

**SUPERIOR CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
APPROVED MINUTES
DECEMBER 13, 2016
PAGE 1 of 4**

1. CALL TO ORDER

The meeting of the Superior Charter Township Zoning Board of Appeals was called to order by Chairman Rintamaki at 7:00 p.m.

2. ROLL CALL

The Zoning Board of Appeals members present were Dail, Deeds, Heninburg, Lewis, Parm and Rintamaki. Member Guenther was absent. Rick Mayernik, Building and Zoning Official, was also in attendance. A quorum was present.

3. ADOPTION OF AGENDA

A motion was made by Member Dail and supported by Member Lewis to adopt the agenda as presented. The motion carried.

4. APPROVAL OF MINUTES

Member Dail noted that there appeared to be an error on the last page of the minutes with the maximum front yard setback numbers. Mr. Mayernik noted that he was not sure what the correct numbers should be offhand, but would look into it prior to the end of the meeting.

A motion was made by Member Parm and supported by Member Deeds to table the approval of the minutes. The motion carried.

Mr. Mayernik noted that there was information from the July 24, 2014 minutes that got mistakenly copied and pasted onto the September 11, 2014 minutes.

A motion was made by Member Lewis and supported by Member Parm to approve the minutes of September 11, 2014 as amended. The motion carried.

5. CITIZEN PARTICIPATION

There was no Citizen Participation.

6. COMMUNICATIONS

There were no Communications.

**SUPERIOR CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
APPROVED MINUTES
DECEMBER 13, 2016
PAGE 2 of 4**

7. PUBLIC HEARINGS AND CONSIDERATION OF APPEALS

- A. ZBA#16-01 Appeal the Superior Township Building/Zoning Official's decision that "The Board of Appeals shall not hear matters relating to or pertaining to conditional uses, use variances or Special Development Districts" as stated in Section 13.04 of the Township's Zoning Ordinance. The property is located at J-10-35-100-006 and is zoned PC (Planned Community).

1. Public Hearing

A motion was made by Member Lewis and supported by Member Deeds to open the public hearing. The motion carried by voice vote.

Odey Meroueh, attorney for the applicant, explained that he understood that this evening's meeting is only appealing the decision of the Zoning Official. However, he questioned why the zoning of the land was constituted as a special district and believed that an exception should be made. He also noted that there are many residents in the area who do not agree with the decision made by the Board of Trustees regarding this property.

Rick Mayernik, Building Official, stated that he wrote a memo to the Zoning Board of Appeals relating to his decision. He added that the parcel in question is and has been zoned Planned Community (PC) and was zoned PC when the condo/single family development was built out. He noted that the property is classified as a Special District and section 13.04(7) of the Zoning Ordinance states that the Zoning Board of Appeals shall not hear matters pertaining to Special District Developments.

Mr. Meroueh asked how and when the property became a Special District.

Mr. Mayernik stated that there was a rezoning when the entire development was originally built.

Chairman Rintamaki stated that the property has been zoned PC for years and is classified as a Special District.

Mr. Meroueh asked for an exception to this. He continued to state that Ordinance 174-18 was approved on a study that was discussed in a private session without public input. He added that there is no other neighborhood that it can be compared to. Mr. Meroueh believes that the Township could have done a more thorough study.

**SUPERIOR CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
APPROVED MINUTES
DECEMBER 13, 2016
PAGE 3 of 4**

Chairman Rintamaki stated that the entire Zoning Ordinance was approved under a Growth Management Plan, which was developed by the Township Board of Trustees with several public meetings.

Zachary Hallman, partner of Mr. Meroueh asked how citizens who live at the property are supposed to have their voice heard if the issue is unable to be appealed. He added that someone cannot be denied a hearing if the property is a Special District, and that decisions were made during closed meetings.

Chairman Rintamaki stated that Planning Commission and the Zoning Board of Appeals are public meetings and there are certain items that can be discussed during closed session, such as legal opinions.

Mr. Hallman stated that the citizens should have the opportunity to come and appeal.

Chairman Rintamaki stated that the Zoning Board of Appeals receives its grant of authority from the Zoning Ordinance; it is limited in cases and it is limited in this specific case.

The homeowner of 10245 E Avondale Circle stated that throughout the open forum hearings, the Planning Commission did listen to the homeowners concerns. However, she felt that the Board of Trustees was interested in delaying the decision until after the August Primary Election when they were sure they would be on the ballot. She added that the condominium board owners signed off on the deal without taking it to the condominium owners.

Motion by Member Dail, supported by Member Deeds to enter into closed session to discuss comments from legal counsel. The motion carried.

Motion by Member Dail, supported by Member Lewis to close the closed session and reopen the public hearing. The motion carried.

Chairman Rintamaki stated that the Zoning Ordinance very clearly states that the Zoning Board of Appeals has no authority to hear matters of a Special District Development.

A motion was made by Member Deeds and supported by Member Dail to close the public hearing. The motion carried with voice vote.

Member Dail stated that the language of the Zoning Ordinance is very straightforward and that there was no evidence of an abuse of discretion, arbitrariness, capriciousness or any erroneous finding.

**SUPERIOR CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
APPROVED MINUTES
DECEMBER 13, 2016
PAGE 4 of 4**

Member Deeds noted that the Zoning Official did an appropriate interpretation of the Zoning Ordinance.

Moved by Member Deeds, supported by Member Dail to deny ZBA #16-01 Appeal the Superior Township Building/Zoning Official's decision that "The Board of Appeals shall not hear matters relating to or pertaining to conditional uses, use variances or Special Development Districts" as stated in Section 13.04 of the Township's Zoning Ordinance.

Roll Call Vote:

The motion passed with the following vote:

Yes: Dail, Deeds, Heninburg, Lewis, Parm, Rintamaki.
No: None.
Absent: Guenther.
Abstain: None.

9. OTHER BUSINESS AS NECESSARY

A. Election of officers

Chairman Rintamaki stated that he would be willing to continue serving as Chair of the Zoning Board of Appeals and asked Member Dail if he would continue as Vice Chair, and Member Deeds, as Secretary. Members Dail and Deeds agreed. Election of Rintamaki as Chair, Dail as Vice Chair, and Deeds at Secretary were made on voice vote.

10. ADJOURNMENT

A motion was made by Member Deeds and supported by Member Parm to adjourn the meeting at 8:04 p.m.

Respectfully submitted,

John Rintamaki, Chairman Zoning Board of Appeals

Laura Bennett, Recording Secretary Superior Charter Township
3040 N. Prospect, Ypsilanti, MI 48198