

**SUPERIOR CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
APPROVED MINUTES
NOVEMBER 3, 2022
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1. CALL TO ORDER

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

2. ROLL CALL

The Zoning Board of Appeals members present were Brennan, Dail, Lewis and Parm. Craigmile, Deeds and Heningburg were absent. Bill Balmes, Building Official, and Laura Bennett, Planning & Zoning Administrator, were also in attendance. A quorum was present.

3. ADOPTION OF AGENDA

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

4. APPROVAL OF MINUTES

A motion was made by Member Brennan and supported by Member Parm to approve the minutes of October 19, 2022. The motion carried.

5. CITIZEN PARTICIPATION

None.

6. COMMUNICATIONS

Motion by Member Parm and supported by Member Lewis to receive and file a memo from Honigman Law Firm dated November 2, 2022.

7. PUBLIC HEARINGS AND CONSIDERATION OF APPEALS

None.

8. OLD BUSINESS

A. ZBA #22-04 Schuster Appeal

Appeal of the decision of the former Township Zoning Official; regarding 5766 Geddes Road.

Pat Lennon, Honigman Law, discussed the contents of the memo submitted on November 2, 2022, including providing defects in the

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approval process, and explained why the right-of-way on the Mouliere's property can only be vacated by public act. He continued to state that Rick Mayernik, former Building & Zoning Official, interpreted it as an improved road and that interpretation was adopted by the ZBA, so the easement cannot be terminated by merger.

Adam Behrendt, Bodman Law, stated that the variance has already been granted by the ZBA at a previous meeting. Mr. Behrendt cited controlling Michigan law explaining that you cannot have an easement on your property. He went on to state that the ZBA has already decided that a home can be built in that location.

Member Dail explained that he discussed this issue with Rick Mayernik after the October 19, 2022, ZBA meeting. The issue of the building protruding into the right-of-way was well-known and indicated on the drawings and added that Mr. Mayernik knew when he issued the Zoning Compliance approval. Member Dail acknowledged that the variance approved by the ZBA on January 12, 2022, did not specify the dimensions.

Member Dail explained that the ZBA is not a court of law and must follow the Superior Township Zoning Ordinance. He read Section 13.06(6) of the Superior Township Zoning Ordinance regarding reversing decisions of the Zoning Official. He stated that there was much discussion at the October ZBA meeting but believes Rick did not make an erroneous decision.

There was no further discussion from the Members.

Motion by Member Brennan and supported by Member Parm to deny ZBA 22-04, Schuster Appeal, on the basis that the action of the former Building Official, Rick Mayernik, was not:

- (1) an abuse of discretion, or
- (2) arbitrary or capricious, or
- (3) based on an erroneous finding of a material fact or an erroneous interpretation of the Zoning Ordinance.

Mr. Lennon expressed his disagreement with the motion. He stated that having a conversation with the former Building Official does not solve where the right-of-way is, nor the defects. Mr. Lennon feels the ordinance violations are being brushed aside and hopes the Zoning Board of Appeals will reconsider and make a new motion.

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Mr. Behrendt replied that there is a variance that has already been granted by the ZBA. Mr. Mayernik was aware of what was permitted, and the decision was not made in error.

Roll Call:

Yes: Brennan, Dail, Lewis, Parm.
No: None.
Absent: Craigmile, Deeds, Heningburg.
Abstain: None.

The motion carried.

9. OTHER BUSINESS AS NECESSARY

None.

10. ADJOURNMENT

A motion was made by Member Brennan and supported by Member Lewis to adjourn the meeting at 7:25 p.m.

Respectfully submitted,

Doug Dail, Chairman Zoning Board of Appeals

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