

A. CALL MEETING TO ORDER- on Saturday, December 2, 2006 at 10:05 a.m. Supervisor Erica Ewers called the special meeting of the Algansee Township Board, the Algansee Planning Commission and the Algansee Township Zoning Board of Appeals to order at the gymnasium at the Pine Ridge Bible Church, 280 South Ray Quincy Road, Quincy, Michigan. Members present were - Supervisor Erica Ewers, Township Board Trustee and Zoning Board of Appeals member Bill Avra, Township Board Trustee and Planning Commission member John Shilling, Planning Commission Chairman and Zoning Board of Appeals Chairman Dave Gilbert, Planning Commission Secretary Glenn Preston, Planning Commission member Pricilla Dodd, Planning Commission member Rodney Carpenter, Zoning Board of Appeals Secretary Linda Belcher and Township Clerk Suzanne Preston.

B. INTRODUCTION of Township Board, Planning Commission, and Zoning Board of Appeals, Zoning Administrator and Planner- Supervisor Erica Ewers introduced the Township Board members, Planning Commission members, the Zoning Board of Appeals members, the Township Zoning Administrator Russ Jennings and the Township Planner Greg Milliken. Supervisor Erica Ewers explained the agenda for the meeting.

C. OVERVIEW of NONCONFORMING- the Township Planner Greg Milliken explained the Algansee Township Zoning Ordinance under nonconformities. The content in our zoning ordinance is pretty standard in most zoning ordinances. The section on nonconformities is found in nearly every zoning ordinance in the state of Michigan and nation wide. Some of the words maybe a little different in other zoning ordinances, but the section and the intent there are pretty standard. Over time lots are split and structures are built and uses are established, some of that was done hundreds of years ago. Then again over time communities make plans and learn things, they work with the health department, they work with public safety officials. They realize that new things that they have learned about the sizes of lots, the way things should be developed and laid out. So they devise plans and they lay out visions for the future and they create regulations to establish visions for the future. As a result some of the situations that have been created in the past don't line up with those visions for the future and the regulations perhaps lots are too small or land uses that conflict with way the future visions should lay out. Those situations are grandfathered in. The nonconforming section is in the zoning ordinance to deal with those situations with the lots, structures and uses. This section is there to protect the rights of those structures, uses and lots. But it also there to help transition those, so they can be in line with the future vision and future regulations, other wise all that work was a waste. In the current section it deals with three different situations. One is nonconforming use- land use in a district where that use is not permitted, such as an industrial use in a residential zoning district or a commercial use in residential zoning district. So there are regulations there on how to address this and deal with these types of land uses. It limits on how they can expand and what to do when they move or discontinue or go out of business. The second type of nonconformity is nonconforming lots. Most residents that are concerned about the situation are lake residents and most lots are nonconforming lots. That is a pretty typical situation around lakes not just to Algansee Township. The rules are there to prevent the creation of further nonconforming lots. If you have a nonconforming lot you can still use it for any permitted use in that district. You just can't create further nonconforming lots. Nonconforming structures are the final category. It is a structure that doesn't meet the height, area, setback regulations in the district. It can be expanded provided that the expansion meets in the current setback regulations. Those are the three types of nonconformities.

EXAMPLES of NONCONFORMING- Planning Commission Chairman Dave Gilbert said he would try to explain with a couple examples of what we have been dealing with and where the problems lie and maybe clear up the misunderstanding because there seems to be a lot of confusion about what this entire section stands for. Dave said to take a basic lot and he drew one and the minimum lot size today in the residential district is one acre. If you create a minimum lot today it has to be one acre according to our zoning ordinance. A buildable lot in the residential district must meet the setbacks of 30 feet from the road right of way, 10 feet from the property line on each side and 60 feet from the waters edge. If you have a smaller lot and you can still meet the minimum setbacks you can. We need to have general guidelines to build a house. We are here today to see if there is something in the ordinance that is too strict. You need to come to the Planning Commission to let us know so we can take a look at it and reevaluate it.

D. PUBLIC COMMENT

Irene Clendennin- 250 Donnell Drive, you said hardship- none of us can get our homes refinanced because we can't rebuild according to your zoning thing. So is that not a hardship? It isn't fair that someone can't do anything because your zoning makes it impossible. What if everyone on the entire street says it is ok with

them because it improves the neighborhood? The neighbors are happy with it. It isn't fair that you don't live on our street say it can't be done.

Dave Gilbert asked her why she can't build on her lot. She said because we won't allow it, because you won't give her a variance. Dave asked her what portion of the zoning ordinance won't allow her to build on her lot.

Irene Clendennin- If our home is destroyed by a tornado, by a fire, by an act of God we can't rebuilt because it is too close to our neighbor's yard. If we move it that means we have to move everything else we have already located on that lot that is a hardship in my opinion. If you add \$50 or \$60,000 to the cost of building a home so it will meet the setbacks that a hardship in my opinion.

Dave Gilbert said if he understands Irene correctly she can not meet the setbacks.

Irene Clendennin said yes.

Dave Gilbert asked if her lot was and then he was interrupted.

Irene Clendennin said no, no, no I'm not saying we can not meet the setbacks, I'm saying the way our home is built it does not conform to a one acre lot and it doesn't meet the setbacks and the only way it will meet the setbacks is if I tear down my pole barn. So is that not a hardship, is that not an initial cost a hardship. Why would you not allow anyone in this room to refinance their property on a nonconforming lot, because they can't get a mortgage because the mortgage company will not refinance the property because it is a nonconforming illegal use?

Dave Gilbert said he doesn't know anything about the finances...

Irene Clendennin interrupted him and told him he should know about that, you should be checking on

Dave Gilbert said if he understood her correctly she said she could meet the setbacks on her lot.

Irene Clendennin asked if Dave was saying he would grant her a variance.

Dave Gilbert said if you can not meet the setbacks, than you have the same privilege as all the other lots have down there of having a home. If you can not meet it for hardship reasons, I'm not sure what all those reasons are because they haven't been established yet, yes that is what a variance is for. Yes that what a variance is for, yes that variance should be granted.

Irene wondered if she could ask for a variance now, you just said it would be ok.

Mary Agostini, 260 Donnell Dr, it states in the ordinance that when we talk about nonconformities that there are uses by right. So why would someone who is nonconforming who has uses by right have to apply for a use variance, if they already have that right in the ordinance to begin with.

Dave Gilbert said if they can meet the setbacks, the zoning administrator can write you a permit right away if you have a site plan. If you can not meet the setbacks for whatever the reasons are they would have to be looked at and there are wetlands or drain tile easements or gas lines or some type of a hardship incurs that is beyond your control we will grant the variance.

Harold Sneath- lives at 251 Donnell Drive and has property at 231 Donnell Drive, said that Mr. Gilbert is addressing vacant lots primarily and that the township planner mentioned the word grandfathered and that the word that the township really wants to avoid, these legal nonconforming structures that we have, none of them meet the setbacks, none of them. You can go all through the lake community and none of the existing structures will meet the setbacks. You are not allowing any variances and I think it would be quite a hardship if I would have to move my house 20 or 30 feet forward in order to meet the setbacks. My house already exists so you should address existing structures instead of vacant lots and find out what variances are allowed there and what is the grandfather issue that the township planner mentioned.

Dave Gilbert said we have a lot with a structure on it. If you want to tear the house down you have to abide by the current zoning requirements, meaning you have to meet the setback district, from the side, from the front and from the back, meaning all setbacks requirements have to be met. If you can not, if there is some reason that you can not get that house in the setback district and it is not something out of your control- wet lands, power lines, gas lines, tile easements various conditions there, then that is what the variance is for. Now if you want to add on to this house, you can not add on in the setback portion. If you want to add on to your house in the setback district that requires you to go to the zoning board of appeals and the likelihood of approval is slim to none.

Joyce Clark, 243 Donnell Drive- asked Dave Gilbert if they couldn't conform with the ordinance and they couldn't get a variance, they would have to try to change the ordinance before they could improve our neighborhood.

Dave Gilbert asked if she remembers at one of the ZBA hearings, Dave told them that they would need to go to the Planning Commission with suggestions on changes to the Zoning Ordinance because housing is tight over there.

Joyce Clark said that is why we started all this because most of the people around here, you guys are right, we did not go to those meetings because nobody had any idea that anything like this would happen, now that it has happened, you know that's what Erica had said, we need to you know, and you need to tell the people

just like what I said, what you just explained we would have to change the ordinance, because we are not going to get variances. Jack Lutz has something he would like to say.

Laura Allen, 113 Back Bay Point, my concern is more with the natural disaster- tornados, fires I have a lot of record and I have a structure of record meaning it is verified with the ordinance, if that happened right now why can't I rebuild my structure on the existing foundation?

Dave Gilbert- said if you rebuild exactly on the same footprint and keep it the exact same size and not expanding up or out or in any direction then that is allowed. That is a known court decision stating you have the right to do that, to rebuild your house.

Laura Allen said that in the zoning ordinance it says we can not do that if it is more than 50% the cost.

Dave Gilbert said Greg Milliken, I'm going to come back to you on this one, it is kind of a double standard there, because the ordinance, 50% of the ordinance is standard I think throughout all zoning ordinances for that.

Greg Milliken said it is pretty common. It is not universal, but it is fairly common.

Dave Gilbert- as far as the courts ruling saying you can build back on that exact same footprint, as long as you don't expand the size. That would go to the ZBA and the ZBA would allow that.

Laura Allen- why would we even have to go to the ZBA that is what I'm saying?

Dave Gilbert- said because you are going to be that setback district. I'm assuming that is why you are having a problem. If you are not in that setback back district, you can get a permit and build any size you want, you can enlarge it; you can expand it as long as you are not in the setback district.

Laura Allen asked why would was it even addressed in the zoning book, that I even have to have this issue if I'm willing to rebuilding exactly like it says, why should the township have anything to do with it.

Greg Milliken said it is a fairly recent decision in the case law. He doesn't know the exact date of the law.

Jack Lutz, 127 Crauns Beach Drive- said there are 3 problems with this particular clause. Problem #1- the adjustment is based on true cash value, well true cash value is neither true nor cash, it is just a value. Problem #2- I don't know why you would put 50% limit. Problem #3 why should the adjustment only be permitted only for natural means whatever that means.

Bill Roberts, lives in Hillsdale has a lot on Bennett Drive with a well and septic tank on it but it doesn't have a house. The rules and regulations that you folks are coming up with, as a matter of fact are you coming up those rules and regulations or did you buy them from somewhere or did the state issue them to you or I'm sure you people didn't sit down and draw up all these rules yourself, where did they come from asked why we had some come up with all these problems and then he said some profanity.

Glenn Preston asked him to refrain from profanity.

Dave Gilbert said the township hired a firm called McKenna and Associates to help us with this. The original zoning ordinance was adopted by Algansee Township back in 1980 was designed by Southern Michigan Planning Council. We hired McKenna Associates to help us rewrite the zoning ordinance because of the legal ramification of the ordinances. Nobody on the Planning Commission, including myself, is an attorney. So we hired a certified firm to help us.

Bill Roberts then asked where Dave Gilbert's property was in Algansee.

Dave Gilbert told him that he lives on Briggs Road.

Bill Roberts wondered where Greg Milliken's property is located.

Greg Milliken told him that he lives in Kalamazoo.

Bill Roberts wondered why Greg Milliken was here.

Barb Lloyd- 245 Donnell Drive, in regards to the court case that has set a precedence, it possible that because now there's areas where they are trying to put the stupidity of the 50% into the zoning, is that why the court case has come to task. Things don't end up in court until the situation arises. It has never been in the court before, because it wasn't being imposed. Now that it is being imposed the court is saying that this is a stupid imposition. So maybe that is why it is a wake up call to stop doing it.

Dave Gilbert asked a quick question, how many people would like to see the 50% removed from the zoning ordinance, would you like to have something put back in a percentage or just automatically have the right to rebuild.

Barb Lloyd asked what they would have done in Louisiana if that clause had been there.

Dave Gilbert said they have a lot problems down there. He would like to give everyone the opportunity to speak. So if you have already spoken once let those that haven't had the opportunity to speak to be able to.

Fred Avra, 1011 Campbell Road here in Algansee Township, we sell manufactured homes in the area. We put a home in over on south Fremont Road just south of the bridge. It was brought up at the last meeting you guys had, we met all the set backs, we followed all the zoning rules. The had met all the setbacks. The neighbor gal came out and she confronted the people who were writing the zoning permit, and said she would sue if we put that house in. This is one of the reasons why the zoning is developed. Its to secure the safety

when you do get ready to build, that you can build. Other wise when there is no zoning you got everybody in court arguing over what is right and what is wrong. From what I can see, everybody should get together and take there lot dimensions and look at the hardships that are accounted and bring it to the planning commission and show them what they would like to do and come up with some kind of a reasonable setback that would work for the majority of the lots. That's what makes since to me. You want it to work for the people and the community, basically everybody participates in the community. That's basically my view from the other side of it.

Dave Gilbert thanked Freddie for his comments.

Debbie Sneath, 251 and 231 Donnell Drive, first of all, you say that we have to build according to the setbacks; our property is already too small to reach the requirements of the setbacks. Our home is already in place, if anybody has been on our street knows it is virtually a basement in the ground. We want to go up. Your solution the other day with the second floor was to go back to the second half of our house upstairs and build up, so you literally going to have this hat sitting on the top of this structure. Now when we go to sell that place we made it into a white elephant that nobody on the street is going to appreciate anymore than the basement we have right now sticking out of the ground. It makes the whole block look terrible; it depreciates the value of everybody else's house on that street. We want to go up to make it look like the houses on both sides of us and everybody else on the street, just with one story. You say we can't do that, we have to go to the back part of our lot and build up on the kitchen section of our house, put a flat roof on the rest of it. You're making us make our property into a white elephant that isn't going to have any value, is not going to help the value of anybody on the street, when it comes to mortgages they're going to say you know we are not going to finance this house whose going to buy it. So then your solution is all right we put this house on this lot on Fremont that happens to meet all the setbacks. Ok, I couldn't understand why anybody in that gray house next to it would ever not stand up and say you know, I don't want this house here, because you have just taken away the value of my house because you have taken away the entire view of the lake from my property. That lowers the value of that house next door. I can understand why that neighbor would be upset, because you people want us to put our houses further down by the lake with no regard to any of the neighbors on the other sides of us as to whether we block their view of not. That lot costs so much because of the view of the lake not the view of somebody's house. Now when you go down to our lot and you don't even go there and you tell us we can't go up, every neighbor around us wants us to go up to improve the value of their property there's something wrong. You don't need to be sitting in your little office behind your little desk and say you can't go up because you don't meet the requirements that we want you to meet. There's something wrong here, you are supposed to be here for the people and what they want, not for yourself and what you want.

Jack Lutz- wondered about the first drawing, where is the one acre.

Dave Gilbert said that was a nonconforming lot so it doesn't have to be an acre. It is a preexisting lot.

Jack Lutz said that is not what the ordinance says. The ordinance says all lots built... the minimum lot shall be one acre.

Dave Gilbert said if the lot was created today it would have to be one acre. What's nonconforming? Nonconforming means that it was legal prior to the adoption of the zoning ordinance. Then the zoning ordinance was adopted which made it a nonconforming lot, not a minimum of one acre.

Jack Lutz wondered how you could possibly get one acre out of that diagram.

Dave Gilbert told him you can't, but you're not restricted that lot being less than one acre has the same rights as a one acre lot today

Jack Lutz said that's not what it says.

Dave Gilbert said Jack to take that up with our planner.

Greg Allen 113 Back Bay Point- it's my understanding that when you go to sell your house you have to state whether your lot is conforming or nonconforming. It's been my experience over the years that I've gone to the board several times and I've tried to add on to the house and it's been a nightmare and one of the neighbors want to resell it and of that particular meeting with you guys on a discussion on what compliance is, we got into an interpretation of this, now you are on the board, you are the one setting these rules, it seems like, and I'm not pointing fingers I've had this experience several times, but it just seems to me every time I have tried to get a straight answer out of anybody we get into a word games and we get into interpretation and I'm standing back here like what are we talking about. I mean it is far being it, if I want to list my house and sell it I don't know whether I can or not. I built my house 5 years ago and I was in compliance but I guess that would depend on the day we decide to sell it what mood the board was in or you were in or whatever. That is the experience I have had.

Erica Ewers said the article attached to the newsletter that is floating around that article if you read it the gentleman is referring to nonconforming use you have to identify. A nonconforming use would be if your house was being used for a commercial store in a residential district. You have to notify the realtor at that

point or the bank that you have a nonconforming use in a residential district. If you have a house in a residential district it's conforming with the use of the property and therefore it is allowed. So you're not a nonconforming use, you would be a nonconforming lot or structure. You don't have to disclose if you are a nonconforming lot or structure only if you are a nonconforming use.

Greg Allen wondered if he would not only hire a realtor to sell his house he would have to hire a lawyer to interpret what the board has said.

Erica Ewers said nine times out of ten the realtors are calling us if the property is in a questionable area whether it is zoned residential or whether it is zoned Ag or whether it is zoned commercial. And that is what they are looking for.

Greg Allen said he would like to see the 50% be addressed and I don't know if it would be changed or not. As of right now the way I see it probably 95% of the property in the entire township eventually going to be turned back nature because sooner or later somebody is going to have to somewhere and this is basically garbage and you know and you addressed the issue of what your thoughts were depreciation to depreciation you know it maybe when it comes to zoning laws and stuff like that you guys don't care about that, but I certainly do. I mean you know I built this home and hopefully that will be part of my retirement someday and maybe it will and maybe it won't, maybe it will be worth a hundred thousand and maybe it will be worth a thousand, maybe it would be worth several hundred thousand it just depends on the day and whether we can, you guys, you can either sit there and you know here us and talk about this and you know, ok and recognize it or you can work with the people and understand. You go to other townships or go to Coldwater Lake, I'm assuming you know you guys are saying this is standard throughout the America or whatever. But what I've seen at Coldwater Lake, it's nothing like Alganssee Township.

Erica Ewers said that their nonconforming section is close to ours. Right Greg?

Greg Milliken said yes.

Erica Ewers said the difference comes as to what their setbacks are. And that is what the point of having this meeting today was to get some ideas and as far as changes to those setbacks, because Ovid Township has very minimal setbacks.

Greg Allen said there does need to be some control there does need to be something, I'm not so stupid as to say you know we can just bring something in here and say this is what we want, I understand that. I'm not stupid. It is cooperating, you know several times I've tried to do things several times and it is just like walking into a wall and if you guys won't be a representative of the township and it's people and when you guys are doing this zoning thing you hear bits and pieces, you almost have to be a lawyer to understand any of it. The meetings I've been to you with questions and you get into it and you ask questions and they look at it and you look at it, and it's like you can't get a straight answer. It takes you weeks or months and they put it off until the next meeting because I can't answer that or that person is not here or what ever it's frustrating. I've got zoning permits seven times over the course of the ten years I've lived out here on the lake, I'm ready to go.

Dave Gilbert said he wanted to ask a couple questions, how many people here would like to see the zoning ordinance done away with have no rules and no regulations what so ever and the next question is how many of you feel the setbacks are too strict they need to be less?

Jim Brown- 762 Bennett Drive- I can understand your setbacks in the residential areas, but I guess I think the majority of the people what they are looking for right now with your current zoning laws 99% of the houses around the lake are nonconforming, they would like to see the setbacks changed so 95% of them would be conforming.

Dave Gilbert said he would continue here with a couple questions so we could get this information to work off from right now in the residential district the setback along the road is 30 feet, from the edge of the road right of way your structure needs to be 30 feet. Would you like 20 feet? How many people want 20 feet? Would you like 10 feet?

A lot of people said they would like 15 feet.

Dave Gilbert asked how many people would like to have a setback. Keep in consideration here folks, when you allow for this setback that whole part of the lot, all the way across there can be built on, you have no place to park your car. Is that what you guys want?

Greg Allen asked where you start measuring for the setback, from the center of the road over so many feet.

Dave Gilbert said no, from the road right of way, good point. You have a 66 foot right of way. If the road is how it is supposed to be, from the center of the road you are going to have 33 feet to that line, that's where your property line starts. If it's on a platted lot or lakes and residential means and bounds description, so that 33 feet from the center of the road, at that point they can measure your setback. In the residential district it is 30 feet right now. From what you guys have told me that is too much you want it less. Ok I've heard 15 feet and a 10 feet suggestion. What is reasonable?

Kelly Shubert-258 Crockett Drive- you have heard from people on Donnell and Bennett Drive and I live on Crockett Drive. Myself and 2 other people are in this situation on this road, but I have no property that touches the public road. Ok I have an easement that goes from the road to my property. People on Donnell Drive which is a private road, they have no property that touches a public road. Ok, this isn't falling into the same situation.

Dave Gilbert said the setback does because even though it is a private road, it is a parcel of land that has been platted and has been given to everyone in that plat, everybody in that area

Kelly Shubert wondered if there was an imaginary road that goes straight through it.

Dave Gilbert said it wasn't imaginary, it is the private drive or the easement what ever you want to call it, and I don't want to get hung up on terminology. Your property line, when you own property, you will have a property line. It will start, you will have a section in this road right here, with the road down the center of it, because most easements are 66 feet. All township and county roads are 66 feet. He explained in a drawing that there is a meets and bounds description there. You have a survey done and you put your posts in there. From that line you measure your setback from.

Earl Waterstraat- up on Bennett Drive- there are a lot of houses there that were built years ago and shouldn't it be, that since it is a private drive that the people living on the street have some consensuses on what the setback should be.

Dave Gilbert said everyone's opinion should be heard. Like I said at a previous meeting with some of the people up here, if you live on a private road and want to create different setbacks on a private road come and see the Planning Commission.

Erica Ewers- said the 2004-2006 Planning Commission request breakdown, there were 34 meetings held in 3 years. There were 14 public hearings held during that time. 11 hearings were for special use requests- 6 approved and 5 denied- 4 were for Amish homes and 1 was for a commercial use in the Ag district. There were 2 hearings for rezoning requests and they were both approved. And the last public hearing was for an amendment to Ordinance to allow commercial in Ag district, therefore it was denied.

Dave Gilbert said folks this is where a lot of the problems begin. The zoning ordinance is a set of rules. Those rules have to apply to everyone and every parcel in that district.

Mary Agostini- 260 Donnell Drive- had a presentation of suggestion by a committee that has come together to try to come to some solutions to the issues that we are facing. (See attachment)

Judy Jones- 776 Hall Rd- asked where they got that information in the zoning ordinance about having the Ag land be dormant for 10 years before you can be build a on house it.

Dave Gilbert said the background of this section under the ordinance permitted by right is that you are allowed on single family dwelling on a quarter quarter section. If you have a quarter -quarter section without any houses call our Zoning Administrator and he will write you a zoning permit and you are good to go. The Planning Commission said wait a minute we would like to have the opportunity for some people to have another dwelling. How do we allow for extra dwellings without taking agricultural land out of production? That is how this was developed. This developed by a planner and the Planning Commission with the intent of coming up with additional homes for people to build in the Ag district without taking out agricultural ground. You drive around we have a lot of hilly areas that have never been farmed, why not allow for a home there. That is what the Planning Commissions intent was at the time. We tried to open it up; we tried to allow for more homes. Nobody would come up with the same answer on how many homes should we allow in the quarter quarter section. What is the minimum lot size for agriculture? Everybody has different idea on that.

Jack Lutz- 127 Crauns Beach- When people read it they get a bad impression on what is being done here. One of the things we have to recognize realistically is when you have a zoning ordinance you have to be able to do whatever you needed to, to stop a violation. Ultimately acquire the property and dispose of it. Pretty touching thought. So I think it would help a lot if when you are writing these zoning ordinances if you tried to write them in language that would be first of all clear and second it would be more of looking at it from a stand point of a layman.

Judy Jones- this goes write along with that, we have 40 acres and of course we can't leave it idle for 10 years when we don't know in the future that we are going to build on it and our son wanted a lot with 40 acres we met all the setbacks, we met all the rules for one acre and we were allowed to split that 40 acres one time which we have never done. All right because of this right there, it has been in worked or pastured or in the set aside program, we could not find in the 40 acres, one acre for our son, to set aside for our son to put a house on without the suggestions of taking half of our barn and half of our garage and our driveway. We couldn't make any sense out of it, because you couldn't use the ground that had been worked, which to me is very unfair.

Dave Gilbert asked to see how many people would like to see permitted by right one house per quarter quarter section? How many people would like to see that number changed to allow more houses built there?

QUESTIONS & COMMENTS

Jim Toth- what is the intent of 10 years?

Dave Gilbert said the intent was to utilize ground that wasn't being used in agriculture. You guys need to tell us what you would like in this zoning ordinance. When we redid this ordinance we had informal hearings for everybody to come and tell us. We had a few people come in and make suggestions and we tried to follow them. That is what we are here to do, we are representing the township. We are here to work with you and support you guys and to get your suggestions into the ordinance if at all possible. That is why I asked the question of how many houses do we allow in the Ag. District.

Judy Bailey- lives in Jackson Michigan and has a place Bickford Drive- and I only have 65 foot on the channel, she asked Mr. Gilbert if you want to rebuild you could use the same foundation. I'm only like 3 feet from my neighbors' property and I only have a 600 square foot place and we only bought it for summer. So I want to know if I could get a written thing right now that if something happens to that place that I can rebuild it like it is. So I don't have to come in front of the board again to redo it.

Dave Gilbert said if you build it on the exact same on the exact the same foot print, we can probably get something. It says that in a court case. Any time there is a court case, an appeals court case, a Supreme Court case or a federal court case that will take precedence over any written zoning ordinance.

Tom Morgan- 233 Dons Drive- what is the court case to reference that.

Greg Milliken said he didn't have the name of the court case; you would not have to go to court. The thing is the township is not going to deny that variance for risk of that court case, because they know they would lose do to the precedence that was established.

Sherry Haylett- realtor in Branch County- wondered about the cost of a variance, how long do they last?

David Gilbert said that right now a variance costs \$250.00 and that goes to pay for the advertising and the expenses of the hearing. Once a variance is granted it is granted forever for that property, it goes to the property not the person. You can appeal the Zoning Board of Appeals discharging in the circuit court. Once the Zoning Board of Appeals makes a decision, that's the decision. If you don't like that you have a right to appeal that decision, you know you can go on up through the court system with it.

Kathy Majeske- has a vacant waterfront lot on Whistler Drive- would like to improve her property and is looking for reasonable zoning and something in writing to protect the property. How many variances have been granted on waterfront property to people who are not full time township residents?

Dave Gilbert said he didn't have that answer because we didn't know if they were full time or part time resident. If you request a variance and meet all the criteria that are outlined in the zoning ordinance, Board of Appeals will grant the variance. If you do not meet the criteria the Board of Appeals will probably deny the variance. If you have a small lot and that was my first drawing that I put up there that everybody said you can't meet those dimensions because it doesn't work out, that's a hardship. That is one of several. You bought that lot of record on good faith with full intention of building on it. We will see that you get a home some way. According to our planner and our legal council financial is not considered a hardship.

Greg Milliken said that is true, economics is not considered a hardship when evaluating variances.

Dave Gilbert said wetlands is considered a hardship, gas main or something going down through there, utilities you can't move that is a hardship.

Greg Milliken said practical difficulty, it's a legal standard you have to meet. It is a legal term. It gets very legal. The standard you have to meet is practical difficulty. It is not worthless if you can meet the setbacks. If you have 40 square feet of building envelope then you've got a hardship. If you've got a building envelope on which to place a house then you are going to have a tough standard to meet. But if you don't have a building envelope in which to put a house then you don't have a hardship. You see the difference there? If you can meet the setbacks and you have got a large enough area there to build a reasonable size house then yes.

Dave Gilbert said if your lot size is so small, if you owned that platted lot prior to the adoption of the zoning ordinance you are entitled to build on that. The Zoning Board of Appeals will grant you that variance, the minimum variances allowed for you to build on that lot. Now if you come to the Zoning Board of Appeals and say that I want to build that house right here on this corner, we will probably say no, we will say to you to utilize the open space that's allowed to build in. If you can not utilize that space to meet, what you want to build as far as the minimum square footage of the zoning ordinance, then we will start compromising the side yard & rear yard setbacks, then if it still can't be done then we will slowly start going in on the front yard setbacks. The front yard setbacks are a safety factor. We don't compromise that one at all. We have only had one request come to the board and we granted him a variance and there is a house on that lot today.

Jim Toth- 544 Hammon Road- asked how the township makes money, that's right, it makes its money on taxes. This township is a business just like any other business. It seems to me you ought to be pretty lenient on what you are doing because all the money you can draw into this township, the better the township is going to be. I mean there is a certain criteria you're going to have to meet, there is also, I think you're kind of

missing the boat here. Out of respect but this township is a business and its governed by a business. I mean it has a board that is what it is for, but if people have a lot out here and it sits on the corner lot and they could build a house on it, I think you ought to allow them to build a house on it, because that is money in your pocket. I mean, I don't how you figure, but that is how you make your money.

Darrin Phenix- 111 Back Bay Point- I actually work on Coldwater Lake and I actually rely on the lake people to come to our area to enjoy it and actually what I've noticed on Coldwater Lake and in the surrounding area like Ovid Township and stuff that people are coming in from Fort Wayne and Chicago and Ohio are coming in to invest in this community is quite huge and they are not going to want to come over to Algansee Township to purchase lake property when they can't, most of the problem is rebuilding a home and try to make it nice so they can actually want to have nice place to live. So I kind of look at it like Coldwater Lake has them squeezed in there but that is kind of lake property. If you are buying lake property you are used to being close to your neighbors. I understand you don't want to be 5 feet from the lake and block everybody's view, but it is very important to get the people to come up and invest in our community and they are not going to want to come to Algansee they will stick to Coldwater Lake and Ovid township where they are able to build and redo their homes and things like that. I think that is the biggest problem is that nobody is able to rebuild their homes.

-229 Dons Drive- nobody likes this ordinance and we want it from to be from the people to go over it piece by piece.

Dave Gilbert said we held informal public hearings when we were doing this zoning ordinance and we wanted peoples input and nobody came to those hearings.

Erica Ewers said we still need to hold some public hearings to get peoples input. We need to work with the committee that has come up with this plan. Is that fine with the rest of you? Obviously there will still be public hearings; we will still have to go through a lot of process before any changes are made to the zoning ordinance. As an example this ordinance took three years to get passed the first time. So I'm going to tell you its not going to happen tomorrow. It's not going to happen at the end of the month. So if we can work with this committee this but we also need the agriculture peoples input along with the lake committee we need everyone represented.

Dave Gilbert said please remember the Planning Commission meets once a month and you are all welcome to come and give your own personal comments to the Planning Commission. You do not have to go through a committee. If you want to work with them that is great but you can come as an individual to the Planning Commission to voice your opinion to tell them what you would like.

Joyce Clark said Ok, but I have something to say you know you guys are correct, I spoke to Erica and she said you know none of us people came to those meetings and they are absolutely right because we never thought that our township who we pay money you know we pay taxes and we have to take our money and go to court to fight because the township is wrong. If we would have known this was going to happen I'm sure everybody in this room and other people would have went to those meetings. So we're mistaken and I do wish that it wouldn't have been like in November because everybody leaves and goes back except for a few of us, which I happen to live here, but everybody leaves and goes back to their winter home.

Brandee Pabian- 716 W. Channel Drive- wondered how many people on the board live on the lake.

Dave Gilbert said 4 of them do.

Mike Kolodie- 260 Crockett Drive- said I seem to hear like people getting together and his biggest concern and he would like us to answer and he would like an answer today if possible as a matter of fact right now we are all very concerned if we were to have a fire on Crockett Drive and the wind was from the north and the west that could wipe out all 40 homes all the down our block which would become a natural disaster. There is no reason why it couldn't happen tonight or that could have happened last night when we had such a problem with lightning, there was a corn field, wet as it was that caught on fire. All of our home could go and our ordinance says right now is we can't rebuild. I would like a definite time and a date when that could be changed and looked at but it can't be a week from now or a month from now. I feel and I'm sure that everyone here would agree that is the number one concern. I'm sorry about all the other things and very sorry about that lady back here with her property and everyone else here but personally that's all I have, my home. I'm not going to lose it and I want an answer.

Erica Ewers said what you don't understand is the only way we can make changes to the zoning ordinance is to publicize it and it has to be in the paper and then it has to be another 30 days until it is official. To open the ordinance, to do just that I don't know we can do.

Greg Milliken said it is a minimum of 3 months.

Erica Ewers said what we can do is what we can promise you as a township board is that if that happens we will work with everybody and everyone will get to rebuild their homes exactly as they are.

It was posted and it is a special meeting, the only thing we can act on is zoning issues, because of that it was posted. All 3 boards are up here. If the township board members would like to make a motion to specially put it into minutes of today's meeting if a natural disaster would occur before we get it written into the minutes that they could rebuilt their homes on the exact same foot print if a natural disaster would occur before we can get it written into the zoning ordinance I would entertain that motion. Bill Avra motioned if there was a natural disaster that they could replace their homes exactly as they are, on the same foot print. Support by John Shilling. Motion carried.

Mrs. Gary Clifford- 145 Lakeshore Drive- said she appreciated the township board giving everyone the opportunity to share their concerns. She would like to remind the young man that Coldwater Lake has sewer and so they can do things that we can not. We all should be concerned with the quality of our lakes.

Gerald Rogers- 342 Donnell Drive- You just made a motion for expensive homes to rebuild on the same footprint but what happens to structures- nonconforming structures. What if your building you have now is too small? If you would rebuild it, it would still be nonconforming. He would like the motioned changed to allow nonconforming structures.

Greg Milliken- said it will take 3 months to develop the language and we will take comments and input into consideration on how they will exactly how to word that amendment.

Dave Gilbert- explained that Mr. Rogers went to the Zoning Board of Appeals to get a variance to build a garage in the road easement or private road right of way. The Zoning Board of Appeals turned him down because we don't have any authority to grant a variance to build anything in the road right of way. Nobody can build in the road right of way or in the setbacks. To be able to build in the setback district a person needs to show a hardship. The attorneys say a garage is not considered a necessity a house is a necessity. If we change the setbacks to 15 feet somebody would still be mad.

Gerald Rogers- said he would like to build a garage and would like to have new setbacks before he builds.

Joyce Clark- said we need to change the zoning ordinance to accommodate more people.

Chuck Ingolia- Crauns Beach Drive- said he had owns 87 feet of lake frontage on Marble Lake, is his lot nonconforming?

Harold Sneath-251 Donnell Drive said he had a question for the planner, wondered if the planner comes with a basic outline and says this is what we have and we will make a few changes. Let me ask my question. He looks to awfully young, so I don't think he has been in Michigan in the up upper like the wealthy counties like the wealthy counties like Oakland and St. Claire county where the homes are really crunched together and they accommodate the people. My question is how come this ordinance is so much different from Ovid Township and Coldwater Township. I mean who made all the changes to make Ovid Township about this thick and Algansee Township about this thick.

Erica Ewers explained that each township hires their own planner. We hired McKenna as our planner. Greg Milliken is the 4 planner we have had come in under this zoning ordinance. Greg just happens to now be working for Ovid Township also. The original ordinance brought to us was thicker than this and it was the standard ordinance they were using at the time. The planning commission and the township board took one look at it and we don't like it. We don't want it. It doesn't apply to Algansee Township, it has too much big city stuff in it and we are taking it out. We took out almost half of the wording.

Harold Sneath- 251 Donnell Drive- said but you have to look at it this way, the big city stuff, most of us people that live on the lakes were originally from big cities and those big city tax dollars built this community. Ok now we want to come here and retire and we can't even build on our homes. Ok, we should have the same rights in this township to build on our homes as Ovid Township and Coldwater. You know, we should be able to build the same type of homes and be able to have a normal life style let's put it that way.

Erica Ewers said like the statement that was aid earlier that Ovid and Kinderhook township have sewer and that is where the major difference on what can be built and how big it can be and how much of the lot can be used. One thing the township is getting complaints about is we are approving township permits for houses to be expanded and now the problems are coming in that the health department is saying no you can't have the enlargement because the lack of proper septic tanks. If the public want to start a petition to have sewer system go ahead. We have been down there before and it was turned down and if the public wants to start petition that go ahead.

Dave Gilbert reminded people to keep on track and not to talk about specific board personal interests. Let's talk about zoning that effect everyone.

Freddie Avra said all you people came here today to make change which is good. My thought is everyone needs to take a look at their lot and look at what they would like to do with it in the future and take it to a committee to come to some kind of happy medium on the changes to the zoning ordinance which works for most everyone. It probably won't work for everyone, somebody will probably miss out. Here are some of the issues I'm aware of, what are the safety issues and they are talking about this seems to be one of the big ones,

this 30 foot setback. Say you make it 10, ok, now you park your vehicle there, SUV it's 20 feet long, where is the back end of your car in reference to the road. Your grand children are over and riding their tricycles what happens when they ride out in the road and get killed. Who starts to complain now? If I wasn't allowed to build so close to the road maybe my grandchild would still be alive. This is some of the issues that they are looking at. Next thing is the side yards are 10 feet. We went to Ovid Township and set in at one of their meetings. They had this person that wanted to build, they had a house and they had the chimney 3 feet off the neighbor's lot, they wanted to tear the house down and rebuild, but their set back is 7 feet and they wanted to make it 6 feet. Well, what they presented was that the neighbor's house was 9 feet away from the lot so in essence they still met the 15 feet setback for the fire department could get in there and save the house if there was a fire. So that is another issue that they are looking at as far as the side lot. But what they did was give them the variance saying you didn't meet the 7 feet setback but we still have the 15 feet setback. Now if the neighbor decides to rebuild and he wants to come closer, chances are they probably won't grant them a variance because of the safety reasons. So it's a situation where one hundred years ago they made these lots, people came up and they built a little cabin on it through their stuff in it went out and went out and fishing and things have changed and we all live in bigger houses now. We want garages and all this other stuff and these lots just aren't big enough to do that. I don't personally live on the lake. I think it is great that you guys want to get in here and work this out it is a big issue with this township. I go to all the meetings and I try to apply myself to do the better for the community. The thing is if they had to do everything that everybody wants to do or if they are going to make a change then they have everything. You know if you have 5 people on the board then you have 5 different people with 5 different situations. So they sit down and look at their house and say well I want to do this. Well there is 100 people here and do you think 5 people are going to answer for all 100 of you, I don't think so. So the more information you give the better it will be. I have put houses back in on Donnell Drive. The lot lines used to be 20 feet. You could be 7 feet on one side and 13 feet on the other side. Maybe they need to go back to that in order so that it would work better for people. You have to think of people's safety too. If you want to make changes make it work for everybody.

Joyce Clark asked could you tell me why it says in the zoning ordinance that the lake residents should have special consideration. Maybe we are just not understanding it. What are the special considerations? Why was that put in the zoning ordinance? We are not getting it.

Dave Gilbert said that she said that the zoning ordinance says you get special consideration for residential people. What are they? Ok, the ordinance addresses the how close the houses are in residential areas, there are a lot of private drives. The private drives have been one of the problems we are trying to work with right now. You know that is what we are here for today. You tell us what your needs are. Let's not spend a lot of time arguing with each other, please tell us. I've asked questions about setbacks. What special needs do you want us to do. No matter where we put the setbacks somebody is not going to be able to live with them. Let us be reasonable.

Lee Matis- 795 Bennett Drive- residential areas should be given special considerations.

Irene Clendennin- 250 Donnell Drive- asked obviously the setback not everyone will be able to live with. If the setback was reduced 15 feet and somebody came in for a variance request for 13 feet and they have a unique situation. You can't make it 13 feet for everyone or 7 feet for everyone. But if the entire street was all in agreement with the variance request for their neighbor, then shouldn't that variance be granted on that particular issue. Because it wouldn't effect the people on Crockett Drive, it wouldn't effect the people in farm land; it only effects the people on that street. It is those variances that are really important to the value of each lot.

Dave Gilbert said he had a question why one person would be privilege over everyone else. Shouldn't everyone be treated to the same privilege? If the setbacks are too strict I have no problems changing it.

Russ Jennings- 159 Dons Drive said he is also a lake property owner a problem with a lot of the private drives the property lines are at the edge of the road, so there is no right of way to the center of the road.

Joyce Clark asked why can't the ordinance be changed to the edge of the road.

Barb Lloyd- wondered what the setbacks were 100 years ago. 60 or 70 years ago the setbacks were 5 foot or 10 foot and they have all lived with it and we are talking about nice neighborhoods. They have all lived with it. They have all dealt with it. They aren't going into those areas now and saying ok ok you can't do that anymore we can't have those house here anymore. They don't do that. If they have owned the house and lot, they should be able to use have the same setbacks that were in place when they bought the house and lot. It is grandfathered in just like what it was when they bought it. That is normal zoning. Zoning is for safety, health and neighborhood encroachment. Half these cases it doesn't apply. What you are doing doesn't apply to any of those situations. My neighbor at home and the street is off center ad we are in the city and the street runs right up past his door. It didn't stop them the city for allowing them to do what they wanted them to do. According to the graph the street wasn't dedicated properly back then, it actually runs way over right up to his

front door. They didn't come screaming in and say no you can't put a front porch on in what is the middle of the road. I mean you're acting like it's a big deal to make any changes. You're acting like it's a big deal, that we don't go into this round little hole that you have established for us.

Erica Ewers said we will take a couple more questions and then wrap this up.

Earl Waterstraat- asked if he understood that we will change this ordinance about one acre

Erica Ewers said we are going to work with this committee to come up with what works and what doesn't and start working through those based on recommendations from the committee.

Maxine Scutt- 223 Dons Drive- asked when is the next Planning Commission meeting?

Erica Ewers said the Planning Commission meets the last Monday of the month and they meet at 7:00 p.m. Are you guys holding a December meeting? The last Monday of this month happens to be Christmas. The township board meeting are the first Monday night of each month at 7:30 p.m.

Charlotte Stork- 298 Donnell Drive- asked if it is possible to hold a meeting so that the lake people can come to the meeting in the spring, summer time.

Erica Ewers said they meet every month and by law we are supposed to meet once a quarter. We do meet all summer long. We will take your suggestions and concerns in person, by letter or email. We appreciate you coming out. You can get a copy of this meeting on the township website www.alganseetownship.com.

Jack Lutz said he appreciated Erica's work.

E. ADJOURNMENT- John Shilling motioned to adjourn. Support by Bill Avra. Motion carried. The meeting was adjourned at 12:20 p.m.

Suzanne Preston, Clerk