio. This was self created because he and his contractor decided incorrectly where to place the house. I don't feel that it's unreasonable to enforce the ordinance for those reasons.

Jankowski said he's the one who brought up that ground level patio. I agree with you also. It's the fault of his contractor. They could have set that over, but I still think in that situation, that a 50 foot setback was excessive.

Atkinson said she's not sure about the setback situation on Torch Lake Drive and the justice for having a 20 foot set back there.

Jankowski said it's not that we can't ever allow a variance. We are allowed to make one if there is a practical difficulty or an undue hardship.

Jankowski said the planning commission can't regulate every possible situation that could arise. Atkinson said if you apply common sense and you don't have any legal legs to stand on, we lose in court.

Atkinson said she would have preferred it if Jankowski had a problem with the setbacks, he should have talked to Weinzapfel about that prior to the hearing.

Anderson said the planning commission is the law for the township. However, it's a fine line and we can't forget that these people own their homes and there is a point where you could over regulate these people. I think we are getting close to that right now.

Atkinson said being on the ZBA, consistency is important. Anderson said consistency is important, but common sense and compassion should be incorporated.

Jankowski said he'd like to see the percentage of variances we approve versus that of other boards. Other boards may be to liberal. Some may be too conservative.

Atkinson said part of our job is to keep the township out of court. If we don't have consistency, we will end up in court.

Jankowski said if we had granted it, no one would have come in and challenged that because it would never happen again.

Old Business

None

New Business
None

Report of PC
None

Motion to adjourn at 7:50 by Kingon/Atkinson. Motion carried