

**MINUTES OF THE OCTOBER 2, 2024 MEETING OF THE
MILLINGTON TOWNSHIP ZONING BOARD OF APPEALS**

Chairperson Robert Benard called the meeting to order at 6:01 PM.

Roll call: Present were members Robert Benard, Nate Ptaszenski, Carol Kager, and Matt Opperman. Absent and excused was Kassie Burns.

The Pledge of Allegiance was recited by members of the ZBA and the assembled public.

A motion was made by Benard, supported by Opperman to seat George Moore as an alternate due to the absence of Burns. A voice vote was taken; all voted aye; motion carried; Moore was seated.

A motion was made by Benard, supported by Opperman to make the following changes to the Agenda:

- To move New Business from item 11 to above item 9, under Public Comments
- To add a discussion about the Township purchasing an audio/visual recording system for all Township meetings.
- To add a discussion limit to the time allowed to read letters to the public to three minutes for each letter.

A voice vote was taken; all voted aye to both changes.

The minutes of the August 20, 2024 meeting were read and corrected. A motion to approve the corrected minutes was made by Kager, supported by Benard. A voice vote was taken; all voted aye; motion carried.

The Millington Township Policy for Public Comments was identified.

There were no Public Comments at this time.

New Business:

- Discussion of the need for official township audio and visual recording of meetings was discussed. A motion was made by Kager, supported by Benard to investigate the possibility of establishing official recording of meetings. A voice vote was taken; all voted aye; motion carried.
- Discussion of limiting the reading of Public Comment letters to three minutes each. A motion was made by Benard, supported by Opperman to recommend to the Township Board to adjust the Public Comment Policy. A voice vote was taken; all voted aye; motion carried.

A motion was made Benard, supported by Ptaszewski to close the Public Meeting and move into the Public Hearing of the Appeal of Steve Ley, Emory Close, et al that the Millington Township ZBA reverse the decision of the Millington Township Planning Commission to grant a Special Land Use Permit to Sherry and Mark Morris at their August 12, 2024 meeting. A roll call vote was taken; all voted aye; motion carried.

Carol Kager recused herself from discussion and voting at the Public Hearing due to a perceived conflict of interest.

Emory Close recused himself from discussing and voting at the Public Hearing as an appellant.

Matt Opperman recused himself from voting, but not from discussion; he was barred from voting on the issue as a member of the Planning Commission who had voted to approve the Special Land Use Permit.

Presentation by Andrew Concannon, Attorney for the Petitioners:

- The Township "Ordinance under which the permit request was approved violates Michigan's Zoning Enabling Act, as well as the Township's own Zoning Plan and Zoning Map."
- "Two of the three Planning Commission members who voted in favor of the Morris's application had conflicts of interest."
- One of those two voting members had been "removed by the overwhelming majority of the Murphy Lake Homeowners' Association."

This business is a "spit in the face."

- The Statutory Amendment is inconsistent with the Township's Master Plan promoting "Rural and Family Use."

Presentation by the Millington Township Zoning Administrator, Tammy Daenzer:

- The procedure for approval of a Special Land Use Permit was adopted by the Township Board. There are standards that must be met.
 - The location, size, and character of the proposed use shall be appropriate to the surrounding neighborhood.
 - The proposed use shall not result in a hazardous traffic condition.
 - The site layout, intensity of use, and time periods shall not be such as to create a nuisance due to dust, noise, smell, vibration, smoke or lighting
 - All specific requirements of the Zoning District shall be complied with.

Presentation by Sherry Morris:

- Ms. Morris's comments were read, and are attached to these minutes.

Presentation by Mark Morris

- Mr. Morris stated that the Morris' are not a business; that they have been open with all the Township Boards, that he doesn't know Ed Maschke, and that they are not members of the Murphy Lake Association.

Presentation of Petitioner Steve Ley:

- Mr. Ley spoke about Article 7.01 of the Millington Township Ordinance, which stated that in the Township's Lake Residential District, only single family dwellings were permitted. Single family dwellings are defined in the Ordinance as: "A building used or designed exclusively as a residence for one (1) family. The issue of allowing Short Term Rentals in the Lake Residential started in 2021 and was not dealt with.
- Mr. Ley read his three (3) minute letter, noting the consensus of the 112 members of the Murphy Lake Association were not happy with Short Term Rentals. He claimed that Ed Maschke, as President of the Murphy Lake Association until May of 2024, was negligent to the wishes of his Murphy Lake neighbors, that there was evidence of conspiracy, and that Supervisor Loomis did not share, nor act upon, advice he received from the Township Attorney regarding Short Term Rentals in 2021.

Public Comments:

Diane Wood: Murphy Lake is, at 211 acres, small compared to many Michigan lakes. Due to the great amount of State Land bordering the lake, there is a small amount of acreage available for people.

Karen Yeager-Stiver: She considers herself an aggrieved party, due to renters on her driveway. It was stated that the rental unit was 12 feet away from her property; that there are no health and safety standards to be met, and therefore should not be approved. She said that her husband had been unfairly accused of being a convicted sexual predator, which was false and that he had been threatened.

Mike Uttley: Said he did say "bitch" when Diane Wood told him to be quiet. He said he's "not putting up with crap." "Bullshit". (He was reprimanded for his use of language.)

Paul Martin: Owns 5 properties on Murphy Lake and has been here 41 years. The lake is recreational, residential...you LIVE there. Why commercialize Murphy Lake? Where does this stop? There is no harmony here; both sides are calling police.

Richard Yeager-Stiver: He considers himself an aggrieved party; he was falsely accused of being a convicted sexual predator. Don't threaten lives. No businesses are allowed, yet here we are. Look at special land use on the map.

Ed Maschke: This appeal claims he has a conflict of interest, He does not. He is an engineer who works on safety concerns.

Peggy Maschke: She and Ed resigned, were not removed as officers of Murphy lake Association as shown in Association minutes.

Paul Dudley: he is an owner of a Short Term Rental; the Morris' have been running a Short Term Rental for four years. The Planning Commission made a unanimous decision. Many people who live on the lake have guests. There is a difference between "may" and "shall." You MAY have STRs, not SHALL have.

Larry Hancock: We have private roads for which residents have the responsibility of upkeep.

Mark Morris: He pays the highest property taxes of anyone on the lake.

Emory Close: One of the criteria for granting a Special Land Use Permit is "is the subject in question in harmony with the community?" Does this look like "harmony" to you? There is a lot more to this.

End of spoken Public Comments.

Letters received by the Township Board are read as part of Public Comment:

Tamara Ley: Short term rentals are a blight on our community, creating parking issues, littering, unattended animals, theft, noise, trespassing, and a multitude of other problems.

Dan and Ruthann Davenport: There are reasons for Zoning Laws. Many entities have restriction or bans on Short Term Rentals; we would urge that Air B&Bs not be allowed on Murphy Lake.

Paul Dudley: Carol Kager's should not be allowed to participate in hearing due to conflict of interest. Carol Kager has a conflict of interest

Kelly Aquino: Short Term Rentals are not allowed within 10 feet of neighboring properties.

Nick Aquino: Do not approve of Short Term Rentals, due to harassment and well being of residents.

Public Comments Close at 7:52

Move by Benard to recess in order to confer with attorney at 7:53

Resume Public Hearing at 8:07

Discussion by ZBA Members Benard, Ptaszenski, and Moore.

Need to be aware that, according to bylaws, in order to confirm a decision, there needs to be a majority (3) vote of the members of the ZBA.

There are three items that need to be considered in the granting of a Special Land Use Permit.

1. Does the property meet the Township's amended ordinance allowing Short Term Rentals in the Lake Residential District?

The application for the Special Land Use Permit does meet the standard. However, it was discussed that the Planning Commission did not include all considerations in the motion. The ZBA is able to deny, approve or modify the motion. The Zoning Administrator advised a modification of the approval.

2. Does a conflict of interest in the Planning Commission exist?

Discussion of a possible conflict of interest on the part of Ed Maschke and Matt Opperman, both voting members of the Planning Commission. When questions identifying conflicts of interest were asked of those two Planning Commission members, they both answered all questions in the negative, indicating no conflict of interest.

3. Is the request in conflict with the Michigan Zoning Enforcement Act?

The Special Land Use Permit has been determined to not be in conflict with the Michigan Zoning Enabling Act.

Action:

Benard made a motion "to modify the Special Land Use Permit, due to findings that the ordinance requirement of determining conflict of interest and complying with the zoning map were not complied with; with modifications to include availability of sufficient parking for six (6) vehicles, overnight occupancy of four (4) people at a time."

There was no support for the motion.

The motion was withdrawn.

Discussion of damage to roads in the Lake Residential District and noted that these are private roads, maintained by residents; that residents were liable for damages occurred on their roads.

Benard made a motion, supported by Ptaszenski "to approve, with modification, the ruling of the Planning Commission to grant the Special Land Use Permit to the Morris' with the conditions that there be parking facilities for six vehicles and that quiet hours be observed from ten (10) PM until seven (7) AM."

A roll call vote was taken: Ptaszenski-Aye; Moore-Aye, Benard-Aye. The motion was passed by a majority of the Millington Township Zoning Board of Appeal.

A motion was made by Benard, supported by Ptaszenski to close the Public Hearing. The motion was approved by a unanimous voice vote and the Public Hearing was closed.

A motion was made by Benard, supported by Ptaszenski to reopen the Public Meeting. The motion was approved by a unanimous voice vote and the Regular Meeting was reopened.

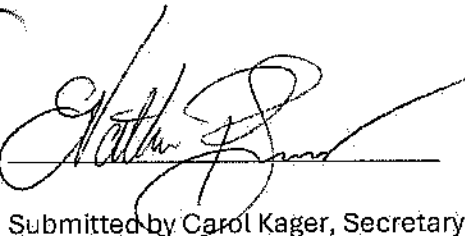
Kager returned to the board.

ZBA member Comments:

Benard commented that Kager and Benard attended the MTA training session in Frankenmuth in September, exceeding the annual four hour training required by the ZBA Bylaws.

A motion to adjourn the meeting was made by Benard, supported by Opperman. The motion was approved by a unanimous voice vote.

The meeting was adjourned at 9:52 PM

 2-6-2025

Submitted by Carol Kager, Secretary

Millington Township Zoning Board of Appeals