

MINUTES

Cascade Charter Township Zoning Board of Appeals
Tuesday, September 9, 2008
7:00 p.m.

ARTICLE 1. Vice-Chairman Lewis called the meeting to order at 7:00 p.m.
Members Present: Beahan, Casey, Lewis, Alternate Neal
Members Absent: Wilson (excused)
Others Present: Planning Director Peterson, Assistant Township Attorney Bloom, and Members of the Public.

ARTICLE 2. Pledge of Allegiance

ARTICLE 3. Vice-Chairman Lewis requested a motion for approval of the September 9, 2008 Agenda.

Member Casey motioned for the approval of the September 9th ZBA Agenda with support from Member Beahan. All were in favor, none opposed. The motion carried, September 9, 2008 Agenda approved.

ARTICLE 4. Vice-Chairman Lewis requested a motion for approval or corrections of the July 8, 2008 Meeting Minutes.

Member Beahan motioned to approve the July 8, 2008 ZBA Meeting Minutes with a correction in Article 1 regarding Chairman Vaughn who was absent, supported by Member Casey. All in favor with none opposed. July 8, 2008 Zoning Board of Appeals Meeting Minutes was approved as corrected.

ARTICLE 5. Case #08-2951: Brian & Rajini Van Farowe
Property Address: 3598 Goodwood Drive
(PUBLIC HEARING)

Requested Action: The Applicants are appealing the Zoning Administrator's decision/determination that subsection 4.33(10)(b) of the Zoning Ordinance allows the Goodwood Property Owners Association to apply for a Special Use Permit to allow for a common boat ramp and appurtenances.

Planning Director Peterson said the request stems from the 2005 approval and subsequent construction of the boat ramp for the Goodwood property owners, as well as the 2005 Zoning Ordinance amendment. After the Township Board approval of the boat ramp as a Special Use in 2005, the Applicants filed a lawsuit in Circuit Court to overturn the Township Board's decision to allow the boat ramp. The Township has been defending that decision in court.

Before a decision was made in circuit court, the Township amended the keyhole regulations (Section 4.33) of the Zoning Ordinance to help clarify that section.

The matter before the ZBA now is a new case and the ZBA must decide whether to uphold Staff's decision/interpretation regarding subsection 4.33(10)(b). The administrative decision which Staff made is contained in the letter to the Goodwood property owners dated June 16, 2008. It is this decision that the Applicants are appealing. Staff's interpretation is that the Goodwood property owners are allowed to apply for a Special Use Permit for the boat ramp and appurtenances under Subsection 4.33(10)(b) and Mr. Van Farowe is appealing that decision.

In reaching its decision, the Zoning Board of Appeals should apply the standards in the Zoning Ordinance, as reproduced in the staff report for this appeal.

Upholding the interpretation or determination does not approve the boat ramp. The next step would be for the Goodwood Property Owners to apply to the Township for a Type II Special Use Permit whereby the Planning Commission and Township Board would consider the merits of the request.

Planning Director Peterson noted that the Assistant Township Attorney, Cliff Bloom, is also present tonight. Staff requests that whatever decision the Board makes this evening that it be a tentative decision to allow Staff and the Township's attorneys time to provide a written resolution for the Board for possible adoption at the next meeting.

Vice-Chairman Lewis indicated that the question before the Board is whether this subsection of the Ordinance applies to this particular piece of property or not. Planning Director Peterson agreed. The ZBA should determine whether or not the Goodwood Property Owners would be allowed to apply for the Special Use Permit.

Assistant Township Attorney Bloom said that Planning Director Peterson stated the case very well and noted that there are materials included within the Board's packet that deal with the last court case. He would submit that the previous court case is generally irrelevant tonight but that it might present some useful background information.

As Staff noted, the sections that were litigated over in 4.33 are not the same as today and Section (10)(b) has been added since then. The interpretation of Subsection 4.33(10)(b) is the only issue in this appeal.

Vice-Chairman Lewis asked for questions by Board members of the Assistant Township Attorney or Staff. There being no questions from the Board, Vice-Chairman Lewis invited the Applicant to provide their report.

Attorney George Pawlowski (representing the Van Farowes) noted that written materials were submitted beforehand by him and were included within the Board's packet. The Van Farowes live next door to Lot 25 and bought their property in 1997. The Township's keyhole regulations were adopted in 1995. His clients had every right to rely on (and did rely on) the keyhole ordinance provisions that made Lot 25, the Association's lot, unbuildable and unusable for river access.

Mr. Pawlowski presented photographs that he says clearly show how the topography of Lot 25 made it impossible to use this lot as unimproved for river access, let alone as a boat launch.

Also included within the submitted written materials is an appraisal of the Applicant's property that asserts that the Van Farowe property has decreased in value by \$95,000 since the boat launch was built. Mrs. Gillespie is the other adjacent neighbor and the Van Farowes believe that her property value has also declined since the boat launch was built.

Two years ago, the Van Farowes followed proper guidelines and brought their objection in this matter to the Planning Commission, the Township Board, circuit court and the Court of Appeals. The Court of Appeals' decision is not irrelevant tonight since the language of the decision of the Court of Appeals reflects what is and what is not a lawful nonconforming use. The case also went to the Michigan Supreme Court, which would not overturn the Court of Appeals' decision. Now the Goodwood group is back before the Township, and instead of complying with the order, there is this effort to re-do what has already been held impermissible.

The Van Farowes are very frustrated. While this case was pending, the Association decided to build its boat ramp. At the time the boat launch was built, there was no court decision yet regarding the case and therefore, the ramp is illegal. The Association proceeded at its own risk.

With respect to Planning Director Peterson's interpretation of subsection 4.33(10)(b), the revised keyhole regulations, as he says in his own opinion letter dated June 16, 2008, that the new keyhole ordinance provision "is a special nonconforming use provision...." The Court of Appeals provided examples of what is and what is not a lawful nonconforming use. The use has to be substantial; it has to be ongoing; it cannot be occasional or intermittent. The Association did not introduce any evidence of this kind of substantial or ongoing use.

Subsection (10)(b) says that there needs to be two components: 1) a lot with access and 2) it has to lawfully exist for such use. The subsection then goes into nonconforming use. So, what use is nonconforming that would now permit the Association to apply for a Special Use Permit? According to the Township's Ordinance, if there is a matter regarding interpretation, whether a nonconforming use existed, the Association should not be allowed to build the ramp regardless. If the Ordinance is allowed to be interpreted in its current form, then that would open up any vacant lot for access to the river. The Township would also be setting precedence and the keyhole regulations would not have any affect. He understands that there are currently twenty-three (23) homes that are utilizing the ramp and adding more people to the river could be harmful.

Attorney Pawlowski said that there was no lawful nonconforming use involved here, as the physical topography does not allow for an unimproved ramp. He requested that the Zoning Board of Appeals reverse the decision of Planning Director Peterson and not allow the Special Use Permit process to move forward.

Vice-Chairman Lewis asked the attorney if the State Supreme Court had reviewed the case. Attorney Pawlowski said that the Township and the Association both asked the Michigan Supreme Court to take an appeal of that case and the Supreme Court would not take the appeal.

Applicant Brian Van Farowe of 3598 Goodwood Drive said that after going through a three-year legal battle and all the way up to the state's Supreme Court, this case has been thoroughly reviewed. At the circuit court level, many people were shocked over the judge's decision and now they have both the Court of Appeals and the Supreme Court overturning the trial court judge's decision.

Applicant Van Farowe believes that the Township had a desperate need to place a pipeline under the river to connect the loop with the City of Grand Rapids' water system. He believes that the ramp was the Township's attempt to get the pipe through and therefore, the Township allowed the boat ramp. He says that the Township approached the Goodwood Association and asked what they could do to connect the pipeline and they struck a deal to allow the boat launch. The Van Farowes have shown to the courts that what was done was not done for the right reasons.

He stated that the boat launch has also adversely affected his property value. The launch is approximately 30 feet from his bedroom window. The topography today on Lot 25 is drastically different from what it was in 1997. If he were to have sold his home in 1997, a prospective buyer would see a vacant, 75-foot unbuildable lot with mature trees and grass

with a steep embankment to the river. Now you can see the boat launch from the road and it detracts from his property's value.

Applicant Van Farowe asked the Planning Commission to look into amending the ordinance back to what it was before. He also noted that there are twenty people on the non-river side of Goodwood that have had their property values increased because they can now market their properties as having river access. He asked various realtors how much river access would increase the property value of the non-river lots and was told \$15,000 to \$20,000 per home times twenty homeowners. That is a sizeable increase in tax income for the Township.

Vice-Chairman Lewis noted that the appraised values of houses cannot come into play tonight as to what the Ordinance says and its interpretation. The interpretation could lead one way or another with the appraisals going up or down. The Board's job is to simply interpret the Ordinance.

Applicant Van Farowe said he is trying to attribute a value to the boat launch and he believes there are two solutions: 1) tear out the boat launch, or 2) get the homeowners together in a settlement (*i.e.*, whereby he is compensated for their use of the launch in order to help pay for his property's decreased value).

Board Member Casey asked the Applicant that when he purchased his home, was he aware of the deed covenant given to the other lot owners involving the right to use the access lot? Applicant Van Farowe said he was not aware of that. Board member Casey said he accepts what the Applicant has said, but does not agree with all of the facts he presented.

Mary Beth Weber of 3584 Goodwood Drive said she has lived in her home near Lot 25 for four years. She noted that many people have moved to Cascade Township because it is a beautiful place. Her biggest objection is to the fence that has been installed near the boat ramp. It is ugly and she does not believe many people would want to live next door to it. When they purchased their home, the fence was not there. It is a fence type that belongs in downtown Grand Rapids and not in her neighborhood. She believes that if the launch were more attractive, the neighbors would be much happier. The front part of the property is mowed but the back area that faces her property is overgrown. She submitted a letter that is included within the Board's packets.

Board Member Beahan motioned to open the Public Hearing supported by Board Member Casey. All in favor with none opposed, the Public Hearing was opened.

Vice-Chairman Lewis received and filed the letter written by Mary Beth Weber, the Applicant's information, a letter received today,

September 9th, along with other communications submitted within the Boards' packets. Planning Director Peterson said that there were no other phone calls or letters received.

Tim Deiffeinbach, 7190 Burger Drive SE, is President of the Goodwood Plat Owners Association. The Association believes that it is in compliance with the Ordinance and has continued to follow the process as outlined by the Township. What surprises them is going through all the processes and being told that the main concern was that there might be noise, too many jet skis and boats. There was a probationary period of two years and none of this has come into play.

The boat launch has limited use, it is not unregulated, and the Association regulates its use in terms of what was approved within the bylaws. At the attorneys' suggestions, they went through the proceedings and approvals. The court case was filed after the beginning of construction on the ramp.

The Association is surprised that the problem has gone from noise to a conversation at a January board meeting that \$50,000 would seem to settle the problems. Mr. Deffeinbach notes that Applicant Van Farowe feels his property has depreciated and Van Farowe has offered an appraisal. Randy McClish did the appraisal for the Van Farowes on December 10, 2007. Apparently, at the time the appraisal was done, it appears that Mr. McClish's license was suspended. In terms of the property's value, they do have an appraiser present this evening, and he owns a home next to a boat launch.

Assistant Township Attorney Bloom noted that if you refer to subsection 4.33(10)(b), one of the issues is did a particular easement, common area, etc., lawfully exist prior to November 21, 1995. He asked if there was any background on Lot 25 with respect to the deeds or plat dedication.

Mr. Deffeinbach noted that when the original owners deeded the property to the use of the Association's members, it was for the purpose of access to the waters of the Thornapple River and for the use and enjoyment thereof.

Mr. Deffeinbach said that he has only lived in the subdivision for eight years, but knows that at his first annual meeting in the year 2000, there were discussions regarding a boat launch and the obstacle then was the inability to establish the funding for the boat launch. It became a possibility only when the utility easement was sold to the Township and that removed the economic hurdle. The use of the property has been varied throughout the years. He can attest that during his eight years of living there, people have used the property to launch canoes and small boats. There used to be a boat dock on the property a while back.

Assistant Township Attorney Bloom asked Mr. Deffeinbach if he was reading from a deed. Mr. Deffeinbach said he was and one of the deeds dates back to 1961. Assistant Township Attorney Bloom requested to have the deeds entered into the record noting that part of the issue is whether this common area existed prior to 1995.

Ted Hudson (who is a former resident of Cascade Township) said he owns a real estate company which has sold over sixty homes on the river. In 1997, he purchased a home in Cascade Township at 1448 Spring Line Court. The property line was ten feet away from the Cascade Acres boat launch and he paid \$425,000 for his property. He ended up selling the home for \$300,000 more than he paid for it and he believes that a nearby boat launch would not depreciate the value of a home from his personal experience.

Mr. Deffeinbach produced copies of the deeds, which were submitted to and filed with the Vice-Chairman of the ZBA.

Mike Rosie of 3295 Goodwood Drive said he bought his home in 1977 and he used Lot 25 for his boat along with the dock that was there. They also built steps and replaced the dock. He paid property taxes on the lot by doing a neighborhood collection. They joined the Association in following proper procedures to have the boat launch built. He also noted that everyone's property has decreased in value recently and it is not solely Applicant Van Farowe's property that has depreciated.

John Meyer of 3434 Goodwood Drive said that he bought his house in 1994 and it was his understanding that there was talk regarding a boat launch even back then. He said he knew about the Association's lot and he lives on the river. He walks the common lot frequently and has walked up and down the slope into the river. Mr. Meyer is also an appraiser and he has appraised one of the houses neighboring the boat launch. He did not believe that the boat ramp depreciated the value of the property.

Brian McCarthy of 3452 Goodwood Drive is both a member and Treasurer of the Association (with his home on the river's side).

He asked if the Gillespies are still a party to the lawsuit, since Mr. Pawlowski spoke as if they are still a part of it. His understanding is that the Gillespies withdrew from the lawsuit after the first round.

He is also curious regarding a supposed letter stating that the Township would be sued (as claimed by the Van Farowes). He has been on the Board of the Association for two years and is not aware of any such letter. He has been involved in many meetings with the Township and the Board of the Association and if there is such a letter, he would like to obtain a copy of it.

He also noted the concerns he heard regarding noise, the number of jet skis that would be launched at the ramp, etc. The Association's bylaws are extremely strict as to who can utilize the boat launch (no trailers can be left on the premises, etc.). They went the extra mile and put into place stringent rules as to who is allowed access to the boat launch and how. With the stringent access rules in place, the neighborhood has not had concerns about the boat launch. Now, the new concern is money and he is wondering if the money concern goes away, what will be the next concern.

It is obvious that the Van Farowes are not in favor of the boat launch, but his understanding is that you can do to your property what you like as long as it is within the zoning laws. This particular piece of property has been set aside for the common use of the plat since the 1950s. The Association's Board is trying to be good stewards of the property and utilize it as it was fully intended, which is for the betterment of the forty lot owners, twenty-one of which are part of the Association.

Michael Fitzgerald of 3467 Goodwood Drive is a member of the Goodwood Plat Association. He said the neighborhood uses that access lot. They use it for fishing and numerous people launch their boats from the property. When someone buys a house, as he bought his, the ad says "river access" and that is the reason why people will buy it.

Bud Poe of 3462 Goodwood Drive is the Association's Secretary. He wanted to clarify that the Township's records show that in 2005 the Association went through an entire Planning Commission process and all of these things have been done within the Township's requirements. The Association was granted a Special Use Permit that is still in place (to the best of his knowledge) to be able to construct and use the boat launch. There is nothing illegal regarding the boat launch. The proper process was followed and the Association has maintained the property. The fencing issue may be something that the Association could work out, but he is not sure if this is the true reasoning behind tonight's case. To say that something was done illegally is false. It was done in total compliance with the Township's requirements and after public hearings.

Tim Workema of 3516 Goodwood Drive said he lives on the riverside and after listening to tonight's case, it seems to him that the reason for the keyhole ordinance is for future development and that grandfather clause is there for a specific reason.

Heather Workema of 3516 Goodwood Drive said that after listening to tonight's meeting, it sounds like the biggest complaints are that the trees are gone and there is a fence. She assumes that on her property, she would be allowed to cut down all of the trees or put up a fence if they were to build a boat launch next door.

Tim Deffeinbach of 7190 Burger Drive said that he wanted to go on record as saying that the Association's plan was to landscape that lot and make it more parklike. Unfortunately, because of the lawsuit, their funds have been depleted.

He was very pleased that the Gillespies had joined a recent meeting and they had favorable conversations with them. He noted that they would work toward a plan to improve the landscaping of the lot and the chain link fencing. The Association will continue to maintain the property and will continue to do its best.

Attorney Pawlowski said it does not matter what the deeds state, referring to the deed dated in January 1962. In looking at the decision of the Court of Appeals, it does not make a difference what the deed states. The nonconforming use doctrine does not grandfather everyone in. The logic of this would be that you would never have any zoning at all. That is why nonconforming use is the salient reasoning. There is nothing to prove that this lot was previously used as a boat launch.

Assistant Township Attorney Bloom noted that many people tonight have talked about the court case, history, and other matters, but this appeal still remains a legal issue. The issue is strictly regarding the interpretation of Section 4.33(10)(b). There are two parts to that subsection: 1) Is there an easement, private park, common area, or access property having frontage on a lake, river, or stream which provides access to more than one family unit, condominium unit, apartment, lot, or parcel to a body of water, and 2) which lawfully existed for such use as of November 21, 1995. If the property meets both requirements, it qualifies for Special Use consideration.

Attorney Pawlowski seems to be arguing that "lawfully existing" for such use somehow means that it must have existed for boat launch use as of 1995. Planning Director Peterson's interpretation is that the words "for such use" means that it was an easement, private park, etc., for access to the body of water as of 1995. If you review the introductory paragraph to Subsection 10, it says that the nonconforming use provisions of Chapter 22 should be applicable except that the following shall be permissible notwithstanding the provisions of Chapter 22 of this Ordinance. The introduction seems to indicate a slight relaxation of the normal lawful nonconforming use provisions of Chapter 22.

The Board will need to decide if the two requirements of Subsection (10)(b) are met. If they are met, then Staff's interpretation is correct. But if one or both are not applicable, then Attorney Pawlowski is correct and the Association would not qualify for Special Use consideration.

Board Member Beahan motioned to close the Public Hearing, supported by Board Member Casey. All in favor, with none opposed. The Public Hearing was closed.

Vice-Chairman Lewis asked how the Ordinance should be applied to this particular case. When referring to the parts of the Ordinance which Mr. Bloom read, there is a legal easement on the property. This is a parcel that lawfully existed for such use as November 21, 1995. Vice-Chairman Lewis asked the Board to review Planning Director Peterson's interpretation of 4.33(10)(b) and asked whether it applies to this particular lot.

Board Member Casey reviewed the deed and noted that the document is actually a warranty deed for the lot and the easement in question would go to the waterline.

Board Member Beahan noted that this case revolves around subsection (10)(b) and he is comfortable with Staff's interpretation of that subsection.

Vice-Chairman Lewis noted that the Assistant Township Attorney has requested that whatever decision the Board makes regarding the case tonight, it should be a tentative decision so that Staff and our attorneys will have ample time to write the language for the uphold or overturn final resolution.

Assistant Township Attorney Bloom provided a copy of the proposed motion both "for" and "against" to Attorney Pawlowski and distributed copies to the public. He said that in the past, the Township has sometimes done a tentative approval or denial contingent upon a final resolution being drafted for the next meeting, that may be accepted or not at the later meeting.

Board Member Beahan asked if the decision needs to be unanimous and Planning Director Peterson said that three out of four votes are needed to approve or reject the interpretation.

Board Member Beahan motioned to tentatively uphold the interpretation determination by Planning Director Peterson that the Goodwood boat ramp may qualify for a Special Use Application relating to Subsection 4.33(10)(b) of the Zoning Ordinance contingent upon a final resolution being drafted by Staff and Assistant Township Attorney Bloom and that final resolution being adopted by the ZBA at a subsequent meeting. Board Member Casey supported the motion.

Board Member Neal stated that he is in support of the motion and supports tentatively upholding the interpretation.

Vice-Chairman Lewis requested a Roll Call vote:

Member Neal, yes

Member Lewis, yes

Member Casey, yes

Member Beahan, yes

All in favor of the motion with none opposed, motion carried.

ARTICLE 6.

Case # 08-2932: Goodwood Plat Owners Association

Property Address: 3598 Goodwood Drive

(PUBLIC HEARING)

Requested Action: The Applicant is requesting a Variance to allow for the Goodwood Plat Owners to apply for a Type II Special Use Permit to allow for the construction of a boat launch and appurtenances to be used for members of the Goodwood Plat Owners Association.

Planning Director Peterson said the Goodwood Plat Owners Association is requesting a Variance that would allow them to apply for a Type II Special Use Permit for a boat launch and appurtenances to be used for members of the Plat Owners Association.

If the Applicant is granted the variance, the Applicant will still have to go before the Planning Commission for the Special Use request and another public hearing, followed by the final decision on the Special Use by the Township Board.

Planning Director Peterson noted that since the time the boat launch was approved in 2005, the Township has not received any complaints regarding the property except for some tall weeds which has been taken care of. The Township has not received any other complaints from the neighborhood regarding the property's use.

Staff has provided the standards for a variance to the Board and in terms of the exceptional or extraordinary circumstances, this Subsection (10)(b) only applies to a limited number of properties within the Township with existing access rights to the river. This is the exact type of situation for which Section 4.33(10)(b) was written.

Staff recommends that the ZBA grant a variance from Section 4.33(10)(b) that will allow the Association to apply for a Special Use Permit under the keyhole section of the Township's Zoning Ordinance. Staff also requests that any decision from the ZBA also be a tentative decision allowing time for the final resolution to be drafted by Staff and the Township's attorneys.

Assistant Township Attorney Bloom noted that many in the audience must be wondering why the Township is proceeding with this case after hearing

the first case tonight. The first decision this evening was tentative only and the Township is comfortable proceeding with a tentative decision for this case as well.

He noted that one of the courts in this case mentioned the possibility of granting a variance for the whole thing (i.e., the boat ramp and accessories). It is Mr. Bloom's interpretation that when a Special Use is available, you cannot circumvent the Special Use process by getting an overall variance. If this matter does end up in court again, it would make sense for this Board to render a decision on this matter now even if ultimately, the ZBA upholds the decision of the Township's Planning Director in the final analysis.

Vice-Chairman Lewis opened the meeting for questions of Staff and there being none, invited the representative from the Goodwood Plat Association to address the ZBA.

Bud Poe of 3462 Goodwood Drive stated that the Association has met the Township's requirements with the proper proceedings that are required and would appreciate the Board's approval of this variance request.

Board Member Beahan motioned to open the Public Hearing, supported by Board Member Casey. All in favor with none opposed, the Public Hearing was opened.

Vice-Chairman Lewis invited members of the public to address the ZBA.

Rosie Briggs of 3475 Goodwood Drive has been on the Goodwood Association's Board since its inception. She has done the research on the plat and has the original plat dedication at home and can provide a copy to Township officials if they wish. She has worked with the Township since moving to the neighborhood and applied to the state of Michigan in the early 1990s for a boat ramp permit to see if it was feasible to put a launch on the property and again in 2004, when it was determined that they could install the launch. Mrs. Gillespie and Mr. Weber approached the Association to purchase additional property from Lot 25.

The fence was placed where it is due to the Van Farowes' attorney's request and also liability of and therefore was not set back farther.

Planning Director Peterson stated that no phone calls or letters were received other than those included within the Board's packets.

Attorney Pawlowski said there is nothing in the Applicant's statement listing how they qualify for the requested variance.

In order for the request to be granted, he stated that certain items need to be addressed. First, it must be shown that there are exceptional or extraordinary circumstances that generally do not apply to other properties. There are other properties such as this within the Township. The second standard addresses exceptional or extraordinary conditions or circumstances which are not the result of actions of the Applicant taken subsequent to the adoption of this Ordinance and he is not sure how this applies to this case.

Such variance must be the minimum variance necessary that will make possible the reasonable use of the land, building or structure. This is intended for people such as the Van Farowes and the Gillespies. Attorney Pawlowski submitted photos taken in the fall of 2005 that show the Association utilized the property as a "pocket park," not for accessing the river. Vice-Chairman Lewis asked who took the pictures and Attorney Pawlowski said Mr. Van Farowe.

Attorney Pawlowski further noted that the granting of the Variance will be injurious to the neighborhood and otherwise detrimental to the public welfare. A boat ramp will depreciate the adjacent properties' values.

He believes that all of the standards must be proven and asked the Board to consider rejecting the Applicant's request since the request does not meet the standards.

John Meyer of 3434 Goodwood Drive said that this site has always been intended for access to the river for the Goodwood Plat Association. It is, has been and always was an access point to the river.

Also, the repeated accusations and theories regarding the depreciation in value of the Van Farowe property have not been substantiated.

Mike Rosie of 3425 Goodwood Drive said that property values keep going up in general on the river.

Bud Poe of 3462 Goodwood Drive addressed a couple of comments made by Attorney Pawlowski. Regarding the use of the property for picnics, he noted that the Association must provide a copy of their bylaws to the Planning Commission. The bylaws specifically limit the use of the property regarding gatherings, picnicking, etc., and the property has not been utilized this way in two years.

Vice-Chairman Lewis noted that communications were submitted from members of the Association regarding the parcel's use. The documents note that boats had been launched from the site as a particular use.

Board Member Beahan motioned to close the Public Hearing, supported by Board Member Casey. All in favor, with none opposed. The Public Hearing was closed.

Vice-Chairman Lewis opened the meeting for discussion from members of the Zoning Board of Appeals.

Board Member Casey noted that as to the discussions regarding the appraisal, he concurs with Mr. Meyer's facts and the appraisal itself was flawed. He disagrees with some of the comments on the appraisal.

As far as the variance, he supports the Township Attorney's procedural comments and he believes that the variance request is justifiable.

The variance standards were discussed.

Board Member Neal supported tentative approval of the variance request.

Assistant Township Attorney Bloom provided the language for the tentative approval or denial of the variance.

Board Member Beahan motioned for tentative approval for the request of a Variance to allow for the Goodwood Plat Owners to apply for a Type II Special Use Permit to allow for the construction of a boat launch to be used for members of the Goodwood Plat Owners Association contingent upon a final resolution being drafted by Staff and Assistant Township Attorney Bloom and that final resolution being adopted by the ZBA at a subsequent meeting. Member Casey supported the motion.

Vice-Chairman Lewis requested a Roll Call vote:

Member Beahan, yes

Member Casey, yes

Member Lewis, yes

Member Neal, yes

All in favor of the motion with none opposed, motion carried.

ARTICLE 7.

Any Other Business

Vice-Chairman Lewis opened the meeting to any other business of the ZBA. There was no other business.

ARTICLE 10.

Adjournment

Board Member Beahan supported by Board Member Neal moved to adjourn. The motion carried unanimously and the meeting was adjourned at 9:02 p.m.

Respectfully submitted,

Jack Lewis, Vice-Chairman/Secretary

Lisa Hern, Recording Secretary