
HOWELL TOWNSHIP ZONING BOARD OF APPEALS
APPROVED MINUTES: JANUARY 17, 2023, 6:30 P.M.
3525 BYRON RD. HOWELL TOWNSHIP HALL, HOWELL MI 48855 (517-546-2817)

MEMBERS PRESENT:

Martha Haglund P.C. Rep. / Vice-Chair
Ken Frenger Member
Tim Boal Member
Harold Melton Board Rep. Alternate
Carol Weaver Member

MEMBERS ABSENT:

Jeff Smith Board Rep.

Also in attendance: Zoning Administrator, Joe Daus & Township Attorney Chris Patterson.

Vice Chair Haglund called the meeting to order at 6:30 p.m. The roll was called.

APPROVAL OF AGENDA:

MOTION by Boal, seconded by Frenger, **"TO AMEND THE AGENDA TO ADD A DISCUSSION ON THE ZBA BYLAWS TO OTHER BUSINESS"** Motion carried.

ELECTION OF OFFICERS:

MOTION by Haglund, seconded by Frenger, **"TO NOMINATE TIM BOAL FOR CHAIRMAN AND MARTHA HAGLUND FOR VICE-CHAIR."** Motion carried.

APPROVAL OF MINUTES:

MOTION by Melton, seconded by Boal, **TO APPROVE THE DECEMBER 20, 2022 ZONING BOARD OF APPEAL MINUTES AS PRESENTED"** Motion carried.

TOWNSHIP BOARD REPORT: Melton gave a synopsis of the January 9, 2023 Township Board meeting.

PLANNING COMMISSION REPORT: Martha had nothing to report, there was not a meeting last month.

NEW BUSINESS / PUBLIC HEARING:

PETITIONER: Burkhart Ridge, LLC and Burkhart Road Associates, LLC, File# PZBA-2022-09, Parcel ID #4706-29-300-020 & #4706-32-100-003, Market Place Drive, Howell MI 48843.

APPEALING TOWNSHIP BOARD DECISION: Denied their request for a reduction from 1 REU per trailer site to a partial REU per trailer site, for the Burkhart Ridge expansion. Also a credit for the connection fees previously paid for the 306 existing mobile home pads in Burkhart Ridge.

Ken Frenger notified the board that he has a conflict of interest as he has a working relationship with the petitioner and is disqualifying himself.

The petitioner's attorney, Arthur Siegal explained why the Zoning Board of Appeals would have jurisdiction to hear an appeal of a decision made by the Township Board. He then continued to explain why the Township Board was in error when they denied the request to reduce the REU factor.

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Brent LaVanway with Boss Engineering explained the calculation for the reduced REU factor, calculation that has been done at different times by several people suggest a factor of .50 to .58. Mr. LaVanway felt that the most recent calculation that was completed using updated data would indicate a REU factor of .53.

Mr. Siegal went on to explain that there have been three other multifamily projects that have applied for and received a reduction of the REU factor. He also explained that his client has over paid for phases 1, 2 & 3, and that they are not asking for a rebate but rather a credit to be applied to phase 4 and any leftover be applied to future projects.

Township attorney Chris Patterson started by giving some background information on this matter and that one of the big concerns is the jurisdictional issue. He went over the types of appeals that the Zoning Board of Appeals normally hears and typically see. He then addressed Mr. Seigal's explanation as to why the ZBA has jurisdiction on a Township Board decision, and explained his opinion on why the ZBA does not have jurisdiction.

Tim Boal had questions on the Consent Decree, and how they apply to this appeal. There was a discussion that followed concerning the ZBA's authority over the Consent Decree.

Vice-Chair Haglund then opened the meeting to the public for comments. Being none, the ZBA board went in to deliberation.

MOTION by Boal, seconded by Weaver, with a friendly amendment by Haglund **TO DISMISS THE APPLICATION PZBA2022-09, ON THE GROUNDS THAT the ZBA DOES NOT HAVE JURISDICTION. THIS IS BASED ON THE THESE FACTS.**

- 1. PURSUANT TO HOWELL TOWNSHIP ZONING ORDINANCE, SECTION 1.01 AND 22.06 B (1) – (4), THE ZBA CAN ONLY HEAR APPEALS BASED UPON THE HOWELL TOWNSHIP ZONING ORDINANCE AND ITS APPLICATION.**
- 2. APPLICANTS REQUEST FOR A RATE OR REU REDUCTION WAS BASED INITIALLY UPON THE WASTEWATER COLLECTION AND TREATMENT SYSTEM ORDINANCE (a.k.a. ORDINANCE 21). UPON SUBMITTAL OF THE APPLICATION, APPLICANT ADDED THE WATER USE AND RATE ORDINANCE (a.k.a. ORDINANCE 181) AND THE UTILITY ORDINANCE (a.k.a. ORDINANCE 238).**
- 3. ALSO, THE APPLICATION INCLUDED AN IMPROPER EXPANSION OF CLAIMS THAT WERE NOT CONTEMPLATED OR AT ISSUE AT THE TIME THE TOWNSHIP BOARD DENIED APPLICANT'S REU REDUCTION REQUEST. THESE NEW CLAIMS INCLUDED EQUAL PROTECTION VIOLATIONS AND CLAIM THAT THE TOWNSHIP'S FEES FOR CONNECTION TO ITS WATER AND SEWER SYSTEM ARE AN ILLEGAL TAX.**
- 4. ORDINANCES 21, 181, AND 238 ARE NOT INCORPORATED INTO THE HOWELL TOWNSHIP ZONING ORDINANCE. HOWELL TOWNSHIP ZONING ORDINANCE, SECTION 14.13 C AND 14.13 D MERELY REFER TO ORDINANCE 21 AND 181 FOR ADDITIONAL REGULATIONS. THE ZONING ORDINANCE DOES NOT DEFINE THESE ORDINANCES AS ADDITIONAL REGULATIONS TO THE ZONING ORDINANCE. INSTEAD, THE HOWELL TOWNSHIP ZONING ORDINANCE REFERS TO THEM AS ADDITIONAL AND SEPARATE ORDINANCES AND BY A SEPARATE NAME. THE HOWELL TOWNSHIP ZONING ORDINANCE DOES NOT REFER TO ORDINANCE 238 FOR ADDITIONAL REGULATIONS.**
- 5. APPLICANT'S CLAIMS BASED ON ORDINANCE 21, 181, 238 ALONG WITH THE EXPANDED, NEW CLAIMS OF EQUAL PROTECTION VIOLATIONS AND ILLEGAL TAX CLAIM, ARE CLEARLY OUTSIDE THE AUTHORITY OF THE ZBA UNDER HOWELL TOWNSHIP ZONING ORDINANCE, SECTION 22.06**

Roll was called: Weaver-Yes, Milton-Yes, Boal-Yes, Haglund-Yes, Frenger-Abstained Motion carries 4 - 0.

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OTHER BUSINESS:

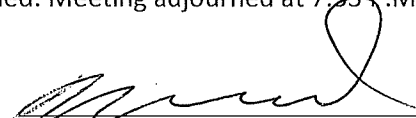
ZBA BYLAWS: New bylaws have been proposed, and presented to the ZBA members. Discussion on the new Bylaws. Members will review the bylaws and be discussed at the next meeting.

CALL TO THE PUBLIC: No Response

ADJOURNMENT:

MOTION by Melton, seconded by Boal, **"TO ADJOURN."** Motion carried. Meeting adjourned at 7:53 P.M.

Approved: _____XXXXXXXX_____



Tim Boal, Chairman

As Presented: _____XXXXXXXX_____

As Amended: _____



Martha Haglund, Vice-Chairwoman

As Corrected: _____

Dated: _____