

OLIVE TOWNSHIP
ZONING BOARD OF APPEALS

SPECIAL MEETING
December 19, 2012

The meeting was called to order at 6:00 p.m. by Chairperson Machiela.

PRESENT	ABSENT
Potter	None
Machiela	Bush
Nienhuis	
(One position vacant)	

Potter provided a motion to approve the agenda. Motion was seconded by Nienhuis and carried unanimously.

Nienhuis provided a motion to approve the minutes from the March 28, 2011 Special Meeting. Motion was seconded by Potter and carried unanimously.

Chairperson Machiela sought public comment for non-agenda items.

There were none.

Chairperson Machiela noted that there was no old business on the agenda.

At 6:01p.m. Chairperson Machiela moved to the next new business item, the 2013 Meeting Schedule.

After review, Potter provided a motion to approve the schedule as presented. Motion was seconded by Nienhuis and carried unanimously.

At 6:02p.m. Chairperson Machiela moved to the next new business item, election of officers.

Machiela opened nominations for the Office of the Chairperson.

Nienhuis provided a nomination of Machiela for Chairperson. Nomination was seconded by Potter. There being no other nominations, Nienhuis provided a motion to close the nominations for Chairperson. Motion was seconded by Potter and carried unanimously.

Machiela opened nominations for the Office of the Vice-Chairperson.

Potter provided a nomination of Nienhuis for Vice-Chairperson. Nomination was seconded by Machiela. There being no other nominations, Potter provided a motion to close the nominations for Vice-Chairperson. Motion was seconded by Nienhuis and carried unanimously.

Machiela opened nominations for the Office of the Secretary.

Nienhuis provided a nomination of Potter for Secretary. Nomination was seconded by Machiela. There being no other nominations, Nienhuis provided a motion to close the nominations for Secretary. Motion was seconded by Potter and carried unanimously.

There being no challengers, the Office of Chairperson was awarded to Machiela.

There being no challengers, the Office of Vice-Chairperson was awarded to Nienhuis.

There being no challengers, the Office of Secretary was awarded to Potter.

At 6:04p.m. Chairperson Machiela asked for member comments.

There were none.

At 6:05p.m. Nienhuis provided a motion to adjourn. Motion was seconded by Potter and carried unanimously.

Respectfully Submitted,

SIGNED: _____

DATE: _____

OLIVE TOWNSHIP
ZONING BOARD OF APPEALS

SPECIAL MEETING
March 28, 2012

The meeting was called to order at 6:05 p.m. by Chairperson Machiela.

PRESENT	ABSENT
Potter	None
Machiela	
Bush	
Nienhuis	
(One position vacant)	

The applicant was not present.

Nienhuis provided a motion to approve the agenda. Motion was seconded by Bush and carried unanimously.

Potter provided a motion to approve the minutes from the December 28, 2011 Special Meeting. Motion was seconded by Bush and carried unanimously.

Chairperson Machiela sought public comment for non-agenda items.

There were none.

Chairperson Machiela noted that there was no old business on the agenda.

At 6:06p.m. Chairperson Machiela moved to new business to discuss the Paul Maas use variance request from Section 20.14 – Expansion or Enlargement of Nonconforming Uses and the dimensional variance request from Section 6.05E1 – Dimensional Requirements, Yard and Setback Requirements, Front Yard at 11142 Polk Street, parcel number 70-12-14-100-011. Machiela opened the public hearing.

Chairperson Machiela recognized Ransford to discuss the application since the applicant was not present.

Ransford explained that the applicant illegally expanded his nonconforming use by establishing a wood pile within 50 feet of the right-of-way and by constructing a concrete wall. As a result, in order to maintain the pile and the wall the applicant must seek a use variance to expand the nonconforming business. If approved, the applicant then needs a dimensional variance to keep the wood and concrete wall in its current location.

Machiela noted that there were no members of the public present and closed the public hearing.

General discussion was held. The Zoning Board of Appeals first considered the use variance request from Section 20.14 of the Olive Township Zoning Ordinance.

Nienhuis provided a motion to approve the use variance request from Section 20.14 of the Olive Township Zoning Ordinance to establish the wood pile and concrete wall at a setback of at least 50 feet from the right-of-way, based on the following findings in accordance with Section 27.04 of the Zoning Ordinance:

- a. That there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question and that do not apply generally to the other nearby properties in the same zoning district because of the long standing existence of the use and the minimal impact of the proposed wall, which could be built as an accessory to a single family dwelling in the instance the nonconforming use did not exist.
- b. That the exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant (or the applicant's predecessors) taken subsequent to the adoption of this Ordinance.
- c. That the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare since the wall could be built as an accessory to a single family dwelling in the instance the nonconforming use did not exist.
- d. That the condition or situation of the specific piece of property for which the variance is sought is a practical difficulty and is not of so general or recurrent nature as to make it more reasonable and practical to amend the Ordinance given that the use is the only known legal nonconforming tree service, firewood and wood chip supply business in the Township.
- e. The variance is necessary to the preservation and enjoyment of a substantial property right similar to that possessed by other properties or classes of uses in the same zoning district.
- f. That there is unnecessary hardship in that the property cannot be reasonably used as zoned.

Motion was seconded by Potter. A roll call vote was taken.

Bush – Yes
Nienhuis – Yes
Potter – Yes
Machiela – Yes

Motion carried 4-0.

General discussion was held. The Zoning Board of Appeals then considered the dimensional variance request from Section 6.05E1 of the Olive Township Zoning Ordinance.

Nienhuis provided a motion to deny the dimensional variance request from Section 6.05E1 of the Olive Township Zoning Ordinance, based on the following findings in accordance with Section 27.04 of the Zoning Ordinance:

- a. That there are no exceptional or extraordinary conditions or circumstances that are inherent to the property in question and that do not apply generally to the other nearby properties in the same zoning district. The property is zoned Rural Residential and contains eleven (11) acres of area as well as over 1,200 feet of road frontage. The property contains 674 feet of depth from 112th Avenue as well as 692 feet of depth from Polk Street. As a result, the applicant has sufficient room to appropriately locate any structural improvement or wood pile at or beyond the required front yard setback. Consequently, the property is similar to others in the same zoning district.
- b. That the exceptional or extraordinary conditions or circumstances are the result of actions of the applicant (or the applicant's predecessors) taken subsequent to the adoption of this Ordinance since he constructed the wall and located the wood pile without permits from the township.
- c. That the granting of the variance will be injurious to the neighborhood or otherwise detrimental to the public welfare because the variance would allow for a concrete wall, whether temporary or permanent, to be located at or within one (1) foot from the right-of-way line. There is no legitimate reason to locate the wall and wood pile closer than the required front yard setback of 50 feet since the property contains eleven (11) acres and significant depth.
- d. That the condition or situation of the specific piece of property for which the variance is sought is not a practical difficulty and is not of so general or recurrent nature as to make it more reasonable and practical to amend the Ordinance. As aforementioned, the applicant has sufficient area and depth to comply with the setback requirement.
- e. The variance is not necessary to the preservation and enjoyment of a substantial property right similar to that possessed by other properties or classes of uses in the same zoning district

Motion was seconded by Potter. A roll call vote was taken.

Bush – Yes
Nienhuis – Yes
Potter – Yes
Machiela – Yes

Motion carried 4-0.

At 6:22p.m. Chairperson Machiela asked for member comments.

There were none.

At 6:23p.m. Nienhuis provided a motion to adjourn. Motion was seconded by Potter and carried unanimously.

Respectfully Submitted,

SIGNED: _____ DATE: _____