

CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 2-25-93

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:33 p.m., February 25, 1993 in the meeting room of the township hall.

Zoning Board of Appeals members present were Sam Oslund, Robert Pecotte, Carol Hicks, and Bill Sanders. Staff member Mark Maki and township attorney Harley Andrews were also present. It was to be noted that ZBA member Mike Summers has resigned his position and a new member will be forthcoming.

- II. Public Comment - None

- V. Unfinished Business: (It was to be noted that the ZBA was asked to skip to item V. Consider Issue of having a Supplemental Hearing/Public Park Definition- Steve Blondeau/Sand River Aggregate). Letter from Township Supervisor Ivan Fende, dated February 10, 1993.

Mark Maki reported on the chronological of events leading to this meeting and the request for a rehearing. Mr. Blondeau indicated that he did not know about the Public Hearing and therefor was not present on December 3, 1992. The regular scheduled meeting date would have been November 26, 1992 (Thanksgiving Day) and therefore, it was advanced to December 3, 1992.

Mark Maki indicated that he had phone conversations with Mike Farrell in regards to this issue. He then read into the record a letter from Mike Farrell dated February 12, 1993. The Board was requested to review the letter sent on this issue.

Township attorney Harley Andrews spoke to address the question whether or not we have the right to rehear a case once a decision is rendered. Is this a rehearing or another hearing on the same issue or is this a supplemental hearing. It is quite possible through the circuit court of appeals the case could be remanded back to the ZBA for a supplemental hearing.

Sam Oslund asked Mark Maki if indeed the newspaper notification of the public hearing was published. Answer yes it was.

Bill Sanders questioned whether the ZBA should use the same procedure as used by the Planning Commission in giving public notice.

Sam Oslund questioned if we could use Registered mail or Certified mail.

Steve Blondeau spoke and stated that he did not receive a second phone call indicating the scheduled date of the Public Hearing.

A motion was made by Sam Oslund that we schedule a rehearing on the Public Park Definition on the Sand River Aggregate (Steve Blondeau) for March 25, 1993 due to the reasonable doubt that proper notice was not given to all parties involved. Seconded by Bill Sanders. Motion passed 4-0

A motion was made by Sam Oslund that we as a ZBA amend the notification policy to be similar to that used by the Planning Commission and that a DRAFT of the minutes be sent out within 10 working days to the applicant, thus allowing time for appeals. Seconded by Bill Sanders. Motion passed 4-0

Carol Hicks made a motion to send notification of this Public

rehearing to all interested parties as can be identified by the ZBA minutes of December 3, 1992. Seconded by Bob Pecotte. Motion passed 4-0

III. Approval of the December 3, 1992 Meeting Minutes.

A motion was made by Bill Sanders to approve the ZBA minutes dated 12-3-92 as presented. Seconded by Bob Pecotte. Motion passed 4-0

IV. New Business:

- A. Home Occupation #93-1 Mr. Kevin Clayton 2933 M-28 E., Computer System Consultant.

A motion was made by Bob Pecotte to table any action on this case due to the fact that Mr. Clayton was not present. Seconded by Sam Oslund. Motion passed 4-0

- B. Variance 93-1 Michael Miller - 215 Cedar Lane, Front Setback on Cul-de-sac.

Mark Make reported on the case and referenced a similar case with Mr. Miller's neighbor Mr. Trudeau who was granted a similar request.

A motion was made by Carol Hicks to approve variance request 93-1 for Michael Miller 215 Cedar Lane with a 20 foot front yard variance allowing him to build up to 10 feet from his property line. Seconded by Bill Sanders. Motion passed 4-0

- C. Chairperson Bob Pecotte instructed secretary to draft a letter of thanks to Mr. Mike Summers for his past service on the ZBA.

D. Discussion on the new replacement member for the ZBA. The Chairperson instructed Mark Maki to request that the Township Board expedite an appointment to the ZBA by the March 25 meeting if at all possible so that a full complement of membership might be present to avoid a tie vote on any issue.

VI. Public Comment: None

VII. Adjournment was declared at 8:27 p.m.

Respectfully submitted:
Carol Hicks, Secretary

Carol Hicks

CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 3-25-93

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:35 p.m., March 25, 1993 in the meeting room of the township hall.

Zoning Board of Appeals members present were Mike Summers, Sam Oslund, Robert Pecotte, Carol Hicks, and Bill Sanders. Staff member Mark Maki and township attorney Harley Andrews were also present.

- II. Public Comment:

-Catherine Jacobs, 232 South Capitol Ave., Suite 1000, Lansing, Mi., attorney for Sand River Aggregate spoke indicating that she would address their side of the issue when we reach that agenda item.

Elaine Hodge, 320 Shot Point Dr. requested time to address the Sand River Aggregate hearing.

-Robert Wallinger, 149 E. Main, Harvey requested time to address the Sand River Aggregate hearing.

- III. Approval of the February 25, 1993 Meeting Minutes. A motion was made by Sam Oslund and seconded by Bill Sanders to approve the ZBA minutes dated 2-25-93 as presented. Motion passed 5-0.

- IV. New Business:

- A. Variance 93-2 - Kevin Downs etal, 872 Lakewood Lane

Mark Maki reported that the parcel is 240' wide and that zoning required 125' width per lot. The zoning variance request is for 5' per lot. Twelve letters were sent to property owners within that area and an advertisement of this hearing was in the Mining Journal. No written responses were received. Some lot widths in that area are much smaller than 125' with the average being approximately 100'. The standards for a variance are that the parcel is unique due to the fact that there are few lots in that area with adequate width and this is the last undeveloped parcel in that area. He felt that in that vain of thought a variance could be granted.

Kevin Downs spoke to affirm Mark Maki's observations.

Mike Summers asked if this request falls under the lot split ordinance and what is the practical difficulty? Mark Maki responded that it did not fall under the lot split ordinance and that it's unique aspect is that it is only 10' total short for two lots and that it is the last lot in that area.

Carol Hicks questioned Kevin Downs where as his address if 872 Lakewood is this lot contiguous with the parcel in question. Mr. Downs responded that his fathers estate has three parts to it with one fronting on the south side of Lakewood Lane, another passing out to the M-28 highway and the one in question being the Lake Superior frontage with 240' of width.

Frank Richardson 1713 Mildred, Marquette spoke and indicated that he owned a cottage next to Mr. Downs and that he had no objections to the request.

A motion was made by Carol Hicks to approve variance 93-2 to Kevin Downs, etal, 872 Lakewood Lane to allow a 5' variance for each lot thus creating two 120' lot widths due to the uniqueness in that this is the last lot as such in the neighborhood and that most lots are averaging only

approximately 100' of width. Seconded by Bill Sanders. Motion passed 5-0.

7:50 p.m.

V. Unfinished Business:

A. Supplemental Hearing on Appeal 92-5 of Public Park definition/Sand River Flooding Area by Steve Blonedau, Sand River Aggregate.

Mark Maki reported by reviewing the packet of materials sent ZBA members:

- Supplemental Hearing to review the application from Sand River Aggregate to refute the Township Z o n i n g A d m i n i s t r a t o r ' s position that the Sand River Flooding Area is a "public park" as stated in Zoning Ordinance Section 404 (b) (1).

-Zoning ordinance as adopted by the Township along with definition (Section 404 (b) (1)).

-Copy of Zoning District Section 213-District OS. Mark Maki read into the record (A) Intent, (B) Permitted Principal Uses, and (C) Conditional Uses.

-Background information on "Public Park" term. Dated November 25, 1992.

-Planning Commission worked on Sec. 404 with the 3,000 ft. setback distance on November 4, 1991 and as adopted October 19, 1992.

-Copy of Chocolay Plat Map T47N-R23W.

-Copy of Chocolay Township Recreation Plan mentioning Michigan DNR Flooding Area-Sand River.

-County Resolution A-95 with comments to the Sand River Flooding on the Shiras Wildlife Area.

-Mark Maki stated that he feels that the designation of that land is as a park and falls within the definition of a park and is consistent with township board resolutions.

-Catherine Jacobs spoke and presented the ZBA with handout materials. She read into the record the following items:

A. "Chocolay Township Mining and Mineral Extraction Ordinance"

B. A letter from Mr. David Spalding DNR Forest Management Division, Lansing Mich. dated March 23, 1993.

She indicated that the road is the issue not the mining of a gravel pit, the road is in Open Space, a public park should be a designated park, Mr. Spalding states that the property has never been designated as a state park.

-Bill Sanders questioned Ms. Jacobs indicating that she had a letter from Mr. Spalding from the Forest Management Division did she have a letter from the Wildlife Division or from a Wildlife biologist. Ms. Jacobs responded the Mr. Spalding spoke for the DNR.

-Elaine Hodge spoke indicating that she was not clear on some of the issues and that she has followed this case throughout its inception. She feels that there is a clear violation in that this wetlands is partly on State lands. Petitions were obtained and submitted into this hearings public record. The petition opposing Sand River Aggregate contained 13 pages and approximately 350-400 names.

-Harley Andrews spoke indicating that the issue is to look at the administrative determination as to a definition of public park and that this public hearing is to agree or disagree with that determination.

-Robert Wallinger representing the Michigan Wildlife Association spoke indicating that he has been at all of these meeting and is here to protect the wildlife and to reaffirm what has been done.

-John Hongisto, Deerton spoke and asked board members to postpone action for one month because many people who would like to speak on this issue are out of the area and will be back. He read a statement referring to wildlife and nesting areas within wetlands. He asked for a copy of information that was given to us. Chairperson Bob Pecotte said that he could obtain it from Mr. Maki.

-Kevin Clayton spoke indicating that he lives close to that area and feels that he is opposed to the further development of the road.

-Catherine Jacobs spoke and asked that her memo be entered into the record and requested a copy of the tape.

-Mark Maki spoke indicating that further down the agenda we have a proposed by-law amendment that addresses some of these issues. He does not disagree that mining can sometimes be permitted on state lands and that this is not a state park.

-Cliff Waters, Negaunee spoke indicating that he owns a cottage on Lake Kawbawgam and would like copies of all papers.

-Mike Summers spoke and stated his position of support to the Zoning Administrators determination of this being a park. Just because it is not a state park does not mean that is not a park. The question is whether it meets a reasonable definition of a public park and he will vote to uphold the Zoning Administrators definition that it is a public park.

-Steve Blondeau spoke indicating that he has spent two years working on this and that both boards that voted on it did not designate this as being a park.

-Discussion evolved around the fact that our vote was to either uphold or overturn Mr. Maki's determination that this was a public park. There was reason to believe that a variance could be requested from the 3,000 ft. distance between a park and mining and mineral extraction.

-Bill Sanders made a motion to concur with Zoning Administrator Mark Maki's determination 92-5 that the parcel of land owned by the State of Michigan and known as the James Jeske Flooding Project is a public park as defined in the Zoning ordinance amendment Section 404 for the following reasons:

-The intended use of the Sand River Flooding on the Shiras Wildlife Area as originally defined in Chocolay Township resolution A-95 "WHEREAS, it will also increase the region's recreational opportunities, specifically for hunting, trapping and wildlife viewing."

-As listed in the Chocolay Township Recreation Plan, providing non-traditional recreational facilities and opportunities for Township residents.

-As defined in the Zoning Administrator's memo dated December 3, 1992 "Public Park shall refer to a tract of land developed, held out, designated and maintained by either a public and or private entity for public recreational enjoyment, including but not limited to playgrounds, sports field, campgrounds, beaches, etc."

-This land has been developed by the State of Michigan as can be seen by the resolution A-95 for the initial funding of this project. This land has been held out and maintained by the State of Michigan and known as the James Jeske Flooding Project. The property has been developed along with a public access boat launch.

-The Mining & Mineral Extraction Text Amendment Ordinance

Number 34 Charter Township of Chocolay, Zoning Ordinance, as submitted by the Chocolay Township Planning Commission amended Section 404 to include a definition of "public park."

The motion was seconded by Robert Pecotte. The motion passed 4-1.

V. Unfinished Business:

B. Home Occupation - 93-1 Mr. Kevin Clayton - Computer Consultant. 2933 East M-28.

-Mark Maki reported that notice was given to all within 300 feet and that no written correspondence came back. He did have one phone call requesting a copy of the application. There shall be no signs on the property. Mr. Maki has no particular objections to this request.

-Mike Summers made a motion to grant Home Occupation 93-1 to Kevin Clayton with the usual conditions pending the receipt of written complaints and the three year limitation. Sam Oslund seconded the motion. Motion passed 5-0.

C. By-Law Amendments.

The ZBA addressed the proposed Rules of Procedure by comparing the existing rules and the proposed rules.

-Sam Oslund made a motion to adopt the proposed new Rules of Procedure as presented and to add them into the Zoning Ordinance. Seconded by Bill Sanders. Motion passed 5-0.

VI. Public Comment: NONE

VII. Adjournment at 9:05 p.m.

Respectfully submitted:
Carol Hicks, Secretary

Carol Hicks

CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 4-22-93

I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte. Opened public comment at 7:35 p.m., April 22, 1993 in the meeting room of the township hall.

Zoning Board of Appeals members present were Mike Summers, Sam Oslund, Robert Pecotte, and Bill Sanders. Staff member Mark Maki was also present. Carole Hicks was absent.

II. Public Comment:

-4 people received time to speak during item 4.B.

III. Approval of the March 25, 1993 Meeting Minutes. A motion was made by Sam Oslund and seconded by Mike Summers to approve the ZBA minutes dated 3-25-93 as presented. Motion passed 4-0.

IV. New Business:

A. Variance 93-3 - Bob read variance request at 7:40 p.m. for Thomas and Heidi Johnson, 549 Lakewood.

Mark Maki gave a description of the request as well as a background of the ZBA application of the term "customary accessory structure" and the 14' height limit. Mark read the list of 5 practical difficulties from the application. Mark also voiced the concern that tall storage areas (i.e. two story garage) pose an enforcement problem with their use as apartments. Mark felt that the appeal should be denied due to no practical difficulty. Mark said that the applicant has the option to petition the Planning Commission to change the ordinance to allow an 18' detached accessory structure. Mark did not know anyone besides himself who had officially requested that the Planning Commission define the height in the ordinance. Mark again stressed the importance of being consistent in applying the 14' height limitation. Mark said he received no response to notices sent to those within 300'.

Mr. Johnson said he understands that guidelines need to be set. He did not think that it would be out of character and the neighbors he talked to did not have a problem with it. The 6-7' sidewall is the lowest he could use and serve his needs.

Mrs. Johnson said the site is not large enough to build another building.

Mark pointed out that a site plan dated April 4, 1993 was also submitted.

Mrs. Johnson said they don't like the present look of the garage and that they planned a new roof and stucco anyway.

Bob said that he couldn't support the application due to past decisions.

Mike clarified the use of 14' as the maximum height and that variances in the past were of only a foot or so to get 7' maximum height at the ridge. Mark added that they included an attempt to get a roof pitch similar to the house.

Mark agreed that it is a difficult problem but that without action of the Planning Commission and Township Board, 14' he feels is customary.

Mrs. Johnson said that their drive in basement is a garage for 5 motorcycles, exercise equipment and woodworking equipment.

Mike asked if they could modify the design to meet the 14' request.

Applicant said it would not be high enough to suit his needs.

Mike clarified with the applicant that the height is submitted as 6-8'.

Bill asked if the site plan was to scale, applicant indicated it was.

Mike asked what the second floor would be used for, applicant indicated recreation equipment, woodworking equipment and Mrs. Johnsons' office supplies. Mike also asked if the ground floor could be expanded, applicant said that's possible but they would rather not lose the yard space.

Mike clarified the size of the lot as 100' X 540' 1.25 acres +/- with applicant.

Bill indicated that there did not appear to be a hardship and that he could not support the variance request.

Mike said that he also had difficulty with the variance request but that since the ZBA has been unsuccessful in getting the height defined, they have been strictly applying the 14' rule, and that also, this is not a marginal request for a foot or so, and that he would support a motion to deny and that he wishes the Township Board would adopt a height definition.

Bill made a motion to deny variance request 93-3 due to no practical hardship. Seconded by Mike Summers. Motion passed 4-0.

B. Variance 93-4 - Raymond Hosking, 1534 East, Apt. 43, West Ridge Street.

Mark indicated that a letter had been sent to everyone within 300' and read 3 letters received into the record from Dan Mattson, Bob Cambensy and Jim Jarvis. Mark said the 66' R.O.W. requirement for private roads is to avoid problems similar to Willow Road. Mark indicated that the 1988 subdivision left the Cambensy/Bolitho parcel without the frontage requirement. Mark indicated to the applicant that the Cambensy letter refers to a deed restriction prohibiting further subdivision until 1998. Applicant wanted to pursue variance request to see how it was accepted. Mark didn't know if such a short public road would be a problem, but that review and approval would be by the Planning Commission and the County Road Commission. ZBA needs to look at whether or not there is a hardship in complying with the ordinance and that if this request is granted then they would reasonably have to grant the same for all five outlots. Mark said that there is no reason why the applicant could not build a private road and comply with the ordinance. Mark said that the applicant could build a private road and one house on the parcel and comply with the ordinance and that there is no hardship that would prevent reasonable use of the property.

Mr. Hosking said his development plans were for the best use of the property. With his request he could put in a road with minimal impact. He said the hardship is that a private road would take the open space that people like. Plans to build a home on lot A and sell lot B.

Mr. Robarge opposes the plan. Does not oppose a road, but it must meet standards. Anything other than an improved road would change the character of the neighborhood. No hardship has been shown.

Mr. Erickson thinks that an improper road could cause drainage

problems. He would rather not see a road, but if one goes in he'd like it constructed to meet the standards. The only hardship is financial.

Mr. Legacy feels that granting the request would result in a real mess. No problem with a road as long as it's built according to the standards.

Mr. Liubakka's major concern is that if this request is granted there may be others in the future.

Mr. Wahlstrom thinks the outlots were intended as roads and that no one should tell anyone what they can do with their land.

Mark said that he didn't feel that the applicant was trying to avoid meeting the rules but that he was trying to minimize disruption by building a road with a 66' right of way. The issue is that the applicant has reasonable use of his property without a variance and therefore none should be granted.

Mr. Hosking's problem with a private road is that it would be more disruptive and he doesn't want a cul-de-sac. He thinks that everyone would be happier if the variance was granted.

Mike asked if the land left could be platted using the outlots for roads. Mark saw no reason why they couldn't.

Sam said he lives adjacent to one of the other outlots and sees no practical difficulty or hardship. Wonders if Mark sees a conflict on his voting on this issue. Mark said no.

Bob made a motion to deny variance request 93-4 because the ordinance can be met in compliance with Section 300. Seconded by Mike Summers. Motion passed 4-0.

C. Variance 93-5 - Ron Di Salvio, P.O. Box 181, Homer, MI 49245.

Mark notified owners within 300'. Read one letter in opposition into the record from Mike Magel. Mark indicated that under Section 212, the minimum lot size in RP for a home is 20 acres. The RP district starts about 1 1/4 miles to the north. The surrounding property was developed by Di Salvio in 1977. One and 10 acre subdivisions were done in accordance with the plat act. Mark pointed out a 1979 ZBA decision: Di Salvio wanted to create a building site by splitting 965 and 965-0-3. His argument was that since there are other 10 acre parcels it would be okay. The request was denied. Applicant subsequently deeded off 20 acres leaving a 14 acre parcel. The applicant is now appealing the ordinance to build on a lot smaller than the 20 acre request. Mark said the problem with approval is that it would set a precedent for splitting 40 acre parcels into 10 acre in the RP district. The RP district was originally established to prevent further splitting of rural property less than 20 acres. Mark indicated that the applicant knowingly created a hardship for himself and that he could request a rezoning.

Tom Clark clarified that Sandra Lesong divided the parcels to the north of the applicants and that the 10 acre parcels east of the road were subdivided by the Elder Agency prior to the 1977 ordinance. This 1/4 section contains at least 14 parcels averaging 8.5 acres in size. By zoning this area RP, 14 nonconforming lots were created.

Divorce required division of the property and the two residences. The result was a house on a parcel of 11 acres and one on a parcel of 34 acres. Due to the variance in the value of the homes, the applicant received 14 acres of the split 34 acres, which was ultimately deeded back to Sandra Lesong. She now owns 965, 965-0-3 and Ron owns 965-0-2. The

hardship is that the property should never have been zoned RP. The property is residential and is not appropriate to be used as RP.

Bob asked if Di Salvio could buy 4 acres from Sandra Leroy.

Mark said she has to maintain that parcel size in accordance with the ZBA approval. Also that the applicant knew at the time they split off the lot that it was too small for a building site.

Tom Clark indicated that there is no RP use in this area.

Mike Summers agreed that it doesn't make sense to treat the parcel as RP when it is surrounded with residential property.

Sam agreed that rezoning may be more logical.

Mike Summers said that a variance would give the same result, but that rezoning would be the more obvious solution.

Tom Clark indicated that zoning of this parcel as RP created an anomaly. Also that a pending sale provides a practical reason for approval and that 12 of the 15 parcels are smaller.

Tom Clark and Mark discussed whether or not contiguous parcels owned by the same person are one lot or two.

Mark reiterated that RP zoning is to discourage residential development in rural areas. Discussed the fact that this parcel was created with the knowledge that it was not in compliance. If approved, why would anyone else in RP have to comply. Must show practical difficulty or change the law.

Tom Clark said it was not a voluntary split. The husband/wife could not have otherwise split their assets unless they sold their houses.

Mark said it's unreasonable to let the divorce courts do the planning of the township.

Sam said he sees a difference between the applicants case and other areas of RP requesting the same consideration.

Mark reiterated that the hardship can not be self created, and that is what happened.

Tom Clark said that use of the land as RP i.e. clearcutting timber is not appropriate but that residential use is.

Mike said that it is a close question and doesn't see approval as a threat to the RP district but is bothered by the self created circumstances.

ZBA members discussed the similarity between this case and recent Lakewood Lane case.

Bill asked if there was anyway to get in this predicament unless it was self created. Mark said no.

Mike Summers moved that request 93-5 for variance from Section 212 be granted. Seconded by Bill. A brief discussion reiterated the above. No decision 2 ayes/2 nays. Mark explained the 3 vote requirement and that it would be rescheduled for the May 27 meeting.

V. Public Comment: NONE

VI. Adjournment at 9:45 p.m.

Respectfully submitted,
Bill Sanders, Secretary

Bill Sanders

CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 5-27-93

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m., May 27, 1993 in the meeting room of the township hall.

Zoning Board of Appeals members present were Mike Summers, Sam Oslund, Robert Pecotte, Carol Hicks, and Bill Sanders. Staff member Mark Maki was also present.

- II. Public Comment:

-Bill Lambert, 125 Anderson Rd., Skandia requested time to speak on item IV. B

-Mike Magel, 2106 Wilkinson, Marquette requested time to speak on item IV. A

- III. Approval of the April 22, 1993 Meeting Minutes. A motion was made by Sam Oslund and seconded by Mike Summers to approve the minutes with the only amendment being the closing submittal by Bill Sanders, Secretary not Chairperson. Motion passed 5-0

- IV. New Business:

A. Variance #93-5 (continuation) - Tom Clark for Ron Di Salvio, P.O. Box 181, Homer, Mi. 49245.

Mark Maki reported by reviewing the material presented to ZBA members. He read into the record the letter of opposition submitted by Mike Magel. This is in a RP district which requires 20 acres to build a house. Mr. Di Salvio requested a variance in 1979 and at that time the ZBA allowed the property to be split into two lots. This is a self created issue by the applicant. Other sub-divisions of parcels of 10 acres have been made in that area prior to the plat act. The area could be rezoned to allow for development by the Planning Commission and then the Township Board.

-Mr. Magel spoke to explain his opposition the applicant's request.

-Mr. Clark, attorney for the applicant, spoke to address Mr. Di Salvio's request for a variance. There are parcels in the area that are subdivided long before the zoning ordinance of 1976 with as many as 14 nonconforming parcels. In 1979 the request for a split into three parcel was denied with the ZBA allowing for 2 splits one of which is nonconforming. In 1985 an application was made to approve the 14.8 acres that also was denied. The self created problem was addressed an not being a desire for a quick sale in that the applicant has been patiently working on it over the years. Mr. Clark sites similar cases where the ZBA allowed smaller divisions of lands.

-Carol Hicks asked if there were separate tax code listings for the two parcels and did the divorce judge dictate how the land was to be originally divided. Mark Maki answered that there were two tax codes with the two houses. Mr. Clark said that he doubted that the judge dictated how to divide the land but simply required a division of assets. Carol Hicks questioned that at the original time of the division of the two houses could not a more creative survey have been made to divide the 46 acres with each having at least 20 acres instead of the 11 acres and 35 acres.

- Bill Sanders wished a clarification of the sizes of each part as listed on the tax codes. Mark Maki responded.

-Mike Summers spoke that if a motion is made to grant the variance he will vote for it for the following reasons. It's on a main artery with many parcels being smaller than 20 acres and it's a completely unique situation. We have this one anomaly. These are residential lots. If the 11 acre lot is ok in 1979 why isn't a 14.8 acre lot ok now. If we grant this request there will be no mad dash to subdivide property with similar requests.

-Bob Pecotte spoke indicating that it's a self created hardship and it's against the ordinance.

-Mike Magel spoke that the owner knew when he sold off 20 acres and kept the 14.8 acres that it was nonconforming.

-Mike Summers made a motion to approve variance #93-5. Seconded by Bill Sanders. Aye 2, Nay 3. Motion denied.

B. Appeal #93-1 Bill Lambert 2306 U.S. 41 South, Marquette, Mi 49855. Appeal zoning administration decision.

-Mark Maki reported that it is the zoning administrators decision that a 30 x 80 foot garage workshop/storage building is not a customary accessory building to an office building in a C-2 zoning district. No written correspondence has been received. Mr. and Mrs. Bob Carter owners of the Antique Shop adjacent to Mr. Lambert were present.

-The question is what is a customary accessory building. The primary building is usually the larger building with the secondary building being the smaller. Mark Maki indicated he has looked for comparisons throughout the township and then sites the Antique Shop with a 40' x 60' storage building erected in 1975. The ordinance does not specifically define contractors shop. He concluded that it's not a traditional C-2 office building and not a customary building to an office.

-Carol Hicks indicated that he will be abstaining from this issue due to a conflict of interest.

-Bob Pecotte questioned Mark Maki in that Mr. Lambert does not conform with this building request, what can he do to conform. Discussion evolved with no one resolution.

-Bill Sanders asked about the plumbing shops in Beaver Grove are they in a C-2 or a C-3 district. Answer C-3.

-Bob Carter spoke that it doesn't really bother them either way in that the request would neither attract nor distract from their business.

-Mike Summers questioned Mr. Lambert as to how the existing office was being leased and that these lessees would in turn rent a portion of this proposed storage building.

-Sam Oslund spoke indicating Mr. Lambert was trying to provide some square footage for vehicles and some for contractors supplies thus it's a vehicle garage and a storage garage.

-Mike Summers asked Mark Maki is this multiple use of a lot not customary for contractors to have their office and their warehouse close by and on the same lot.

-Bill Sanders feels that there are big warehouses on neighboring lots and this is clearly a contractors yard and would be used to warehouse their vehicles and supplies.

-Mike Summers questioned Bill Lambert as to how much would be used for cars and vehicles vrs. storage. Mr. Lambert indicated it would be hard to say by each lessee would have at least one vehicle parked in the garage.

-Bill Sanders spoke that in reference to neighboring buildings what were in place when the zoning ordinance was passed in now grandfathered and today its zoned C-2.

-Bob Pecotte stated that if and when a motion is made and if the vote is a tie we would need to press the Township Board for an alternate member.

-Bill Sanders asked how much C-3 zoned areas are available within the township. Mark Maki responded that basically its the area by the Varvil Center, Fraco Block, and Beaver Grove.

-If the building were to be attached it resolved the question of accessory building but is still a question of customary use.

-Bill Sanders made a motion that if the structure were attached it would be a different issue but as submitted he moves to deny approval of appeal #93-1 and concur with Zoning Administrator Mark Maki's ruling. Seconded by Bob Pecotte. Aye 3, Nay 1, Abstained 1.

V. Information Correspondence none

VI. Public Comment - None

VII. Adjournment at 9:19 p.m.

Respectfully submitted:
Carol Hicks, Secretary

Carol Hicks

CHARTER TOWNSHIP OF CHOLOLAY
ZONING BOARD OF APPEALS
MINUTES: 6-24-93

- I. The Zoning Board of Appeals of the Charter Township of Chololay was called to order by Chairperson Robert Pecotte at 7:30 p.m., June 24, 1993 in the meeting room of the township hall.

Zoning Board of Appeals members present were Sam Oslund, Robert Pecotte, Carol Hicks, and Bill Sanders. Staff member Mark Maki was also present. Absent Mike Summers.

- II. Public Comment: None

- III. Approval of the May 27, 1993 Meeting Minutes. A motion was made by Sam Oslund and seconded by Bill Sanders to approve the minutes of May 27, 1993 as submitted. Motion passed 4-0.

- IV. New Business:

A. Variance #93-6 - Billy Merritt, 355 County Road 480 Marquette, MI 49855.

Request for variance from Section 300 B to permit a detached garage with a total of 1056 square feet to be located 20 feet to a rear lot line in R-1. Existing garage is 672 square feet in area (Addition is 392 square feet).

Mark Maki reported that the existing garage was built in 1986 under a variance for 20 foot rear set back due to the existing location of his house which is setback further than most dwellings on Co. Rd. 480. The original ordinance allowed 20 ft. from the rear lot line if the structure was under 720 sq. ft. The ordinance has been recommended for change due to our 14 ft. height rule. The planning commission is still looking at it. Mr. Merritt could build another detached garage as long as it met the 14 ft. height rule but his desire is to add a third stall to the existing garage. The size with the addition will be 1056 sq. ft. and the structure will be 16 ft. from the side lot line and 20 ft. from the rear.

No written correspondence was received.

Several board members questioned and discussed with Mr. Merritt the alternative choices that he has with reference to the appearance and placement of the garage.

A motion was made by Bill Sanders and seconded by Sam Oslund to approve variance 93-6 allowing the 20 foot rear lot line setback and placement of the garage addition onto the existing garage. Motion passed 4-0.

- V. Information Correspondence Received: None

- VI. Public Comment: None

- VII. Adjournment at 8:40 p.m.

Respectfully submitted:
Carol Hicks, Secretary

Carol Hicks

CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 7-22-93

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:38 p.m., July 22, 1993 in the meeting room of the township hall.

Zoning Board of Appeals members present were Mike Summers, Robert Pecotte, and Carol Hicks. Staff member Mark Maki was also present. Absent were Sam Oslund, and Bill Sanders.

- II. Public Comment: None

- III. Approval of the June 24, 1993 Meeting Minutes. A motion was made by Mike Summers and seconded by Carol Hicks to approve the minutes of June 24, 1993 as submitted. Motion passed 3-0.

- IV. New Business:

A. Variance #93-7 - Steve Blondeau / Superior Development, 5087 U.S. 41 South, Marquette, MI 49855

Request for variance from Section 513 Parking Lot Planting. Regarding: Landscaped open space within the parking lot where 50 or more off street parking spaces are required.

Mark Maki reported that no correspondence has been received with regards to this request. As per the zoning ordinance Section 513 if 50 or more parking spaces are required the parking site must be landscaped. With the existing two buildings (one office, one rental with Mr. Movies Video and Headlines Hair Salon) no landscaped parking layout is required. Now that Superior Development has a building permit and wished to construct a third building the required number of parking stalls will exceed 50. The owner has submitted on file the original plan showing a landscaped parking layout that complies with Section 513. Mr. Maki feels that the plan as submitted should be adhered to in that the requirements for Section 513 can be met, that no practical difficulty exists and no alternative proposal has been made.

Steve Blondeau spoke and reported that his plan provided for over 1152 sq. ft. of green area and that the Silver Creek set back with landscaped plantings has been met. The number of parking stalls are as follows: Mr. Movies 21, Headlines 8, His Office 5 and the proposed new building 20, thus he will exceed the 50. Presently the entire parking lot surface in front of the buildings have asphalt and that the landscape plantings would have to be dug out of the existing paving. Snow removal would be a problem with the plantings in place.

Mark Maki feels that it should be a PUD project and not requesting a series of variances. When a PUD plan is placed on file any changes would have to have prior approval with a resubmission of a plan. Mr. Maki raised the question what if in the future it is subdivided and sold as individual buildings.

Bob Pecotte asked Mark Maki if there was an alternate means to the variance. Mark Maki responded yes that it would be PUD.

Mike Summers wanted to know if we were acting on a variance or an interpretation. This was indeed a request for a variance from Section 513. Mr. Summers questioned Mr. Blondeau if he had an alternate plan or was he proposing to eliminate those green areas. Mr. Blondeau responded he wished to eliminate the green area plantings around the parking spaces.

A motion was made by Mike Summers that variance request 93-7 be granted due to the practical difficulty caused by snow

removal around the peninsula plantings. Seconded by Carol Hicks. Aye 2, Nay 1 Motion neither passes nor is denied.

B. Variance #93-8 - Gary and Cindy Shaffer, 678 Cherry Creek Road, Marquette, MI 49855

Request for a variance from Section 403 - 100 ft. water setback to allow a dwelling 75 ft. to water/Cedar Creek thus a 25 ft. variance request.

Mark Maki reported that notice was placed in the Mining Journal under a separate ad and that notice went out to property owners within 300 ft. Section 403 requires all new structures to be placed a minimum of 100 ft setback from the edge of lakes, rivers, streams, and creeks. There is a sharp jog in the creek at the location where the owners wish to build. The Shaffer's plan to sell their existing house on a 3+ acre parcel and keeping the remaining 34 acres. His position is that the owner can meet the ordinance and therefore no variance should be granted.

One letter was received from Mike Millinger stating that he had no problem with the request.

Mr. Gary Shaffer spoke that his chosen building site was the logical choice due to the minimum disruption of the trees. Couldn't we use the average setback distance which in many areas exceeds the 100 ft. It's a stable creek with no flooding. He presented a copy of the proposed house plans showing the southern exposure windows.

Mike Summers asked what is the practical difficulty could you not simply position the house differently and meet the 100 ft. setback. Mr. Shaffer responded that the setback could be met but he would have to remove more trees.

Marvin Brewall, 682 Cherry Creek Road spoke indicating that with 30 plus acres he shouldn't have any problem meeting the ordinance.

Mr. Shaffer spoke and indicated that he wanted it entered into the record that Mr. Brewall has some existing buildings that don't meet the ordinance.

Dick Ogle, 642 Cherry Creek Road spoke stating that he has acreage and that he shouldn't have any problem meeting the ordinance.

Elmer Alanen, 534 Co. Rd. 480 asked how many acres are there. Answer 30-34 acres remaining after the house sale along with 3+ acres. The property was presently being surveyed.

Bob Pecotte asked Mark Maki that as an adjoining property owner does he have any conflict of interest. Mark Maki responded no in that you have nothing to gain or lose in acting on this request.

Carol Hicks asked what was or would be immediately across the creek from this new house. Answer no house and that the property across the creek is already occupied with a house located a substantial distance to the East.

Mr. Brewall spoke and stated that with all that property Mr. Shaffer could locate his house and meet the ordinance.

A motion was made by Bob Pecotte to approve variance 93-8. Seconded by Carol Hicks. Mike Summers spoke indicating that he intends to vote against the motion and wants it to be known why. There is a standard to be met and he feels that there is no practical difficulty. Aye 2, Nay 1. Motion is neither passed nor denied.

C. Variance #93-9 - Scott Emerson, 119 Lakewood Lane, Marquette, MI 49855

Requests a variance to allow a basement under existing house at 0 setback to side lines.

Mark Maki reported that Mr. Emerson (through his builder Pat O'Boyle) is requesting to add a basement under his existing house. The original house was a camp with limited crawl space and they wished to simply lift up the existing house excavate and build a basement under the exact structure. When completed it will be as is. No correspondence was received. Mr. O'Boyle has indicated that an agreement has been made with the immediate neighbor to allow for temporary excavation onto the neighbor's property along with grading and landscape replacement upon completion of the project.

A motion was made by Mike Summers and seconded by Bob Pecotte to grant variance request 93-9 due to the practical difficulty that this is the only place where a basement could be located and that the final result will appear as is. Aye 3 - Nay 0 Motion passed.

- V. Information Correspondence: An informational workshop would be available for ZBA members on August 4, 1993 in Marquette. The registration fee of \$75 would be paid by the Township. Carol Hicks indicated he would be interested in attending.

VI. Public Comment: None

VII. Adjournment at 9:05 p.m.

Respectfully submitted:
Carol Hicks, Secretary

Carol Hicks

CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 8-26-93

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:37 p.m., August 26, 1993 in the meeting room of the Township hall.

Zoning Board of Appeals members present were Sam Oslund, Robert Pecotte, Carol Hicks, and Bill Sanders. Staff member Mark Maki was also present. Absent was Mike Summers.

- II. Public Comment: None

- III. Approval of the July 22, 1993 Meeting Minutes. A motion was made by Sam Oslund and seconded by Bill Sanders to approve the minutes of July 22, 1993 as submitted. Motion passed Aye 4, Nay 0.

- IV. New Business:

A. Public Hearing
Class A Request #23
Patrick Dudley
2413 M-28 East
Marquette, MI 49855

Request for Class A designation and expansion of an existing dwelling at 2413 M-28 East.

Mark Maki reported that no written correspondence has been received from either the published ad nor the immediate neighbors. A written letter from Rod and Holly Aldrich who sold Mr. and Mrs. Dudley the property was received. The background is that the property was developed prior to the 1962 ordinance and that there are many encroachments along the Westerly lot lines. Many properties were originally camps and are now residential homes. The ordinance requires setback distances thus the request for a Class A designation of non conforming which states that it can not be enlarged without ZBA approval. The ZBA would have to take a two part action. First, a motion to grant a Class A designation. Secondly, a variance for the requested expansion.

Bob Pecotte questioned the owners as to how far does the present dwelling encroach over the property line. Answer approximately two feet at the front end and the back of the cabin is on their property.

Sam Oslund asked Mark Maki if there were other parcels in that area with similar problems. Mark Maki indicated that there were indeed many lots with miss aligned lot lines and encroachments.

Carol Hicks questioned that if the house were expanded what would be the setback distances of the addition primarily the 100 ft. setback from the lake. Mark Maki indicated that they were ok with the setback distance.

Mr. Dudley spoke and indicated that the property is a single family residence and with the expansion it will remain as a single family residence.

Sam Oslund made a motion that a Class A status be granted due to the uniqueness that the building existed prior to the ordinance, that other properties have similar situations within that area and a written agreement has been reached with the immediate neighbor. Seconded by Carol Hicks. Motion passed. Aye 4, Nay 0

Bill Sanders made a motion that permission be granted for the expansion of the present structure as long as all conditions

comply with the requirements of the zoning ordinance. Seconded by Sam Oslund. Motion passed. Aye 4, Nay 0

B. Variance #93-7 (Continuation)
Steve Blondeau
5087 US 41 South - Harvey
Marquette, MI 49855

Request for variance from Section 513 Parking Lot Planting

Mark Maki reported and gave the background on the request. The number of buildings and the required number of parking stalls initiates this request. When the parking lot requirements exceed 50 stalls the Plantings are required as per Section 513. Mr. Maki indicated that the plantings are not always an island design but can be along the edge or perimeter. Reference was given to the ZBA action in 1979 for Jack's IGA store, the Armory and various churches. Mark Maki's concern is that presently there is no proposal nor building permit for another building and that Mr. Blondeau has submitted a plan showing that the ordinance can be met.

ZBA members raised questions for Mark Maki on the background of the project.

Steve Blondeau spoke and presented a drawing of the proposed site plan indicating what buffers and green areas would be present around the perimeter of the buildings and parking lot.

Bill Sanders spoke in reference to the unique geometry of the site and praised the general layout of the design but wishes to reserve green areas. He felt that both objectives could be met and with some alterations Mr. Blondeau could have a trouble free parking layout and green planting areas that meet the requirements of Section 513 of the ordinance.

Bill Sanders made a motion to deny the variance request because no particular hardship was presented to show that compliance to Section 513 can not be met. Motion seconded by Bob Pecotte. Aye 2, Nay 2. Motion neither passes nor is denied.

C: Home Occupation #93-2
Mary Jane Lynch
271 Riverside Road
Marquette, MI 49855

Requests - Marquette Munchies Caramel Corn at 271 Riverside Road.

Mark Maki reported that no written correspondence was received and that the only question he had about the operation was as to whether or not the Marquette County Health Department had any jurisdiction in the matter.

Mary Jane Lynch spoke and indicated that she must get licensed from the State of Michigan through the U.S. Dept. of Agriculture.

Deliveries of supplies would be 4-5 times a year by UPS. No additional employees nor customers would be coming to her home.

Carol Hicks made a motion to approve Home Occupation 93-2 under the usual conditions of three year duration and pending receipt of any written complaints. Seconded by Bob Pecotte. Motion passed. Aye 4, Nay 0

D. Variance #93-10
Eileen Urbaniak
235 Orchard Lane
Skandia, MI 49885

Requests a variance from Section 403 waterfront setback to allow a swimming pool 80' setback to waters edge.

Mark Maki reported that no written correspondence was received in response to the ad and neighboring notifications. Originally an above ground pool as installed and later removed and the inground pool was installed at the same location. When the electrical permit was requested it was found that the setback of 100' would be required from the water's edge and with the pool already built a variance would be required after the fact. Mr. Maki felt that three factors should be met: (1) Some sort of assurance would be necessary from either the County Health Department or the DNR that the close proximity of the pool to O'Neil Creek would not cause either contamination nor erosion when the pool is drained and maintained. (2) That it is not a visual obstruction across a clear line of sight and that no additional structures would be built such as a fence, sauna etc. (3) The green buffer zone would be maintained as per the ordinance along the water course.

Sam Oslund questioned Mark Maki as to what is meant by no obstructions of visual sight. Answer- basically additional structures such as enclosed fences, sauna's etc.

Bill Sanders spoke indicating his support to Mark Maki's recommendations but stated that if in fact the owner had to pull up and remove 20' of the pool so be it and that such a hardship should not have any bearing on our decision.

Sam Oslund made a motion to approve the variance request for a 20 ft. setback with the following conditions: (1) The County Health Dept or the DNR would have to give an assurance of no erosion or drainage problems. (2) No visual obstructions can be made by any additional structures for the line of sight across the below ground pool area. (3) The green buffer area must be maintained as per the ordinance. Seconded by Carol Hicks. Motion passed. Aye 4, Nay 0

E. Variance #93-11
Bryan Buck
421 County Road 480
Marquette, MI 49855

Setback variance for an addition in RR-2 district.

Mark Maki reported that no written correspondence was received. The request is to construct a second story screened in porch over the existing flat roof garage.

Bill Sanders asked if the height standard would be met. Mark Maki indicated that this is an attached garage and that the second story would be ok.

Becky Buck spoke and indicated that the flat roof garage leaked and that the solution was to construct a pitched roof that is raised with a screened in area over the existing garage.

Bill Sanders made a motion to approve Variance 93-11. Seconded by Sam Oslund. Motion passed Aye 4, Nay 0.

F. Home Occupation #93-3
Sara Menzel
146 Lakewood Lane
Marquette, MI 49855

Central Office Service (Electronic Medical Billing)

Mark Maki reported that no written correspondence was received and that this business was a clean quiet business and that he has no problem with her request.

Carol Hicks asked if there would be any additional traffic at the home site due to deliveries or customers coming to your home and how much area of the house was to be used for the business. Mr. Menzel indicated that there would be no deliveries other than UPS every 4 months and that no clients would be coming to her home. The space that she would be using would be approximately 50 square feet.

Sam Oslund made a motion to approve Home Occupation 93-3 under the usual conditions of three year period and upon receipt of any written complaints. Seconded by Bill Sanders. Motion passed. Aye 4, Nay 0.

G. Home Occupation #93-4
 Mark Maki
 3027 M-28 East
 Marquette, MI 49855

Land Consultation and Appraisal Office at 3027 M-28 East.

Mark Maki reported that no written correspondence was received. (After his report Mr. Maki took a set in the public sector as a township citizen).

Mark Maki spoke and indicated that he plans to practice land consultation and appraisal services. He is licensed as a land appraiser and under the new national requirements after the S&L failures realtors can no longer conduct bank appraisals and these must be done by licensed individuals. He will not conduct appraisals within Chocolay Township but will be providing his services to other districts. There will be no additional traffic at home and no clients will visit his home. He will be using minimal office space with his home computer.

Carol Hicks made a motion to approve Home Occupation 93-4 with the usual conditions of three years and upon receipt of any written complaints. Seconded by Bill Sanders. Motion passed. Aye 4, Nay 0.

V. Information Correspondence Received: No Correspondence.
 Sam Oslund made a motion that the Township refund the variance fee to Gary and Cindy Shaffer from July 93 in that they withdrew their variance request. Seconded by Bob Pecotte. Motion passed. Aye 4, Nay 0.

VI. Public Comment:
 Mike Schwemin, 225 Orchard Lane spoke and indicated that he supports the green area concept for parking lots as in the ordinance.

VII. Adjournment at 8:55 p.m.

Respectfully submitted:
 Carol Hicks, Secretary

Carol Hicks

CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 9-23-93

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m., September 23, 1993 in the meeting room of the Towhship hall.

Zoning Board of Appeals members present were Sam Oslund, Mike Summers, Robert Pecotte, Carol Hicks, and Bill Sanders. Staff member Mark Maki was also present.

- II. Public Comment: None

- III. Approval of the August 26, 1993 Meeting Minutes. A motion was made by Bill Sanders and seconded by Sam Oslund to approve the minutes of August 26, 1993 as submitted. Motion passed Aye 5, Nay 0.

- IV. New Business:

- A. Continuation of Case-Variance 93-7
Steve Blondeau
5087 U.S. 41 South
Marquette, MI 49855

Mark Maki reported that he received a letter from Mr. Blondeau requesting that we table taking any action on his variance request for 90 days. During that time Mr. Blondeau could further develop his plan and/or withdraw his request.

Mike Summers made a motion that variance request 93-7 be tabled for 90 days from tonight's meeting and the Mr. Blondeau be notified in writing of the 90 day delay. If at any time during the 90 days Mr. Blondeau wished the ZBA to take action on 93-7 he can simply request for it's hearing during regular monthly meetings. Mr. Blondeau must notify the Township ZBA when and if he wishes to return to the agenda. Seconded by Bill Sanders. Motion passed Aye 5, Nay 0.

- B. Variance 93-12
Mary Quaintance
196 Riverside Road
Marquette, MI 49855

Mark Maki reported that from all notifications only one letter was received from Michael Haley opposing the variance request by asking that we don't change the ordinance.

Mark Maki's reservations on the request it that an accessory building is subordinate to a primary building. The primary building (usually a house) comes first and then a request for a secondary accessory building. The two could be requested at the same time. The land is zoned RR-2 which permits single family residences. The parcel was purchased in June of 1992. Some confusion was indicated on the appeals request as to what information was conveyed from the Township to the purchaser prior to buying the property. Mrs. Quaintance was under the impression that she specifically asked if she could build a pole structure. Mr. Maki could not recall all the particulars of the conversations and whether they were in person or by telephone. Also, it was noted that Mr. Maki felt that his response could have been in reference to both a home and a pole garage permit. Mr. Maki informed the Board that on only one prior request in twelve years had the ZBA been asked to grant a variance to build a garage before the house. In that particular case the variance was granted with the provision that the house be started within one year.

Mrs. Quaintance spoke indicating that she was under the impression that she could build the pole building on RR-2

property and had spoken with the Township prior to the purchase.

Mr. Pecotte asked Mr. Maki if copies of the zoning ordinance were available for anyone to review. Mr. Maki responded that they were in deed available at the township hall.

Carol Hicks asked what is the size of the parcel and is it large enough to permit a single family residence. Answer- 8.5 acres and RR-2 requires a minimum of 5 acres to build a house.

Mike Summers spoke about the differences between a use and a structure. The ordinance addresses uses without being explicit about structures. RR-2 uses are for low density, growing and harvesting of timber, and raising of livestock, agricultural, recreational etc. and wouldn't structures such as barns be customary for certain particular uses.

Considerable discussion and debate ensued on terminology and definitions as addressed on our ordinance.

Carol Hicks asked Mrs. Quaintance specifically how large of a garage was going to be constructed how tall might it be when completed. Mrs. Quaintance responded that it was to be 26'x 28' and tall enough for 12' door for her boat. She wishes to store her boat and recreational vehicle inside. She further indicated that she is working on a similar project in Florida and wishes to use her Marquette property in the summers only.

Discussion evolved around the length of time that one can park and camp in a recreational vehicle. It is believed that the ordinance allows for only 30 days.

Bill Sanders spoke and indicated that it appears that the property's use would be primarily recreational and with it's close proximity to the Lake Superior beach area across the highway would lend itself to seasonal recreational use.

Mr. Quaintance passes around pictures showing the property.

A motion was made by Bill Sanders to grant variance 93-12 to permit a pole garage to be constructed on site because it's adjacent to recreational property along M-28 and Lake Superior. The structure is to be used for recreational equipment and storage. The reason for the variance is that the practical difficulty lies in the definition of structures and the permitted uses as worded in the ordinance. Motion seconded by Mike Summers. Motion passed Aye 4, Nay 1.

V. Information Correspondence Received: None

VI. Public Comment: None

VII. Adjournment at 9:05 p.m.

Respectfully submitted:
Carol Hicks, Secretary

Carol Hicks

CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 1-27-94

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:34 p.m., January 27, 1994 in the meeting room of the Township hall.

Zoning Board of Appeals members present were Mike Summers, Robert Pecotte, Carol Hicks, and Bill Sanders. Staff member Mark Maki was also present.

- II. Public Comment: None

- III. Approval of the September 23, 1993 Meeting Minutes. A motion was made by Bill Sanders and seconded by Mike Summers to approve the minutes of September 23, 1993 as submitted. Motion passed Aye 4, Nay 0.

- IV. New Business:

- A. Home Occupation 94-1
William Kuchler
1328 M-28 East
Marquette, MI 49855

Build Fishing Pole Holders

Mark Maki reported that Mr. Kuchler would not be present tonight. A motion was made by Carol Hicks and seconded by Mike Summers to table H.O. 94-1. Motion passed Aye 4, Nay 0.

- B. Home Occupation 94-2
Peggy J. Iery
2035 M-28 East
Marquette, MI 49855

Daydreams & Driftwood/Wholesale

Mark Maki reported that notification was sent to all residences within 300 feet and that public notice was published in the Mining Journal. No negative correspondence was received. One letter of support was received from Don and Dorothy Schlientz, 2044 M-28 East. It was noted that this was a new application.

Peggy Iery spoke and gave the Board an indication of her business intent. She circulated a sampling of her work.

Inquiries were made as to the inventory of stock and supplies, house sign, advertisements and square footage of home occupied by the business. All accounts appear to be within the ordinance guidelines.

A motion was made by Mike Summers and seconded by Bill Sanders to approve H.O. 94-2 with the usual conditions that it is for a three year period and pending any written complaints. Motion passed: Aye 4, Nay 0.

- C. Discussion of Home Occupation issues/Phone call only/Service elsewhere.

Mark Maki reported that he receives numerous inquiries as to Home Occupation questions. Some of the requests are of minor issues such as "Can I have a home business phone when my service is conducted totally off premise and do I need a Home Occupation permit."

Mike Summers indicated that when a Home Occupation becomes so minuscule as to having only a home phone and off premise services it's hardly an issue worthy of an H.O. permit.

Mark Maki indicated that he uses the "big three test" in assessing a Home Occupation: Noise, Traffic, and a character change in the area. 25

The Board felt that when inquires are made and it appears that the Home Occupation would be of minor consequences upon the neighborhood a written letter of clarification could be sent to the individual. The letter should indicate that when and if growth of the business should occur it could become a public issue requiring a Home Occupation permit.

V. Unfinished Business: None

VI. Information Correspondence Received: None

VII. Public Comment:

Andy Maracini, 917 Cleveland, Apt. #10, Marquette, Michigan spoke and indicated that he was a student at Northern Michigan University and was here to observe a public meeting for his Planning class.

VIII. Adjournment at 7:50 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Carol Hicks

CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 2-24-94

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:35 p.m., February 24, 1994 in the meeting room of the Township hall.

Zoning Board of Appeals members present were Sam Oslund, Robert Pecotte, Carol Hicks, and Bill Sanders. Staff member Mark Maki was also present.

- II. Public Comment:

Bob Ojeskie, 268 Timberlane spoke in support of Home Occupancy #94-3 Kerri Heikkila. As a neighbor to the Keikkila's he sees no problems with their request and fully supports their efforts.

- III. Approval of the January 27, 1994 Meeting Minutes. A motion was made by Bill Sanders and seconded by Sam Oslund to approve the minutes of January 27, 1994 as submitted. Motion passed Aye 4, Nay 0.

- IV. New Business:

- A. Home Occupation 94-3
Kerri Heikkila
272 Timberlane
Marquette, Michigan

Cosmetology - Hair Salon in House

-Mark Maki reported that notification was sent to all residences within 300 feet and that public notice was published in the Mining Journal. One correspondence was received from Dennis Robinson, 256 Timberlane. This letter dated 2-24-94 was read into the record. The Robinson's were opposed to the home occupation due to the increased traffic that would be generated within that area. Mr. Maki indicated that Mrs. Heikkila's request appears to fit within the guidelines of the ordinance and that the Board would have to decide if it meets the judgment of noise, traffic, etc. We currently have three home occupance beauty salons within the township.

-Bob Pecotte asked Mark Maki if we have had any problems with the existing three. Answer No.

-Kerri Heikkila spoke and indicated that she would only be open three days per week and that impact would be quite low.

-Carol Hicks asked if she would be operating by appointments and how many vehicles would be present at her house at any one given time. Mrs. Heikkila responded that she would be using appointments only and that only one additional car would be present with the rare occasion two vehicles with some overlapping of time.

Bill Sanders questioned the use of chemicals and their disposal. Mrs. Heikkila responded that most chemicals have ammonia and that she would be using very little of these and that the disposal would be properly adhered to as required.

-The Board indicated that in other operations a periodical testing of the water at the home occupation well was required and would the Heikkila's agree to providing periodical water testing upon renewal of the Home Occupation permit. They agreed.

A motion was made by Sam Oslund and seconded by Bill Sanders

to approve Home Occupation application 94-3 upon the conditions that it's for a three year period and excluding any written complaints during that period and that the well water be sampled periodically. Motion passed Aye 4, Nay 0.

V. Unfinished Business:

A. Home Occupation Application 94-1
William Kuchler
1328 M-28 East
Marquette, Michigan

Build Fishing Pole Holders

-Mark Maki reported that notification was sent to all residences within 300 feet and that public notice was published in the Mining Journal. No correspondence was received. There would be no additional traffic brought to the site, no signs etc. The only question that he would have is the issue of a detached garage vrs attached garage.

Our ordinance uses the wording enclosed dwelling as the residence and an attached garage is part of that occupied dwelling whereas a detached garage is not.

-Bob Pecotte asked if home occupation operations are permitted within detached building. Mark Maki responded that we currently have some home occupations that are performed within their garage and that most are directly attached to the home.

-Mr. Kuchler spoke to inform the Board that his garage is 12' X 20' and it is converted into a workshop and not used for vehicles. His operation is such that he could work in his basement but it would displace some living quarters. He then passed around a brochure showing his product.

-Bill Sanders indicated that he felt that this request while not meeting the letter of the ordinance most certainly meets with the spirit and that the detached workshop is only 240 square feet in area.

-A motion was made by Bill Sanders and seconded by Sam Oslund to approve Home Occupation application 94-1 upon the conditions that it's for a three year period and excluding any written complaints. Motion passed Aye 4, Nay 0.

VI. Information/Correspondence

A. The Board received a letter from the Township Planning Commission regarding Landscaping. The letter dated October 5, 1993 was read into the record.

-Bill Sanders spoke on behalf of the Planning Commission to let the ZBA know their concerns regarding the landscaping issues.

-The Board discussed the possibility of preventing large asphalt parking areas without islands of landscaping. The possibility of encouraging creative designs that would allow for snow removal and meet the ordinance requirements at the same time would most certainly be in order.

VII. Public Comment:

-Joe Lenz, Northern Michigan University spoke indicating that he and his fellow students were present to observe a public meeting for their planning course at Northern.

VIII. Adjournment:

-The next Zoning Board of Appeals meeting will be scheduled for March 24 in that we will have some upcoming business.

-The meeting was adjourned at 8:23 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Carol Hicks

CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 3-24-94

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:35 p.m., March 24, 1994 in the meeting room of the Township hall.

Zoning Board of Appeals members present were Mike Summers, Bob Pecotte, Carol Hicks, Bill Sanders, and Sam Oslund. Staff member Mark Maki was also present.

II. PUBLIC COMMENT:

Public Hearing Class A #23
Blondeau/Moving & Storage
5025 U.S. 41 South
Marquette, Michigan

Lee Blondeau, representing Steve Blondeau spoke and indicated that they wished to enclose the 20' x 60' open storage area to the Guindon Moving & Storage building. No additional public comments were raised.

III. APPROVAL OF MINUTES OF 2-24-94

A motion was made by Sam Oslund and seconded by Bill Sanders to approve the minutes of February 24, 1994 as submitted. Motion passed Aye 5, Nay 0.

IV. NEW BUSINESS:

A. Variance 94-1
Wendy Ligi
381 Mangum Road
Marquette, MI 49855

Side Setback 5' (requires 30') for 26'x36' garage

-Mark Maki reported that notification was sent to all residences within 300 feet and that public notice was published in the Mining Journal. No correspondence was received. The parcel is zoned RR-2 thus requiring 30' set back to all lot lines. The location of the house meets zoning setbacks but, because of the location of the septic tank and field it would prohibit development to that side. The lot is approximately 8 1/2 acres and thus meets the RP2 requirements. In single family residences the set back for a detached garage would be less than 30'.

-The Board questioned whether all other requirements for zoning compliance would be met and what is the undue hardship for granting this variance?

-A motion was made by Sam Oslund and seconded by Carol Hicks to approve Variance 94-1 and grant the 5' setback request due to the present location of the house and septic. The motion passed. Aye 5, Nay 0.

B. Class A Designation - #23
Steve Blondeau
Moving & Storage
5025 U.S. 41 South
Marquette, MI 49855

-Mark Maki reported that the existing Moving & Storage business operated by Guindon Moving & Storage was being acquired by Steve Blondeau and would continue to operate as a Moving & Storage business. Because the existing business is designated Class A nonconforming a request must be made to the ZBA for approval to alter any part of the existing business.

The proposal is to enclose the open 20' x 60' storage area and divide it into (6) 10' x 20' mini storage rentals. The changes to the building will consist of enclosing the open wall and installing 6 entry doors.

-ZBA members questioned if this change would indeed be an improvement and thus less objectionable in appearance than the present use. What is the impact on traffic, noise, smoke fumes, dust etc?

-Mark Maki read into the record two letters of support for the project. Gary Baldwin

6565 U.S. 41 South
Marquette, MI 49855

Steve Wahlstrom
Wahlstrom's Restaurant and Lounge
5043 U.S. 41 South
Marquette, MI 49855

-Norman Ball spoke and indicated that this is what he had in mind to do with the building prior to selling it to Steve Blondeau.

-Bill Sanders questioned if any response was received regarding Mark Maki's questions on parking for employees, outdoor parking/storage area, aisles, setback to North property line. Many larger boats etc. would not fit into a 10' x 20' storage space and would these items be stored outside?

- Lee Blondeau spoke and indicated that they planned to store large boats outside in the area where the moving crates are presently located. Mark Maki noted that he was under the impression that as noted in the application things such as boats, recreation vehicles, cars, etc. would be stored inside.

-Mike Summers questioned that if enclosing the existing structure and spotting boats etc. along side the building would in fact lead to future expansion. Lee Blondeau indicated that they had no intentions to expand the building.

-Mark Maki indicated that ultimately a site plan would have to be approved for parking, landscaping etc. and that the enclosed side of the building would be an improvement.

-A motion was made by Mike Summers and seconded by Bill Sanders to approve Class A application #23 with the following findings: That the enclosed stud walls and doors would be less objectionable in appearance to what presently exists. The Class A designated change could not be more obtrusive than the present use in reference to noise, dust, fumes, traffic nor impacting on neighboring property values. The project should not impact on any matters dealing with parking nor parking matters other than as appearing on the original application. The motion passed. Aye 5, Nay 0.

C. Home Occupation 94-4
John Hlinak
234 Silver Creek Road
Marquette, MI 49855

-John Hlinak spoke and indicated that the needs to change the name and address of his antique car dealership and that this request begins with the home occupation permit.

-Mark Maki asked Mr. Hlinak to clarify this request.

-Mr. Hlinak indicated that he presently has 9 vehicles and that some are over 80 years old. These are stored at various locations but, he would only have one vehicle located at his residence at a time. The name and address on his present

license as a dealer of classic and antique automobiles is Bide-A-Wile Mobile Home Park located at 232 Silver Creek Rd., Chocolay Township. He has since sold the Mobile Home Park but retained his home thus, the change to Bide-A-Wile Mobile located at 234 Silver Creek Rd.

-The Board questioned the use of signs, displays, noise generated by mechanical or body work, traffic etc.

-A motion was made by Mike Summers and seconded by Bob Pecotte to approve Home Occupation 94-4 under the following conditions: (1) That it's for a three year period and excluding and written complaints. (2) No mechanical or auto body work shall be conducted other than preparation work. (3) No on site observable displays or amenities with the exception of one vehicle being inventoried or prepped at any one time. Motion passed Aye 5, Nay 0.

V. UNFINISHED BUSINESS: None

VI. INFORMATION/CORRESPONDENCE RECEIVED:

Bill Sanders gave a report on the last Planning Commission meeting with regards to the Ground Water report from experts on the subject. He specifically requested information of the affects of domestic waste disposal from beauty salons and that he would be sharing his findings with the ZBA.

VII. PUBLIC HEARING: None

VIII. ADJOURNMENT:

The meeting was adjourned at 8:20 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Carol Hicks

CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 6-23-94

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:31 p.m., June 23, 1994 in the meeting room of the Township hall.

Zoning Board of Appeals Members present were Bill Sanders, Mike Summers, Robert Pecotte, Carol Hicks, and Sam Oslund. Staff member Mark Maki was also present.

Public Hearing Class A #25 (Addition 12' x 24')

Shaws Service, Inc.
4027 US 41 South
Marquette, Michigan 449855

-Mark Maki gave the background report indicating for the record that public notice has been given in the Mining Journal and to all persons within 300'. The property was designated as Class A around 1982 and that there have been several zoning actions taken since then. Ordinance section 604 - C states that no class A lawful nonconforming structure shall be extended, expanded, or enlarged without first securing the approval of the Zoning Board of Appeals. He has received two correspondences as a result of the public notice.

-The first being from Timothy E. Menhennick, Cherry Creek Rd., dated June 21, 1994. Mark Maki read into the record the entire letter that was addressed to the Zoning Board of Appeals. Mr. Menhennick indicated that he was vehemently opposed to the Shaw's proposed expansion due to its location and the permanent effect it will have on the Harvey Oil Company's easement.

-The second letter being from Don Salo, Lakewood Lane, dated June 1994. Mr. Salo owns some property across the highway from Shaw's Service and indicated that he was not opposed to the proposed expansion.

-Mark Maki acknowledged that an oversight had been made with the first public notice in that only the Class A expansion and been addressed, subsequently a second public notice was issued. One for the proposed Class A expansion and one for the proposed variance.

Application for a Class A non-conforming use or structure and/or expansion dated June 7, 1994.

Variance request application dated June 13, 1994.

-Mark Maki read into the record his Memorandum dated June 17, 1994 to the Zoning Board of Appeals outlining the provisions and standards necessary for Zoning Board of Appeals actions.

-Mark Maki distributed some pictures showing the existing conditions around the back side of Shaw's Service.

-Gary Menhennick spoke and requested to correct the chalk board sketch. It was indicated that a precise site plan, location survey that was prepared by Robert Cambensy, registered land surveyor, was also in our packet.

-Tim Menhennick spoke in reference to the easement and indicated that Harvey Oil Co. still holds the easement across the rear of Shaw's Service. A copy was distributed to the ZBA.

-Gary Menhennick spoke and asked Mark Maki if the spirit of the ordinance has changed within the past 15 years? Mark Maki answered that the wording of the ordinance is the same and

that a Class A nonconforming change can be made by the approval of the Zoning Board of Appeals.

-Mark Maki addressed the issue of land coverage indicating that the ordinance specifies that the building to lot ratio can be 40%. Mr. Maki checked on the area of the building, canopy and island.

-The definition of structure was discussed and defined as read from the ordinance.

-Tim Menhennick spoke and requested that a common standard be applied to all cases and indicated that his objections were to the three issues of Parking, Environmental clean-up and easement.

-Steve Shaw from Shaw's Service, Inc. spoke and submitted a letter from his environmental clean-up consultant Peter R. Kallioinen, MJ Environmental, 1009 W. Ridge St., Marquette, Mi. Mark Maki read into the record that letter dated June 23, 1994.

-Mike Summers spoke and indicated that it appears that we are being asked to mediate an issue of easement property rights and environmental concerns and that while we are concerned about these issues we must address the issue at hand and that being the application for expansion and variance set-back.

-Discussion continued on parking, environmental clean-up, and easement issues.

-Chairperson Robert Pecotte closed the public hearing at 8:44 p.m.

II. Regular Meeting of ZBA was called or Order at 8:45 p.m.

III. Public Comment: None

IV. Approval of March 24, 1994 Minutes

-A motion was made by Sam Oslund to approve the minutes dated March 24, 1994 with the correction that the Class A Designation for Steve Blondeau was 94-24 not 94-23. Seconded by Bill Sanders. Motion passed: Aye 4, Abstain 1.

V. Unfinished Business: None

VI. New Business:

A. Class A #25 and Variance 94-2

Shaw's Service Inc.

4027 US 41 South

Marquette, MI 49855

12' x 24' storage addition to building

-Mark Maki reported that this was two issues and would require two actions, one on the Class A expansion request and one for the variance set-back request.

-Discussion by ZBA members evolved around the aforementioned issues of parking, soil clean-up and easement.

-Bill Sanders asked Steve Shaw how far is the new building addition to be located from the rear N.E. lot line? Answer 8-9 ft.

-Sam Oslund addressed ordinance section 604 D-3 in that it sites examples of nonconformity but is not limited to those examples and that the ZBA needs to look at all issues.

-Bill Sanders addressed the issue of the easement lot line in that there presently is approximately 40 feet from the end of

the existing building to the end of that lot line. With the proposed addition there would remain approximately 37 feet of clearance between the new addition and the end of that lot line.

-Carol Hicks addressed the easement issue in that the recorded property deed with the easement did not specify a dimensional size to the easement other than to permit vehicular traffic. Standard two way traffic within a parking lot is accepted as being 24 feet. It was further noted that the easement appears to be valid and that Shaw's service should not attempt to block the easement and that Harvey Oil has every right to cross over the easement to exit onto Corning Street.

-A motion was made by Bill Sanders to approve the Class A Non-Conforming request by Shaw's Service, Inc., because it would be an improvement in appearance and not deleterious to public health and safety and would not increase any additional nonconformity, with the following conditions:

- that it be used for storage space and not for retail space or a repair shop,
- the addition will not require any additional parking,
- no additional outdoor storage to be placed beyond the rear of the building after it is constructed,
- and that the soils under the proposed addition be tested, if required by the Department of Natural Resources.

The motion was seconded by Sam Oslund. Motion passed Aye 5, Nay 0.

-A motion was made by Bill Sanders to approve variance request 94-2 by Shaw's Service, Inc., to allow a 15 foot setback from Corning Ave. for the proposed addition, because of the unusually shaped site and it's double frontage requirement to both US 41 and Corning Ave., the distance will not exceed the 15 foot dimension from the existing building and Corning Ave., and any additional issue that is necessary to comply with the Class A Nonconforming issue. The motion was seconded by Sam Oslund. Motion passed Aye 5, Nay 0.

VI. New Business Continued.....

B. Variance 94-3 Gary Nadeau, 350 Lakewood Land Garage - 17' height.

-Mark Maki reported that public notice had been given through advertisement and letters to those within 300'. The issue is that of what is a customary accessory building and that is where the 14' height limitation is used for a garage. Some ordinances have the 14' height as an absolute number and others use an averaging factor.

-Gary Nadeau addressed the ZBA and showed the height and roof pitch of his existing house. He indicated that he owns two adjoining 100 foot lots and that his house is on one lot and that the garage would be on the other lot. The proposed 28' x 40' garage is for storage of his recreational vehicles and would have a higher side wall with 10' x 10' overhead doors.

-Carol Hicks asked if the roof pitch had to be held to 5 on 12 or could it be lowered? Mr. Nadeau indicated that it was 5 on 12 to match the existing house. It was noted that the distance from the house to the proposed garage was over 50'.

-The ZBA discussed the issue of variable roof pitch heights and a stand-alone garage on a separate lot and some slight deviations from the norm of 14' height restrictions as being customary.

-A motion was made by Carol Hicks to approve variance application 94-3 by Gary Nadeau to allow for a 16' high garage due to the fact that what is customary for some home recreational vehicles may require some variation and that the 16' height will not be out of character for the neighborhood. Motion was seconded by Mike Summers. Motion passed Aye 5, Nay 0.

C. Sign Variances along US 41.

-Mark Maki and the ZBA discussed the issue of sign variances that have evolved along the highway corridor. Additional requests may be forthcoming for sign setback distances, sign area sizes and heights.

D. Special Meeting

-Several variance requests are forthcoming and should they be held at the regular schedule meeting date of July 28 or should we accommodate them at an earlier meeting. Due to the fact that several Board members indicated that they would not be available for the 28th the next meeting was scheduled for July 14.

VII. Unfinished Business: None

VIII. Information/Correspondence Received

-A copy of the stipulated settlement between Chocolay vs. Blondeau Trucking was given to ZBA members.

IX. Public Comment

-Gary Menhennick spoke and stated that it was apparent that Mr. Maki and the Board had pre-prepared the motion on the Shaw's expansion request prior to the meeting and were the Board members aware of the public meetings act.

-All Board members and Mr. Maki unequivocally denied this and showed Mr. Menhennick a copy of the ordinance 604-D that we use for Class A nonconforming issues. The wording for the motion was derived from this document and the conditions for the nonconforming expansion structured accordingly.

X. Adjournment:

The meeting was adjourned at 10:15 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Carol Hicks

CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 7-14-94

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m., July 14, 1994 in the reception office area of the Township hall.

Zoning Board of Appeals Members present were Sam Oslund, Bill Sanders, Robert Pecotte and Carol Hicks. Staff member Mark Maki was also present.

Public Hearing Class A #26 (Second Story Addition)

Leonard Iwinski
2288 US 41 South
Marquette, Michigan 49855

-Mark Maki gave the background report indicating that public notice had been published in the Mining Journal and that all persons within 300' were sent notice.

-Two letters were received in response to the public notice. The first was from Ray Beauchamp, ABC True Value, 2250 US 41 South indicating that he was not opposed to the project. The second letter was from Mrs. Frank Nowak, 315 Quarry Rd. (Sands Township). She indicated that she opposed the project.

-Mark Maki reported that the location is nonconforming in that it was a residential house built around 1945 and has been used for a single family residency since but, now the area is zoned as commercial. The Iwinski's intend to use the garage for commercial sales and wish to expand the house by raising the roof into a second story structure for their living quarters. Mr. Maki indicated that this expansion would not be contrary to public health and safety in that it would be conducted under permits and with inspections.

-Mr. Iwinski 2288 US 41 Harvey, spoke indicating that this is presently a two story house but only has a 5'-10" head clearance and that the stairs does not meet code. The roof is not properly ventilated. He then presented the Board with some illustration drawings showing what he is proposing to do to correct the situation. The drawings showed a true two story house height.

-The Public Hearing was closed at 7:44

- II. Regular Meeting Called to Order at 7:45 p.m.

III. Public Comment: NONE

- IV. Approval of June 23, 1994 Minutes

-A motion was made by Sam Oslund and seconded by Bill Sanders to approve the minutes of June 23, 1994 as submitted. Motion passed: Aye 4, Nay 0.

V. Unfinished Business: NONE

VI. New Business:

- A. Class A #26 & Variance 94-4

Leonard Iwinski
2288 US 41 South
Marquette, MI 49855
Second story addition to single family dwelling

-Bill Sanders questioned Mark Maki whether this Class A request is simply to expand the existing structure for residential usage or is it for expanded commercial usage. Mark Maki responded that it is his impression that the

expanded structure would not expand the usage beyond that as being customary for a residential single family dwelling.

-Carol Hicks asked the Iwinski's whether this was to be their primary domicile or is it a rental unit? The response was that they will reside in the home and conduct their Fur business out of the garage. Further questions were raised as to the generation of traffic, noise, dust, fumes, etc. Mark Maki spoke and indicated that he had checked into these issues and that adequate parking is present for the proposed retail sales.

-A motion was made by Bill Sanders and seconded by Sam Oslund to approve the Class A #26 and Variance 94-4 to expand the nonconforming structure into a second story living quarters as submitted. Motion passed Aye 4, Nay 0.

B. Variance 94-5

Dave Anderson
443 Mangum Road
Marquette, MI 49855

Setback in RP Zone

-Mark Maki reported that it's a single family dwelling located within a RP zoned district requiring 30 ft. set-backs. The lot has 20.5 acres thus conforming to the zoning requirement. Even though the lot complies to the acreage size it is a rather narrow and slim 20.5 acres as shown on the enclosed drawing. Public notice was given and no correspondence was received on this request.

-Mr. Anderson spoke indicating it was originally a 60 acre parcel and had been divided as such to keep a driveway that goes back to First Lake.

-Carol Hicks questioned the proposed height of 18 ft for a detached garage. It was reported that in RP district there is no height restriction for detached buildings.

-A motion was made by Bill Sanders and seconded by Carol Hicks to approve Variance 94-5 allowing the garage to be built 21 ft. from the property line, thus granting a 9 ft. variance. Motion passed Aye 4, Nay 0.

C. Variance 94-6

Krist Oil Co.
303 Selden Rd.
Iron River, MI 49935

Expand sign to 100 sq. ft. at 0 setback at 3035 US 41 South

-Rick Angeli from Krist Oil was present.

-Mark Maki reported that public notice had been published in the Mining Journal and notice sent to those within 300 ft. One correspondence was received from Donald Salo, 273 Lakewood Lane (owning some property across the hwy from Citgo). He had no objections to the request.

-Mark Maki continued to report that the use of this structure began in 1990 and that in 1989 requests were made for variances to construct the original building. The Zoning Board of Appeals had then granted a Zero setback for a sign of only 70 sq. ft and not 100 sq. ft. The present sign is 16 ft. high. The owner's now wish to construct a new sign at Zero setback, 100 sq. ft. in area and 27' high. The Zoning ordinance requires 5 ft. setback, 100 sq. ft. in area and 30 maximum height. Copies of the Board minutes of 6-15-89 were sent in our packets.

-First National Bank of Negaunee, Harvey Branch erected a new sign of maximum dimensions in 92-93 that appears to be set-back approximately 3-4 ft.

-It was further reported that sign set-back variances have been granted along the highway corridor thru Harvey.

-Bob Pecotte spoke indicating that it appears that this new sign would block the Bank's sign as viewed by North bound traffic.

-Rick Angeli from Krist Oil spoke indicating that these were two entirely different businesses and were not competing for business with their signs. This sign is an update from Citgo and is their standard new pattern. It meets Township ordinance in size and height and that the Board approved a zero set-back. The company is attempting to upgrade signs at all locations.

-Bill Sanders asked if you want 100 sq. ft. of sign why can't you set it back the required 5 ft.? Mr. Angeli responded that they were trying to maximize their property.

-Carol Hicks spoke indicating that it's a new structure in that you plan to dismantle the existing structure of one pole, 16-17 ft. high and 70 sq. ft. in area and replace it with a new structure of two poles, 27 ft. high and 100 sq. ft.. The Board in 1989 appeared to have reason in granting an area of only 70 sq. ft. at zero set-back and wanted to know just what are the "practical difficulties" necessary in granting this request. Mr. Angeli indicated that the "practical difficulties" were the same as previously requested at the 1989 ZBA meeting.

-Mark Maki obtained the original 1989 application from the Township vault and read the "practical difficulties":

- (1) Building visibility from the North is blocked by the bank, thus building 20' set-back request.
- (2) Canopy visibility- Location of gas pumps and island due to highway access.
- (3) Facility layout is open and spacious due to angular lot lines.
- (4) Snow removal and traffic hazard for large truck access.

-Mark Maki noted that in 1989 the First National Bank objected to the project but presently, they did not voice any objection.

-A motion was made by Bill Sanders and seconded by Sam Oslund to deny application 94-6 Krist Oil Co. of a Zero set-back for 100 sq. ft. of sign area. The sign may remain or be rebuilt at Zero setback for the granted 70 sq. ft. of area, or be rebuilt for 100 sq. ft of area at the required 5 ft. set-back. Motion passed - variance request denied: Aye 4, Nay 0.

VII. Unfinished Business: NONE

VIII. Information/Correspondence Received: NONE

IX. Public Comment: NONE

X. Adjournment at 8:50 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Carol Hicks

CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 8-25-94

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pocotte at 7:30 p.m., August 25, 1994 in the meeting room of the Township hall.

Zoning Board of Appeals members present were Bill Sanders, Robert Pecotte, Carol Hicks, and Sam Oslund. Staff member Mark Maki was also present.

- II. PUBLIC COMMENT: None
- III. APPROVAL OF MINUTES OF 7-14-94

A motion was made by Sam Oslund and seconded by Bill Sanders to approve the minutes of July 14, 1994 as submitted. Motion passed Aye 4, Nay 0.

- IV. Unfinished Business: None.

- V. New Business:

Variance 94-7 Michael Gaspar and Patrick Dooley for Pine Acres Mobile Home Park. Request for side and rear setback variance to permit; a 20' x 24' storage building to be 10 feet from the side and rear lot lines.

-Mark Maki reported that notification was sent to all residences within 300 feet and that public notice was published in the Mining Journal. No correspondence was received. The parcel is zoned R-4 which would require 30 foot front, side and rear setbacks. We only have two R-4 designated areas within the Township. Primarily the 30 ft. setbacks were to serve as a buffer between Trailer Parks and Single Family residences. This property abuts to Silver Creek school at the rear and Don Salo's property to the side. Mobile home park rules require a 50 foot distance between storage buildings and existing mobiles.

-Michael Gaspar spoke and indicated that Mr. Salo revoked the use of his property for access to the side door which is only approximately 2 feet from the building. He indicated that Mr. Salo has no objection to the variance request. It was more reasonable to construct a new storage building instead of trying to modify the old building.

-Sam Oslund questioned the location of the building as to whether or not it would be within the tree line between the school and whether children play within that area. Discussion evolved around the location of that rear property line in that it would be some 60 feet between the school yard fence and the tree line. Mr. Gaspar and Mr. Dooley believed the line to be a substantial distance north of the school fence line.

-Carol Hicks questioned the discrepancy between the variance request application which stated 10 ft. setback and the discussion in which the owners were asking for 8 ft. setback. Question was raised as to why couldn't the existing door be relocated within the old building to the road side. The owner's indicated that the road side of the building was below grade and that the lowest spot within that area was that building. They planned to relocate the storage building to another location and construct a new building rather than invest in the old.

-A motion was made by Carol Hicks and seconded by Bill Sanders to approve Zoning Variance 94-7 to allow for a storage building at Pine Acres Mobile Home Park to be 10 feet setback from the side and rear lot lines. This variance is due to the

fact that the 30 foot side setback poses an unnecessary burden in that this clearance is normally between a mobile home park and a residential area and that placement of the storage building in compliance would unnecessarily reduce land used for open space and lastly the 50-foot setback rule between storage buildings and existing mobiles necessitates it's requested placement.

VI. Information/Correspondence Received: None

VII. Public Comment: None.

VIII. Adjournment at 7:55 p.m.

Respectfully submitted:

Carol Hicks, Secretary

A handwritten signature in cursive script that reads "Carol Hicks".

CHARTER TOWNSHIP OF CHOCOLAY
 ZONING BOARD OF APPEALS
 MINUTES: 9-22-94

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by acting Chairperson Sam Oslund at 7:30 p.m., September 22, 1994 in the meeting room of the Township hall.

Zoning Board of Appeals members were Bill Sanders, Mike Summers, Sam Oslund, and Carol Hicks. Staff member Mark Maki was also present.

- II. PUBLIC HEARING: None

- III. Approval of the Meeting Minutes of 8-25-94

A motion was made by Bill Sanders and seconded by Sam Oslund to approve the minutes of August 25, 1994 as submitted. Motion passed Aye 4, Nay 0.

- IV. UNFINISHED BUSINESS: None

- V. NEW BUSINESS:

A. Variance 94-8 Joseph Slattery - 200 Surrey Lane. Requesting a variance from Section 300 to build a detached garage with storage floor above 24' in height.

-Mark Maki reported that notification was sent to all residences within 300 feet and that public notice was published in the Mining Journal. No correspondence was received. The property is zoned R-1 in which the customary height of 14' is considered to be the maximum allowable for detached accessory buildings. While RR-2 and RP zoning districts allow 30' height. The parcel is 11.25 acres and is bordered by Cedar Creek. Mark Maki thinks that a variance of some sort would not impair the character of the area and the site is more like a rural setting than single family residential.

-Bill Sanders questioned the fact that our past record of denial for structures such as this and holding close to the 14 ft. height requirement has set a precedence.

-Mike Summers spoke in agreement with Bill and questioned whether or not the second floor could be turned into living quarters.

-Carol Hicks spoke and quoted the county codes as defining habitable space as requiring height of 7'-6" and the applicant shows the second floor as being 6'4" in height.

-Bill Sanders asked about the shed roof addition that was labeled for travel trailer storage and whether or not the entire roof line of the structure could start at the trail storage area and ascend upward resulting in a lower height to the overall structure.

-Carol Hicks wondered whether the pitch of the roof could be reduced to further accommodate a reduction in the overall height and still achieve the owner's objectives of garage spaces and storage above.

-Mr. Slattery spoke and discussed his intentions on the use of the building and felt that he would be agreeable to some modifications.

-Bill Sanders asked how much of the proposed structure is built into the hillside. Mr. Slattery responded that only one side would be fully exposed to full height and that the other three sides would be built into the hill.

-Carol Hicks indicated that in comparison some ordinances use an averaging of the building height to come up with their designated height and in Mr. Slattery's case the berming into the hillside would result in an average reduction of the building height.

-Mike Summers asked Mr. Slattery if he could live with a 20 height to the building. Mr. Slattery responded to the affirmative.

-A motion was made by Bill Sanders and seconded by Mike Summers to approve variance 94-8 for 6 ft in height to allow a garage to be built with the maximum height from floor line to ridge line of 20 feet. Motion passed Aye 4, Nay 0.

B. Chocoy Downs Golf Course, 125 Chocoy Downs Golf Drive. Applicant Joe Gibbs. A variance from Section 500 off street parking spaces and Section 513 parking lot planting requirements.

-Mark Maki reported that notice was sent to all required parties and that notice was published in the Mining Journal. It was noted that notices went to over 100 people because of the size of the property. No correspondence was received. Our ordinance states that 7 parking spaces are required per hole and that landscaped parking lots are required when 50 or more spaces are required. Presently, the first 9 holes at the golf course are established and the parking situation of 63 spaces has been established. Now that Mr. Gibbs is developing the second 9 holes and additional 63 spaces would be required and the second question is the green areas within the parking lot. The ordinance is to prevent large asphalt areas and as the applicant states he has acres of green areas. Our ordinance was drafted in 1977 and is all likelihood was worded from some other ordinance. Mark researched other ordinances around the area and found that some require 4 parking spaces per hold with one additional per employee, others had 6 spaces and add one additional if facilities serve food or beverage, and Delta Co. having 7 spaces per hole. Mr. Maki felt the clearly Mr. Gibbs has the space to and clearly he could meet the ordinance. Perhaps the developer could take the issue up with the Planning Commission and debate the 7 space per hole rule. In reference to drawing "A" in our packets the first parking lot in front of the pro shop has 76 spaces. If as shown in Planning Commission drawing "B" the parking lot is separated into two sections and that separation could be part of the green area.

-Wells Chapin, 1777 M-28 East spoke and indicated that he disagrees with Mr. Gibbs in his request for only 3 parking spaces per hole but, also disagrees with the township in the 7 parking spaces per hole rule. He feels that somewhere there is a happy medium. He indicated that while using the course on regular basis there was never a parking problem.

-Mike Summers spoke and indicated that golf courses are not unique and have been established are around for a long time and that if in fact we grant a variance in the number of parking spaces we are in fact changing the ordinance, thus overriding the Planning Commission. Why wasn't this taken to the Planning Commission instead, perhaps the fees cost more and it takes longer!

-Mark Maki stated that perhaps the Planning Commission should change the ordinance.

-Mr. Chapin spoke and asked if we were to grant a variance couldn't we restrict it to the golf course only and if a restaurant were to be added it must have it's own number of parking stalls.

-Mark Maki indicated that we do not have an overall master

plan from the developer so we do not know if a restaurant is in the offering for future development.

-Carol Hicks spoke and went through some numbers indicating the maximum number of people present on any one hole at a time and the likelihood of some traveling together in one car. He as most members of the ZBA felt that the 7 rule was a bit excessive.

-Mike Summers felt that the ZBA should petition the Planning Commission to take up the matter and perhaps request that the number be reduced in our ordinance.

-Mark Maki questioned why go through that exercise and expense when the ZBA has the authority to grant a variance here and now that may resolve this issue.

-Bill Sanders stated that he doesn't think it is our responsibility to change the ordinance, it's not our problem with time nor cost restrictions. In reference to the green spaces he feels that when houses are added to the subdivisions it will take on an entirely different character in that presently, it appears as acres of green spaces but when lots are occupied with houses and driveways that character will change.

-Mr. Gibbs spoke indicating that he has established "T" times and that scheduling people has diminished a lot of traffic in the parking lot. The parking situation has never been crowded and we would never let it be crowded and would expand the parking lot when needed. Yes, he has lots of land on which he could build parking lots but, it is one thing to have a gravel lot with pot holes and the cost of blacktopping.

-Mike Summers made a motion and seconded by Sam Oslund to grant a variance for application 94-9 to Section 500 in reference to the required 7 spaces per hole to be reduced to only 4 spaces per hole and additionally make it clear that this variance is applicable to the first 18 holes of the golf course and no other activity. If and when any other establishment is requested it must meet the required number of parking spaces for that particular building or as per the requirements for an additional 9 holes of golf. Motion passed Aye 4, Nay 0.

Variance 94-9 Section 513 Parking Lot plantings and green areas.

-Discussion ensued around the issue of plantings and green areas and Mark Maki quoted the ordinance and Mr. Gibbs application.

-Bill Sanders felt that green areas should be established and that islands of plantings should divide the parking areas as required in the ordinance.

-It was suggested that the present ditch areas from the streets to the parking lots and the hillsides up to the pro shop could be cleaned up, seeded, and landscaped with plantings, thus countering some of the required green areas

-Mike Summers made a motion to grant a variance for application 94-9 to Section 513 in reference to green areas allowing compliance as it presently exists for the first 18 holes only. The motion was seconded by Bill Sanders to place it on the table. Motion passed: Aye 3, Nay 1

VI Information/Correspondence Received: None

VII. Public Comment: Mr. Wells Chapin spoke and stated that this was the first time he has seen compromise at a public meeting and believed that it was healthy and expressed appreciation to

the Board for working out compromise solutions to problems.

VIII. Adjournment at 9:20 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Carol Hicks

CHARTER TOWNSHIP OF CHOCOLAY
 ZONING BOARD OF APPEALS
 MINUTES: 10-27-94

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m., October 27, 1994 in the meeting room of the Township Hall.

Zoning Board of Appeals members were Mike Summers, Bill Sanders, Bob Pecotte, Carol Hicks, and Sam Oslund. Staff member Mark Maki was also present.

- II. PUBLIC HEARING: None.

- III. Approval of the Meeting Minutes of 9-22-94

A motion was made by Bill Sanders and seconded by Sam Oslund to approve the minutes of September 22, 1994 as submitted. Motion passed Aye 5, Nay 0.

- IV. UNFINISHED BUSINESS:

There was nothing pending on the record but, a meeting date for November ZBA was discussed. With the opening of deer season and the building season soon coming to a closure the next ZBA meeting will be scheduled for November 10, 1994.

- V. NEW BUSINESS:

- A. Home Occupation 94-5 - Wendie Jamieson
 117 Ridgewood Drive
 Gift Basket Shoppe

Home Occupation 94-5 was withdrawn from the agenda by the owner due to the fact that her business has grown to the point that she is expanding into a new location.

- B. Home Occupation 94-6 - John Cuth
 749 Lakewood Lane
 Engineering Consulting Service

-Mark Maki reported that public notice had been given. Mr. Cuth is requesting another approval in that a Home Occupation permit had been granted three years ago.

-Mr. Cuth spoke and indicated that his business was in essence the same as in the past and that he mostly uses computers with FAX and Modem.

-Mike Summers informed the Board that he would have to abstain from voting on this case in that Mr. Cuth is a client of his.

-Carol Hicks questioned the amount of house space occupied with his business, the number of home deliveries received and the number of employees. Mr. Cuth indicated that his business only takes up a small portion of his living room and that he has few if any home deliveries in that he picks up most of his own supplies.

-A motion was made by Bill Sanders and seconded by Sam Oslund that Home Occupation 94-6 be approved for the standard three year period and subject to any written complaints. Motion passed Aye 4, Nay 0, Abstained 1 (Mike Summers).

- C. Request for interpretation - Zoning Administrator
 Regarding C-2 zones semi-trailers as an accessory building.

-Mark Maki reported that his request to the ZBA was for an interpretation regarding the issue of semi-trailers as an accessory structure in a C-2 zone. Copies of the

correspondence received has been sent to ZBA members. The question is whether or not a semi-trailer is a customary accessory structure to be used in a C-2 zone. Mr. Maki indicated that he has been trying to work with the Township Board and the Planning Commission to address the wording of the ordinance on this issue. (a copy of the memorandum sent to the Planning Commission dated October 19, 1994 was sent to ZBA).

For example, the City of Marquette does not allow any outdoor storage in commercial general business zoned districts. Mark Maki's interpretation is that semi-trailers are not an approved outdoor storage structure - perhaps the Planning Commission will someday draft exact wording to that effect - but, in the meantime he as the zoning administrator must administer the zoning ordinance as written and issue an appearance ticket if a violation occurs. Presently, Section 107 addresses Accessory Uses and Structures and uses the wording "customary accessory uses" and it is his belief that it is not customary to use semi-trailers for accessory structures.

-In reference to the Stan Wittler case in Beaver Grove the ZBA granted a variance allowing a scrap tire business within a C-2 district with specified parameters. Each case is individualistic and should be treated as such and under certain situations conditional uses are permitted. The Township will ultimately have to address the issue and will be faced with three options: (1) Not allow it, (2) Fully allow it, or (3) Provide some process to allow approval such as conditional use. The Township will have to address it and maintain and keep some control.

-Bill Sanders commented on the correspondence received from attorneys McDonald, Marin & Kipper in reference to the

Wittler's case in that semi-trailers were used for storage space. He believes that tires in the building are retail and tires in the trailer are for salvage transportation purposes. The issue of placing this as a conditional use on a case-by-case basis is where it should be.

-Sam Oslund agrees with Bill Sanders and further indicated that this is an issue for the Planning Commission.

-Mark Maki indicated that in a way it is our (ZBA) job to give an interpretation on his determination.

-Bob Pecotte asked Mr. Maki if we were in fact acting on an ordinance interpretation or a variance request? Mr. Maki indicated that it was our interpretation of agreement or disagreement to his determination that semi-trailers are not a customary accessory structure in a C-2 zone.

-Gary Menhennick, 2150 M-28 East, spoke representing Harvey Oil Co. asking if their semi-trailer was the issue or not, or was the set back the issue being discussed and were there exemptions to other businesses? Mr. Maki clarified that Harvey Oil was not the issue and that he had issued an appearance ticket to Harvey Oil. Mark Maki stated that he was simply seeking an interpretation from the ZBA on all semi-trailers as not being customary accessory buildings and that he has an obligation to seek out and issue appearance tickets when violations occur.

-Gary Menhennick spoke of Shaws fuel island as being in violation and stated that he feels Harvey Oil has been pursued arbitrarily.

-Mike Summers spoke in getting back to the issue in that the question asked of the ZBA was whether semi-trailers should or should not be allowed for storage use in C-2 district. As to

the Wittler case semi-trailers were to be used for transient use to deliver tires to another site (disposal). He is inclined to believe that they are not a storage accessory structure in that trailers are moveable.

-Bill Sanders spoke and addressed Pete LaRue's letter about the set back question of the Harvey Oil trailer appearing to be placed in violation of the setbacks in the zoning ordinance.

-Tim Menhennick spoke asking if the Township has a permit on file for Mr. LaRue's trailer? Mark Maki responded No and that Mr. LaRue has taken a wait and see approach.

-Tim Menhennick indicated that Mark Maki wishes to have an interpretation that is favorable to his position. He then passed out a copy of state statute 125.293a Township board of appeals; decision final; judicial review.

-Gary Menhennick spoke about safety and visibility from the side street to the highway and bike path in that he feels that the trailer placement does not impair the visibility and safety. He continued to inform the Board that the Harvey Oil trailer had license tags and operable brakes and can the same be said about the Wittler trailers?

-Carol Hicks spoke and informed the Board that he had visited the Beaver Grove site and that the Wittler's had only one trailer present as of today and that the trailer had tags with dates good into 1995. While he was not present for the ZBA action on the Wittler case in 1992 it was his impression that the trailers were to be used for transportation of used tires to a re-cycling shredding plant located downstate.

-Mike Summers spoke in that it is his recollection that the ZBA did not want tires to be stacked outside of the building and that trailers would be used to transport tires once the trailers were filled. The issue here is whether or not semi-trailers can be parked on a lot and be used for storage and as an accessory building?

-Tim and Gary Menhennick spoke and questioned the interpretation as to what Mark Maki is requesting and felt that he was picking on individuals within the township.

-Mark Maki spoke and stated that he deals with every case and every individual equally and if in fact there is a violation to the ordinance he is then performing his responsibility by acting on it.

-Bill Sanders spoke and indicated that he supports Mark Maki's decision that semi-trailers are not intended for storage buildings or accessory buildings. The Wittler case was not an issue of use of semi-trailers it was a case of a salvage operation seeking permission to operate in a C-2 district.

-Tim Menhennick began reading the minutes from ZBA meeting dated 1-23-92 section IV New Business regarding Section 209. Tim Menhennick continued speaking and stated "that they will see you Mr. Sanders in court and you too Mr. Summers."

-Chair Bob Pecotte tried to regain order but, Tim Menhennick continued to speak.

-Gary and Tim Menhennick requested a copy of ZBA's decision on Mr. Shaw's pump island.

-Mark Maki informed all that ZBA's actions were public record and could be reviewed. He indicated that no matter what the ZBA decides here tonight it is his opinion that Harvey Oil is in violation of the ordinance, due to the set back problem.

-Gary and Tim Menhennick indicated that they would fight Mr. Maki and the Township in court in order to protect their interests.

-Mike Summers believes that Mark Maki's attempt to take this up with the Planning Commission was a step in the right direction and perhaps this is where it belongs. However, because it is before us we have an obligation to address it and the question to address is the general ordinance issue of customary accessory buildings and not a specific case such as any one individual. Perhaps, the ordinance needs to be modified but, until it is we must work with our existing ordinance.

-Tim Menhennick began to speak and Chair Bob Pecotte regained order indicating we had to move along with this item. Tim Menhennick stated " we will see you Mr. Pecotte in court."

-A motion was made by Bill Sanders and seconded by Sam Oslund to concur with Mark Maki's interpretation that semi-trailers are not a permitted customary accessory structure when used as a building in a C-2 district.

-Discussion on motion: Mike Summers indicated that he would like a bit more definitive clarification of a semi-trailer. His definition of a semi-trailer is when parked on the property it's primary use is as a mobile object intended to transport objects both on and off the property but, when parked on a property and used as a building it is not customary for it to be used as an accessory building.

-The language of clarification was not entered into the motion. The motion passed Aye 5, Nay 0.

D. Variance 94-10 - Shirley Furr
Request to subdivide land in R-1 on South Willow Road/Section 402 Frontage requirement.

-Mark Maki reported that the variance request is to allow division of Mr. and Mrs. Furr's lot on South Willow road into four lots each containing 158 ft. of frontage. Prior to our ordinance there was a sub-standard road right-of-way called Willow road. Today our ordinance sets up standards for private roads. They are requesting a variance to the private road clause due to the fact that they do not own the road. The present ownership is with Karen Bennett of Casey, Illinois. The road does meet some of the standards as set forth in ordinance section 402 but not all. There is a 66 ft. wide right-of-way and a lightly graveled 18 foot wide pavement. While the road is not fully ditched and adequate drained it has served sufficiently for Township garbage and fire protection purposes.

Basically, it's a pre-existing road and has been there for years. The road usage has been granted to the existing five homes and adequate easement appears to have been granted to residents along the road. Each lot would be 158 ft. wide and the ordinance required a minimum of 125 ft.

-Carol Hicks questioned the number of present and future lots that can ultimately be using South Willow road and whether it's condition would adequately serve their needs. Would this division of the parcel identified as tax deed No. 418 107-094 into four parcels be in violation of the land sales act?

-Mark Maki answered that this was his question and that the Furr's would have to verify that the creation of four lots would not violate the Michigan Subdivision Control Act of four divisions within ten years.

-Shirley Furr spoke and indicated that they purchased the land in 1958 with plans to divide and sell. They have landscaped it some. They would be dividing it into four or five

divisions.

-Mark Maki spoke that the County Plat Board would address this issue of land division and that the owners may be allowed to sell three parcels and wait 10 years.

-A motion was made by Mike Summers and seconded by Bill Sanders to approve variance request 94-10 by applicant Murphy Furr requesting an exemption to parcel code 418 107-094 from ordinance section 402 requirements for private road due to the fact that it currently has existing lots with designated easements along the road, the road has a 66 ft. wide right-of-way, and presently complies with most private road conditions, and applicant does not own the road nor has control over the road in order to meet the requirements to section 402. Motion passed Aye 5, Nay 0.

VI. INFORMATION/CORRESPONDENCE RECEIVED

Mark Maki indicated that he had received two letters in reference to the Willow Road - Furr request. The first letter was from Susan Wirtanen, 975 S. Willow Rd. She would oppose mobile homes, multiple family dwelling, and low income projects on the parcel in question. The second letter was from Gary Gorsalitz, 915 Willow Rd. who opposes the request in that he has questions about the property lines, the drainage of the road, and that four new residences would inflict damage to the road.

VII. PUBLIC COMMENT

-Tim Menhennick asked if Carol Hicks would read the motion on the request for interpretation. After the reading Tim Menhennick asked if the vote was unanimous. The response was that it was unanimous.

-Bill Sanders spoke and indicated that he also serves on the Planning Commission and in defense of the Planning Commission they have acted on many issues and in some cases their recommendations were forwarded to the Township Board and were not acted on at that level or returned for additional work. The semi-trailer issue that was sent to them for this tuesday's meeting would not have been resolved at one meeting. As it turned out the Planning Commission did not have a quorum to conduct business.

-Mike Summers spoke and indicated that the ZBA addresses issues presented to them and acts on those issues as best we can, not all liked the decisions but, it's part of the process..

-Bob Pecotte spoke asking Mark Maki if he would be issuing tickets to all those who appear in violation of the ordinance as discussed tonight. Mark Maki answered yes and that the process takes approximately 14 days.

-Tim Menhennick questioned Mark Maki about his failure to read letters about a variance request after action was taken on them. Mark Maki responded that he is only human and does indeed make mistakes and it was an oversight not to read the correspondence during the discussion of the issue. Bob Pecotte stated it's the first time since he has been on the Board. Mike Summers indicated he has been on the Board for six years and this is the first case.

VIII. Adjournment at 9:16 p.m.

Respectfully submitted:



Carol Hicks, Secretary

CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 11-10-94

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m., November 10, 1994 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Bill Sanders, Bob Pecotte, Carol Hicks, and Sam Oslund. Mike Summers was absent. Staff member Mark Maki was also present.

II. PUBLIC COMMENT:

Patrick Dudley, 2413 M-28 East wished to address variance request 94-12 by Peter Hendrickson.

-Mark Maki reported that Peter Hendrickson had removed his request from the ZBA and would be building at the required 100 ft. set-back from the water's edge and thus not requiring a variance. Under RP district one would need 20 acres and he has 40+ acres. The distance from the pond to his home site is 120 ft. and now that he plans to hold the setback from Lake Superior at 100 ft. he does not need a variance.

-Mr. Dudley spoke and indicated that he felt the drawing was wrong in that when he visited the site last Monday the distance from the rip-rap to the water was only 8 ft. The rip-rap was showing 8-10 cracks and he was concerned about the long term effect to shoreline erosion. He indicated that he had paced off the distance from the water's edge to the proposed house site and it was not 100 ft. He was requesting that the ZBA hold off on issuing a building permit.

-Mark Maki responded that Mr. Hendrickson meets our Township and ordinance requirements therefore, he has no reason to reject his request for a building permit.

-Mr. Dudley requested that the ZBA delay issuance of the building permit until the DNR completes their work and has issued their permits.

-Mark Maki informed Mr. Dudley that we have no basis to do that under the present zoning ordinance.

III. Approval of the Meeting Minutes of 10-27-94

A motion was made by Sam Oslund and seconded by Bill Sanders to approve the minutes of October 27, 1994 with the minor corrections as read. Motion passed Aye 4, Nay 0.

IV. NEW BUSINESS:

A. 94-11 Variance - Cathy Gregorich, 644 Mangum Road. Request a variance from Sec. 208 and 300 to allow subdivision of a lot into two lots. One lot created will not contain 5 acres but will have in excess of 300 feet of frontage. The other lot will meet the requirements.

-Mark Maki reported that Cathy Gregorich purchased the parcel from her relatives. In researching the property he found the original rail road map and used it to help define how large the parcel really is. The deed says it's 11+ acres. Mark Maki feels that is's about 9.45 acres. It has been listed since 1930's as being 11+ acres and all parties including the bank were under the assumption that it is 11+ acres. The owner sold off 40-50 ft (.3 acres) to a neighbor for the purpose of constructing a garage. Our zoning requires 5 acres with 300 ft. of road frontage.

Correspondence was received for Pete O'Dovero who felt that this variance is justified, and Mr. & Mrs. Carl Miller, 685

Mangum Road who have no objections to the variance request. Based on the history and future development of the area he feels that the variance is justified.

-Bill Sanders indicated that generally we would not support this request when there is not enough acreage however, the unique characteristics of this parcel and its history where everyone believed that it was large enough is another issue. He then asked Mark Maki if in his years as zoning administrator how often does this issue occur? Mark Maki indicated that this was the first.

-Bob Pecotte questioned if we grant this will we have other problems in the future with people requesting to split property small than 5 acres. Mark Maki feels that every situation is unique and that in fact this property does have over 5 acres where the house is located and the parcel in question would be the balance of the land. Due to the fact that the area adjacent to this property to the West is low and perhaps a wetlands there should not be any development in that direction.

-Carol Hicks spoke and questioned the measurements as indicated on the sketch and feels that when an issue of land measurements and area sizes is important, why isn't a survey prepared by a professional being required? Mark Maki said that some measurements were precise from the rail road survey and he felt that the others were reasonable assumptions.

-Bill Sanders spoke in agreement with Carol Hicks in that precise measurements should be used when determinations are to be made for variance deviations particularly with 100 ft. lots where a foot to two difference is very important. In this case with Cathy Gregorich we have five acres and a larger deviation would be of little importance.

-Bob Pecotte asked if the existing home has been there for a longtime and perhaps we could require a division so that the existing home is on the five acres parcel and the new lot be the 4+ acres.

-A motion was made by Bill Sanders and seconded by Sam Oslund to approve variance request 94-11 Cathy Gregorich to allow the subdivision of the existing parcel containing approximately 9.45 into two parcels. One parcel with the existing house to be 4.5 acres in size with a minimum of 300 ft. road frontage (Westerly side) meeting zoning standards. The second parcel being the remaining property of approximately 5 acres in size with a minimum of 300 ft. road frontage (Easterly side). Motion passed Aye 4, Nay 0. CORRECTED AS OF 12/1/94 MEETING.

B. 94-12 Variance - Peter Hendrickson, 2501 M-28 E.
Request withdrawn.

V. UNFINISHED BUSINESS: NONE

VI. PUBLIC COMMENT: NONE

VII. ADJOURNMENT AT 8:28 p.m.

Respectfully submitted:



Carol Hicks, Secretary

CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 12-1-94

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m., December 1, 1994 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Bill Sanders, Bob Pecotte, Carol Hicks, and Sam Oslund. Mike Summers was absent. Staff member Mark Maki was also present.

II. PUBLIC HEARING:

- A. Class A #27 First National Bank for a single family dwelling at 186 Riverside Road.

-David Faust, Property Manager for First National Bank spoke in reference to the single family dwelling at 186 Riverside Road. He indicated that a property survey was prepared jointly between Lot 25 (186 Riverside Rd.) and Lot 26 (182 Riverside Rd., Owner Greg McDonnell). The survey revealed that there was only 1.6 ft. between the Bank's house and the neighboring property line and that he was requesting a ZBA variance in order to have a clean property transaction.

-Mark Maki gave a background history about the property indicating that an application was made by the then owner JoAnne Davis to "remodel" the existing dwelling and not completely build a new house. As it turned out, the contractor found the structure to be of little value that he proceeded to demolish it down to the sub floor and build anew.

-Greg McDonnell spoke and indicated that he owner Lot 26 neighboring onto the parcel in question.

III. Approval of the Meeting Minutes of 11-10-94

A correction to the minutes of 11-10-94 was made in reference to the motion to approve variance request 94-11 Cathy Gregorich. The division of the two parcels was reversed in that the parcel with the existing house was to be the 4.45 acres and the undeveloped parcel to be 5 acres in size. A motion was made by Bill Sanders to approve the minutes as corrected and seconded by Sam Oslund. Motion passed Aye 4, Nay 0.

IV. UNFINISHED BUSINESS:

- A. Update on Variance withdrawal/ P. Hendrickson, Setback on Lake Superior.

-Mark Maki reported that as a follow-up he returned to the site and remeasured the setback distance for the dwelling being proposed by Mr. Hendrickson. As indicated by the present water level and the stakes established for the dwelling site it was approximately 102 ft, exceeding the 100 ft. requirement.

V. NEW BUSINESS:

- A. 94-13 R. Imonen, 2425 M-28 East, Variance to allow a garage with storage with a height of 19 feet 4 inches in LS & R District.

-Mark Maki reported that when reading other ordinances he finds some variations, for example the City of Marquette uses the average of the roof height. Perhaps our ordinance needs to be changed. He has received the determination of what is a customary accessory building and in the past the 14 foot total height ruling has been made. Mr. Maki contacted both

the City of Marquette and Marquette Township and reported to the ZBA that they use the averaging approach and the storage loft concept would be ok under their ruling. In comparing the number of variance requests that they have with respect to this garage height issue we appear to be having by far a higher number of variance requests. The averaging height method appears to be working for those two communities.

-Carol Hicks spoke and indicated that in reviewing the past record of our ZBA's actions on accessory buildings each case was individualistic in that some were on small lot parcels and others were on acreage. Some were bermed into a hillside and in essence an averaging approach was used. Each case brought before the ZBA should be treated on it's own merits and not always compared to others.

-Bill Sanders questioned the wording of Ordinance Section 300 on height and placement regulations as what is customary accessory structure. He and other ZBA members were of the belief that it was assumed that 14 ft. was to be the acceptable height for a customary accessory structure.

-Mark Maki indicated that perhaps the Planning Commission and the Township Board should address this issue however, in the past when he raised the question no action was taken by the Board.

-Bob Pecotte wondered if we were going to suggest to the Planning Commission that they adjust the ordinance with some wording that addresses an averaging of height.

Scott Pyykols, Pyykols Construction spoke indicating that he was the contractor for the Imonen project and that the materials that he had prepared was an attempt to show that other communities would have accepted this project height.

-Mark Maki indicated that for purposes of customary, the ordinance should perhaps be changed and that he recommended that we approve the variance and request the Planning Commission to review the ordinance.

A Motion was made by Carol Hicks and seconded by Bill Sanders in reference to variance application 94-13 Rob Imonen, 2425 M-28 East that approval be granted to allow a 5'-4" variance from our customary 14' height. The total allowable height of 19'-4" is to the ridge with the average of 14'-4" combined height such as is customary with other ordinances such as the City of Marquette and Marquette Township. Motion passed Aye 4, Nay 0.

B. 94-12 Class A Nonconforming Structure - 27, First National Bank for 186 Riverside Road. House is located at 1.6 ft. site setback.

-Mark Maki reported that in addition to what has been said during the Public Hearing the new home is most certainly an improvement to the property. He did receive written correspondence from Mr. McDonnell who was also present at this meeting.

-Mr. McDonnell spoke and stated that while he wishes that the house was located further from his property line it is a fact that it is located where it is and that he would have to live with it.

-Mr. Faust indicated that he requested the variance in order to be assured that when the bank disposes of the property it would have a clean unquestioned title.

-Carol Hicks spoke about the history of the project in that it was an old one story camp and that the owner and contractor wished to salvage the original walls and simply remove the

roof and construct a second story. All construction was on the lines of the original foundation and remains located where the original camp was positioned.

-A motion was made by San Oslund and seconded by Bill Sanders that we grant approval to Class A nonconforming designated structure - 27, with the ability to expand with a second floor and to approve variance request 94-14 for 8.4 ft. setback from the required 10 ft. with the structure remaining at 1.6 from the property line. This variance is based upon:

1. Continuance of the nonconformity which began prior to 1962 would not be contrary to the public health, safety or welfare.
2. The structure as improved should not significantly depress the value of nearby single family home as the setback distance between structures is 25 feet as per survey plus 1.6 feet.
3. The original structure was lawful when built and has continued for over 40 years prior to the new construction in 1990's.
4. No useful purpose would be served by strict application of the setback provision due to the existing character of the area and the existing development of the building.

Motion passed Aye 4, Nay 0

VI. INFORMATION/CORRESPONDENCE RECEIVED: NONE

ZBA members discussed if there was anyway that they can get the Board to address the height issue, in that this alone seems to take up a great deal of effort at variance requests.

VII. PUBLIC COMMENT: NONE

VIII. ADJOURNMENT AT 8:25 p.m.

Respectfully submitted:



Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 3-23-95**

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m., March 23, 1995 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Bill Sanders, Mike Summers, Bob Pecotte, Carol Hicks, and Sam Oslund. Staff member Mark Maki was also present.

II. **PUBLIC COMMENT: NONE**

III. **PUBLIC HEARING:**

- A. Class A #28 Nonconforming single family dwellings in RR-2 zone at 415 Co. Rd. 480.

-Mark Maki reported that an advertisement and written notices were sent out with no correspondence being received. Carl St. Onge, builder was present to answer questions. The owner of the property is Dennis DeVoght. A Zoning map was given to all ZBA members and photography were shown. The property is zoned RR-2 thus requiring one dwelling with minimum of 5 acres and 300 ft. of lot width. Cedar Creek was used to divide 1 from RR-2. This parcel is on the West side of Cedar Creek with approximately 1.84 acres and three dwellings (one single family dwelling and two rental cabins). The owner wishes to replace the existing flat roofs with new pitched roofs on the two rental cabins. Because these buildings are Class B, technically they can't be expanded nor altered. In order to do this the owner must be granted a Class A designation and then a Class A expansion (structural alteration) permit as per section 601 and 604. The builder, Carl St. Onge confirmed that they intend to use a 8/12 roof pitch. The roof will not become a loft dwelling but serve as structural roof only. The negative aspect of the project is that the replacement roof will extend the life of the building. The property had a new septic system installed in 1986 and new furnaces with natural gas.

-Gary Boggs, 415 Co. Rd. 480 spoke indicating that he lived in one of the units and could answer questions about the buildings.

-Chairperson Bob Pecotte closed the public hearing.

IV. **APPROVAL OF THE MEETING MINUTES OF 12-1-94**

A motion was made by Sam Oslund and seconded by Bill Sanders to approve the minutes of 12-1-94 as submitted. Motion passed Aye 5, Nay 0.

V. **NEW BUSINESS:**

1. Class A designation # 28 on dwellings located at 415 Co. Rd. 480.

-A brief discussion was presented with the conclusion that most of the information had already been covered during the public hearing.

-A motion was made by Sam Oslund and seconded by Bill Sanders that a Class A designation for the structures at 415 Co. Rd. 480 be approved based on the following four assumptions:

1. Continuance will not be contrary to public health providing proper septic systems
2. The use and structures should not significantly depress nearby property values.
3. The use was lawful at the time of the May 1977 Ordinance adoption. and
4. No useful purpose would be served by strict application providing a safe septic system is on site due to close proximity of dwellings to one another and Cedar Creek

-The motion passed Aye 5, Nay 0.

2. Class A expansion # 28 (Structural Alteration)

-Mark Maki reviewed the requirements for Class a expansion as per Section 604.

-Carol Hicks questioned if the dwellings would meet proper setbacks. Answer, yes.

-Mike Summers questioned the terminology of "expansion" vrs. "alteration", was this truly an expansion of an existing structure? The discussion that followed concluded that there wa no expanded square footage nor expanded living area to the dwelling but the structural alteration (new pitched roof) was an expansion of the buildings volume or mass.

-A motion was made by Mile Summers and seconded by Sam Oslund that application #28 by Dennis DeVooght for Class A non-conforming use ostructural expansion, as required under Section 604 be granted with the understanding that this is not to be construed as an extension, expansion, or enlargement of use, based upon the application meeting the standards that are:

- (1) That continuance thereof would not be contrary to the public health, safety, or welfare, or to the spirit of this ordinance; and,
- (2) That the use or structure does not and is not likely to significantly depress the value of nearby properties; and,
- (3) That the use or structure was lawful at the time of its inception; and,
- (4) That no useful purpose would be served by strict application of the provisions or requirements of this Zoning Ordinance, oany amendment thereto, with which the lawful nonconforming use or structure does not conform.

This motion is based on findings that it meets the requirements 1-4 of Section 604.

-Motion passed: Aye 5, Nay 0.

VI. PUBLIC COMMENT: NONE

VII. ADJOURNMENT AT 8:00 p.m.

Respectfully submitted:



Carol Hicks, Secretary

CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 6-22-95

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30pm, June 22, 1995 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Bill Sanders, Mike Summers, Bob Pecotte, Carol Hicks, and Sam Oslund. Staff member Mark Maki was also present.

- II. **PUBLIC COMMENT: NONE**

- III. **APPROVAL OF THE MEETING MINUTES OF 3-23-95.**

A motion was made by Bill Sanders and seconded by Mike Summers to approve the minutes of 3-23-95 as submitted. Motion passed Aye 5, Nay 0.

- IV. **PUBLIC HEARINGS: NONE**

- V. **NEW BUSINESS:**

A. Variance 95-1 Togo's Inc. Joe and Ann Fountain, 100 N. 3rd St., Marquette, MI. Variance setback request for property at corner M-28 and US 41.

Mark Maki reported that the property is presently zoned C-2 and is adjacent to some R-3. The variance request is to deviate from the required 30 ft. Setback. The building is planned to be placed at an angle, thus it would be closer at one corner. The only access driveway is from the Holiday Gas station. The building is proposed to be 23 feet setback in front and 15 feet at the rear.

Bob Pecotte questioned the intent of placing on corner at 30 ft. Setback and allowing a variance of 7-8 ft. At the other end of the building. Mark Maki responded that he believed that when placing the front of the building parallel to it's front line the side property line in question is running at an angle, thus getting closer to the building at the rear.

Gary Pompo, Togo's, spoke and indicated that they wished to keep a cluster of trees located on the other side of the building as well as having a drive-in window on the side by the existing garage. The driveway to the parking lot is along that side and thus the request to hold the building tight to the right side of the property.

Paul Uimari, Architect for Togo's spoke indicating that the intent of the variance is to keep the line of trees on the right side and the cluster of trees on the left. The left cluster could be incorporated in and island dividing the driveway to the parking lot.

Bill Sanders spoke in reference to support the landscaping aspect indicating that we want extra vegetation and green spaces.

Tom Wahlstrom spoke indicating that his family has little opposition to the request but, with some reservations if their property was to remain as residential they would like as much separation as possible between buildings. Mark Maki stated that the existing trees are a good buffer.

Cathy Garrow spoke stating that they want to preserve as much natural landscaping as possible.

Mike Summers spoke about getting too far a field with the precedence that can be established with granting any variance, just what is the practical difficulty? The weight

of a green space v.s. Lack of objectives with adjoining owners present and future uses should be considered.

Bill Sanders made a motion to approve variance 95-1 Togo's, Inc. For a setback variance allowing the building to be placed 15 ft. At the South-East corner and 23 ft. At the North-East corner, provided that a vegetation island is established at the center drive between the existing garage and proposed building and that the island and drive are in compliance with the ordinance. In addition the natural buffer between the R-3 and C-2 Zone are to be preserved see (correction 7-27-95 meeting). Second by Sam Oslund.
Motion passed Aye 4, Nay 1.

B. Variance 95-2 Paul and Marci Thieme, 1895 M-28 East. Request a height variance to permit a detached garage with library above with a height of 30 feet.

Mark Maki reported that two letters were received. Bernard Fine, who owns property to the East opposes the request and indicated so in a letter prepared by Richard Graybill, P.C. Mary Asente, who owns property to the West corresponded that she thinks that if variances such as this are granted then consideration should be given to replacing the ordinance. Mark Maki further reported that the height has been reduced to 28 ft to the top of the Crows Nest and 22 ft to the ridge of the roof. The garage would be setback 25 ft. From the property line. Without the cupola "crows nest" and dormer it would meet our proposed averaging height for ordinances.

Bill Sanders spoke indicating that he would be abstaining from voting due to the fact that his firm designing the garage but, he wished to speak to the issue referring to several past variances that have been granted.

Dax Richer spoke for the owners in that the space is to be used strictly for storage with a 10' X 32' hall down the middle.

Mark Maki spoke indicating that the garage and storage loft would be close to the proposed height averaging if it were not for the cupola.

Paul Thieme spoke indicating that he has volumes of reference materials and wished to have additional space above the garage to store and in inventory them. The space would be used as storage and that the proposal was to try and compliment the existing dwelling roof pitch and design as well as the topography of the area.

Carol Hicks question whether it was to be library or storage space. Paul Thieme indicated that it was strictly that the ZBA needs assurance that it is not a habitable space and was there to be a third floor platform at the "crows nest."

Mike Summers spoke in reference to the practical difficulty.

Carol Hicks made a motion to grant variance request 95-2, Paul and Marci Thieme to allow for a detached garage structure with a steep 12/12 roof pitch whereas the ridge height is not to exceed 22 ft. Not including the vented cupola(crows nest) is not to be a habitable space nor have a third floor platform, thus serving for light and ventilation only. Seconded by Bob Pecotte. Motion passes Aye 4, Nay 0, Abstained 1.

VII. UNFINISHED BUSINESS:

The ZBA discusses how to get the Planning Commissions and the Board to address the averaging height variance request that we have made in so much as it seems to be our single most often requested item of business.

VIII. CORRESPONDENCE/INFORMATION RECEIVED: NONE

X. **PUBLIC COMMENT:**

Karen Chandler, Director of Planning and Research for Chocolay Township, spoke indicating that she was pleased with the ZBA's thorough and in depth deliberation on variance requests and particularly the landscaping and green island aspects.

X. **ADJOURNMENT: AT 9:00 pm.**

Respectfully submitted:



Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 7-27-95**

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:34 p.m., July 27, 1995 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Bill Sanders, Mike Summers, Bob Pecotte, Carol Hicks, and Sam Oslund. Staff member Mark Maki was also present.

- II. **PUBLIC COMMENT:** Dan Cook reserved time for Variance 95-3, Randy Duer reserved time for Variance 95-5, Nancy Love reserved time for Home Occupation 95-1.

- III. **APPROVAL OF THE MEETING MINUTES OF 6-22-95.**

A motion was made by Bill Sanders and seconded by Mike Summers to approve the minutes of 6-22-95 as amended. Motion passed Aye 5, Nay 0.

The amendment to the June 22, 95 minutes is as follows: The motion for Variance 95-1 Togo's Inc. "In addition the natural buffer between the R-3 and C-2 Zone are to be installed by August, 1997, or at such time that the R-3 Zoned parcel is developed."

- VI. **NEW BUSINESS:**

A. **HOME OCCUPATION 95-1** Nancy Love, 625 Lakewood. Home occupation for a Dog Grooming business.

Mark Maki reported that public notice has been given and that 19 written notices were sent out. Two letters were received and read into the record: Marla Buckmaster, 649 Lakewood July 15, 1995, strongly opposing. Betty Hill, 643 Lakewood, July 18, 1995, opposing. Several phone calls were received questioning the business. Mrs. Flory Bowden who owns the next cottage has no opposition. Inquiries were made with respect to the dog fence that is presently being constructed, "are dogs being boarded?" The dog fence for her own two dogs and the application indicated that there would be no boarding of dogs. Mr. Maki indicated that the applicant would appear to comply with the specific standards of the ordinance.

Nancy Love spoke indicating that her 5 ft. high chain link fence is for her own dogs, grooming would be conducted in her basement, no signs will be posted, and only an occasional UPS delivery.

Mark Maki asked about the fence location, driveway capacity and whether there would be overlapping appointments. The question to the ZBA is whether the character of the neighborhood would be changed with this operation?

Carol Hicks questioned the amount of grooming involved, use of chemicals, noise generated etc.

Bob Pecotte questioned if the neighboring property were to be developed would its value be affected, more or less, because of the dog grooming business? The Township presently has a dog grooming business in a commercial zoned area.

Mike Summers made a motion that Home Occupation 95-1 Nancy Love, 625 Lakewood, Dog Grooming, be approved with the stated conditions that it is for a period of three years, and subject to receiving any written complaint. Seconded by Sam Oslund. Motion passed Aye 4, Nay 1.

The ZBA asked that Mark Maki write a letter to MarlBuckmaster and Betty Hill informing them that the business is to operate by appointment only, inside the home, no signs, no advertisement, for three years and subject to review upon receipt of any written complaints.

B. VARIANCE 95-3 Cook Sign Co. for a pole sign for US Oil at Shaw's Gas Station, 4027 US 41 South, replace a 7x7 sign with a 6x10 sign, Sec. 804, with current sign setback 1.5 feet, new sign is to be a 0 foot setback.

Mark Maki reported that the existing sign is 7'x7' with 49 sq. ft area and that the proposed new sign is 6' high x 10' wide with 60 sq. ft.. They wish to use the existing sign pole. The new sign will meet the ordinance which sets the maximum area at 100 sq. ft. but, the new width of 10' will place the front of the sign to the property line thus 0 setback variance is required. A letter was received from Don Salo with no objection to the proposal.

Dan Cook spoke indicating that there would be no new pole and that the State of Mich. Dept of Transportation does give permission for signs that even overhang onto the Right-of-way.

The ZBA discussed past cases of sign variances such as Cim, Harvey Oil Walt's Auto, and Negaunee Bank.

A motion was made by Sam Oslund and seconded by Bill Sanders to approve Variance request 95-3 based on past variances along the Harvey highway corridor. Motion passed Aye 5, Nay 0.

C. VARIANCE 95-4 Cathy Gregorich, 640 Mangum Road Section 401 to allow a dwelling less than 800 sq. ft. at 644 Mangum Rd. due to fire loss 7-95. Existing dwelling foundation is 684 sq. ft.

Mark Maki reported that public notice has been given with 6 letters sent to neighboring property owners. The ZBA has dealt with this property in the past in that the acreage division has been in question. A fire had destroyed the house on the 4th of July and the applicant is requesting to rebuild upon the existing foundation.

Cathy Gregorich spoke indicating that this was the original family homestead and that the economics were such that to rebuild upon the existing foundation was their only option.

Mark Maki indicated that we have never had a variance request to build a home less than 800 sq. ft., it is a rural setting and would not be out of character to the neighborhood.

San Oslund questioned how far back from the road is the foundation located. Cathy Gregorich indicated that it was about 100 ft.

A motion was made by Bill Sanders to approve Variance request 95-4 allowing the reconstruction of a home on the existing foundation of less than 800 sq. ft. Seconded by Bo Pecotte. Motion passed Aye 5, Nay 0

D. VARIANCE 95-5 Randy Duer 300 Foster Creek Drive Section 208 RR-2 District-Subdivide a lot into two lots/one lot address 250 Foster Creek Dr.

Mark Maki reported that public notice was given and that 11 letters were sent out with no correspondence being received. The tax map as provided to ZBA members shows two parcels "A and B" with a house presently located on parcel "A". The highway (US-41) R.O.W. map shows the parcel joins US-41 and Foster Creek Dr US-41 has a high bank thus neither parcel will exit upon US-41. If the 9.9 acres were equally divided into two each would have 4.95 acres and the ordinance requires 5.0 acres.

Randy Duer spoke indicating that he has attempted unsuccessfully to purchase additional land to add to his in order to comply with the 5 acre requirement. Originally he was told that the property was 11 acres and upon conducting a survey it was found to be 9.9 acres with one parcel being 4.7 and the other 5.2, nothing was done intentionally.

Mike Summers asked about the practical difficulty as presented on the application and questioned if it was even necessary to request that the 9.9 acres be evenly divided and that both parcels would still be in noncompliance.

A motion was made by Mike Summers to grant Variance request 95-5 Randy Duer, 300 Foster Creek Dr. allowing the division as presented: parcel "A" with an existing house containing 4.7 acres and parcel "B" containing 5.2 acres. Parcel "A" with the existing house would be the noncompliance. Seconded by Sam Oslund. Motion passed Aye 5, Nay 0

E. VARIANCE 95-6 Ron Thorley, Superior Fast Lube & Wash at 5063 US 41 South, requests a front setback variance for an addition to the existing Lube/Car Wash building. Current 40 feet. Proposed 30 feet, C-2 requires a 40 foot setback.

Mark Maki reported that public notice had been given and that 6 notices were sent to neighboring property owners. Only one letter from Steve Wahlstrom supporting the request was received. At one time the parcel included the kitchenette apartment building, when the Lube building was sold the land was divided. The request is to build an addition projecting 10 feet out in front of the existing building.

Ron Thorley spoke describing the wash operation he has in mind requires a longer wash and dry tunnel.

Mark Maki indicated that if the business were to expand would more bays be added to the South and would they be requesting an extension to the front and would this infringe upon the Creek setback? Mr. Thorley spoke indicating that he has no plans to expand additional bays to the building.

Sam Oslund asked if it were possible to expand to the back of the building rather than the front? Ron Thorley stated that he has purchased an additional 13 feet at the rear and plans to build a retaining wall to support the lot fill and that even with this the turning radius and approach was tight.

Bob Pecotte questioned whether the ZBA has denied similar requests in the past for highway front setbacks. Mark Maki indicated that basically we have approved similar requests.

A motion was made by Sam Oslund to approve Variance request 95-6 Ron Thorley, Superior Fast Lube & Wash at 5063 US-41 for a 10 ft. variance with a 30 ft. setback to the front. Seconded by Bill Sanders. Motion passed Aye 5, Nay 0.

F. VARIANCE 95-7 Joseph and Ann Fountain request a height variance for a proposed building at 5099 US 41 South.

Mark Maki reported that public notice has been given and that 10 letters were sent. One letter of support was received from Steve Wahlstrom. Holiday Gas called asking where is the building going to be located? The Chocoy Fire Department sent a letter referring to their equipment and fire ladder lengths indicating that they could only service the 30 ft. heights.

Paul Uimari spoke indicating that the basement was set higher to accommodate a gravity sewer system without an ejector and that the tall design was to make the building more visible.

Mark Maki questioned why is the entire building above 30 ft. with the major ridge at 31 ft. and the tower at 44 ft?

Sam Oslund spoke as a representative of the fire department, the 30' requirement could be accessible to the main ridge and perhaps while straddling the main ridge the tower could be ventilated (cutting a hole to vent off hot gasses).

The ZBA questioned the possibility of berming the soil around the base to reduce the total height of the structure. The owners indicated that the building will be in a depression and that the height was necessary in order to be seen from the highway.

Discussion ensued in reference to automatic smoke venting systems with fan ejector.

Carol Hicks questions the application, as written, did not give "practical difficulties" sufficient for granting the variance.

Mike Summers spoke indicating that granting the variance should not be given for cosmetic reasons and just what are the practical difficulty in not meeting the existing ordinance?

The applicant Ann Fountain and Architect Paul Uimari indicated that variations and changes could be made to the building design to aid in the variance request.

A motion was made by Bill Sanders to approve Variance request 95-7, Joseph and Ann Fountain for a proposed building at 5099 US 41 South to allow an approximately 25'x25' tower portion of the building over the food court a 13 ft. variance with the height of 43 ft. to the peak of the tower, no second floor platform be added to the tower, with the main ridge of the remainder of the building to be held at 30 ft. or less, and that an automatic smoke vented ejector system through the roof of the tower be installed. The practical difficulty being the need for a cupola due to the unusually wide Right-Of-Way at the intersection of US-41 and M-28, and the elevation difference between the building site and the highway. Seconded by Bob Pecotte. Motion passed Aye 5, Nay 0.

V. UNFINISHED BUSINESS:

- A. Update on Height Amendment still pending from the Township Board.
- B. Review of By-Laws: A copy of the ZBA "Rules of Procedure" adopted on March 25, 1993 was given to members.

VI. PUBLIC COMMENT: NONE

VII. ADJOURNMENT: At 9:25 p.m.

Respectfully submitted: Carol Hicks, Secretary

Carol Hicks

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 8-24-95**

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:33 p.m., August 24, 1995 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Bill Sanders, Bob Pecotte, Carol Hicks, and Sam Oslund. Absent Mike Summers. Staff member Mark Maki was also present.

II. **PUBLIC COMMENT: NONE**

III. **APPROVAL OF THE MEETING MINUTES OF 7-27-95.**

A motion was made by Sam Oslund and seconded by Bill Sanders, to approve the minutes of 7-27-95 as submitted. Motion passed Aye 4, Nay 0.

IV. **NEW BUSINESS:**

A. **VARIANCE 95-8** Scott Timmerman, 1979 M-28 E. A request to allow a detached garage 22 feet by 24 feet at 0 foot setback in a R-1 zone.

Mark Maki reported that public notice was given and that he sent out 9 letters of notification, including the Department of Transportation. No opposition. One letter dated Aug. 23, 1995 was received from Kelly Gustafson, District Real Estate Technician, Dept. of Transportation. The D.O.T. had no opposition with the 0 (zero) foot setback however, with the stipulation that the existing right of way line be established by survey so that no encroachments occur that could affect future construction projects. The Right of Way is 200' wide with the paved highway offset 112' +/- from the center line to Mr. Timmerman's and 88' +/- to the opposite side. The highway was built in 1965. Mr. Timmerman has an existing asphalt driveway with a turnout. The house is located 60' back from the property line. It is wooded to the West and a high hill to the East.

Bob Pecotte spoke indicating that the zero setback bothered him in that we have never granted such a large request for a variance.

Scott Timmerman spoke indicating that it was the perfect spot for the garage and that it matched with the turnout and that it would be surveyed next week.

Carol Hicks spoke against the zero setback indicating that he was familiar with the site and that a garage could be located further back with a little grade excavation.

Bill Sanders spoke against granting a full 30 foot variance with a zero setback.

Discussion ensued.

Bill Sanders made a motion to approve variance 95-8 Scott Timmerman, 1979 M-28 East to allow a 13 foot setback from the garage to the Right of Way, allowing for a 17 foot variance. Seconded by Sam Oslund. Motion passed Aye 4, Nay 0.

B. **VARIANCE 95-9** Mark Chudy, 115 Kellogg. A request to permit a 6 foot mudroom addition to an existing single family home at a 12 foot setback in an R-1 zoning district.

Mark Maki reported that in the past we have had cases along Kellogg Street allowing variance setbacks for construction and additions. The proposed addition of 6' out would leave only 12' to the Right of Way. Public notice had been given with 12 letters sent out. No opposition was reported.

Carol Hicks asked Mr. Chudy how wide was his lot and does he have adequate off-street parking to the side of the house? Mr. Chudy indicated that the lot was 150' wide and that he does indeed park to the side of the house and not in front.

A motion was made by Sam Oslund to approve variance request 95-9 Mark Chudy, 115 Kellogg St. to construct a 6' addition with a setback of 12' from the front lot line due to the fact that it would not be out of character to the neighborhood. Motion passed Aye 4, Nay 0.

V. UNFINISHED BUSINESS:

Mark Maki reported that a recent state court case with regards to ZBA practices ruled that when a ZBA decision is deemed final the applicant has 21 days to file an appeal. The recent court case states that the 21 days starts counting after the approval of the minutes and in our case that could be a minimum of one month after the ZBA hearing. We approve our minutes at the next ZBA board meeting. Perhaps a solution would be to have available the evening of the meeting a signature sheet that would be filled in and signed stating the outcome of the motion for the variance, thus starting the 21 day count the next day.

VI. PUBLIC COMMENT: NONE

VII. ADJOURNMENT: At 8:20 p.m.

Respectfully submitted:



Carol Hicks, Secretary

CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 9 - 28 - 95

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m. , September 28, 1995 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Bill Sanders, Bob Pecotte, Mike Summers and Sam Oslund. Absent Carol Hicks. Staff member Mark Maki was also present.

- II. PUBLIC COMMENT: NONE

- III. APPROVAL OF THE MEETING MINUTES OF 8/24/95

A motion was made by Bill Sanders and seconded by Mike Summers to approve the minutes of the 8/24/95 as submitted. Motion passed Aye 4, Nay 0.

- IV. NEW BUSINESS:

A. VARIANCE 95-10 Jefferey Lee Alanen, 534 Co Road 480. A request for a variance from Sec. 300 to allow a single family dwelling to be setback at 10 feet in an RR-2 Zoning district at 821 Mangum Road.

Mark Maki reported that public notice was given and he sent out 7 letters of notification. One letter was received from Mr. and Mrs. Michael Lucas. The letter was read into the record by Mr. Maki. Mark continued by saying this parcel was created prior to any zoning ordinance and at one time there was a small house on parcel. This area is zoned for 5 acre parcels and this is 5 acres in size. The request for the 10 foot set back abuts the side that faces the Lucas home. Mark stated the a house cannot be built on this parcel and meet the ordinance. May be possible to shift the house on the site. 10 foot setback is the best that can be gotten on this site.

Bob Pecotte asked Mark if we had any similar cases that have come before us in the past? Mark responded by saying he does not remember having any with these circumstances. We do not have many 70 foot lots in the township. This site existed prior to the ordinance.

Mike Summers stated that the Ordinance created a non-conforming lot. Does this require the lot to meet the Ordinance? Mark responded by saying Yes, Ordinance setbacks are required.

Mark Maki raised the issue stated in the letter from the Lucas' regarding the septic system. Mark believes the County Health Department should be issuing the septic permit based on the drainage of the site and not on what the Zoning Board does with this request.

Mike Summers asked the Lucas' how far their home was from the lot line? Lucas' responded by saying about 100 feet. Mr. Lucas also explained their concern about the run off from the hill on the O'Dovero property. Mr. Summers asked Mr. Lucas if he had any concern about the request for the 10 foot side setback. Mr. Lucas replied by saying that they did not at this time. Concern was with the runoff and the septic system. Mr. Lucas indicated that the County Health Department said they would come out to the site and determine if property is suitable for septic system.

Terry Huffman Indicated that the County Health Department will be the ones to determine if a septic system can fit on this property. Mr. Lucas indicated that the Health Department told him that if the Zoning Board grants this variance the Health Department would be more likely to give a permit. Terry Huffman stated that the property is presently owned by the Miller's who live in Cincinnati, Ohio.

Bob Pecotte as the Lucas' that if the Health Department granted a septic permit would be opposed to the granting of this variance. Mr. Lucas stated that all we are looking for is that the proper permits are required and that would be OK with us.

Bill Sanders asked Mr. Alanen if there was any reason that the house could not be turned on the site? Mr. Alanen responded by saying that turning the house on the site would not make any difference as to where the septic system was located.

Bob Pecotte asked Mark again if we have had any other cases such as this and if we are not opening a can of worms if we grant this request. Mark indicated that we do not have many sites such as this in the township.

Mike Summers made a motion to approve variance 95-10, Jeff Alanen providing a variance of 18 feet on the south and 10 feet to the north line and as to a proposed garage a variance of 10 feet to the

north and 30 feet on the south, contingent, however, upon appropriate permits and approval by the Marquette County Health Department with reference to septic system and drain field. Practical difficulty being the near impossibility of building a habitable dwelling on this site with a 30 foot side setback. Further contingent that approval be granted no later than one year from today's date (September 28, 1995). Seconded by Bill Sanders, Motion passed Aye 4, Nay 0.

B. Home Occupation 95-2 Paula J. Neville, 3050 M-28 East. Home Occupation proposed - Pottery Art Studio

Mark Maki pointed out on a map he had drawn where the property was located. He stated he sent out 9 letters and put notice in the paper and received no response. Mark continued to point out the he sees 3 issues with this request. The issues are:

1. The ordinance speaks to home occupations within a dwelling.
2. We have allowed a few home occupations outside of the dwelling.
3. Our ordinance is very restrictive in nature.

Mark further stated that Paula does plan to have signs on property but does not have specifics as to size and location as yet.

Paula Neville explained her ideas about how she would like to use her signs. They would be a high quality sign and she plans to only use them for 3 months of the year.

Mike Summers asked what her intent would be for the signs in the summer? Paula indicated that she would plan to put the signs out daily and take them in at the end of the day. She further stated that she does not plan to do a big business.

Mike asked Paula what she envisioned we would see in her yard next summer. Paula stated that there would be a sign "Pottery" displayed. There would be a display shed with shelves on the inside with doors that could open when the shop is opened. This display shed would be on skids so it could be moved when necessary.

Bill Sanders asked Mark if there was a limit on the number of sheds a property could have. Mark responded by saying having the pots in a shed on display is a lot different than having them scattered all over the yard.

Mike Summers stated that in the past we have tried not have items all over the yard on display but rather on display in the home.

Mark Maki asked if she would be bringing items to some other locations for display. Paula responded that she would plan to do so.

A motion was made by Bill Sanders to approve Home Occupation request 95-2 Paula Neville, 3050 M-28 East for a Pottery Art Studio. Seconded by Sam Oslund. Approval would be subject to review upon receipt of any written complaint and would be reviewed after three years. Motion passed. Aye 4, Nay 0.

V. UNFINISHED BUSINESS

A. By -Laws : Mark Maki reviewed changes that we had agreed to previously. Mike Summers questioned #5 concerning proof of being an agent. Motion made by Sam Oslund and seconded by Mike Summers to approve the changes as presented by Mark. Aye 4, Nay 0.

B. Update on Zoning Violations - Township is in court regarding the Joe Gibbs property. The Jehovah Witness sign is out of compliance. The Menhennick situation continues to be a problem with vehicles parked on the highway right of way. A ticket has been issued for the semi-trailer parked on the right of way. They have sued the township for harassment of owners.

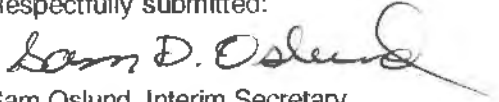
C. Update on height amendment went to the Township Board but only five members were present. Vote was 3 - 2. Board deferred issue back to Planning Commission. We are really looking at the next building season before we will see any language change.

D. Election of Chairperson and Recording Secretary. Sam Oslund made a motion for Bob Pecotte to continue as Chairperson and Carol Hicks to continue as recording secretary. Bill Sanders seconded the motion. Motion passed. Aye 3, Nay 1.

VI. PUBLIC COMMENT: NONE

VII. ADJOURNMENT: at 8:43 p.m.

Respectfully submitted:

A handwritten signature in cursive script, appearing to read "Sam D. Oslund". The signature is written in dark ink and is positioned above the printed name.

Sam Oslund, Interim Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 11-2-95**

- I.** The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:37 p.m. November 2, 1995 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Bill Sanders, Bob Pecotte, Carol Hicks and Sam Oslund. Absent Mike Summers. Staff member Mark Maki was also present.

- II. PUBLIC COMMENT: NONE**

- III. APPROVAL OF THE MEETING MINUTES OF SEPTEMBER 28, 1995.**

A motion was made by Bill Sanders and seconded by Bob Pecotte to approve the minutes of 9-28-95 as submitted. Motion passed Aye 4, Nay 0

- IV. NEW BUSINESS:**

- A. HOME OCCUPATION 95-3** Dan Depetro, 324 Brookwood Lane, Car Audio Business.

-Mark Maki reported that public notice was given and that he has sent out 11 letters of notification. No responses or comments were received. The applicant is requesting to conduct a car audio business from which he will install and test audio systems. The work will be conducted within one room of his home and installations performed in his driveway. The two questions before the ZBA are (1) Sales of audio equipment and installation. - The amount of sales and the amount of inventory. (2) Whether or not this business would be out of character to the neighborhood.

-Carol Hicks questioned the volume and timing of outdoor sound testing of the system. What assurances does the Township have that the testing will not be too loud for the neighborhood and at what time of day will this work be performed? The applicant responded that he would be only working between the hours of 8 a.m. and 7 p.m. and that sound testing would not be of great volume.

-Sam Oslund wished to know how long does a typical installation take and would cars be kept on site overnight? The applicant indicated that it takes approximately 1-3 hours for a basic system and that the vehicle would be in and out the same day.

-Bill Sanders questioned as to how much inventory would be on hand and how often would deliveries be made to the home? Mr. Depetro indicated that he would only have a handful of units in inventory and that delivery would usually be by mail or UPS once every three weeks.

-A motion was made by Carol Hicks and seconded by Bill Sanders to approve Home Occupancy 95-3, Dan Depetro, 324 Brookwood Lane, Beaver Grove subject to the standard three year period of time and pending any written complaint. Motion passed. Aye 4, Nay 0.

- B. VARIANCE 95-11** Joseph & Selma Abel, Sec 208 - variance to allow accessory structure on lot at 2354 M-28 East.

-Mark Maki reported that public notification had been given and that 11 letters of notification had been mailed. Two people called back with questions about the variance request. One inquiry was in reference to what type of Livestock was to be housed on the property. Mr. Maki informed the Board that he then called Mr. Abel in Benton Harbor and found out that it was to be a specialty breed of chickens and that only a few would be kept for their eggs. The property is zoned RR-2. The question before the ZBA is to

allow an accessory building (pole structure) to be built before the house. Normally, the house is build first as the primary structure before one is allowed to build an accessory building.

-Bill Sanders commented on the Planning Commission's stand and that perhaps the zoning could someday be changed allowing for conditional use permits to cover this type of circumstance.

-Carol Hicks questioned that the size of the building was to be 30' x 64' just what was to be the height of the building? Mark Maki indicated that this was zoned RR-2 and that the height could be 30'.

-Sam Oslund questioned if he were to store recreational items or timber harvesting equipment would he have to apply for a variance. Mark Maki indicated that the zoning within this district would have allowed for such a designation however, due to the fact that Mr. Abel requested to store his materials and tools while building his new home, the variance was necessary.

-Carol Hicks question that due to the fact that Mr. Abel was not present who was his designated "limited power of attorney"? Mark Maki indicated that he had on file a letter designating his son Robert Abel as limited power of attorney.

-Bob Pecotte asked for a clarification in that the variance was a request to deviate from sections 101 and 208.

-A motion was made by Sam Oslund and seconded by Bill Sanders to approve variance request 95-11, Joseph & Selma Abel, 351 Kublick Drive, Benton Harbor, Mi. for their property located at 2354 M-28 East, to allow the secondary structure (Pole Barn) to be built prior to the house as is required under ordinance Sec. 101 and 208 with the condition that the house construction be started on or before January 1, 1997. Motion passed. Aye 4, Nay 0.

-The ZBA wants Mark Maki to send a memo to the Planning Commission suggesting that this conditional use concept be reviewed.

V. UNFINISHED BUSINESS:

Mark Maki gave ZBA members a draft copy of the Planning Commission report dated Monday, October 9, 1995 showing some of the suggested changes and language that has been discussed in the past. The Township Board is yet to act on some of the proposed changes.

VI. PUBLIC COMMENT: NONE

VII. ADJOURNMENT: AT 9:20 p.m.

RESPECTFULLY SUBMITTED:



CAROL HICKS, SECRETARY

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 12-7-95**

- I.** The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:31 p.m., December 7, 1995 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Bill Sanders, Mike Summers, Bob Pecotte, Carol Hicks, and Sam Oslund. Staff member Mark Maki was also present.

- II. PUBLIC COMMENT: NONE**

- III. APPROVAL OF THE MEETING MINUTES OF 11-2-95**

A motion was made by Sam Oslund and seconded by Bill Sanders to approve the minutes of 11-2-95 as submitted. Motion passed Aye 5, Nay 0.

- IV. NEW BUSINESS:**

A. VARIANCE 95-12 John Hlinak, 234 Silver Creek Road. Request to place a Mobile Home on a lot in R-4 which is not a licensed mobile home park.

-Mark Maki reported that notification had been sent and that public notification had been published. One letter opposing the variance request was received and read into the record from George and Nan Schmidt, 232 Silver Creek Road owners of Bide-A-While trailer park. It's a two part issue in that the trailer park is nonconforming in that our zoning requires a 20 acre parcel for a park and the parcel is only approximately 10 acres. There are 60 trailer sites with park expansion south of Silver Creek with approximately 30 more sites. The second part of the issue is that Mr. Hlinak's house and A-Frame were one parcel prior to the zoning.

-Prior to the zoning in 1977 Mr. Hlinak put the entire parcel under one lot (house, A-frame, and trailer park). In 1988 Mr. Hlinak surveyed off the house and A-frame and sold the park keeping the house parcel. He is in essence trying to recreate that was there prior to the zoning. Mark Maki reported that there is no other parcel in the township like it. The first variance request is to allow the house lot to be permitted in R-4 district of less than 20 acres.

-Bob Pecotte questioned what are his options? Mark Maki responded that he could try to have it rezoned to something other than R-4 or a variance could be granted.

-Mr. Hlinak spoke indicating that he is in litigation with George and Nan Schmidt with a dispute of the road ownership.

-Mike Summers spoke indicating that the division of the park and the house creates a rather unique situation within a R-4 district. This is a very specific zoning district that is of nonconforming due to it's size.

-Sam Oslund questioned if we grant this variance can he then place another mobile home on the lot? The question was answered in that it takes three or more mobile homes to make a park. Presently, Mr. Hlinak has his framed house and two A-framed mobile homes on this lot.

-Mike Summers asked if it would be more practical to have the planning commission to rezone the house lot rather than have it remain within the R-4 trailer park designation? Discussion ensued in reference to the Church property and what has happened along Willow Road. Mike Summers indicated that it was a self created issue when the house lot was parceled off from the trailer park.

-A motion was made by Mike Summers to approve variance request 95-12 of applicant Mr. John Hlinak from the requirement of zoning district R-4's 20 acre minimum. The rationale for this decision is that both the home and the park were at one time used as one and were

continued in use both before and after the adoption of the ordinance as one. The practical difficulty is that the home is now in the middle of an R-4 parcel and is not connected to any other part therefore, this seems to be the most practical means of solution. Seconded by Bill Sanders. Motion passed Aye 5, Nay 0.

B. HOME OCCUPATION 95-4 Douglas Evans 356 Co. Rd. 480. Request for Fine Furniture/Woodworking occupation.

-Mark Maki reported that public notification had been published and that letters were sent out to the surrounding area. No correspondence was received back. The application must meet the big three questions: What is the volume of business, will it generate undue noise, and what are the traffic impact upon the neighborhood. The owner wished to use his garage as a workshop to perform his business.

-Mike Summers asked Mr. Evans if he runs lots of power equipment and at what hours. Mr. Evans responded that he has planners and saws and that he operated them for approximately 2-3 hours/day and 2-3 times per week. They would be in operation only during normal daylight hours. Mr. Evans also indicated that he has spoken with his neighbors asking them if there was any noise problems and that they were satisfied with his operation.

-The traffic issue is that there is only 1-2 cars per week and that he delivers and picks-up all items. There are no displays nor signs.

-A motion was made by Bill Sanders to approve Home Occupation request 95-4 for Douglas Evans to operate Fine Furniture/Woodworking business under the standard stipulation that it is for a three year period and pending any written complaints. Seconded by Sam Oslund. Motion passed Aye 5, Nay 0.

V. UNFINISHED BUSINESS:

1. Update on Garage/Height Amendment. This issue is presently being reviewed by the township fire department.
2. Update on Pole Building/Garages. The Planning Commission was to look at conditional use and a solution. This is presently under review. It was indicated that as the Planning Commission sends items to the Township Board they often have questions and returns the item back to the Planning Commission, all of which takes time. Sometime an overall review of the ordinance would be in order.

VI. PUBLIC COMMENT: NONE

VII. ADJOURNMENT: At 8:31 p.m.

RESPECTFULLY SUBMITTED:



CAROL HICKS, SECRETARY

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 2-22-96**

- I.** The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:32 p.m., February 22, 1996 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Bill Sanders, Sam Oslund, Bob Pecotte, and Carol Hicks. Staff member Mark Maki was also present.

- II. PUBLIC COMMENT:** The following people reserved time to speak on New Business issues:

Mary Dyer
Robert Vidlund
Ronald Raisanen
Rose Young
Mary LaBelle
Dave Drandt
John Hlinak

III. APPROVAL OF THE MEETING MINUTES OF 12-7-95

A motion was made by Bill Sanders and seconded by Sam Oslund to approve the minutes of 12-7-96 as submitted. Motion passed Aye 4, Nay 0.

IV. NEW BUSINESS:

- A. HOME OCCUPATION 96-1** Dr. Frank Jeffries, 119 Veda, Chiropractic Office in Home.

-Mark Maki reported that notification had been sent and that public notification had been published. Four letters of opposition were received and read into the record from the following:

Michael & Kristine Willard, 105 Veda St.
Gerald & Sandra Pirkola, 135 Veda St.
Lance & Linda Hopper, 218 Jean St.
David W. Zinski, 127 Veda St.

-Mark Maki continued to report by reading the home occupation definition from our ordinance and indicating that we have never, in the past, had a medical or legal office request. The distinction deals with the three basic issues of Noise, Traffic, and Aesthetic alterations, ie. is it a change of character to the neighborhood?

-Dr. Jeffries spoke explaining his plan for his home occupation business. He indicated that he had spoken with some of the neighbors and was overwhelmed to meet so many neighbors at this meeting.

Bob Pecotte asked if he had purchased the home in that on the application it indicated that he was contemplating the purchase upon the outcome of the home occupation variance. He indicated that since the application date he has in deed purchased the home. Next question was "what do you expect to see as an increase in traffic"? Answer- that presently his business at the Chippewa Square is only two per day and that would be the expected volume at his home.

-The above mentioned neighbors who had reserved time spoke with polite opposition to the home business.

-Phil Schneeberger, 205 Judy St. spoke- welcoming Dr. Jeffries but, has concerns as to the

increased traffic and strangers within the neighborhood who might not be as cautious to children playing in the area as the residents.

-Bill Sanders asked Mark Maki if the ZBA could limit the time of the permit to less than three years. Mark Maki replied that basically no and that enforcement would become difficult.

-Brian Miller, 217 Judy St. spoke indicating that he had the same objections but, was willing to offer a solution. He presently has an office with an empty room in Chippewa square and is willing to sub-lease it to Dr. Jeffries.

-Dr. Jeffries spoke indicating he was overwhelmed and appreciated the feedback from his neighbors. He would take Mr. Miller up on his offer and that perhaps it is not in the best interest of the neighborhood for a home occupation and therefore withdrew his application.

NO ACTION WAS TAKEN BY ZBA - CASE CLOSED.

B. CLASS A NONCONFORMING USE EXPANSION CLASS A #29. John Hlinak 234 Silver Creek Road. (Expansion of a nonconforming use by adding a mobile home to 234 Silver Creek Road).

-Mark Maki reported that public notification has been given to immediate neighbors and published in the newspaper. Mark Maki read into the record a letter of opposition from George and Nan Schmidt, Bide-A-Wile Mobile Home Park, 232 Silver Creek Road.

-Mark Maki continued to report as to why John Hlinak is back to ZBA again this month. That at our last meeting a nonconforming status was requested to allow the placement of the property back as a residential home within a mobile home district. This nonconforming status was granted and now he is requesting to expand the nonconforming to allow for a second mobile home on the property. Presently, he has his house and one approved mobile "A" frame trailer. A second unapproved mobile "A" frame trailer is parked and occupied on the property and this is his request for expansion. The second "A" frame has been there since 1989.

-Bill Sanders asked for clarification in that what was requested last time was a nonconforming status due to the fact that the parcel was less than 20 acres and that the residence resided within the designated mobile home district. Therefore, this application is to allow for the expansion of that nonconforming use and to perhaps correct a wrong in that the second unapproved mobile home is presently in place.

-John Hlinak spoke and indicated that contrary to what was read from the letter from Mr. & Mrs. Schmidt he does own the road (Expense Street).

-Sam Oslund asked if we approve this are you trying to develop a mobile home park. Mr. Hlinak spoke indicating that no, it takes three or more trailers to be a park and that requires licensing. He has no desired for a trailer park.

-Carol Hicks questioned the size of the lot and the placement of the existing trailers. (275' x 125').

-Sam Oslund questioned if the second trailer was not approved, and can it be allowed to remain. Mark Maki indicated that this was the issue. The trailer was placed there along with sewer hook-ups by Mr. Hlinak. There could be some question about setbacks in that it might be in a flood plain.

-Sam Oslund questioned if it were permitted to remain and if it were destroyed by fire etc. can he replace it. Answer depending on the amount of fire damage etc. This would be a Class B nonconforming and can be replaced or expanded under certain conditions. Question- does he have room for parking? Answer- It would require two off street

parking for each of the three dwellings. There may be room somewhere on the lot.

-A motion was made by Bill Sanders to approve the Class A designation to permit Class A #29 Nonconforming Use Expansion for John Hlinak, 234 Silver Creek Road with the condition that the expansion not be allowed to be ongoing. If the dwelling is to be destroyed at 50% or greater of its value or removed from the site it shall not be replaced and this approval is to meet all other ordinance conditions. Seconded by Sam Oslund. Motion passed Aye 4, Nay 0.

C. APPEAL 96-1 INTERPRETATION: C-3 Zones Applicant: Jeff Miller or A.P.S. Properties for 6573 US 41 South.

-Mark Maki reported that notification was given and that no responses were received. The circumstances came to the ZBA due to the determination of differences between C-2 and C-3 zoning. C-2 and C-3 permitted actives were read from the ordinance and taxidermy is not stated under either category. C-2 is more of a business activities such as can be found in Harvey. C-3 is motor vehicle sales, service, contractors yards and light industrial activities.

-Mr. Maki in thinking that Taxidermy is more like a service business comparable to retail sales. He conducted some research and called around the UP for comparable. He believes it belongs in C-2 being a shop where people come and are provided a service. Mr. Miller is appealing this interpretation and believes that it more likely belongs in a C-3 district.

-Jeff Miller, 1713 E. M-28, and owner of the property in question spoke. Skip Vanburen (Taxidermist) was also present. Mr. Miller indicated that he has found out that there are varying degrees of commercial property and that he believes that the taxidermy business has comparable to many items listed as approved for a C-3 district, such as, food processing, laundry & dry-cleaning, and dyeing plants.

-Skip Vanburen spoke and explained his business and its process along with the disposal of chemicals etc. He indicated that he doesn't conduct retail sales in that a client brings in his item to be processed and returns to take the same item home. Money is paid for the service. The only time he sells an item is when it has not been picked up nor payment having been made. He will then dispose of the item with a direct sale.

-Mark Maki indicated that if we allow these small business shops into C-3 we are using up our limited C-3 areas with C-2 uses. They do have a store front along the highway looking like a business.

-Bill Sanders felt that the business aspect was rather commercial in nature along with a processing aspect also being used. Presently, the business of taxidermy does not have a home in either C-2 or C-3.

-Carol Hicks spoke and questioned if we would rather have a taxidermy business along side our retail stores in Harvey (C-2) or keep it in a C-3 district. The question of signage sizes and area was also raised. Mark Maki indicated that he had calculated the approximate sign areas and they were very close to the maximum allowable but appeared to comply.

-A motion was made by Sam Oslund for Appeal 96-1 Interpretation: allowing a taxidermy business in a C-3 district. The Board feels that it is best suited within a C-3. That no other retail sales be allowed with the Taxidermy business and only the service be provided. Seconded by Bill Sanders. Motion passed Aye 4, Nay 0.

V. UNFINISHED BUSINESS:

1. Status of Pole Buildings/Garages in Rural Areas: Still pending on Board approval.
2. Status of Garage Height Amendment: On February 19th the Township Board meet and they tend to be going along with the garage language it has now been sent back to the

Planning Commission for review.

3. Status of Golf Sign Amendment: The Chocoday Downs Golf Course sign issue has been before the Board and eventually we may have an ordinance addressing Golf Course Signs however, no matter what the Township may do the State Highway Department of Transportation will not allow the sign. It comes under the concept of a billboard.

4. Letter from Mary Jane Lynch dated 11-14-95. She may be coming to the ZBA for a home occupations request.

VI. PUBLIC COMMENT: NONE

VII. ADJOURNMENT: At 9:05 p.m.

Respectfully Submitted:

A handwritten signature in cursive script that reads "Carol Hicks". The signature is written in black ink and is positioned above the typed name.

Carol Hicks, Secretary

CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 5 - 23- 96

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:34 p.m. on May 23, 1996 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Robert Pecotte, Mike Summers and Sam Oslund. Staff member Mark Maki was also present.

- II. **PUBLIC COMMENT: NONE**

- III. **APPROVAL OF THE MEETING MINUTES OF 2 - 22 - 96**

A motion was made by Sam Oslund and seconded by Robert Pecotte to approve the minutes of the 2 - 22 - 96 as submitted. Motion passed - Aye 3, Nay 0.

- IV. **NEW BUSINESS:**

- A. **Home Occupation 96 - 1** Charlene Gobert 750 Lakewood Lane - Beauty Salon.

Mark Maki reported that notification had been sent and that public notification had been published. No comments have been received regarding this request.

Mark continued to report that there have been two previous requests approved regarding this home occupation and that nothing has changed since the original requests were made. Mrs. Gobert is required to submit well tests and they have been supplied when requested.

A motion was made by Sam Oslund and seconded by Mike Summers that Home Occupation 96-1 be approved with the stipulations that it only be granted for a three year period of time, that it be reviewed if a written complaint is received and require that water tests be continued and results submitted as in the past. Motion passed - Aye 3, Nay 0.

- B. **Home Occupation 96-2** Barbara Adams 235 Candance Drive - Adams Tax Service.

Mark Maki reported that notification had been sent and that public notification had been published. One letter was received from Terry Pihlainen, 240 Candace Drive, expressing a concern about the additional traffic during tax time of the year. Mark read letter for the record.

Mark also indicated that a sign is put up in the yard during tax season from January to April. Mark stated that he has not seen or been informed of any traffic problems related to this request. Mark reminded the ZBA that there are three things to consider when approving a home occupation request. These are: noise, change of character of the area, and traffic problems due to home occupation.

Barb Adams stated that she is the only person working and can not do more than one return at one time. She tries to spread clients out so there at least an hour between each client. May have one that she is working on and one client will stop to pick up their completed return.

Mike Summers asked question about business hours beginning at 9:30 a.m. He also asked if the requirements of the business made it necessary for people to go over forms with Barb so that have to stay. Barb responded by saying it depends on what the people want.

Mike Summers then asked about how many cars might come to the house during peak season on the average? Barb stated that maybe 6 to 8 a day during the months of February and March. I do not have people sit and wait in the house if I go over an hour.

Bob Pecotte asked about the neighbors who wrote the letter as to whether they were concerned about weekends or evenings. Barb stated that she does not do many on weekends. Bob also asked Mark if we have any Day Care Centers in these circumstances. Mark responded by saying I've never had a complaint from people about too much traffic.

Mike Summers stated that they may be concerned about after 5:00 p.m. He asked Barb if she would be opposed to some restrictions placed on this request. Would you be opposed to a restriction like one business client and one other auto to pick up forms?

Bob Pecotte stated that approval would be given for the whole year but the business is primarily during three months. Bob also stated that Mrs. Adams would probably have two there at times no matter how hard she tries not to. You will try to work with your neighbors to meet their concerns.

Mike Summers stated that there are two conditions placed on all home occupation requests and these are they are granted for a three year period of time and they will be reviewed if a written complaint is received. These businesses are mostly word of mouth businesses. We try to balance residential area with some leeway to allow people to run a business in their home. We look at three issues: noise, character change to area, and traffic flow in the neighborhood.

Mike Summers made the motion and it was seconded by Bob Pecotte to approve Home Occupation request 96-2 with the following conditions: it is for three years, it will be reviewed upon receipt of a written complaint, and that at no time will there be no more than two customers vehicles for extended periods of time and this do not include vehicles arriving for pick up and deliveries. Motion passed - Aye-3 and Nay - 0.

V. Unfinished Business

1. UPDATE ON HEIGHT AMENDMENT

Mark reported that after the Togo's building had been built and receiving a letter from the fire department we proposed changing the height requirement to an average and that no building shall be higher than 30 feet. The Board's last vote on this was 3 - 3 and the motion failed. Mark stated we are right back to where we were before.

2. CONSIDER FILING REZONING ON POLE BUILDINGS/GARAGES IN RURAL AREAS AS CONDITIONAL USE

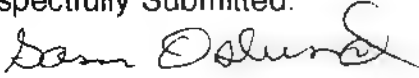
Mark wrote a letter to the Planning Commission and there has been no discussion on this issue by the Planning Commission. Mark suggests we wait to see if we get any more requests regarding this issue.

VI. INFORMATION/CORRESPONDENCE: NONE

VII. PUBLIC COMMENT: NONE

VIII. ADJOURNMENT: At 8:06 p.m.

Respectfully Submitted:

A handwritten signature in cursive script, appearing to read "Sam Oslund".

Sam Oslund, Temporary Secretary

CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: JUNE 13, 1996

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:35 p.m. on June 13, 1996 in the reception area of the Township Hall.

Zoning Board of Appeals members present were Robert Pecotte, Sam Oslund, Bill Sanders and Carol Hicks. Member Mike Summers joined us at 7:50. Staff member Mark Maki was also present.

- II. PUBLIC COMMENT: NONE

III. APPROVAL OF THE MEETING MINUTES OF 5-23-96

A motion was made by Bob Pecotte and seconded by Sam Oslund to approve the minutes of the 5-23-96 meeting as submitted. Motion passed - Aye 4, Nay 0

IV. NEW BUSINESS:

- A. **Variance 96-1** Joseph Holman 210 Riverside Road
 Res. Addition 6" side setback (Bathroom)
 Res. Addition 8' side setback (Bedroom)

-Mark Maki reported that an ad had been placed in the Mining Journal and that letters were sent to ten neighbors. No calls nor written response was received. Reference was made to the Mortgage Survey provided. The original building was a log camp with numerous additions being added over the years. It's size is still quite small for year-around living thus Mr. Holman wished to expand.

-Mr. Holman spoke and showed drawings of his proposed plans.

-Carol Hicks spoke to inform the ZBA that she would be abstaining on the vote for this request.

-Mr. Duane Carlson (neighbor) spoke indicating that many lot lines in that area have been found to be close to the homes and that he was willing to sell Mr. Holman a small parcel of land that would jog around the house.

-Mark Maki indicated that we have a lot split ordinance that has bearing on this case if in deed a parcel of land is exchanged.

-Discussion evolved around the concept of an "easement" and just how accurate is a Mortgage Survey.

-Sam Oslund spoke indicating that we could place some language: "pending a Boundary Property Survey."

-A motion was made by Bill Sanders and seconded by Sam Oslund to approve Variance request 96-1 for Joseph Holman 210 Riverside Road to allow an addition to be constructed under the following conditions: A Boundary Property Survey be conducted and that the proposed Bathroom corner of the house be no closer than one foot (1') from the line and the Bedroom portion of the house to be held at an eight foot setback (8'), an easement would give additional room for maintenance. Motion passed - Aye 3, Nay 0, Abstained 1.

Mike Summers joined the ZBA.

- B. **VARIANCE 96-2** Eugene (Rick) Greenleaf, 117 W. Wright Place
 Garage 2' side and 10' rear setback request.

-Mark Maki reported that public notice had been given and that no

correspondence was received. The neighboring Medical Center has a 6' high privacy fence along the westerly line and the sewer line runs to the east of the house. The ordinance requires 6' to the side and 20' from the rear thus the variance request is for 4' on the side and 10' on the rear setback.

-Mike Summers spoke questioning the distance to his easterly neighbor (Ron Carlson). It was provided that Mr. Greenleaf has three lots or 150' of road frontage and that the house is located towards the westerly side because of the hillside imposing to the east and rear.

-Mr. Greenleaf spoke indicating that the Medical Center's fence is offset inside of their line and that an Air Conditioning unit is at the fence and can be heard day and night during the summer months.

-Bill Sanders indicated that the topography is the problem and proposed turning the garage behind the house.

-Carol Hicks questioned as to why the proposed garage can't be built to the east of the house?

-Mark Maki obtained photo's of the house and property from the tax files.

-Bob Pecotte asked Mark Maki if he is comfortable with this request. Answer yes, in that it is one of the original older homes in that neighborhood and that it being adjacent to an office building. The original platted lots of Harvey are difficult to meet current ordinance standards.

-A motion was made by Sam Oslund and seconded by Bob Pecotte to grand variance request 96-2 Rick Greenleaf to build an detached garage within two feet (2') side and ten feet (10') rear. This distance is to include the roof overhangs. The variance is based on the uniqueness of the topography of the lot. Motion passed: Aye 5, Nay 0.

V. UNFINISHED BUSINESS: None

VI. INFORMATION / CORRESPONDENCE: None

VII. PUBLIC COMMENT: None

VIII. ADJOURNMENT: At 8:37

Respectfully Submitted:

Carol Hicks

Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: JULY 25, 1996**

- I.** The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:35 p.m. on July 25, 1996 in the Township Meeting Room.

Zoning Board of Appeals members present were Bill Sanders, Mike Summers, Robert Pecotte, Carol Hicks, and Sam Oslund. Staff member Mark Maki was also present.

- II. PUBLIC COMMENT:** Mr. Joe Holman, 210 Riverside Road indicated that he was present to discuss his last month's variance request. A letter from Mr. Holman had been received.

III. APPROVAL OF THE MEETING MINUTES OF JUNE 13, 1996

Approval of the meeting minutes was placed on hold until discussion can be held for item VI. Information/Correspondence with regard to Mr. Holman.

IV. NEW BUSINESS:

- A. Variance 96-4 Tom Lakenen, 108 Timberlane, Variance from Sec. 300 to allow accessory building larger than perimeter of house.

-Mark Maki reported that public notification had been given. No correspondence nor phone calls were received. However, two people had stopped in at the Township Hall to discuss the matter with Mark Maki. The existing house is 1224 sq. ft. and the proposed garage is to be 40' x 28' with a 18' x 10' shed expansion totaling 1300 sq. ft. The garage (40' x 28') in itself would be ok with only 1120 sq. ft. but, it is the shed extension that would place it over the required size. The new garage will be 25' from the adjoining property line.

-Discussion as to the intended use of the space ensued.

-Bill Sanders questioned if the additional shed space would be used for any activities other than storage.

-Carol Hicks asked Mark Maki if the Zoning Ordinance Sec. 300 used the language of "area" or "perimeter" to compare the sizes of principal structure and accessory buildings. Mark Maki answered perimeter and that the garage was larger than the house.

-Sam Oslund asked if the building permit had been issued for the garage. Answer yes, it was issued and site work along with concrete had begun.

-Mike Summers inquired as to just what was the "practical difficulty" in this request.

-Mr. Lakenen spoke indicating that with only a 1200 sq. ft. house he needed additional storage space.

-Mike Summers asked Mr. Lakenen if its use was strictly for storage.

-A motion was made by Mike Summers to approve variance request 96-4 by Tom Lakenen 108 Timberlane for a storage shed attached to the garage along the rear side. Due to the relatively modest size of the home as it relates to the proposed size of the garage along with the configuration of the attached shed it would be more innocuous than a detached shed that could be built without a permit. Seconded by Bill Sanders. Motion failed - Aye 2, Nay 3. Variance denied.

- B. Variance 96-5 Robert & Barbara Cambensy Variance from Sec 402 to allow a lot

without the required frontage (Lot Width). The lot is behind 1250 Ortman Road and will access in Sands Township.

-Mark Maki reported that our ordinance requires 125' of frontage on a public road. This was the first case with overlapping property in both Chocolay and Sands Township. It was reported that the ideal building site was just east of the township line. Due to the fact that there is access at the opposite end of the parcel it becomes a question of "suitable access". Mr. Maki's concern is adequate frontage.

-Cindy Schwarck, 14 Meadow Lane spoke indicating that her home and lot is adjacent to the property and that she purchased it along with a buffer strip to assure privacy and that she was opposed to this request. She was of the belief that this parcel was unbuildable.

-Jerry Johnson spoke and indicated that he has plans to purchase approximately 7 acres of the property, pending the outcome of having access.

-Robert Cambensy spoke indicating that because of the shape and topography of the total 18 acres it becomes unreasonable to access the property from the Wildwood Drive side. He has obtained an easement from the west Sands Township side and wishes to use that as the driveway to the building site.

-Sam Oslund questioned the distance and steepness of the gully to the east outlot side. Mr. Cambensy answered his questions.

-Mike Summers discussed whether all or part of the house would be located in Sands or Chocolay Township. It appears at this time that the driveway would be in Sands and most if not all of the house would be in Chocolay.

-Cindy Schwarck spoke indicating that she believed the lot was landlocked and unbuildable. Mr. Cambensy indicated that it was not landlocked in that he has three means of access, one through an outlot "G" onto Wildwood Drive, a 33' Right-of-Way onto Ortman Road (North), and the easement onto Ortman Rd. through Lee Wood Estates.

-Bill Sanders questioned if the house were to be located in Sands Township would a permit be issued as per their ordinance standards.

-Mark Maki did not have an answer as to whether the Sands portion of the lot would be buildable. However, if it were to be buildable than it would not be an issue for our concern.

-A motion was made by Bill Sanders and seconded by Mike Summers to grant variance request 96-5 to Robert Cambensy allowing the building site on the parcel in question to be deemed buildable providing that Chocolay Township receive clarification or proof from Sands Township that the Sands site is buildable. Motion passed Aye 5, Nay 0.

III. APPROVAL OF MEETING MINUTES OF JUNE 13, 1996.

Mr. Joseph Holman's letter was to request a clarification or drafting a new motion from out meeting of June 13. The Board felt that if an error was in the meeting minutes it could be changes but, it in fact they were correct they should stand as presented. After some discussion a motion was made by Mike Summers and seconded by Sam Oslund stating that the minutes were correct and should be approved as submitted. Motion passed Aye 5, Nay 0.

V. UNFINISHED BUSINESS:

Update on the height amendment in that it has be approved by the Township Board and was now in effect.

VI. INFORMATION/CORRESPONDENCE.

1. Letter from Joseph Holman, 210 Riverside Road, regarding Variance 96-3 and

clarification on zoning variance conditions.

-A motion was made by Bob Pecotte and seconded by Bill Sanders to take up Mr. Holman's request for clarification on his variance. Motion passed Aye 5, Nay 0.

-Mark Maki reported that Mr. Holman has now conducted a survey and has acquired additional land around that corner of his house and has found the original property line to be closer than he had believed.

-Mr. Duane Carlson (adjacent neighbor) spoke that after leaving the last ZBA meeting where 1 ft. was granted he now believes that the 1 ft. distance would still stand from the newly acquired property line.

-The record should show that the recent survey is accurate and showing the actual conditions along with the measured distances between the house and the property line and that the house is now on Mr. Holmans property and not encroaching onto Mr. Carlson's property.

-A motion was made by Bill Sanders and seconded by Mike Summers to modify the original motion for clarification allowing construction of an addition so that the Bath portion of the home would be no closer than 1 ft. from the newly acquired property line and that the Bed room portion should be no closer than 3 ½ ft.. This clarification was due to the new findings of the property survey. Motion passed Aye 5, Nay 0.

VII. PUBLIC COMMENT: NONE

VII. ADJOURNMENT: At 9:03 p.m.

Respectfully Submitted:



Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: SEPTEMBER 26, 1996**

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Acting Chairperson Sam Oslund at 7:35 p.m. on September 26, 1996 in the Township Meeting Room.

Zoning Board of Appeals members present were Bill Sanders, Carol Hicks and Sam Oslund. Members excused were Robert Pecotte and Mike Summers. Staff member Mark Maki was also present.

II. PUBLIC COMMENT: NONE

III. APPROVAL OF THE MEETING MINUTES OF JULY 25, 1996

A motion was made by Sam Oslund and seconded by Bill Sanders to approve the minutes of 7-25-96 as submitted. Motion passed - Aye 3, Nay 0.

IV. NEW BUSINESS:

A. VARIANCE 96-6 Rodney Besonen 1613 M-28 East

Variance from Sec. 300 to allow a detached garage setback 7 ½ feet to a side lot line.

-Mark Maki reported that public notice was given. No correspondence was received. This lot is only 100 ft. wide and was recorded prior to the ordinance in 1977. People are presently wanting larger garages. Pictures of the property were circulated. Mr. Maki supports the request due to the fact that existing lot sizes and conditions and house locations were determined by others.

-Eero Wiitala, 801 Lakewood Lane spoke indicating that he lives next door to the Besonen's. He will support the 7 ½ foot request with the one condition that other neighboring lots, their owners and heirs also be allowed to build within 7 ½ ft.

-Sam Oslund answered Mr. Wiitala indicating that the ZBA has no authority to grant such a stipulation and that every case would have to stand on its own merits.

-Mark Maki reiterated Mr. Oslunds position.

-Discussion continued on the proposed variance request.

-A motion was made by Bill Sanders and seconded by Sam Oslund to approve variance request 96-6 to allow a 7 ½ ft. setback from the lot line due to the fact that its an unusually narrow lot of record and would not be out of character to the neighborhood. Motion passed Aye 3, Nay 0.

B. HOME OCCUPATION 96-3 Patrick Barnett 1971 M-28 East

Home Occupation to allow an attorney's office at 1971 M-28 East.

-Mark Maki reported that notice had been sent out and that two items of correspondence were received. The two letters were read for the record. The first letter from Ronald and Marlene Johnson, 1953 M-28 East, having no objection or concern to the application. The second letter from Larry Sterzik, 123 Kawbawgam Rd. opposing the home occupation request.

-Mark Maki continued to report his concerns come in the form that if we open this up for professional offices it may allow other professional offices into residential zoned districts. Normally, professional offices would not be located in a residential neighborhood and this may be going beyond the usual residential use. The office space would occupy only 348 sq. ft and appears to meet the other requirements.

-Bill Sanders asked Mark Maki if we have any other professional office spaces in operation under a home occupation permit within residential neighborhoods. Mr. Maki answered yes, that we have an accounting business presently under a home occupation.

-Patrick Barnett spoke stating that he has had 34 clients over the past 38 weeks, operates without any signs, advertises with only a post office number and conducts a quiet business. He indicated that because of his disabilities he has had to perform his business at home and wishes to continue so for a while longer.

-Larry Sterzik spoke indicating that he had three comments to make. (1) That Mr. Barnett has listed the street address in the phone book and not just a post office address. (2) Remarks have been made to the Planning Commission that there should not be any type of commercial activity in that neighborhood. (3) In the event that you do allow this home occupancy a pending lawsuit could be coming for the Planning Commission.

-Mark Maki reported that the phone ad with street address was from an old directory and that the present directory only listed a post office number and phone number. The Planning Commission has addressed a request from Mr. Sterzik for a motel at his site on Kawbawgam Rd. and has rejected that request. The district has been recommended to be rezoned to R-1, but the Township Board has not acted on the Planning Commission request.

-Eero Wiitala spoke raising some questions about the request.

-Gary Loehr, 1975 M-28 East. (neighbor to Patrick Barnett) spoke stating that he knew of no increase in traffic, no noise, no sign and no additional cars. He has absolutely no objection to his practice of law from his home.

-Mr. Sterzik spoke indicating that in spite of the Townships Planning Commissions request to rezone some areas from C-1 and R-3 to R-1 certain areas should be left alone. Another public hearing will be held.

-Carol Hicks questioned Mr. Barnett as to the fact that he has presently been operating his home business for the past 38 weeks.

-Bill Sanders indicated that he was in favor of the request due to its uniqueness.

-Carol Hicks stated that home operated businesses are changing in character and nature due to computerization. In the past many businesses that had to have public exposure were located within a downtown business office and can now be operated from any location due to today's technology.

-A motion was made by Bill Sanders and seconded by Sam Oslund that Home Occupation 96-3 Patrick Barnett be approved for the stipulated three year period and under the standard conditions pending any written complaints due to the uniqueness of this individual disability. Motion passed Aye 3, Nay 0.

C. HOME OCCUPATION 96-4 Marlene Manning, 234 West Main, Home occupation to make custom drapes & sell blinds & rods.

-Mark Maki reported this is a renewal application and has been in operation for years. His only concern is that the applicant states that they plan to sell blinds and rods and that this implies retail sales of displayed items. The ZBA should question this matter further.

-Mr. Manning spoke on behalf of his wife indicating that they only plan to continue in business for another 2-3 years and that they were already trying to deplete their inventory.

-Sam Oslund questioned the number of freight deliveries and customer traffic. Mr. Manning answered that there was a vehicle 2 or 3 times a week.

-Mark Maki stated that there have been no complaints and that public notice was given without any correspondence being received.

-Carol Hicks questioned the size of the sign noting that it was $\frac{1}{2}$ of an ellipse and should not exceed 2 square feet. While the exact size was not determined it was believed that it may be a little oversize.

-A motion was made by Bill Sanders and seconded by Sam Oslund to approve Home Occupation 9604, Marlene Manning for the stipulated three year renewal and under the standard provisions pending and written complaint. Motion passed Aye 3, Nay 0.

V. UNFINISHED BUSINESS:

Mark Maki reported to the ZBA that at our last meeting (July 25, 1996 Variance 96-4) Tom Lakenen request for a garage that was believed to be larger than his house was based on square footage instead of perimeter (lineal footage). The matter has been corrected and he wrote Mr. Lakenen to inform him of the issue and stated that he could build his garage as planned.

VI. INFORMATION/CORRESPONDENCE: NONE

VII. PUBLIC COMMENT:

Mr. Larry Sterzik spoke to inquire when the Planning Commission denied his request where does he appeal the conditional use request. Mark Maki indicated that it usually goes to the Circuit Court for appeal unless the zoning ordinance returns it to the Township.

VIII. ADJOURNMENT AT 8:40 p.m.

Respectfully Submitted:

Carol Hicks

Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: OCTOBER 24, 1996**

- I.** The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:32 p.m. on October 24, 1996 in the Township Meeting Room.

Zoning Board of Appeals members present were Bill Sanders, Mike Summers, Robert Pecotte and Carol Hicks. Member Sam Oslund was excused. Staff member Mark Maki was also present.

- II. PUBLIC COMMENT: NONE**

- III. APPROVAL OF MEETING MINUTES OF SEPTEMBER 26, 1996**

A motion was made by Bill Sanders and seconded by Carol Hicks to approve the minutes of 9-26-96 as submitted. Motion passed -Aye 4, Nay 0.

- IV. NEW BUSINESS:**

A. VARIANCE 96-7 Vivian Glass for 100 Kawbawgam Road, Variance from Sec 400 for setback in C-1 zone for office building.

-Mark Maki reported that public notice was given. One written letter of correspondence was received. Mark Maki read the letter into the record. Judd and Carol Johnston wrote to object to the variance request. The zoning ordinance requires 30 ft. Setback and the building is only 17 ft. from the line. Mr. Maki went on to explain that a Site Plan was submitted to his office, dated 1991, showing the proposed location of the building to be within 100 ft. from the line. In October 1993 a request for a building permit was made and working from the 1991 site plan the zoning compliance check was made and approved.

-Mark Maki circulated a file photograph dated January 1993 showing the 20 ft. addition already in place. This date being nine months prior the October request for a building permit for that 20 ft. addition.

-Mark Maki then exhibited a 1996 Site Plan showing the original building along with it's 20 ft. addition being only 17 ft. from the lot line. The reason that this issue is now coming to light is because Vivian Glass has now requested a building permit for a porch addition onto the building and upon examination of the 1996 Site Plan the 17 ft. to lot line distance was observed. It was also noted that this porch is already built and that the building permit application is after the fact.

-Bill Sanders questioned if the ZBA is justified to grant such a request and when must the Township sign off on a permit- before or after it goes to the County. Mark Maki answered that the Township reviews the building permit request and signs off and then it goes to the County. The County would have little or no interest as to whether the building is located close to a line. Their concern would be for structural integrity etc. and that the Township had already agreed to the zoning compliance.

-Vivian Glass spoke indicating that in 1991 there was no building and the site plan was prepared by Mr. Cambensy for their project. In 1993 her husband bought the Negaunee Bank building and moved it to the site. The original building was 32' x 20'. Mr. Barto's lot west of their property is R-1 and attached to a lake front lot across the highway and that the lot south of the highway is unbuild able. The building permit (dated October 1993) had a Site Plan also dated October, 1993 showing the original building and it's 20 ft. addition being 17 ft. from the lot line.

-Mike Summers questioned Mrs. Glass if the 20 ft. addition was built prior to the permit being issued. The permit was issued on November 5, 1993 and a January 1993 photo showing the addition in place. It was surmised that the building was placed and the addition was built prior to a permit. It was known since 1993 that the building was 17' from the West line.

-Bill Sanders questioned Mark Maki as to whether he had the 1993 site plan showing the 17' setback. Mark Maki said that he did not, and that his recollection was that he looked into his files showing the 1991 site plan along with his written dates and notes and based upon the 100' distance shown he issued the permit.

-Glen Barto 1951 M-28 East spoke. He does not support that building being that close to his property. The fill dirt even spills over onto his property. He and Judd Johnston wish to keep their property as a green belt to preclude a strip mall development.

-Connie Barto spoke indicating that they have owned their property since the early 1970's and that she opposed the project. She wishes to keep it residential. One should get the building permit first and then one should comply with the rules and regulations.

-Mr. Barto questioned the driveway that was shown on the site plan.

-Mike Summers asked Mark Maki what was the outcome from the planning commissions request to rezone that area from R-3 and C-1 to all R-1. Mark Maki reported that last Monday the Township Board had a motion to rezone but, it failed to pass 3-1.

-Carol Hicks asked Mark Maki what are the ramifications if the zoning variance is denied? Mark Maki responded that if the ZBA were to deny the request the Township would give Mrs. Glass notice and a reasonable length of time to bring the building into compliance with the ordinance and if this does not happen the Township would have to go to court and have it brought into compliance.

-Frank Summersett spoke and indicated that he lives west of the Johnston's along M-28 and he also opposes the request.

-Linda Rossberg 1978 M-28 East spoke stating that we all are trying to follow the rules and for months she has observed the building put up by the Glass's and that they appear to ignore the rules doing as they wish and that she is opposed to the request.

-Larry Sterzik, 123 Kawbawgam Rd. spoke indicating that we need to make a determination. The Barto's property zoned R-1 is unusable and that this project will have no direct affect on a residency.

-Mark Maki spoke stating that he was not sure that the Barto property is not build able in that it is a lot-or-record and may in deed be a useable lot.

-Mr. Barto questioned if the driveway can in deed by right up to the property line. Mark Maki read the zoning information about a planting screen for any parking lot within 50 ft. to a adjacent residential zoned parcel.

-Marshall Barnett, 1971 M-28 East spoke against the variance request.

-Nancy Wright, 202 Wanda Street spoke that when the Bank building was first placed on the site it was unstable and children were playing around the building. It was later moved to its present location and the addition was constructed.

-A motion was made by Bill Sanders and seconded by Mike Summers that variance request 96-7 Vivian Glass be denied because there is no practical difficulty in meeting the ordinance requirements. Motion passed to deny. Aye 4, Nay 0.

B. HOME OCCUPATION 96-5 Richard Ryberg, 105 Meadow Lane, Taxidermy Shop.

-Mark Maki reported that public notice had been given and that letters of notification had been sent to residence within 300 ft. One letter was received. The unsigned letter of opposition was read into the record. (Received at Chocolay office Oct. 16, 1996) Mr. Maki continued to report that Mr. Ryberg had performed taxidermy work in the basement of his home under a prior permit. He had closed his home occupation for a while and now wished to reopen his home business. His present business will be conducted in his garage. Half of his existing attached garage will be used.

A permit has been issued for the construction of a detached garage. When in business in the past the Township had no complaints. The only question may reside with the area of his house at ground floor level compared to ½ of the garage area. Under our ordinance the home occupation can not exceed 1/4 the ground floor area. His home is a split level with part of the living area below grade.

-Mr. Ryberg spoke indicating that his business is low key and that UPS deliveries come to that subdivision only on Tuesdays whether he has any deliveries or not. Only once in the past years did he have a special delivery. There will not be any increased traffic in the area. In the past when his family all resided at home they had 4 vehicles themselves and that has now been reduced. His home had 1500 sq. ft. of living area but, is a split level.

-The ZBA questioned the actual area of the garage used for business v.s. the part used for parking the car and normal garage usage. It was surmised that a portion of the ½ designated for taxidermy was also used as a passage way from the garage stall to the house.

-Paul Salfai 105 Sandy Lane, spoke indicating that he lives next door to Mr. Ryberg and has not had any problems. It's a subtle business and he has no objections.

-Mark Maki questioned Mr. Ryberg if he was licensed? Mr. Ryberg responded yes and that he is inspected by the DNR and has had a good record.

-A motion was made by Carol Hicks and seconded by Bill Sanders to approve home occupation 96-5 for Richard Ryberg, 105 Meadow Lane for a taxidermy shop under the standard provisions that it is for a three year period and pending any written complaints. Motion passed. Aye 4, Nay 0.

V. UNFINISHED BUSINESS:

A. VARIANCE 96-5 BOB CAMBENSY, LOT IN SANDS/CHOCOLAY TOWNSHIP.

A letter was received from Earl Yelle, Sands Township . Mark Maki read into the record the letter stating that the property meets Sands Townships requirements and is an approved building site. Mark Maki continued to report that Jerry Johnson who is purchasing the property has contacted the township and may wish to straddle the line with part of his house in Sands and part of his house in Chocoley.

VI. INFORMATION/CORRESPONDENCE: NONE

VII. PUBLIC COMMENT: NONE

VIII. ADJOURNMENT: AT 9:20 p.m.

Respectfully Submitted:



Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: DECEMBER 5, 1996**

- I.** The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m. on December 5, 1996 in the Township Meeting Room.

Zoning Board of Appeals members present were Bill Sanders, Mike Summers, Robert Pecotte, Carol Hicks, and Sam Oslund. Staff member Mark Maki was also present.

- II. PUBLIC COMMENT:** Mr. Earl Yelle introduced himself as being Sands Township Supervisor and that he was here to observe and perhaps enter the discussion on the variance request dealing with a home straddling both Sands and Chocolay Townships.

111. APPROVAL OF MEETING MINUTES OF OCTOBER 24, 1996

A motion was made by Bill Sanders and seconded by Mike Summers to approve the minutes of 10-24-96 as submitted. Motion passed Aye 5, Nay 0.

IV. NEW BUSINESS:

A. HOME OCCUPATION 96-6 John Colantonio, 130 Ford Road, Colantonio Sharpening Services.

-Mark Maki reported that public notice had been given and that no written correspondence was received. This Home Occupation request was a renewal and that over the years we have had no complaints on his operation.

-A motion was made by Sam Oslund and seconded by Mike Summers to approve Home Occupation 96-6 for Colantonio Sharpening Services for the stipulated three year period and that it would come under review if any written complaints are received by the Township. Motion passed Aye 5, Nay 0.

B. HOME OCCUPATION 96-7 Norman St. Amour, 6453 US 41 South, Saw Sharpening Services.

-Mark Maki reported that public notice had been given and that no written correspondence was received. This Home Occupation request was a renewal and that over the years we have had no complaints on his operation.

-A motion was made by Sam Oslund and seconded by Mike Summers to approve Home Occupation 96-7 for Norman St. Amour for the stipulated three year period and that it would come under review if any written complaints are received by the Township. Motion passed Aye 5, Nay 0.

C. HOME OCCUPATION 96-8 Ray Lakenen, 112 Timberlane, Portable Welding Services.

-Mark Maki reported that public notice had been given and that neighbors within 300 feet have been notified. No written complaints were received. This is his third renewal request.

-Some discussion on whether the intent of home occupation was to give a new business a chance to start and over the years to locate within a commercial district.

-A motion was made by Mike Summers and seconded by Sam Oslund to approve Home Occupation 96-8 for Ray Lakenen for the stipulated three year period and that it would come under review if any written complaints are received by the Township. Motion passed Aye 5, Nay 0.

(Peggy St. Pierre H.O. 96-9 was not present so the ZBA skipped to agenda item F)

F. CONSIDER HOME OCCUPATION AMENDMENT LANGUAGE

-Mark Maki reported by comparing the existing language to the proposed language on Home Occupation. A copy was sent to ZBA members with the proposed changes to Section 101. The existing language included the standards for the home occupation in reference to the area occupied by the business to the total ground floor area of the dwelling. He continued to report that perhaps a fee for the cost of the advertising should be adopted. Presently, the Mining Journal advertisement for public notice costs \$58 and the postage plus copies to give notice to those within 300 feet cost approximately \$10. The additional language including 320 sq. ft. for an accessory structure was also included.

-The ZBA members were to consider recommending this proposed change along with any additional items at our next meeting. Item was tabled until next meeting.

D. HOME OCCUPATION 96-9 Peggy St. Pierre, 1177 Ortman Road, Interior Decorating.

-Mark Maki reported that public notice had been given and that no written correspondence was received. This is a new application and that it appears to meet with the requirements of Home Occupation.

-Several Board members questioned the activity that would be performed, the number of clients present on site, and the size of the home space used for the business. Peggy St. Pierre gave satisfactory answers of clarification.

-A motion was made by Sam Oslund and seconded by Carol Hicks to approve Home Occupation 96-9 Peggy St. Pierre for the stipulated three year period and that it would come under review if any written complaints are received by the Township. Motion passed Aye 5, Nay 0.

E. VARIANCE 96-8 Bob Cambensy-Jerry & Reata Johnson, for 1347 Ortman Rd. Request For a Variance For a Setback/to Allow Building To Straddle Lot Line/Sands & Choccolay.

-Mark Maki reported that public notice was given and that no correspondence was received. The parcel contains approximately 8 acres. This variance was before the ZBA several months ago and it was resolved that it was a buildable parcel and that the frontage street and address would be into Sands Township. The problem now is that the owner wishes to build their new home straddling both townships and that our ordinance states that when a district boundary line is present it is considered as the property line thus, a zero set back variance would have to be granted in order for them to build at this location. It appears that 65% of the home would be in Choccolay and 35% in Sands. Property taxes should not be a problem in that they would be prorated according to building area.

-Mr. Johnson spoke indicating that the site is quite steep at the rear and drops off fast and that this was the only building site.

-It was questioned as to whether there would be in fact two separate descriptions and two separate deeds to the parcel and whether that should have any bearing on the case.

-Mr. Earl Yelle spoke to describe some practical difficulties in the future development of the area with the house residing in two Townships. Issues such as fire protection, future water and/or sewer assessments.

-A motion was made by Sam Oslund and seconded by Mike Summers to approve variance request 96-8 granting a zero foot front yard setback allowing the structure to straddle the common township line. Motion passed Aye 5, Nay 0.

V. UNFINISHED BUSINESS: NONE

VI. INFORMATION/CORRESPONDENCE:

Mark Maki reported that an appeal was filed to circuit court by Vivian Glass in reference to Variance Case 96-7 of 10/96. Mark indicated that he researched the question as to the whether Mr. Barto can build on the lot west of Mrs. Glass and in deed it is deemed a buildable lot. Mr. Maki found in his files a site plan drawn and signed by Mrs. Glass dated 1996 showing the dimension from the building to the west lot line being 45 feet.

-Mike Summers questioned if the Township has responded to the Circuit Court appeal. Mark Maki indicated that a response was made, but he will have the Township attorney look into the matter of the existing building which is currently a setback problem.

VII. PUBLIC COMMENT:

Sue Kitson, Hwy 41-South spoke indicating that she was present to learn about the process for a possible future home occupation request that she might have to make to the ZBA.

VIII. ADJOURNMENT AT 8:27 p.m.

Respectfully Submitted:



Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: FEBRUARY 27, 1997**

- I.** The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:34 p.m. on February 27, 1997 in the Township Meeting Room.

Zoning Board of Appeals members present were Mike Summers, Robert Pecotte, Carol Hicks and Bill Sanders. Staff member Mark Maki was also present.

- II. PUBLIC COMMENT:** None

- III. APPROVAL OF MEETING MINUTES OF DECEMBER 5, 1996.**

A motion was made by Bill Sanders and seconded by Mike Summers to approve the minutes of 12-5-96 as submitted. Motion passed Aye 4, Nay 0

- IV. NEW BUSINESS:**

A. HOME OCCUPATION 97-1 Ron L'Huillier, 109 Carriage Lane, Internet Services Company.

-Mark Maki reported that public notice had been given to those within 300 ft. and the newspaper advertisement had been in place. No written correspondence was received. The business was in the production of computer web pages and that no signs will be placed at the home location, no deliveries will be received and that only 250 sq. ft. of floor space will be used. Mr. Maki saw no problems with this application.

-Mr. L'Huillier spoke describing his business.

-ZBA members questioned some of the activities.

-A motion was made by Carol Hicks and seconded by Bill Sanders to approve Home Occupation 97-1 for Ron L'Huillier at 109 Carriage Lane for his Internet services company under the following standard conditions: That the application was for the stipulated three year period and that it would come under review if any written complaints are received by the Township. Motion passed Aye 4, Nay 0.

**B. HOME OCCUPATION 97-2 RICH DEPRO, 232 SILVER CREEK RD. #44
Computer Repair**

-Mark Maki reported that public notice had been given both by written letters to those within 300 feet and by public newspaper advertisement. No written correspondence had been received. His business is strictly computer repair and will be conducted in a 10' x 10' area of his home. There will be no signs, no traffic, and an UPS delivery approximately once a month.

-Mr. Depro spoke indicating that he will be doing some trouble shooting with software problems as well as computer repair.

-ZBA members questioned his operation asking if any retail sales will be conducted at his business and will people be delivering systems to him home? Mr. Depro answered that there will be no retail sales and that his repairs are most often conducted on the spot at his clients homes and that when shop repair is necessary he generally hauls the computer home and then delivers it after being repaired.

-A motion was made by Bill Sanders and seconded by Mike Summers to approve Home Occupation 97-2 for Rich Depro, 232 Silver Creek Rd #44 for the stipulated three year period and that it would come under review if any written complaints are received by the Township. Motion passed Aye 4, Nay 0.

C. VARIANCE 97-1 Phil & Paula Lutey, 701 Lakewood Lane

1. To permit a side setback of approximately 7 feet for an existing attached garage.
2. To permit an existing deck at 0 foot setback.

-Mark Maki reported by providing some sketches of the site while explaining that prior to 1990-91 a small home was on the property and that two additions have been made to the structure. One being the addition of a garage. A copy of the original Application for Zoning Compliance Permit, with the owners sketch, showing 11 ft. of distance between the garage and the side property line. A copy was provided to ZBA members. A recent survey showing the actual distance of 5 ft. at the North corner of the garage and 7 ft. at the South corner of the garage to the angled property line was provided. Howard and Mary Blomiley, 705 Lakewood Lane had submitted a twelve item grievance which Mark Maki read into the record. Accompanying the grievances were photography which were shown to the ZBA. Mark Maki continued to report that a 10 foot side yard is required by our ordinance.

-Paula Lutey spoke addressing the belief that the distance was thought to be 11 ft. based upon a measurement from the original old fence that has since been removed. She further confirmed that the decking around the storage shed was in deed up to the property line and had been placed to provide an area up to the doors entrance.

-The ZBA agreed to hear these as two separate issues and addressing the garage setback first.

-Mark Maki indicated that public notice had been given to those within 300 ft. and that an advertisement was placed in the newspaper. The 12 item grievances submitted by the Blomiley's had been received.

-Mr. Blomiley spoke indicating that he has contacted the prior owner of his property and that he had placed the old fence over 3 ft. into his property so that he could maintain both sides of the fence.

-Mark Maki indicated that he had in fact received two letters confirming the original fence placement. One letter from Whitley Robinson and the other from Allen Robertson from California. Mr. Maki read the letters dated 10-25-96 into the record.

-The ZBA surmised that the dispute and controversy arose more due to the dog pen issue being attached to that side of the garage over to the property line than from the actual location of the garage.

-Mike Summers asked for a definition of a "Fence" and a "Dog Pen". After some discussion Mark Maki indicated that presently, there is no ordinance in Chocalay that addresses fences and dog pens.

-Bill Sanders questions the depth of the lot and the actual distance from Lakewood Lane to the front of the house. Mrs. Lutey indicated that it was approximately 400 feet. Mr. Sanders asked Mrs. Lutey if in fact the dog pen could be located somewhere else than along side of the garage.

-It was questioned as to why hadn't the garage location been disputed for the past 4-5 years and why is it only surfacing now? The Blomiley's indicated that they had only recently purchased the property and that the owners (Robertson's) resided in California and had been renting the property.

-The ZBA discussed the choices available in resolving this issue and concluded that an amicable agreement could be arranged to create a free open space without fences or structures, or the Lutey's could be required to remove approximately 5 feet from their structure thus, bringing it into compliance of the 10 foot setback.

-A motion was made by Mike Summers that the application by Phil and Paula Lutey, 701 Lakewood Lane, for Variance 97-1 (That portion dealing with the garage setback) be granted, allowing only 7 foot distance of sideyard at the Southernly corner of the garage to the property line and only 5 foot distance of sideyard at the Northerly corner of the garage to the property line,

on condition that the setback area that remains between the garage and the property line be retained as open space and not be enclosed or having any fence or structures what-so-ever. This free open space shall be established for privacy and fire protection to access the other side of the house if the need arises. The existing East-West dog pen fences shall be removed by May 15, 1997 and the existing North-South property line fence can remain. Seconded by Bob Pecotte. Motion passed Aye 4, Nay 0.

-The second issue dealing with the storage shed deck constructed over to the property line was now undertaken. Mark Maki reporting that the storage shed was over 100 sq. ft. and had not been built under any permit and recently had been decked over to the property line. The deck, while allowed under our ordinance, is required to be held to within 6 feet of any property lines.

-Mrs. Lutey indicated that the storage shed had been built by a prior owner and was there when they purchased the property but, they had in deed constructed the deck.

-Bill Sanders question Mrs. Lutey as to how high is the deck? Both Mr. Lutey and Mark Maki indicated that the deck was only approximately one foot off the ground.

-A motion was made by Bill Sanders for Variance request 97-1, Part 2 be granted in that the storage shed could remain and the decking be allowed around the shed with a zero distance of setback. Seconded by Bob Pecotte. Motion passed Aye 4, Nay 0.

V. UNFINISHED BUSINESS

A. Update on the Home Occupation amendments, that has been discussed in the past, indicating that the language has been passed on to the Township Board.

B. Update on the Vivian Glass case at 100 Kawbawgam Rd.. Harley Andrews, the Township attorney, has drawn up some language referring to the fact that the building is to be moved in order to bring it into compliance.

VI. INFORMATION/CORRESPONDENCE

Mark Maki reported to the ZBA members that a Planning and Zoning Program was being offered by the Michigan Society of Planning Officials, on March 20, 1997 at the Holiday Inn here in Marquette, let him know if you are interested in attending.

VII. PUBLIC COMMENT: NONE

VIII. ADJOURNMENT AT 9:01 p.m.

Respectfully Submitted:



Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: MAY 22, 1997**

- I.** The Zoning Board of Appeals of the Charter Township Of Chocolay was called to order by Acting Chairperson Bill Sanders at 7:33 on May 22, 1997 in the Township Meeting Room.

Zoning Board of Appeals members present were Lois Sherbinow, Carol Hicks, Sam Oslund, and Bill Sanders. Robert Pecotte was absent. Staff member Mark Maki was also present.

- II. PUBLIC COMMENT:** Five people present reserved time to speak on Home Occupation 97-3:
- Cindy Kleinschmidt, 128 Juliet St.
 - Karen Gimse, 205 Jean St.
 - Jim Dwyer, 129 Juliet St.
 - Linda Hopper, 218 Jean St.
 - Joe Mahaney, 234 Jean St.

III. APPROVAL OF MEETING MINUTES OF FEBRUARY 27, 1997

-Mark Maki indicated that a letter had been received from Mr. and Mrs. Blomiley 705 Lakewood Lane questioning the wording of the minutes. The letter was read into the record. The original motion made by then Board member Mike Summers indicated the removal of the East-West fences enclosing a dog kennel by May 15. Those fences have been removed and the Blomiley's are objecting to the North-South fence that remains at the property line.

-Bill Sanders and Carol Hicks confirm their belief that the motion as recorded is correct and that a North-South fence at the property line can remain or even reconstructed by the now new owners.

A motion was made by Carol Hicks to table the approval of the minutes of 2-27-97 until Bob Pecotte and Mike Summers can have an opportunity to review the content of the minutes. Seconded by Bill Sanders. Motion passed Aye 4, Nay 0.

IV. NEW BUSINESS:

A. 97-2 PAUL WATTERS, DRY DOCK BAR Entry Porch and Deck, Variance from Sec. 300

-Mark Maki reported that public notice has been given and no correspondence was received. Mr. Watters, 5029, US 41 South has requested a variance to allow the construction on a side entry into his bar. Mr. Maki's only concern is with the entry driveway and parking in that if parking is allowed at this side it could restrict traffic flow. The new concrete entry pad and ramp would be rather close to the curb cut.

-ZBA members questioned the set back requirements and the lot area for parking. The issue is that the angle of the highway to the building would converge closer than the required 40 ft. setback requirement placing the new entry at approximately 20 from the front property line.

-A motion was made by Carol Hicks and seconded by Bill Sanders to approve variance 97-2 for Paul Watters, Dry Dock Bar allowing the addition to be within 20 ft. to the front line setback providing that no parking would be allowed immediately to the South of the building entry (South West corner) for the first 20 feet. To assure no parking a landscape barrier shall be constructed with planting of trees and shrubs within that area. Motion passed Aye 4, Nay 0.

B. HOME OCCUPATION 97-3 DONALD TILLERY, 213 JEAN STREET, Fire Arms Sales.

-Mark Maki reported that public notice was given and the he received three written letters: Jean and George Hannemann, 133 Juliet, May 21,97 Strongly Opposed.
Jim and Maria Dwyer, 129 Juliet St. Opposed.
Beth and John VanDreel, 121 Juliet St. Opposed.

-Mark Maki continued to report that the issue before the ZBA in does it meet the Home Occupation requirements and does it pass the test of those requirements and is there a need for new ordinance language addressing compliance. Mr. Maki directed our attention to the "Repealer and Amendment" copy as adopted by the Charter Township on May 9, 1997 ("Sec. 107 the requirements for a home occupation approval").

-Mr. Tillery spoke and explained his business. He has been operating as a federally licensed firearm dealer out of his home on Jean St. for the past three years. The home occupation issue can to light upon his renewal of his license.

-Mark Maki indicated that the Bureau of Alcohol Tobacco and Firearms contacted the Township for a zoning compliance check and thus the request for a Home Occupation.

-ZBA members questioned the wording of the new amendment and if any other gun dealers were operating under H.O. permits. It was indicated that we have had gun smithing.

-Sam Oslund questioned Mr. Tillery if he carries and sell any ammunition. Answer NO

-Cindy Kleinschmidt questioned the difference between a home occupation of selling arms compared to a commercial store and indicated that she is opposed to the sale of arms within the neighborhood.

-Phil Schneeberger, 205 Judy St. asked for a comparison with other home occupation business requests within residential neighborhoods. Mark Maki spoke about the test of does it create undue noise any additional traffic and is it out of character for the neighborhood.

-Karen Gimse spoke about out ability to govern firearms. Mark Maki responded that perhaps the avenue for governance change is through changes to the ordinance language through the Township Board.

-Mrs. Toni Roberts, 131 Aspen Dr. questioned subdivision covenants with language restricting such items as firearms sales. It was indicated that Elder Subdivision does have restrictive covenants and those restrictions are above and beyond those imposed by the Township Ordinances.

-Cindy Kleinschmidt spoke indicating that this issue created anxiety and a sense of security for the neighborhood and she is opposed to it.

-Mr. Jim Dwyer spoke to emphasize his letter of opposition.

-Joe Mahaney opposes the request.

-Linda Hopper spoke indicating that she does not like the idea and opposes any sign saying guns.

-Mr. Tillery spoke indicating that there would be no signs for his business what-so-ever.

-A motion was made by Sam Oslund that Home Occupation request 97-3 for Donald Tillery, 213 Jean St. be approved and that the application if for a three year period and subject to review upon any written complaint and that no signs be on the property to indicate home occupation and that no public advertisement be made. This Home

Occupation is specific and exclusive to Donald Tillery and there shall be no storage or display of merchandise and if the H.O. is revoked before the end of the three year period the Township shall notify the Bureau of Alcohol Tobacco and Firearms. Seconded by Carol Hicks, Motion passed Aye 4, Nay 0.

V. UNFINISHED BUSINESS:

A. Update on Home Occupation Amendment

VI. INFORMATION / CORRESPONDENCE: NONE

VII. PUBLIC COMMENT:

Mark Maki spoke as a public member indicating the Township Boards attempt to spell out the wording of an ordinance and how it affect various township members.

VIII. ADJOURNMENT: AT 9:27 P.M.

Respectfully submitted:



Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES JULY 17, 1997**

- I.** The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:34 on July 17, 1997 in the Township Meeting Room.

Zoning Board of Appeals members present were Lois Sherbinow, Robert Pecotte, Carol Hicks, and Bill Sanders. Staff member Mark Maki, Zoning Administrator, was also present.

- II. PUBLIC COMMENT:** Terry Huffman, Realtor, 518 South Front St. Marquette reserved time to speak on Variance 97-5

James Boyle reserved time to speak on Variance 97-3.

- III. APPROVAL OF MEETING MINUTES OF MAY 22, 1997**

A motion was made by Lois Sherbinow and seconded by Bill Sanders to approve the minutes of 5-22-97 as submitted. Motion passed Aye 4, Nay 0.

- IV. NEW BUSINESS:**

A. Home Occupation 97-4 Kenneth Mayotte, 6457 US 41 South, Licenced Firearms Dealer.

-Mark Maki reported that Mr. Mayotte has had a firearms licenses for 12 years and just moved to 6457 US 41 South. No correspondence was received and that public notice was given. The ZBA should question the inventory to be held, test firing or if ammunition was being sold.

-Mr. Mayotte spoke and explained his business operation indicating that he does not test fire any guns at his home and that ammunition was not sold nor carried in his inventory. There will be no signs nor unnecessary traffic at his home.

-A motion was made by Bill Sanders and seconded by Carol Hicks to approve HO 97-4 for Kenneth Mayotte for the standard three year period and subject to any written complaints and that no signs nor public published advertisement be made and that this Home Occupation was specific to Ken Mayotte at 6457 US 41 South only. Motion passed Aye 4, Nay 0.

B. VARIANCE 97-3 Lloyd Peterson, Flushing MI, request a side setback variance at 2945 M-28 East for an 8x14 Porch at 7 ½ feet.

-Mark Maki reported that public notice has been given and that no correspondence was received. The lot is only 88 ft. wide and when the original camp was build the ordinance only required a 5 ft. setback and presently our ordinance required 10 ft setback.

-Bill Sanders questions why not set back to 10 ft.? James Boyle spoke indicating that it's because of the location of the existing windows and doors. A photo was shown verifying the placement of bedroom and living room windows thus the practical location of the screened in porch would be held to the West. The proposed porch will not extend over to the existing westerly wall of the house but it will be held 2 ft. back.

-A motion was made by Carol Hicks and seconded by Bill Sanders to approve Variance request 97-3, Lloyd Peterson, 2945 M-28 East allowing an 8x14 porch to be built at 7 ½ ft sideyard instead of the required 10 ft. because of the practical difficulty of compliance to the present ordinance whereas the original ordinance was only 5 ft. setback and that the proposed porch would not extend over to the end of the existing house that is 5 ½ ft from the property line. Motion passed Aye 4, Nay 0.

C. VARIANCE 97-4 Robert Ball, Zephyrhills, Florida, request a variance to permit an accessory building 28x40 (Garage and Storage) prior to the house at 381 Co. Rd. 480.

-Mark Maki reported that public notice was given and that no correspondence was received. The property is zoned R-1 single family residence and it wide enough to perhaps build two houses on it. Our ordinance requires that the primary structure (house) be built prior to any accessory structures (detached garage) Mr. Ball request to build a 28x40 garage prior to building his house so that he may use it for storage of building materials and tools. There is another detached older structure on the property that is approximately 20x24 that he plans to demolish and remove. He plans to construct his house in the Fall or 1997 or Spring 1998.

-ZBA members questioned if the proposed 28x40 building would be characteristic to a residential garage or would it become an isolated workshop. It was indicated that it would be finished with the same materials as the house and used to house antique cars.

-Lori Nelson, 60 Edgewood Dr. spoke voicing her concerns. Her property abuts the rear of Mr. Ball's and as indicated on the application the garage would be located at the Northeast corner of the property and would be quite visible from her home. She was concerned about noise and visual appearance if junk were to be stored outside behind the garage.

-A motion was made by Carol Hicks and seconded by Bob Pecotte to approve variance 97-4 by Robert Ball at 381 Co Rd. 480 allowing a 28x40 detached garage to be built prior to the construction of the house under the following conditions: that all materials will be stored inside the garage and not outside or around the building and upon the removal of the existing old dilapidated building (as indicated in the application) prior to the construction of the new garage. Motion passed Aye 4, Nay 0.

D. VARIANCE 97-5 David Thomas/Terry Huffman, agent for Jim Drobney requests a variance to permit a 60' waterfront setback at 311 Main St..

-Mark Maki reported that public notice was given and two letters of correspondence were received. Paul Smith, 308 W. Main was opposed. Chocoley Watershed Assoc., Carl Lindquist was opposed. The railroad was abandoned in about 1981 and the right-of-way property reverted back to the original ownership. Our zoning ordinance does have a water frontage setback of 100 ft. There is no exemption clause in this area for new subdivided lots, although all existing buildings on existing lots are exempt from the 100' setback.

-ZBA members questions whether or not the 100 ft. setback can be met without any variance. Mark Maki indicated that it could but, it would place the house site rather close to Main street with a short driveway.

-Terry Huffman spoke indicating that his client Mr. Thomas plans to build his retirement home on the property and wishes to build on the high area at the railroad grade within 60 ft. of the Bayou. He wishes to purchase 310 ft. of road frontage and place the house within 40 ft. to the easterly line as indicated on the application.

-Sue Schenk-Drobney, 733 Lakewood Lane spoke indicating that she too had looked at the property and the placement closer to the water afforded the best view and avoided the low dip between the railroad grade and the road.

-Dan Diloreto, 301 W. Main spoke indicating that he has concerns for the variance in that he purchased his property for having privacy in 1985 and he is opposed to the variance as requested in that the house placement would be only 40 ft. from his property line.

-Mark Maki obtained a topo map of the area and scaled the setback in reference to the railroad grade and Bayou.

-A motion was made by Bill Sanders and seconded by Carol Hicks to approve variance request 97-5 for David Thomas/Terry Huffinan allowing a 75 ft. setback from the waterfront thus a 25 ft. variance from the required 100 ft. upon the following condition that not only must the house location be 75 ft. from the water it must be relatively centered on the 310 ft. width parcel. Motion passed Aye 4, Nay 0.

V. UNFINISHED BUSINESS: approval of ZBA minutes of February 27, 1997

-Discussion over the wording of the Variance 97-1 Phil & Paula Lutey, 701 Lakewood Lane. At the May 22, 1997 ZBA meeting the approval of the Feb. 27, 1997 minutes as tabled pending a review from other board members present at that meeting.

-Bob Pecotte spoke and indicated that the motion as presented was exactly as he remembered.

-A motion was made by Carol Hicks and seconded by Bob Pecotte to officially approve the minutes of February 27, 1997 as submitted. Motion passed Aye 4, Nay 0.

VI. INFORMATION/CORRESPONDENCE: NONE

VII. PUBLIC COMMENT: NONE

VII. ADJOURNMENT AT 9:25 p.m.

Respectfully submitted:



Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES AUGUST 28, 1997**

- I.** The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:32 p.m. on August 28, 1997 in the Township Meeting Room.

Zoning Board of Appeals members present were Lois Sherbinow, Robert Pecotte, and Carol Hicks. Staff member Mark Maki, Zoning Administrator, was also present.

- II. PUBLIC COMMENT:** Terry Huffman, Realtor and Sue & Jim Drobney reserved time to speak on agenda item "C" variance 97-8 David Thomas.

III. APPROVAL OF MEETING MINUTES OF JULY 17, 1997

A motion was made by Bob Pecotte and seconded by Lois Sherbinow to approve the minutes of-7-97 as submitted. Motion passed Aye 3, Nay 0.

IV. NEW BUSINESS:

A. Variance 97-6 Jeffery Green, 148 Riverland, Request a variance from Sec. 300 for a 9-foot setback for a detached garage.

-Mark Maki reported that public notice has been given and no correspondence was received. This is a large lot with 230 feet of road frontage and being a corner lot it has a double set back requirement of 30 feet in both directions. It is 109 ft. from the center line of M-28.

-Bob Pecotte questioned if we have had any similar situation. Answer, not really but we have had several setback requests due to the highway right-of-way.

-Carol Hicks questioned if there was a "clear site distance" setback due to this being a county road intersection onto a state highway with a stop sign. Mark Maki went to his office and retrieved the original plat and upon study it was found that no restriction was placed on the lot for vision setbacks.

-A motion was made by Carol Hicks and seconded by Lois Sherbinow to approve variance 97-6 for Jeffery Green at 148 Riverland allowing the 9 ft. setback for a detached garage due to the hardship imposed by the dual 30 ft. setback onto corner lots with the condition that a wooded area be maintained between the garage and the highway. Motion passed Aye 3, Nay 0.

B. Variance 97-7 Jack Tripp 2999 M-28. Request a variance from Sec. 300 and Sec. 300F for a detached garage.

-Mark Maki reported that public notice had been given and no correspondence was received. Mr. Tripp had to purchase and acquire a part of the right-of-way from the State in order to build this garage. When this transaction is completed he would be 10 ft. From his property line and 110 ft. from the highway centerline. His proposed garage must be 10 ft. from the overhead power line, thus causing the problem. Our ordinance requires a 30 ft. setback and that would place the garage directly under the power line.

-Discussion ensued with Mr. Tripp addressing the ZBA questions.

-A motion was made by Carol Hicks and seconded by Bob Pecotte to approve variance 97-7 for Jack Tripp, 2999 M-28 allowing the garage to be built 2 ft. from the M-28 right-of-way under the following conditions: The 32 x 24 garage shall be turned 90 degrees with the 32 ft dimension running North-South and the 24 ft dimension running East-West with the garage doors facing onto the existing driveway and not generating an additional driveway onto M-28. This variance is granted due to the hardship imposed by the overhead power line requiring maintenance clearance distances. Motion passed Aye 3, Nay 0.

C. Variance 97-8 David Thomas. Setback on Bayou at 311 W. Main Street, Harvey.

-Mark Maki reported that this was the second variance request on the parcel and that public notice had been given with one correspondence received. Paul and Marilyn Smith, 308 West Main wrote voicing their objection to the variance request. They were of the impression that no one could build across the street. Mark Maki indicated that was not the case and in fact there were two build able lot areas.

-Mrs. Thomas spoke indicating that they planned to build a Cape Code style house on a slight angle to have the best view of the water. They are requesting to build 85 ft. from the water edge instead of the required 100 ft.

-The ZBA members questioned the house choice location and reasoning behind it.

-Dan Diloreto, 301 W. Main spoke indicating his concerns for the house being placed so close to his property line.

-Sue Drobney spoke indicating that a lot split could not occur.

-A motion was made by Bob Pecotte and seconded by Lois Sherbinow to approve variance 97-8 for David Thomas allowing for a 19 ft. variance allowing the house to be placed back 81 ft. minimum from the water providing that it be held a minimum of 40 ft. from the easterly property line. Motion passed Aye 3, Nay 0.

V. UNFINISHED BUSINESS:

The Vivian Glass case is due for a court deposition on September 2.

ZBA replacement member is being worked out with the Township Board.

ZBA's next meeting will be September 18.

VI. INFORMATION/CORRESPONDENCE: NONE

VII. PUBLIC COMMENT: NONE

VIII. ADJOURNMENT at 8:45 p.m.

Respectfully submitted:



Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES SEPTEMBER 18,1997**

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:32 p.m. on September 18, 1997 in the Township Meeting Room.

Zoning Board of Appeals members present were Lois Sherbinow, Robert Pecotte, Carol Hicks, and Bill Sanders. Staff member Mark Maki, Zoning Administrator, was also present.

- II. **PUBLIC COMMENT: NONE**

- III. **APPROVAL OF MEETING MINUTES OF AUGUST 28, 1997**

A motion was made by Lois Sherbinow and seconded by Bill Sanders to approve the minutes of 8-28-97 as submitted. Motion passed Aye 4, Nay 0.

- IV. **NEW BUSINESS:**

A. **VARIANCE 97-9** Elwin Leach, 425 Green Bay Street. Request a variance from Sec. 300 for a 8 x 20 front porch, 14 feet setback.

-Mark Maki reported that public notice was given and one correspondence was received. Joe and Elinor Morgan, 111 E. Wright Place wrote indicating that they had no problems with the request and therefore, support Mr. Leach's variance. Presently, there is a 4 x 8 porch with steps down to a sidewalk and the owner wishes to remove this porch and construct a new porch that is 8 x 20 running along the front of the house. The new porch will have a side door entrance. Past variances have been given in the Village of Harvey due to the small lot sizes and house placements. The streets are narrow and other homes in the neighborhood are in line with this request. There are no clear sight problems with this addition being on a corner lot with two streets.

-Mr. Leach spoke to clarify and respond to several of Mr. Maki's concerns.

-ZBA members posed questions.

-A motion was made by Bill Sanders and seconded by Carol Hicks to approve variance 97-9 for Elwin Leach at 425 Green Bay St. allowing an addition onto his home being 14 ft. setback from Green Bay St. Right-of-way with the conditions that the entrance be to the East side of the addition and that no further additional encroachments be given. Motion passed Aye 4, Nay 0.

B. **HOME OCCUPATION 97-5** Elwood R. Bengry & Jeanette L. Chadwick, 389 Mangum Rd. Manufacture furniture (including repair & refinish), various wood crafts, wreaths, dolls & teddy bears.

-Mark Maki reported the public notice was given and no correspondence was received. Mark also submitted the application to the Chocolay Township Fire Department for their concerns. The fire department would only request that Mr. Bengry submit to them a list of flammable materials so that in case of a fire they would know what they would be up against. The questions that the ZBA might wish to address are the sign size and disposal of hazardous materials. As with any H.O. it must meet the following three characteristics, change in traffic, noise, or does it alter the characteristic of the neighborhood. It was noted that the applicant was to display a 4 x 3 sign, which would exceed the 2 sq. ft. ordinance.

-Elwood Bengry spoke addressing Mr. Maki's concerns.

-Discussion was made as to where and how to dispose of hazardous materials and several suggestions were given.

-Mr. Bengry has a detached workshop that is 12' x 26' (312 sq. ft.) whereas the ordinance only allows 300 sq. ft. of detached space to be used for home occupations.

-A motion was made by Carol Hicks and seconded by Bob Pecotte to approve Home Occupation 97-5 for Elwood R. Bengry & Jeanette L. Chadwick, 389 Mangum Rd. under the following conditions:

- A. These would be treated as two separate home occupations: one for Elwood Bengry utilizing only 300 sq. ft. of the 312 sq. ft. of the detached workshop for furniture making. The other being for Jeanette Chadwick using 264 sq. ft. of the house space for crafts.
- B. The sign for their business shall not exceed 2 sq. ft. of detached signage or 4 sq. ft. if attached to the house.
- C. Proper procedures be adapted and documented for disposal of hazardous waste.
- D. Notification and inventory of flammable materials be given to the Chocolay Fire Department.
- E. This H.O. falls under the standard three year condition and pending any written complaints.

Motion passed Aye 4, Nay 0.

V. UNFINISHED BUSINESS:

A. Update on Dry Dock Variance. Mark Maki reported that he has written to the owners requesting the completion of the variance agreement pertaining to landscaping and no parking near the South-West corner of the building. A copy of the letter was given to ZBA dated Sept. 9, 1997. The owners have indicated that they plan to landscape and comply next spring. Mark will keep an eye on this project.

B. Update on Vivian Glass appeal. Mark Maki reported that depositions have been taken by both parties and that the case may resurface to the ZBA. Possibly, allowing the owners to keep their building located as is with the conditions that extensive re-excavation, removal of Westerly driveway, new parking area, landscaping, and privacy fence with plantings be placed at West property line.

VI. INFORMATION/CORRESPONDENCE: NONE

VII. PUBLIC COMMENT: NONE

VIII. ADJOURNMENT: at 8:20 p.m.

Respectfully submitted:



Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES OCTOBER 23, 1997**

- I.** The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m. on October 23, 1997 in the Township Meeting Room.

Zoning Board of Appeals members present were Lois Sherbinow, Robert Pecotte, Carol Hicks, and Robert Fisher. Staff member Mark Maki, Zoning Administrator, was also present.

II. PUBLIC COMMENT: NONE

III. APPROVAL OF MEETING MINUTES OF SEPTEMBER 18, 1997

It was noted that item IV B. Home Occupation 97-5 for Elwood Bengry & Jeanette Chadwick was missing the vote outcome of the motion. The correction is to be that the motion passed Aye 4, Nay 0. A motion was made by Lois Sherbinow and seconded by Bob Pecotte to approve the minutes of 9-18-97 as amended. Motion passed Aye 4, Nay 0.

IV. NEW BUSINESS:

A. CLASS A DESIGNATION #30 Expansion- Jim and Darlene Herkins, 203 Hotel Place-Chocolay Shores Apartments.

-Mark Maki reported that public notice was given and no correspondence was received. Six to seven years ago the ZBA granted the parcel as a Class A designation. The request today is for a 30'x50' garage. It was noted that a single family dwelling was not being requested. The lot has a township sewer pumping station and an electric line which creates difficulties with finding a suitable building location.

-ZBA members questioned the setback dimensions to the garage and as to what types of materials would be stored in the garage. These issues were addressed.

-A motion was made by Carol Hicks and seconded by Bob Pecotte to approve the Class A permit #30 for Mr. and Mrs. Herkins allowing them to construct a 30'x50' garage as planned with the stipulation that no outdoor storage would be permitted and that all storage of materials would be confined within the building, due to the difficulty imposed by the location of power lines and the sewer pumping station location. Motion passed Aye 4, Nay 0.

B. VARIANCE 97-10 Geoffrey and Susan Weston for 1809 M-28 East to construct a garage prior to the single family dwelling.

C. -Mark Maki reported that public notice had been given and that one letter was received from a neighboring property owner, Mr. Glen Shaw who had no problem or objection to the variance request. The Weston's are planning to construct a 24'x30' detached garage prior to building their home. The garage would meet all zoning requirements such as setbacks etc. and that they planned to start their home construction next year and use the garage to store building supplies and tools while constructing the house.

-A motion was made by Bob Pecotte and seconded by Bob Fisher to approve variance request 97-10 for Geoffrey & Susan Weston at 1809 M-28 East allowing them to build a detached garage prior to building a house under the following condition that all materials be stored within the garage and that it be used for storage purposes only. Motion passed Aye 4, Nay 0.

C. Variance 97-11 Chocolay Township Board for 5010 US-41 South, request a variance from front setback for a 12'x30' police department addition.

Mark Maki reported that public notice was given and no correspondence was received. The present police department is operating in rather tight quarters and there is a need for expansion with the choices to expand the existing area or relocate to the far end of the building. The zoning ordinance requires a 40' front setback and the original building was constructed prior to any highway expansion let alone the present five lanes. The attached sketch showed that the proposed addition would be in keeping with the original buildings shape and form.

-ZBA members questioned the need, design, and exterior landscaping requirements.

-A motion was made by Carol Hicks and seconded by Lois Sherbinow to approve variance request 97-11 for Chocolay Township Board at 5010 US 41 South allowing for a 12'x30' addition with a setback distance of 27'-4" thus a variance of 12'-8" under the following conditions that all landscaping be restored to it's existing or better state. In particular a large birch tree that may have to be taken down must be replaced with a substantial shade tree and that all decorative trees and shrubs at the building perimeter are replaced in a comparable manner. Motion passed Aye 4, Nay 0.

V. UNFINISHED BUSINESS: The ZBA wished to welcome on board it's new member Mr. Robert Fisher and noted that this now brings our Board up to it's full membership.

VI. INFORMATION / CORRESPONDENCE: NONE

VII. PUBLIC COMMENT: NONE

VIII. ADJOURNMENT: at 8:15 p.m.

Respectfully submitted:
Carol Hicks, Secretary



**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: 1-22-98**

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m., January 22, 1998 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Bob Pecotte, Robert Fisher, and Lois Sherbinow. Staff member Mark Maki was also present.

- II. **PUBLIC COMMENT: NONE**

- III. **APPROVAL OF THE MEETING MINUTES OF 10-23-97.**

A motion was made by Lois Sherbinow and second by Bob Fisher to approve the minutes of 10-23-97 as submitted. Motion passed Aye 3, Nay 0.

- IV. **PUBLIC HEARINGS: NONE**

- V. **NEW BUSINESS:**

- A. Home Occupation 98-1, Donald Koski-691 Lakewood Lane Stained Glass Studio.

No written correspondence received. Board discussed traffic and noise. No changes to the property are being proposed. Traffic is minimal as most of the business involves going to a client's property to review the stain glass proposal. Home Occupation activity will be in the front of the house and noise is minimal. No signs are proposed and no commercial vehicles will be on site.

Motion by Bob Fisher second by Lois Sherbinow to grant the home occupation from January 22, 1998 to January 22, 2001 as it meets the standards for approval. Conditions attached include a three year time limit and review upon written complaint. Motion Carried 3-0.

- B. Variance 98-1 Jeff Glass 2048 M-28 East. Variance request from Sec 705 conveyances to allow redesign of a lot in a RR-2 zone.

Mr. Glass is requesting permission to subdivide and recreate a lot. A single family dwelling is currently on a lot with 29.8 acres more or less located along with a campground. Mr. Glass has a building lot at 2040 M-28 and wants to redesign what is now 2 lots placing the house on a lot with 150 feet of frontage and about 16 acres. Sec 705 prevents the subdivision of a lot leaving a building on a lot which fails to meet the minimum requirements set forth in the zoning ordinance. This new lot fails to meet the 300 feet of lot width required in the RR-2 zone.

This proposal is essentially to substitute the building lot on M-28 by placing the house on a new lot which contains the building lot at 2040 M-28 East (150 x 85') plus about 16 acres behind this frontage lot.

No new building sites are created and the new result would be make the lot at 2040 M-28 a large lot meeting the minimum lot area requirement in the RR-2 zone. The lot will only fail to meet the lot width requirement although it currently is buildable as a 150 foot lot. The Board feels that strict application of the zoning ordinance is unnecessary due to the fact that this situation does not result in the creation of any new building sites.

Motion by Bob Fisher second by Lois Sherbinow to approve the variance due to the unique lot layout which existed prior to the 1977 zoning ordinance are due to the fact that the request is only to redesign the existing lots with no new building sites created. Conditions attached are 1- No buildings can be located on the north 185 feet of the newly created lot and that the original lot with the campground contain a minimum of 20 acres as

per the zoning ordinance requirements. Carried 3-0.

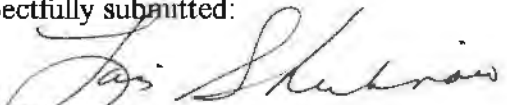
VI. UNFINISHED BUSINESS: None.

VII. CORRESPONDENCE/INFORMATION RECEIVED:

VIII. PUBLIC COMMENT: None.

Meeting adjourned at 8:15 p.m.

Respectfully submitted:


Lois Sherbinow, Acting Recording Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 2-26-98**

- I.** The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m., February 26, 1998 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Lois Sherbinow, Bob Pecotte, Bill Sanders, Robert Fisher, and Carol Hicks. Zoning Administrator Mark Maki was also present.

- II. PUBLIC COMMENT: NONE**

- III. APPROVAL OF THE MEETING MINUTES OF 1-22-98.**

A motion was made by Bob Fisher and seconded by Lois Sherbinow to approve the minutes of 1-22-98 as submitted. Motion passed Aye 5, Nay 0.

- IV. NEW BUSINESS:**

A. Variance 98-2 Dan Rydholm for 224 Riverside Road. Variance for a Rear Yard Setback in R-1 zone.

-Mark Maki reported that public notice was given. A letter was received from Joyce and Peter Gray having no objection to the request. This fall an inquiry was made with regards to the placement of an addition onto the existing house. The investigation revealed that a lot line problem existed. Our ordinance requires 35 ft. Rear yard setback and 10 ft. Side yard setback. A survey was completed showing the house encroachment onto the neighboring lot. To acquire land to get the 10 ft. Side yard a land swap agreement was reached with the neighbor. The resulting swap would comply with the sideyard requirement but, the rear 35 ft. Setback would not be met. The rear lot line is now on a diagonal and the proposed addition would come within 15 ft. at the closest point. A copy of the official survey was provided to the ZBA.

-Dan Rydholm spoke to amplify the reported information.

-A motion was made by Carol Hicks to approve the variance request #98-2 for Dan Rydholm at 224 Riverside allowing for a 20 ft. variance from the required 35 ft. with the new house addition being no closer than 15 feet at any given point. This variance is being granted due to the unique condition of the lots within that particular neighborhood and due to the lot split and land swap pre-arranged by both parties. Motion passed Aye 5, Nay 0.

- V. UNFINISHED BUSINESS:**

The Vivian Glass court hearing will be coming up at the end of March and Mark Maki will keep us informed of the outcome.

- VI. INFORMATION/CORRESPONDENCE: NONE**

- VII. PUBLIC COMMENT: NONE**

- VIII. ADJOURNMENT: at 7:42 p.m.**

Respectfully Submitted:



Carol Hicks, Secretary ZBA

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 4-23-98**

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Acting Chairperson Bill Sanders at 7:37 p.m., April 23, 1998 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Lois Sherbinow, Bill Sanders, Carol Hicks and Robert Fisher. Zoning Administrator Mark Maki was also present.

II. **Public comment: None**

III. **Approval of the Meeting Minutes of 2026098**

A motion was made by Bob Fisher and seconded by Lois Sherbinow to approve the minutes of February 26, 1998 as submitted. Motion passed Aye 4, Nay 0.

IV. **NEW BUSINESS:**

A. Variance 98-3 Dan Trotochaud for 439 Lakewood Lane. Variance from 107 and 202 (B) to allow a 28x36 detached garage prior to construction of the permitted principal use (house).

-Mark Maki reported that Dan Trotochaud has purchased a 100' lot on Lakewood that presently has a small cottage house. He plans to demolish the house and construct a garage at its present location and in the future to build his new house further into the lot. Our ordinance requires a house before a detached accessory building can be constructed. We have set precedence in that in the past we have allowed such a request in several similar cases.

-Dan Trotochaud spoke and explained that the garage and the new house would have similar features including the same siding and trim. He wished to have the garage as a staging building for tools and building supplies during construction of the home.

-Carol Hicks spoke to inform his fellow Board members that he would be abstaining from voting on this Variance request in that he was designing the house for Mr. Trotochaud.

-Bill Sanders questioned if the garage structure would meet all other ordinance requirements such as setbacks etc. Mark Maki and Dan Trotochaud assured that it would.

-A motion was made by Bob Fisher and seconded by Lois Sherbinow to support Variance request 98-3 for Dan Trotochaud allowing for a detached garage to be constructed prior to the house. This request was granted due to the prior requests have been given and we have never had a problem with them not following through with the final house construction. The only condition is that no exterior storage of materials and junk shall be left unattended around the garage and that all setbacks be met as per the ordinance. Motion passed Aye 3, Nay 0, Abstain 1.

B: Variance 98-4 Marlene Fisher for 277 Lakewood Lane. Request a variance to allow an 80 foot lot to be buildable.

-Mark Maki reported that public notice was given and that one letter was received from Michael Gaspar, 270 Lakewood Lane. He has no objection with building on a 80' lot but that the owner should be made to meet all setback requirements and comply with the ordinance much as he was made to do when Mrs. Fisher opposed his variance request. What we have is a lot size issue where our ordinance requires a 125' frontage. We have many lots of record that were only 100' wide prior to the ordinance and this lot was once 100' wide. An illegal lot split was made in the mid 1980's when a 20' wide strip was divided and attached to the lot across the road. This lot across the street along with the 20' wide strip was then deeded to their children. When this was done it was in violation of

the state plat act. (State subdivision act). All parties appear to have known about the division in that it was part of a divorce settlement. Mrs. Fisher has approached her three children and requested to acquire the ownership of the 20' strip. Two of the three children have granted her request and she now has 50% interest in the 20' parcel. Presently, there is a small cottage on the lot and she plans to demolish the building and to construct a new house.

-Bill Sanders asked if in fact the 50% ownership in the small parcel entitled her to some consideration. This issue was discussed in depth.

-The ZBA was concerned that if this variance were to be granted what ramifications would this have for future problems with lot splits, to achieve beach frontage for lots across the road on Lakewood Lane.

-Lois Sherbinow asked if the Township attorney has rendered any opinion on this case.

-A motion was made by Bob Fisher and seconded by Bill Sanders to approve Variance 98-4 Marlene Fisher at 277 Lakewood Lane allowing her to construct a new house on a 80' wide lot provided that the new structure comply with all other ordinance requirements such as setbacks, under the following conditions: (1) she never sell off her 50% interest in the 20' lot, (2) she provide documentation of her 50% interest in the adjacent parcel, and (3) recognizing that this is not a new building lot in that there is an existing house on the lot. This variance is being granted due to the unique circumstances of a divorce settlement and the owner has controlling interest (50%) of the adjacent 20' strip and that an existing house is present on the lot. This variance is not to be used as a precedence for future lot splits and is unique to it's own particular circumstances. Motion passed Aye 4, Nay 0.

22. UNFINISHED BUSINESS: NONE

VI. INFORMATION/CORRESPONDENCE

A. Correspondence on decision of appeal of Variance/Vivian Glass. A copy of the letter indicating the final judgment on the Vivian Glass case was given to ZBA members. The Township will be watching for the removal of the encroachment gravel fill driveway and to provide a vegetative screening along the west property line. This is to be completed within 24 months.

VII. PUBLIC COMMENT: NONE

VIII. ADJOURNMENT AT 8:45 p.m.

Respectfully Submitted:



Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 5-28-98**

1. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:34 p.m., May 28, 1998 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Lois Sherbinow, Bob Pecotte, Carol Hicks and Robert Fisher. Zoning Administrator Mark Maki was also present.

II. PUBLIC COMMENT: NONE

III. APPROVAL OF THE MEETING MINUTES OF APRIL 23, 1998

A motion was made by Bob Fisher and seconded by Lois Sherbinow to approve the minutes of April 23, 1998 as submitted. Motion passed Aye 4, Nay 0.

IV. NEW BUSINESS:

A. Home Occupation 98-2, Jill Bradford, 555 Little Lake Road, Hydroponic consulting.

-Mark Maki reported that public notice was given and no correspondence was received. The business is to conduct hydroponic consulting off the premises and to grow herbs and vegetables in and around the property (garden). The process will take up approximately a 12' x 10' space within the home.

-Jill Bradford spoke to explain her business. It was to be a part time business and that her hydroponic concept would be outside consultation. Occasionally a client would visit her home to look at her system. There will be no signs posted nor any additional traffic.

-A motion was made by Carol Hicks and seconded by Bob Fisher to approve home occupation 98-2 for Jill Bradford under the standard three conditions: (1) no unnecessary traffic or noise is to be generated, (2) pending any written complaint or notification, and (3) for the period of three years.

B. Variance 98-5 John Cuth, 749 Lakewood Lane to permit an addition to an existing house/side setback. (7 foot setback).

-Mark Maki reported that public notice was given and that he did receive one written letter from a William and Peg Gagnon, 754 Lakewood expressing no objections. After an on site measurement Mark Maki found that it will be within 2 ft. of the property line and not the 7 ft. as in the application.

-ZBA members questioned was this measurement to the foundation or would it be measured from the roof overhang? Mr. Cuth indicated that he would not have the standard 2 ft. roof overhang but, rather only have 6 inches of overhang. He would be building walls onto an existing set of concrete steps as seen from the photos and that the steps have always been that close to the property line.

-The house has an above ground basement and the question came up with respect to the height of the house including the addition. Mark Maki indicated that this was only a 75 ft. wide lot or record and that the height would not exceed the 30ft. requirement.

-A motion was made by Bob Pecotte and seconded by Lois Sherbinow to approve variance 98-5 John Cuth, 749 Lakewood Lane approving a 8 ft. setback allowing the addition to be build 2 ft. from the property line providing there is a maximum of 6 inches of roof overhang. Motion passed Aye 4, Nay 0.

C. Home Occupation 98-3 Gary & Kathy Nadeau, 350 Lakewood Lane to permit

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 5-28-98**

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:34 p.m., May 28, 1998 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Lois Sherbinow, Bob Pecotte, Carol Hicks and Robert Fisher. Zoning Administrator Mark Maki was also present.

II. **PUBLIC COMMENT: NONE**

III. **APPROVAL OF THE MEETING MINUTES OF APRIL 23, 1998**

A motion was made by Bob Fisher and seconded by Lois Sherbinow to approve the minutes of April 23, 1998 as submitted. Motion passed Aye 4, Nay 0.

IV. **NEW BUSINESS:**

A. Home Occupation 98-2, Jill Bradford, 555 Little Lake Road, Hydroponic consulting.

-Mark Maki reported that public notice was given and no correspondence was received. The business is to conduct hydroponic consulting off the premises and to grow herbs and vegetables in and around the property (garden). The process will take up approximately a 12' x 10' space within the home.

-Jill Bradford spoke to explain her business. It was to be a part time business and that her hydroponic concept would be outside consultation. Occasionally a client would visit her home to look at her system. There will be no signs posted nor any additional traffic.

-A motion was made by Carol Hicks and seconded by Bob Fisher to approve home occupation 98-2 for Jill Bradford under the standard three conditions: (1) no unnecessary traffic or noise is to be generated, (2) pending any written complaint or notification, and (3) for the period of three years.

B. Variance 98-5 John Cuth, 749 Lakewood Lane to permit an addition to an existing house/side setback. (7 foot setback).

-Mark Maki reported that public notice was given and that he did receive one written letter from a William and Peg Gagnon, 754 Lakewood expressing no objections. After an on site measurement Mark Maki found that it will be within 2 ft. of the property line and not the 7 ft. as in the application.

-ZBA members questioned was this measurement to the foundation or would it be measured from the roof overhang? Mr. Cuth indicated that he would not have the standard 2 ft. roof overhang but, rather only have 6 inches of overhang. He would be building walls onto an existing set of concrete steps as seen from the photos and that the steps have always been that close to the property line.

-The house has an above ground basement and the question came up with respect to the height of the house including the addition. Mark Maki indicated that this was only a 75 ft. wide lot or record and that the height would not exceed the 30ft. requirement.

-A motion was made by Bob Pecotte and seconded by Lois Sherbinow to approve variance 98-5 John Cuth, 749 Lakewood Lane approving a 8 ft. setback allowing the addition to be build 2 ft. from the property line providing there is a maximum of 6 inches of roof overhang. Motion passed Aye 4, Nay 0.

C. Home Occupation 98-3 Gary & Kathy Nadeau, 350 Lakewood Lane to permit

Desktop Publishing.

-Mark Maki reported that public notice was given and that no written correspondence was received. He did however, receive two phone calls with question about additional traffic and what type and how much business was to be conducted within the home.

-Gary Nadeau spoke explaining his proposed business indicating it was small in nature and that he would advertise in magazines only and that it would take up a 6' x 5' area of his home. There would be a few deliveries with very little additional traffic.

-The ZBA members questioned the size and scope of the operation. Mr. Nadeau indicated that when and if his business grew he would move it to a commercial location.

-A motion was made by Carol Hicks and seconded by Bob Fisher to approve Home Occupation 98-3 under the standard three conditions. Motion passed Aye 4, Nay 0.

D. Home Occupation 98-4, Anthony J. Harry, 6369 US-41 South to permit Tony's Cleaning Service.

-Mark Maki reported that public notice was given and no correspondence or phone calls were received. He plans to conduct a cleaning service and his home would have his cleaning supplies and equipment only and that all cleaning would be off site at a customer's location. There will be no signs and that the business would take up approximately 6 sq. ft. of house area for the phone, fax and answering machine.

-Mr. Harry spoke adding that his only vehicle for the cleaning was a caravan and that his home is located on a 30 acre parcel with a private driveway.

-A motion was made by Bob Pecotte and seconded by Bob Fisher to approve Home Occupation 98-4, Anthony Harry, 6369 US-41 South permitting Tony's Cleaning Service under the standard three condition. Motion passed Aye 4, Nay 0.

E. Variance 98-6, Judd and Carol Johnston, 1943 M-28 East to permit an addition within 10 ft. of a side lot line.

-Mark Maki reported that public notice was given and one letter from Glen and Connie Barto, 1951 M-28 east supporting the variance request. The lot is 105 ft. wide and the house with the new addition would be within 6 ft. of the property line.

-The Johnston's spoke indicating their desire to expand the home and that the practical solution to the addition was to be at that end of the home and that they were building off an existing house.

-Carol Hicks spoke to inform his fellow ZBA board member that he would be abstaining from voting on this variance request.

-It was questioned as to how precise was the location of the property line. Mr. Johnston spoke indicating that he had a copy of the survey along with the measurement with the offset distance to the existing house. After a review of the survey it was found that the property line was at a slant to the house and that at it's nearest point the addition would be 7 ft. to the line but at the other end it would be approximately 12 ft. from the line (well within the 10 ft. requirement). Therefore, only a portion of the addition would be too close.

-A motion was made by Bob Pecotte and seconded by Lois Sherbinow to approve a variance for Judd & Carol Johnston, 1943 M-28 East of 3 ft. setback allowing the addition to be 7 ft. from the property line due to the angle of the home to the property line with only a portion of the addition to be in violation of the ordinance. Motion passed Aye 3, Nay 0, Abstain 1.

F. Home Occupation 98-5, David Frazier, 109 Cindy Lane, to permit Frazier

Distribution Company.

-Mark Maki reported that public notice was given and that no correspondence was received. The Frazier's are in the process of purchasing the home located at 109 Cindy Lane and plan to operate their distribution company out of their new home. The business is selling snacks, beef jerky, candy and chip out of a utility van and trailer. There would be UPS deliveries approximately 2-3 times per week along with a semi delivery 2-3 times per month. There would be no signs at the driveway or on the van.

-The ZBA's major question was with respect to the semi-tractor and trailer making deliveries into a residential neighborhood. They questioned what was presently being done with deliveries and could those semi deliveries be dropped elsewhere such as at a small storage building at a rental space.

-A motion was made by Bob Pecotte and seconded by Bob Fisher to approve Home Occupation 98-5, David Frazier, 109 Cindy Lane with the condition that no semi-tractor and trailers be permitted at the home location (UPS deliveries are permitted) and that the owners were to find a suitable storage and semi delivery location off premises. Motion passed Aye 4, Nay 0.

22. UNFINISHED BUSINESS:

A. Consider language for amending zoning ordinance & lot split ordinance.

-Mark Maki provided a copy of a memo explaining the language that is being recommended for lot splits. The new language would drive home the point that in certain cases the lot splits can be conducted but, that lot would not be buildable.

VI. INFORMATION/CORRESPONDENCE: NONE

VII. ADJOURNMENT AT 8:55 p.m.

Respectfully Submitted:



Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 6-25-98**

1. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:37 p.m., June 25, 1998 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Lois Sherbinow, Bill Sanders, Bob Pecotte, Carol Hicks, and Robert Fisher. Zoning Administrator Mark Maki was also present.

II. PUBLIC COMMENT: NONE

III. APPROVAL OF THE MEETING MINUTES OF MAY 28, 1998

A motion was made by Bob Pecotte and seconded by Bob Fisher to approve the minutes of May 28, 1998 as submitted. Motion passed Aye 5, Nay 0.

IV. NEW BUSINESS:

A. Variance 98-5 Dale Eltman, 2026 M-28 East/Variance from Sec. 300 to allow the realignment of a lot line.

-Mark Maki reported that Mr. Eltman owns two lots, one is 200 ft. wide with an existing house. In 1972 the house was constructed and the owner believed it was approximately 20 ft. from the property line, now it is found to be only 8 ft. away thus creating a problem to place a garage on the property. What Mr. Eltman wishes to do is add 60 ft. to his 200' lot making it 260' wide and reducing the second lot by 60' making it 253' wide. He owns both lots and both would now be under the required 300' width.

-No correspondence was received after public notice was given.

-ZBA members discussed the options available to Mr. Eltman and questioned the intent.

-A motion was made by Carol Hicks and seconded by Bill Sanders to approve variance 98-5 for Dale Eltman, 2026 M-28 East allowing the realignment of the two lots to balance the designated widths and still retaining the "build ability" of each lot with each being under the required 300'. One lot would be increased by 60' from 200' to 260' and the other lot would be reduced by 60' from 313.2 to 253.2 Motion passed Aye 5, Nay 0

B. Variance 9806 Scott & Jamie Tuma, 710 Cherry Creek Rd/variance from Sec. 300 front setback for a detached garage. (15 foot setback requested/30 required)

-Mark Maki reported that public notice was given and no correspondence was received. Mr. Tuma wishes to construct a 24 x 28 detached garage to the side of his property, the desired location would not meet the 30' setback. The garage doors will be on the south side as access will be in a circular manner. No direct access will be onto Cherry Creek Road directly from the garage.

-Mr. Tuma spoke indicating that the bluff creates a knoll that makes his choices limited. The septic tank and drain field also complicate matters.

-Bob Pecotte questioned that with the total acreage available that is the practical difficulty?

-Mr. Tuma indicated that while his acreage does extend to the rear, the house is located near the road has a steep topography and in order to keep the garage relatively close to the house his choices are limited.

-A motion was made by Bill Sanders and seconded by Lois Sherbinow to approve variance 98-6 Scott & Jamie Tuma, 710 Cherry Creek Rd. allowing the front setback variance to

15' from the required 30' for construction of the 24' x 28' garage due to the practical difficulty of the topography, with the stipulation that there shall be no parking between the garage and Cherry Creek Rd. Motion passed Aye 5, Nay 0.

C. Class A designation #31 Marian Biang/Julie Garceau request for Class A nonconforming status as well as a 30 x 35 addition to a second dwelling on a lot at 285 Lakewood Lane.

-Mark Maki reported that public notice was given and no correspondence was received. The Lakewood Lane lot has two dwellings on it. The first being the original camp located by the bayou build around 1929, and the second being the newer house built in 1975 near Lakewood Lane road. Julie Garceau is planning to purchase the property pending variance allowing them to remodel and expand the original dwelling. Historically, we have six properties along Lakewood with similar two dwelling situations. The situation of each of these was presented to the ZBA members.

-ZBA members discussed and questioned the designation of two dwelling lots. The intent of the ordinance is to phase these out and that one of the dwelling is the primary and the other secondary (seasonal).

-Bob Pecotte questioned that if we approve this variance request would it set precedence allowing other two dwelling lots to be altered.

-A motion was made by Carol Hicks and seconded by Bill Sanders to approve Class A designation #31 for Marian Biang/Julie Garceau at 285 Lakewood Lane allowing for a shift in the designated primary and secondary dwellings. The 1975 house close to the road will become the secondary dwelling and shall not be expanded upon in any manner and the 1929 dwelling shall become the primary dwelling and it shall be allowed to be remodeled and the 30' x 35' addition to be added. This shift is between the primary and secondary dwelling designation and does not allow for a division of the property; it shall remain as one lot with one ownership. Motion passes Aye 5, Nay 0.

D. Language on Zoning Amendments to consider (regarding lots created which do not comply with lot sizes)

-In as much as some ZBA members did not have a copy of the proposed language available it was deferred to a future meeting.

22. UNFINISHED BUSINESS: NONE

VI. INFORMATION/CORRESPONDENCE: NONE

VII. PUBLIC COMMENT: NONE

VIII. ADJOURNMENT AT 8:45 p.m.

Respectfully Submitted:



Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 7-23-98**

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Acting Chairperson Bill Sanders at 7:34 p.m., July 23, 1998 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Lois Sherbinow, Bill Sanders, and Carol Hicks. Zoning Administrator Mark Maki was also present.

II. PUBLIC COMMENT: NONE

III. APPROVAL OF THE MEETING MINUTES OF JUNE 25, 1998

A motion was made by Lois Sherbinow and seconded by Bill Sanders to approve the minutes of June 25, 1998 as submitted. Motion passed Aye 3, Nay 0.

IV. NEW BUSINESS:

A. Variance 98-7 Don & Joan Johnson for a parcel owned by Jay & Stacy Hillier at 372 Shot Point Drive in Sec. 3 T47N R23W. Variance from permitted use/and height limits for a 30 x 56 garage with a height of 17 feet as defined.

-Mark Maki reported that public notice was given and no correspondence or phone calls were received. The Johnson's have two lots with a total of 250' frontage. This is a two part variance in that (A) they are asking to build the garage before the house, (B) a height variance of 17' from the required 14'. Typically, we have granted variances for the garage to be constructed first when it is assured that the house will follow shortly thereafter. They have indicated that the house would be approximately 22' x 75' therefore the lineal footage of the garage would not be an issue in that the house would have a larger perimeter. The garage is to be 20' at the peak and 14' at the eaves with an average of 17' (ordinance allows for 14').

-Don Johnson spoke indicating that the reason for the variance request is to have a garage for housing his motor home, which is 11' high and 40' long. The garage would be framed and sided to match the future house. They wished to construct the garage this fall and start the house next summer.

-The ZBA questioned if alternate designs would be feasible to decrease the average height somewhat. After considerable discussion it was concluded that the net result would only be in a slight reduction of the height.

-A motion was made by Bill Sanders and seconded by Lois Sherbinow to approve Variance 98-7 for Don & Joan Johnson for the lot at 372 Shot Point allowing them to

construct the garage prior to the house and allowing for the 17' average height thus 3' over the ordinance requirement with the condition that no accumulation of outside storage materials be allowed around the garage. Motion passed Aye 3, Nay 0.

V. UNFINISHED BUSINESS: NONE

VI. INFORMATION/CORRESPONDENCE:

-A letter from Marian & Julie Garceau acknowledging the professional approach taken by both Mark Maki and the ZBA with their variance request in June. A copy was sent to the Township Board.

VII. PUBLIC COMMENT: NONE

VIII. ADJOURNMENT AT 8:10 p.m.

Respectfully Submitted:



Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 8-27-98**

- I.** The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m., August 27, 1998 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Lois Sherbinow, Bill Sanders, Bob Pecotte, Carol Hicks and Robert Fisher. Zoning Administrator Mark Maki was also present.

- II. PUBLIC COMMENT:** Peggie Garrow, 604 Willow Road spoke asking if this was a rezoning for St. Louis The King Church. Mark Maki explained that this was a variance request from a side yard setback requirement.

III. APPROVAL OF THE MEETING MINUTES OF JULY 23, 1998

A motion was made by Bill Sanders and seconded by Lois Sherbinow to approve the minutes of 7-23-98 as submitted. Motion passed Aye 5, Nay 0.

IV. NEW BUSINESS:

A. Variance 98-7 St. Louis The King Church request a variance from Sec 300 Front Lot Line Setback (Willow Road) and Sec. 402 Waterfront Setback (Silver Creek) for new Rectory at Church.

-Mark Maki reported that public notice was given. Some of the Church expansion issues will have to go before the Planning Commission due to the fact that this is a church functioning under Conditional Use. The waterfront issue will not have to be acted upon by the ZBA due to the fact that existing properties are exempt. (Sec. 402) We will only have to deal with (Sec. 300) setbacks. Because the Church fronts on two roads it is to meet with front yard setbacks on two sides. (Silver Creek Road and Willow Road) requiring 30 ft. The existing Church building is 10 ft. Setback from Willow road. The Garrow house and property is across the road to the West. A letter from the architectural firm Architron from Minneapolis explaining the variance and design was read into the record. A second letter voicing disapproval from George Schmidt, 5010 U.S. 41 South was also read into the record.

-The ZBA discussed and questioned Richard Schaefer, (Church Building Committee Chair) and Father Guy Thoren about their variance request.

-Clyde and Peggie Garrow spoke indicating that their property abuts with the Church and that parking has been a problem along Willow Road during church services.

-A motion was made by Bill Sanders and seconded by Carol Hicks to approve variance 98-8 for St. Louis The King Church allowing for a 15 ft. variance from the required 30 ft. along Willow Road for the new Rectory addition onto the Church. This variance is in keeping with the alignment of the existing Church building and would place the steps and barrier free ramp completely onto the Church's property. Motion passed Aye 5, Nay 0.

B. Request for a Tourist Identification Sign by William and Judy Smith for a Bed & Breakfast at 2442 M-28.

-Mark Maki reported that they wish to have a 22-sq. ft. sign (present sign). This being in a residential neighborhood the sign size would have to be much smaller. A letter is on file with the Township from the State Highway Department indication that they have no problems with the sign being placed out on the highway's right-of-way. The Township received three letters indicating no objections to the sign. We have not amended our ordinance for Tourist Bed & Breakfast signs.

-A motion was made by Bob Fisher and seconded by Bill Sanders to approve a sign (present sign) with the maximum size to be 22-sq. ft. and a maximum height of 8 ft. Motion passed Aye 5, Nay 0.

C. Variance 98-9 David Meadows 1430 M-28 requests a variance from Sec. 804 to allow up to 588 sq. ft. Of sign area including an existing billboard, pole sign and new sign of 192 sq. ft. on building at 1420-1430 M-28 East.

-Mark Maki reported that public notice was given and no correspondence or phone calls were received. The two billboards further complicate the issue. The owner wishes to replace the existing signs with new "Trade Winds Plaza" pole sign with each business having a standardized sign. The final square footage of signs requested would be 96 sq. ft. on the pole, 96 sq. ft. on the buildings and 72 sq. ft. in the windows for a total of 264 sq. ft. Based on the frontage it should only be 135 sq. ft. The present signage were all legal in 1979-1982 when three billboards were authorized in this area. In 1996 Mr. Varvil subdivided the area and sold land around the structure creating a noncompliance.

-The ZBA discussed the issue and questioned Mark Maki on its merits.

-A motion was made by Bob Pecotte and seconded by Boh Fisher to approve variance request 98-9 for David Meadows at 1430 M-28 East allowing the new signage under the following conditions:

1. Authorize the one pole sign (Plaza sign) not to exceed 96 sq. ft.
2. Authorize one sign per business not to exceed three, which contains not more than 32 sq. ft. each on building front, for at total of 96 sq. ft.
3. Authorize up to 72-sq. ft. of sign area in the window areas.
4. Total sign are not to exceed 264 sq. ft. At 1430 M-28 East.
5. All signs within the highway right-of-way to be removed within 45 days.

Motion passed Aye 5, Nay 0.

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 9-24-98**

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m., September 24, 1998 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Lois Sherbionw, Bill Sanders, Bob Pecotte, Carol Hicks and Robert Fisher. Zoning Administrator Mark Maki was also present.

II. **PUBLIC COMMENT: NONE**

III. **APPROVAL OF THE MEETING MINUTES OF AUGUST 27, 1998**

A motion was made by Bob Fisher and seconded by Bill Sanders to approve the minutes of 8-27-98 as submitted. Motion passed Aye 5, Nay 0.

IV. **NEW BUSINESS:**

A. Variance 98-10 Tab & Laura Lonergan 128 Chocolay River Trail. Request a variance from Sec. 300 Heights.

-Mark Maki reported that public notice was given with only one letter of support received from Pete O'Dovero which was read into the record. This house will be located at the end of the road and there is a hill that it will be constructed into thus having a walk-out basement. The Fire Department has some concern with the height exceeding the 30 ordinance. The house would average approx. 27 ft. in height except our ordinance has language that reads to the height of the peak. The site creates some difficulty.

-The ZBA members debated the issues and discussed their concerns.

-A motion was made by Bill Sanders and seconded by Bob Fisher to approve variance 98-10 for Tab & Laura Lonergan at 128 Chocolay River Trail allowing the peak height to be up to 35 ft. due to the unique topography of that designated lot. Motion passed Aye 5, Nay 0.

B. Variance 98-11 St. Louis The King Church, 264 Silver Creek Road. Height variance and Parking variance.

-Mark Maki reported that public notice was given and one letter from George Schmidt, Bide-A-While Trailer Park was read into the record. Mr. Schmidt was opposing the variance request. Also read into the record was the response from the Fire Department voicing their concerns pending receipt of some information from the Design firm.

-Father Thoren spoke explaining their request. Phil from the Design firm was present and answered many questions posed by the ZBA.

-Mark Maki informed the ZBA that the Planning Commission also met and gave approval for "conditional use." for this project.

-The discussion centered around the techniques of how to ventilate the building during a fire and the cupola located at the peak.

-A motion was made by Carol Hicks and seconded by Bill Sanders to approve variance 98-11 for St. Louis The King Church allowing for the construction of the new Church addition as submitted with the average height of 45 ft. (maximum height of 53 ft) with the provision that the fire departments concerns be met with respect to fire breaks and roof ventilation. Ventilation is to be provided by openable awning windows at the peaks

cupola activated with power drives that are hard wired into the smoke detection and fire alarm system. Motion passed Aye 5, Nay 0.

98-11 part B - Parking

-Mark Maki spoke indicating that initially the Church planned for only 300 seats within the pew area and that would only require 105 parking spaces. However, in the future the seating could be upgraded to 450 people thus requiring 158 parking spaces. The question before the ZBA is whether or not they should install all 158 stalls now or be granted a variance allowing them to stop at the 103 stalls as per their present planned seating capacity.

-The ZBA questioned whether or not they had the space for all 158 stalls and should they be required to expand their parking spaces when they expand their seating capacity?

-A motion was made by Carol Hicks and seconded by Bob Fisher to approve the parking variance for Variance 98-11 St. Louis The King Church allowing for the initial parking of 105 stalls thus meeting the initial seating capacity of 300 people with the provision that when the seating capacity is expanded to the full 450 the parking lot will also be expanded to the full 158 stalls and that the Architect will provide a site drawing showing all 158 stalls. Motion passed Aye 5, Nay 0.

- V. UNFINISHED BUSINESS: NONE
- VI. INFORMATION/CORRESPONDENCE: NONE
- VII. PUBLIC COMMENT: NONE
- VIII. ADJOURNMENT AT 8:42 p.m.

Respectfully Submitted:



Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 10-20-98**

I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:38 p.m., October 20, 1998 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Lois Sherbinow (arrived a few minutes late), Bob Pecotte, Carol Hicks and Robert Fisher. Zoning Administrator Mark Maki was also present.

II. PUBLIC COMMENT: Michael and Denise Mullins spoke and introduced themselves.

III. APPROVAL OF THE MEETING MINUTES OF OCTOBER 8, 1998.

A motion was made by Bob Fisher and seconded by Carol Hicks to approve the minutes of 10-8-98 as submitted. Motion passed Aye 3, Nay 0.

IV. NEW BUSINESS:

A. Variance 98-13 Michael and Denise Mullins, 321 Silver Creek Road (Sec 300) front yard setback for addition: 13' setback at closest point.

- Mark Maki reported that public notice was given and one correspondence was received. It was an unsigned letter opposing everything done by our local government agency that affects a landowner. The letter was read into the record. This is a front setback issue in that the original house was built in the 1930's on a lot with 150 ft. frontage and 200 ft. deep. There are a number of homes in that area that are close to the road and do not comply with setbacks. The design and layout dictates their choice of setback. The owners plan to reside the entire house and replace windows and doors as well as adding the side addition.

-Zoning Board of Appeals members questioned the location of the new door entry and the off street parking. It was resolved that the door entry would be to the side and rear and that a driveway would loop around to the rear of the house as it presently does and that no activity would take place at the front of the home.

-A motion was made by Bob Fisher to approve variance request 98-13 for Michael and Denise Mullins at 321 Silver Creek Road for a front yard setback of 13 ft. at the closest point to the front property line. No portion of the house addition will project out any closer than the existing structure and no parking lot is to be allowed to the front of the house. There will be no new addition to a front porch to the street side. This variance is being granted due to the fact that it will not be out of character to the existing neighborhood. Motion passed Aye 4, Nay 0.

B. Variance 98-14 Scott Ely, 225 Jean Street for M-28 East, lot location (Sec 204 (B) to allow a detached accessory building prior to the single family dwelling. (30' x 50' proposed garage).

-Mark Maki reported that public notice was given and one inquiry was received raising the question as to what was the intended use of such a large garage. We have had several cases in the past requesting to build the garage prior to the house and we have granted those requests. This garage, while being quite large, (30' x 50') will not exceed our height ordinance, and will have two front doors and covered with vinyl siding to match the future house. Its intended use is for storage and inside RV parking. In the past we have attached three conditions:

- 1) No outside storage or accumulation of junk.
- 2) Use is to be primarily storage of personnel items.
- 3) Future dwelling (house) is to have a perimeter equal to or larger than the garage.

- The Zoning Board of Appeals questioned the intended use and the timeline as to when the future house would be built. Mr. Ely indicated that the garage would be used primarily for storage of his personal items such as recreational toys and that he planned to build a house within five years.

A motion was made by Bob Fisher and seconded by Lois Sherbinow to approve variance 98-14 for Scott Ely for his lot on M-28 East allowing that a garage be built prior to the house under the following conditions: That the garage comply with ordinance conditions such as height requirements and setbacks and that it conform to the above mentioned three conditions. Motion passed Aye 4, Nay 0.


V. UNFINISHED BUSINESS: The next scheduled Zoning Board of Appeals meeting will be Thursday, November 5.

VI. INFORMATION/CORRESPONDENCE: NONE

VII. PUBLIC COMMENT: NONE

VIII. ADJOURNMENT AT 8:22 PM

Respectfully Submitted,



Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 10-20-98**

I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:38 p.m., October 20, 1998 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Lois Sherbinow (arrived a few minutes late), Bob Pecotte, Carol Hicks and Robert Fisher. Zoning Administrator Mark Maki was also present.

II. PUBLIC COMMENT: Michael and Denise Mullins spoke and introduced themselves.

III. APPROVAL OF THE MEETING MINUTES OF OCTOBER 8, 1998.

A motion was made by Bob Fisher and seconded by Carol Hicks to approve the minutes of 10-8-98 as submitted. Motion passed Aye 3, Nay 0.

IV. NEW BUSINESS:

A. Variance 98-13 Michael and Denise Mullins, 321 Silver Creek Road (Sec 300) front yard setback for addition: 13' setback at closest point.

- Mark Maki reported that public notice was given and one correspondence was received. It was an unsigned letter opposing everything done by our local government agency that affects a landowner. The letter was read into the record. This is a front setback issue in that the original house was built in the 1930's on a lot with 150 ft. frontage and 200 ft. deep. There are a number of homes in that area that are close to the road and do not comply with setbacks. The design and layout dictates their choice of setback. The owners plan to reside the entire house and replace windows and doors as well as adding the side addition.

-Zoning Board of Appeals members questioned the location of the new door entry and the off street parking. It was resolved that the door entry would be to the side and rear and that a driveway would loop around to the rear of the house as it presently does and that no activity would take place at the front of the home.

-A motion was made by Bob Fisher to approve variance request 98-13 for Michael and Denise Mullins at 321 Silver Creek Road for a front yard setback of 13 ft. at the closest point to the front property line. No portion of the house addition will project out any closer than the existing structure and no parking lot is to be allowed to the front of the house. There will be no new addition to a front porch to the street side. This variance is being granted due to the fact that it will not be out of character to the existing neighborhood. Motion passed Aye 4, Nay 0.

B. Variance 98-14 Scott Ely, 225 Jean Street for M-28 East, lot location (Sec 204 (B) to allow a detached accessory building prior to the single family dwelling. (30' x 50' proposed garage).

-Mark Maki reported that public notice was given and one inquiry was received raising the question as to what was the intended use of such a large garage. We have had several cases in the past requesting to build the garage prior to the house and we have granted those requests. This garage, while being quite large, (30' x 50') will not exceed our height ordinance, and will have two front doors and covered with vinyl siding to match the future house. Its intended use is for storage and inside RV parking. In the past we have attached three conditions:

- 1) No outside storage or accumulation of junk.
- 2) Use is to be primarily storage of personnel items.
- 3) Future dwelling (house) is to have a perimeter equal to or larger than the garage.

- The Zoning Board of Appeals questioned the intended use and the timeline as to when the future house would be built. Mr. Ely indicated that the garage would be used primarily for storage of his personal items such as recreational toys and that he planned to build a house within five years.

A motion was made by Bob Fisher and seconded by Lois Sherbinow to approve variance 98-14 for Scott Ely for his lot on M-28 East allowing that a garage be built prior to the house under the following conditions: That the garage comply with ordinance conditions such as height requirements and setbacks and that it conform to the above mentioned three conditions. Motion passed Aye 4, Nay 0.

V. UNFINISHED BUSINESS: The next scheduled Zoning Board of Appeals meeting will be Thursday, November 5.

VI. INFORMATION/CORRESPONDENCE: NONE

VII. PUBLIC COMMENT: NONE

VIII. ADJOURNMENT AT 8:22 PM

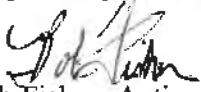
Respectfully Submitted,



Carol Hicks, Secretary

VIII. ADJOURNMENT AT 6:15 p.m.

Respectfully submitted:



Bob Fisher, Acting Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 11-5-98**

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 5:40 p.m., November 5, 1998 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Lois Sherbinow, and Robert Fisher.

ABSENT: Carol Hicks, Bill Sanders.

Zoning Administrator Mark Maki was also present.

- II. **PUBLIC COMMENT: NONE**

- III. **APPROVAL OF THE MEETING MINUTES OF OCTOBER 20, 1998**

Motion made by Lois Sherbinow, second by Bob Fisher to approve the minutes of 10-20-98 as submitted. Motion passed Aye 3, Nay 0.

- IV. **NEW BUSINESS:**

A. Variance 98-15 Gail Ruffus 665 Lakewood Lane, variance to allow a second story (12x36) addition with an 8 foot setback to east lot line (10 foot side setback required).

-Mark Maki reported that public notice was given and no correspondence has been received. ZBA members considered how close the 667 Lakewood Lane property was to the west line in their discussion. The 2nd story will be no closer to the line than the current structure. The 8-foot setback complied with the zoning ordinance when it was built.

Motion was made by Bob Fisher and second by Bob Pecotte to approve variance request 98-15 due to a recognition of the 75 foot lot width and the fact that the proposed addition will be no closer than the existing structure.

B. Variance 98-16 Pete & Amy Henrickson 6425 US 41 South, variance from Sec 106 to allow two detached single family dwellings on a lot in R-1 and a variance from Sec 401 to allow a single family dwelling with a floor area of 320 sq. ft. (Sec 401 requires 800 sq. ft. minimum).

Mark Maki reported that public notice was given and no return correspondence was received. Mark also presented two letters dated Sep 97 and Feb 98 addressed to Mr. Peter Henrickson. There was considerable discussion with Mr. Henrickson by ZBA members regarding both variance requests. There appeared to be no practical difficulty for the property owner to comply with the current zoning ordinance as he has enough land to create a second lot. The Board also noted that the dwelling proposed only contained 320 sq. ft.

Motion was made by Bob Pecotte and second by Lois Sherbinow to deny variance request 98-16 because the applicant failed to demonstrate the practical difficulty in merely converting a small storage building to a single family dwelling on a lot. Options to subdivide and add on were discussed as possible alternatives.

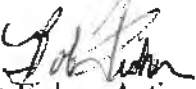
- V. **UNFINISHED BUSINESS: The next scheduled ZBA meeting is TBA.**

- VI. **INFORMATION/CORRESPONDENCE: None**

- VII. **PUBLIC COMMENT: NONE**

VIII. ADJOURNMENT AT 6:15 p.m.

Respectfully submitted:



Bob Fisher, Acting Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 12-22-98**

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m., December 22, 1998 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Lois Sherbinow, Bill Sanders, Robert Pecotte, Carol Hicks and Robert Fisher. Zoning Administrator Mark Maki was also present.

II. **PUBLIC COMMENT: NONE**

III. **APPROVAL OF THE MEETING MINUTES OF NOVEMBER 5, 1998.**

Motion was made by Lois Sherbinow, seconded by Bill Sanders to approve the minutes of 11-5-98 as submitted. Motion passed Aye 5, Nay 0

IV. **NEW BUSINESS:**

A. Variance 98-17 Brian Anderson/Peter O'Dovero PO Box 970. Request a variance from sec 300 and 402 to allow a building site on a 14 acre parcel without frontage on a public road as required by Sec 402. The parcel does not comply for the easement access of 20 feet as allowed be section 402 because the parcel was subdivided. The parcel has access off of Maple Road.

-Mark Maki reported that public notice was given and one letter from Howard Morrison, 111-117 E. Spring St. was received. Mr. Morrison along with his co-owners of the adjacent property requests a delay of 30 days on any action so that his partners who are out-of-state can respond to the request. (Roland Vashaw, and Richard Jacobs). Mr. Pearson who is a regional logger cut a egress deal from Mr. DeMeuse to gain access to the property. Mr. Pearson in turn conveyed a strip of land up to the shoreline of Lake Kawbaugan. Mr. Pearson created the problem when he sold off the 50 ft. strip to Mr. DeMeuse

-Mr. Jim Clark, spokesperson for Pete O'Dovero properties addressed the ZBA to clarify how Mr. O'Dovero acquired the property and now wished to sell it to Brian Anderson. A 20 ft. wide road with a 4" gravel base has been build through the DeMeuse property along with a written easement to connect the parcel out to Maple Road.

Mr. Anderson spoke explaining the existing camp building and what he plans to do with the property. Essentially, he plans to construct one single family residence and build his own personal home.

-Mr. Morrison spoke indicating that he has no objection to this now explained request in that it will have only a single family dwelling. He originally did not know the development intent for the parcel.

-ZBA discussion continued along with questioning the location of the flood plane.

-A motion was made by Bill Sanders and seconded by Bob Fisher as follows:

Variance request 98-17 for Brian Anderson/Peter O'Dovero be approved to allow a single building site on the 14 acre parcel without frontage on a public road as required by Section 402, due to the unusual circumstances involved in the previous division of the parcel. This approval is subject to the following conditions:

1. The parcel will be developed as a single building site.
2. The access road will be properly signed for township services at locations both on the driveway and Maple Road. The original driveway must be well marked so that there is no question that they are two residences along that road.
3. All zoning compliance and flood plane checks must be addressed prior to construction.

V. UNFINISHED BUSINESS: NONE

VI. INFORMATION/CORRESPONDENCE: There is a basic training workshop available for ZBA members on Wed. Feb. 3.

VII. PUBLIC COMMENT: NONE

VIII. ADJOURNMENT AT 8:30 p.m.

Respectfully submitted:



Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 3-25-99**

I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m., March 25, 1999 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Lois Sherbinow, Robert Pecotte, and Bill Sanders.

ABSENT: Carol Hicks, Robert Fisher.

Zoning Administrator Mark Maki was also present.

II. PUBLIC COMMENT: NONE

III. APPROVAL OF THE MEETING MINUTES OF DECEMBER 22, 1998

Motion made by Lois Sherbinow, second by Bill Sanders to approve the minutes of 12-22-98 as submitted. Motion passed Aye 3, Nay 0.

IV. NEW BUSINESS:

A. Variance 99-1 Lindberg & Sons/Ted Wittler

Variance request from Sec 404 setback for a mining operation in Sec 27 T47N R24W. The proposed mining operation is within 3000 feet of a Church and within 1500 feet of several private wells.

The zoning ordinance has established setbacks to control mining impacts. Comments received from the Pastor of the Green Garden Church indicating he did not see any problems with the mining operation affecting the church use except for special services which he cannot predict.

Mark Maki explained the 3-mile road project this summer and the plan to take fill and possibly bury concrete on the Wittler site. This should not affect the church use, as the road project will not be in operation on weekends. All private wells are 1000 to 1200 feet away and no activities are involved which should be of concern.

A mining permit from the Township Board will still be required even if the variance is granted.

Motion by Bill Sanders second by Lois Sherbinow to grant the variances from the church 3000 ft setback and the 1500 foot private well setback due to the fact that the operation will not be in use on Sunday and the fact that the operation is limited in time (summer 99) and has no activities which would affect private wells. Ayes: 3 Nays: 0

B. Variance 99-2 St. Louis Church 264 Silver Creek Road

Variance request to:

1. Allow a 20-foot setback for the rectory on east line.
2. Allow parking spaces 9 feet wide instead of 10 feet wide
3. To allow required parking to include existing parking with 75 spaces on site and 30 spaces in current use.

-Letter received from John Hlinak 234 Silver Creek Road opposed to the variance for a 20-foot setback.

-Public comment received by Mrs. Hahka concerned about the requested 20-foot setback and concern about existing buffer as this abuts her property.

Motion by Bill Sanders second by Lois Sherbinow to grant the variance to allow 9 foot parking stall widths due to the fact that the spacing are only used primarily one day a week and to require 70 new on site parking spaces to meet the current requirement of 105

spaces for 300 seating capacity, due to the fact that the church has 30 spaces currently in use on the west and north side of the existing church this will allow the rectory to realign with a 30-foot east lot line setback. Ayes: 3 Nays: 0

Note: Total on-site spaces once the seating capacity is expanded from 300 to 450 will require 123 spaces on site.

C. Variance 99-3 Jim & Marlene Fisher for 278 Lakewood Lane

Variance request to allow a garage prior to the construction of the house and to permit a garage with a height of 16 feet. The ordinance only permits a 14 foot height. Applicant indicate the house will be built this summer and that the garage is to be used to house a recreational vehicle and that the roof pitch 6/12 is designed to compliment the future house design.

Motion by Bill Sanders second by Lois Sherbinow to grant the variance noting that the garage is setback in excess of the 10' required and is about 30 feet to the lot lines and that the garage pitch is consistent with the proposed house roof pitch with a condition that no outdoor storage is permitted until the house is constructed.

Ayes: 3 Nays: 0

V. UNFINISHED BUSINESS: None.

VI. INFORMATION/CORRESPONDENCE: None

VII. PUBLIC COMMENT: NONE

VIII. ADJOURNMENT AT 8:15 p.m.

Respectfully submitted:



Bill Sanders, Acting Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 4-22-99**

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m., April 22, 1999 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Lois Sherbinow, Bill Sanders, Robert Pecotte, Carol Hicks and Robert Fisher. Zoning Administrator Mark Maki was also present.

II. **PUBLIC COMMENT: NONE**

III. **APPROVAL OF THE MEETING MINUTES OF MARCH 25, 1999.**

Motion made by Bill Sanders and seconded by Lois Sherbinow to approve the minutes of 3-25-99 as submitted. Motion passed Aye 5, Nay 0.

IV. **NEW BUSINESS:**

- A. Variance 99-4 Andy Griffin, 518 Riverside Road, Marquette, Mi. A request to add a 16 x 18 addition to an accessory building. The addition is setback 19 feet to the M-28 lot line.

-Mark Maki reported that public notice was given. He did receive one inquiry from the Prince of Peach Church however, there were no objections to the request. The addition is onto an existing accessory building the has had a prior variance due to the setback distance to the M-28 right-of-way. A similar request is being made today for the addition.

Due to the property being a corner lot it must meet 30 ft. Setbacks from three sides as is all are fronting on a street. The ordinance requires 30 ft. and the addition will only be 19 ft. thus a variance for 11 ft. is being requested.

-It was questioned as to the total lineal footage of the house in comparison to the L.F. around the accessory building. The house has 172 L.F. and the accessory building with the addition will total 160 L.F., thus it would meet that requirement.

-A motion was made by Carol Hicks and seconded by Bob Fisher to approve variance 99-4 for Andy Griffin, 518 Riverside Road allowing for the 16 x 18 addition onto his accessory building being built 19 ft. setback from M-28 R.O.W. instead of the required 30 ft. due to the unique corner lot configuration requiring three sides to meet this setback distance, provided that no placement of materials and debris be placed outside the structure. Motion passed Aye 5, Nay 0.

- B. Home Occupation 99-1 Dawn Wood, 105 Alderbrook. A request to conduct a manicuring salon at 105 Alderbrook.

-Mark Maki reported that public notice was given and no correspondence nor inquiries was received. A careful review of the application seems to be in order and that questions should be raised as to the sign size and if additional traffic will be generated within the neighborhood and is any unnecessary noise will be generated. He sees no specific problem with the application.

-Dawn Wood spoke and indicated that one additional car would be in the driveway when a client arrives for an appointment. The sign was to be a small neon sign placed in the front window. No chemicals will be used nor disposed on on the premises and the salon will be in one of their bedrooms.

-A motion was made by Bill Sanders and seconded by Lois Sherbinow to approve Home Occupation 99-1 for Dawn Wood at 105 Alderbrook to operate a Manicuring Salon

within her home. This approval is for the standard three year term and subject to review upon any written complaint. Motion passed Aye 5, Nay 0.

V. UNFINISHED BUSINESS:


-Mark Maki made mention that he will be writing a letter to the owners of the Drydock Bar in reference to their landscaping obligation as well as Chocolay Township with regards to the landscaping requirements placed on the variance granted for the police office addition.

VI. INFORMATION/CORRESPONDENCE: NONE

VII. PUBLIC COMMENT: NONE

VIII. ADJOURNMENT AT 7:52 p.m.

Respectfully submitted:



Carol Hicks, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 5-27-99**

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:35 p.m., May 27, 1999 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Robert Fisher, Lois Sherbinow, Bill Sanders, Robert Pecotte. Absent: Carol Hicks. Zoning Administrator Mark Maki was also present.

- II. **PUBLIC COMMENT: NONE**

- III. **APPROVAL OF THE MEETING MINUTES OF APRIL 22, 1999.**

Motion made by Bill Sanders and seconded by Lois Sherbinow to approve the minutes of 4-22-99 as submitted. Motion passed Aye 4, Nay 0.

- IV. **NEW BUSINESS:**

Variance 99-5 Rodney and Victoria Weisinger, 300 Ford Road, Marquette, MI. A request to allow an attached garage at an 11 foot front yard setback (30 feet required).

Mark Maki reported on the above request. As a corner lot a 30 foot setback is required on both sides. The lot was developed before Aspen Drive was built. There is a good clear distance from both Aspen and Ford Road. There is actually 29 feet of vegetation from the garage to the road line. It was suggested that should a variance be granted that a condition of no future curb cut off Aspen Drive be attached.

A motion was made by Bill Sanders and seconded by Bob Fisher that Variance 99-5 be approved with a condition that no future curb cut off Aspen Drive be allowed. The approval was given based on the lot development prior to the building of Aspen Drive and clear vision distances involved. Motion passed Aye 4, Nay 0.

- V. Unfinished Business:

- A. The Catholic Church project is proceeding as per variances and plans.
- B. Mark Maki is working on the "Drydock" variance process.
- C. Mark Maki has sent a letter to DPW Supervisor Larry Gould re: Chocolay Township variance process.

- VI. Information/Correspondence: None

- VII. Public Comment: None

- VIII. Adjournment was at 7:50 p.m.

Respectfully submitted,



Bob Fisher, Acting Recording Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 6-24-99**

- I.** The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m., June 24, 1999 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Lois Sherbinow, Bill Sanders, Robert Pecotte. Absent: Carol Hicks, Robert Fisher.
Zoning Administrator Mark Maki, Jim Blondeau, Fire Chief was also present.

II. PUBLIC COMMENT: NONE

III. APPROVAL OF THE MEETING MINUTES OF MAY 27, 1999.

Motion made by Bill Sanders and seconded by Lois Sherbinow to approve the minutes of 5-27-99 as submitted. Motion passed Aye 3, Nay 0.

IV. NEW BUSINESS:

- A.** Variance 99-6 Denis Kallery, Co Rd BX. Height for dwelling in excess of 30 feet. Clarification given on proposed building height. Height as proposed is about 35 feet as building is exposed 3 feet 6 inches (basement) and roof pitch 12/12. Mr. Kallery is tearing down a log house and rebuilding it. The house currently has a 2 foot exposed (basement) and has a 10/12 pitch with a height of 31 as it sits in Palmer.

Mark Maki, Zoning Administrator commented that the building meets other zoning codes as they use the average height. Chocolay's Zoning Ordinance has stricter requirements and refers to peak height of 30. Memo received from Mark Maki dated June 17, 1999 regarding past height variances.

Memo received from Township Board with the following motion:

"Fende Moved, Bohjanen Second, that the Board send a letter to the Zoning Board of Appeals that they should not approve any structure over 30' until hearing the recommendation of the Chocolay Township Fire Department as to whether height and/or other unique features will impede saving the structure and/or lives."

It was noted that the Fire Department routinely receives the Zoning Board of Appeals agenda.

Jim Blondeau, Fire Chief, commented on need for all concerned to be aware of the Fire Department's ability to fight fires and the issue of having construction accessible to fire fighters that are safe for all concerned. Memo received from the Fire Department dated June 22, 1999 regarding Mr. Kallery's variance request this memo was reviewed.

No public comment/letters received on the application.

Discussion on the ability to revise plans by having the basement only exposed 2 feet and keeping a 10/12 pitch which would bring the access roof to 21 feet 6 inches and would reduce the height to 31 feet.

Motion by Bob Pecotte, second by Lois Sherbinow to modify the variance request to allow a 1-foot deviation since this will allow reasonable development but still come very close to the current height requirement. This structure could then be more accessible to fire department personnel. Carried 3-0

- B.** Variance 99-7 Gary & Loretta Revord for a lot at 7001 US 41 South request a

variance a variance to construct a 30 x 36 garage prior to the dwelling. The house dwelling will be constructed next year. The lot is 11 acres in size and the garage is in excess of 150 feet to all lot lines including 400 feet to US 41 and not visible.

No public comment/letters received.

Discussion on approach to review these types of request. Mark feels that these should either be allowed with a condition or a conditional use rather than a variance.

Motion by Bill Sanders, second by Lois Sherbinow to allow the garage construction as proposed and as shown on the site plan providing no outdoor storage of materials and providing that the use be limited to storage. Carried 3-0.

V. UNFINISHED BUSINESS:

1. Review of Paul Watters, Dry Dock Bar variance condition regarding green area. Noted that some work has been done and the Zoning Administrator should monitor to insure that the area is not used for parking.
2. Review of Township Police Addition variance conditions regrading replacement of shrubs (cedars) and shade tree on north side of the building. It was noted Larry Gould had a response to inquiry with concerns about moisture problems and building foundation damage as well as maple tree planted in southeast corner of the building. Zoning Administrator requested to draft letter to Supervisor requesting that if the township feels they cannot comply with the conditions to approach the ZBA for presentation of reasons and/or alternatives.
3. Togo's Building-Variance requirements regarding height conditions. Zoning Administrator to draft a letter for review about possibility of adding these items.
4. St. Louis the King Church-Height variance-Discussion about reference of fire breaks. ZBA noted that while fire breaks were an issue it would appear that these are building code requirements not necessarily related to the height variance.

This could have been addressed when the Chocolay Township Planning Commission reviewed the site plan but the Fire Dept. was not notified at that time.

I. INFORMATION/CORRESPONDENCE:

1. ZBA received court of appeals case regarding Tim Menhennick lawsuit, which has been denied for having no basis for complaint.

VII. PUBLIC COMMENT: NONE

VIII. ADJOURNMENT AT 9:00 p.m.

Respectfully submitted:



Bill Sanders
Acting Recording Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 7-22-99**

- I.** The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m., July 22, 1999 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Robert Fisher, Lois Sherbinow, Bill Sanders, Robert Pecotte. Absent: Carol Hicks. Zoning Administrator Mark Maki was also present.

II. PUBLIC COMMENT: NONE

III. APPROVAL OF THE MEETING MINUTES OF JUNE 24, 1999.

Motion made by Sanders and seconded by Sherbinow to approve the minutes of 6-24-99 as submitted. Motion passed Aye 4, Nay 0.

IV. NEW BUSINESS:

1. Public Hearing Class A non conforming designation #32 and Variance 99-8 Stephen and Sandra Johnson, 2424 US 41 South/Request to replace a roof on a garage which does not meet setbacks/structural alteration.

This request is regarding an old building (garage) which was built in the 1930's to 1950's. Four criteria must be met to change from Class B to a Class A nonconforming see Section 601-DEFINITION AND CLASSIFICATION OF LAWFUL NONCONFORMING USES AND STRUCTURES. Discussion was held by the Board and it was agreed that the four criteria were being met.

There was no public correspondence received from any neighbors.

Motion by Sanders, support Sherbinow for approval from a Class B to a Class A nonconforming use and structure. Motion passed Aye 4, Nay 0.

Motion by Sanders, support Sherbinow to approve replacement of a garage roof as submitted per Class A structural alteration and Variance 99-8 as submitted. Motion passed Aye 4, Nay 0.

2. There was a general presentation by Mark Maki for awareness and informational purposes re: the Chocolay ZBA Budget for year 2000.

V. UNFINISHED BUSINESS

1. A letter from Mark Maki to Mr. Joe Fountain was reviewed.
2. Mark Maki will also review the issue re: proposed grounds maintenance around the Township building.

VI. INFORMATION CORRESPONDENCE: None.

VII. PUBLIC COMMENT: NONE

VIII. ADJOURNMENT AT 7:50 p.m.

Respectfully submitted,



Bob Fisher, Acting Recording Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES 8-26-99**

- I.** The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 p.m., August 26, 1999 in the meeting room of the Township Hall.

Zoning Board of Appeals members present were Robert Pecotte, Lois Sherbinow, Bill Sanders, Robert Fisher, and Carol Hicks. Zoning Administrator Mark Maki was also present.

II. PUBLIC COMMENT: NONE

III. APPROVAL OF MEETING MINUTES OF JULY 22, 1999.

A Motion was made by Bill Sanders and seconded by Lois Sherbinow to approve the minutes of 7-22-99 as submitted. Motion passed Aye 4, Nay 0. Member Bill Sanders was not present as of this time).

IV. NEW BUSINESS:

1. Randy Gentz/Homestead Golf Course - Request for a golf course directional sign per Sec. 812.

-Mark Maki reported that public notice was given and not correspondence was received. Section 812 calls for 24 sq. ft. of directional signage. This directional sign should not be a problem and his ZBA request is to allow him to continue with the County Road system to allow for the sign.

-A motion was made by Carol Hicks and seconded by Bill Sanders to approve the request for directional signage for Homestead Golf Course along Co. Rd. 480 as per Section 812. Motion passed Aye 5, Nay 0.

2. Variance 99-10 Family Dollar Store-Kerry Sorensen, 190 W. Wright Place.

-Mark Maki reported that public notice was given and no written comments were received. Mark had spoken with Silver Creek Public School (back yard adjoining property) There is a large buffer of trees separating the properties. A 30 ft backyard setback is required and they wish to build 12 ft from the lot line.

-Discussion centered around the 30 setback due to adjoining residential neighborhoods and that the school playground is to that side. It was questioned if this setback were to include the roof overhang.

-A motion was made by Carol Hicks and seconded by Lois Sherbinow to approve the variance request for the 12 ft setback thus granting an 18 ft variance provided that they keep as much of the trees as possible around the rear of the building. Motion passed Aye 5, Nay 0.

3. Variance 99-11 James McDonald for a parcel at 2288 US 41 S. Variance from Sec. 300 to allow a cabinet shop with 7 spaces for parking and 12 foot aisle serving 2 of the spaces. 9 spaces are required.

-Mark Maki reported that public notice was given and no written correspondence was received. Variance from Sec 300 is to have 5 parking stalls and 2 parking spaces in the aisle area for a total of 7 spaces whereas the ordinance requires 9 stalls.

-Bob Carter (owner of parcel immediately to the South) spoke up and said that he had problems with the width of the sideyard aisle (driveway). After some discussion as to the location of the property line his objections were withdrawn and he had no problems with the request. He strongly wishes that no snow is to be pushed over onto his property, as has been the case with the prior owners.

-A motion was made by Bill Sanders and seconded by Bob Pecotte to approve variance request 99-11 allowing for 7 parking spaces instead of the required 9 with the condition that if parking ever becomes a problem with business growth and additional spaces are required he must address the parking issue. If the property undergoes a change in use this

issue of parking must return to the ZBA and that this variance applies only to the present Carpenter Shop business. Motion passed Aye 5, Nay 0

4. Variance 99-12 Glen Kassel, 6400 US41 South, Beaver Grove. Variance to allow a sign to be placed at a 5 foot setback. Sec. 400 requires a 30 setback.

-Mark Maki reported that public notice was given and one objection was made by Jerry Labine (neighbor next door to the South). This is a small parcel zoned C-2 adjoining to R-1 property thus the 30 ft setback. The shape of the parcel and the existing curbcuts to US41 somewhat cause the problem. The size of the sign would be 8'x8' and on a pole. The pole height might be an issue.

-Mr. and Mrs. Labine spoke indication that there are some trees as a buffer but an illuminated pole sign that close would illuminate their house.

-Joe Kassel spoke and said that the only location for the sign without blocking traffic flow to the gas pumps was in that little triangle corner.

-Much discussion evolved as to the sign size, location and height. The sign could be 30 ft high and it was surmised that at 30 ft it would place it above the trees and thus further illuminate onto the Labine's property. An agreement was reached that seemed to satisfy both parties.

-A motion was made by Carol Hicks and seconded by Bill Sanders to allow a variance of sign placement at 5 ft setback instead of the required 30 ft and that the maximum sign height shall not exceed 20 ft. The sign would be brought forward to the highway property line pending a survey to establish the lines. Motion passed Aye 5, Nay 0

V. UNFINISHED BUSINESS:

1. Letter to Joe Fountain/Togas Food Court. Mark Maki has not received any word on the height and ventilation conditions.

2. Letter to Township Board/ Landscaping/Conditions. The requested letter has not been sent.

3. Letter to Dry Dock Bar / Landscaping/Conditions. Mark Maki will continue to work with Mr. Waters on the original conditions as outlined by the ZBA when the variance was granted.

VI. PUBLIC COMMENT: NONE

VII. ADJOURNMENT: AT 8:45 p.m.

Carol Hicks

Respectfully submitted: Carol Hicks, Secretary

Chocolay Township
Zoning Board of Appeals
Minutes October 7, 1999

The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chair Robert Pecotte at 7:30 p.m. on October 7, 1999 at the meeting room.

PRESENT: Robert Pecotte, Bill Sanders, Lois Sherbinow

ABSENT: Carol Hicks, Robert Fisher

ALSO PRESENT: Mark Maki, Zoning Administrator

PUBLIC COMMENT: None.

NEW BUSINESS:

Variance 99-13 Gary & Cathy Peterson 6341 US 41 South to allow a detached garage to be setback 20' to a newly created lot line.

Mark Maki, Zoning Administrator reported on the variance and that the problem could have been avoided if the lot line was jogged around the existing building but didn't feel that this was necessary because the setback of 20' should be sufficient as it abuts a driveway. Additionally, a jogged lot line is odd and should be avoided where possible. Bill Sanders asked if the lot line could be made 10' to the east end and it was noted that the topography drops off on the east end of the 5.5 acre lot.

Cathy Peterson noted that the garage building will be moved in the next two years.

Motion by Bill Sanders, second by Lois Sherbinow to allow the new lot line to be setback 20' the garage due to the topography and the limited impact of the setback to a driveway. Carried 3-0

Variance 99-13 Gary & Cathy Peterson-Variance regarding drive

Cathy Peterson stated that she was going to get the drive access from the state and put the curbcut in, but not actually use it. Cathy Peterson stated that she will not use the drive as she will access through the existing drive at 6341 US 41 South. If the parcel is sold the new owner would have to use the drive as they will not have access over her land. After discussion it was determined that as long as the drive is constructed no variance was needed.

Variance 99-14 Sorenson Development for Family Dollar Store.

A variance is requested to reduce the parking spaces from 42 to 33 was made as the company feels that a maximum of 28 to 30 spaces would be needed based on experience with 4,500 stores nationwide and the fact that the Planning Commission had reviewed the site plan and was trying to retain green area and existing trees. Additionally, the Planning Commission had requested the access drive be located westerly of what was originally proposed. This also eliminated some of the 42 spaces originally provided.

Motion by Robert Pecotte, second by Bill Sanders to allow 33 parking spaces due to the shape of the parcel and the need to accommodate the existing natural site characteristics (trees, drainage, and access). Carried 3-0

(Note: the revised site plan indicated 35 spaces and two spaces on lot 15 could be removed to allow for the natural tree line to remain)

Variance 99-15 Family Dollar c/o Allen Industries

A request for a variance to allow 117 sq. ft. of sign area on the building. Sec 804 only permits one sign to have 100 sq. ft. of area. Mark Maki, Zoning Administrator, noted that due to the site characteristics and location in relation to US 41 that the sign on the building would be about 120 feet to the roadway versus the typical 83 foot setback of most buildings. In addition, the parcel has no direct access to US 41. It was also noted that only two signs are proposed which include a 96 sq. ft pole sign and 117 sq. ft. of lettering on the building.

Allen Industries referenced the location of the building and its angular position making it difficult for viewing from US 41. The sign band area on the building is large and a small sign would be out of proportion.

Motion by Lois Sherbinow, second by Robert Pecotte to grant a variance to allow the lettering sign of 117 sq. ft. based on the location and position of the building due to setbacks and the location angle of the lot to US 41 provided no other signs are located on the building. Carried 3-0.

UNFINISHED BUSINESS:

Mark Maki gave updates to the three on going reviews regarding Togo's building fire prevention issues, Police Addition-landscaping, and Dry Dock landscaping. Mark will continue to monitor and report back in October 1999.

The Zoning Board of Appeals will have a meeting on October 28, 1999.

Public Comment: None

Meeting adjourned at 9:15 p.m.



Submitted by Bill Sanders, Acting Secretary

150
~~240~~

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS MINUTES
OCTOBER 28, 1999**

I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by the Chair Robert Pecotte at 7:32 p.m. on October 28, 1999, in the meeting room.

Members present: Lois Sherbinow, Bill Sanders, Robert Pecotte, Carol Hicks and Robert Fisher. Also present was Mark Maki, Zoning Administrator

II. **PUBLIC HEARINGS - CLASS A #32 DRB PROPERTIES INC 5025 US 43 S
CLASS A #33 LEROY BLONDEAU 112 E WRIGHT PLACE**

#32 Mark Maki reported that the property in question is the old moving and storage building now owned by Blondeau. It is the intention to convert the use from moving and storage to a contractor's yard. In order to bring about this change it (1) cannot be reasonably changed, (2) it must be objectionable that it's present use. One letter was received from Mrs. John Freeman.

-Mr. Lee Blondeau spoke indicating that he has no intention to place Blondeau trucks over there and that it would be used for other purposes.

-Maggie Meiss, 105 W Wright Place spoke opposing any expansion.

#33 Mark Maki reported that this request is to add onto the existing Blondeau Trucking building and to add a truck wash building. Two letters were read into the record: (1) Tom and Steve Shaw for Shaw's Service endorsed the modernization of the Blondeau Maintenance facility. (2) Jake Amon, 158 E. Wright Place, objects to any expansion.

-The ZBA has acted upon expansion requests in 1986 and 1988 and in 1994 a Stipulated Agreement was made between Chocolay Township and Blondeau with a limit of 59 vehicles,

-Maggie Meiss spoke opposing any expansion.

III. **APPROVAL OF MEETING MINUTES OF AUGUST 26, 1999 AND OCTOBER 7, 1999**

-A motion was made by Bill Sanders and seconded by Lois Sherbinow to approve the ZBA minutes of 8-26-99 as submitted. Motion passed Aye 5, Nay 0.

-A motion was made by Bob Pecotte and seconded by Bill Sanders to approve the ZBA minutes of 10-7-99 as submitted. Motion passed Aye 5, Nay 0.

IV. **NEW BUSINESS**

Variance 99-16 Michael K. James, Sr. 1642 M-28 East Variance from Section 300 (F) to allow a 26 x 48 garage (exceeds perimeter of house) and a height of 16 feet. 18" height at peak. 14' at eaves.

-Mark Maki reported that public notice was given and that no written correspondence was received. The height is 2 feet above the requirement. The garage is to be at 11 ft setback. The perimeter exceed that of the house by 18 ft. it is zoned R-1 and is on a 100 ft lot.

-Bob Dewey 1634 M-28 East spoke indicating that he has questions as to the height and the pole building construction. He indicated that a pole building would not be too appealing to the neighborhood. He was informed that the ZBA cannot dictate building mater choices as long as what is being complies with the zoning ordinance.

-Dale Gordy, 1638 M-28 East spoke. He has concerns with the run off of water from the building onto his property. If it is backfilled it would cause drainage onto his land. He felt that the project was oversized for the lot and area.

-Mike James spoke to inform that he would not be filling in the area to raise the grade causing drainage onto his neighbors' property. He is contemplating the use of cedar siding to match l house. The size of the garage is to accommodate the storage of his boat.

-A motion was made by Carol Hicks and seconded by Bill Sanders to approve Variance 99-16 with the conditions that the height does not exceed 16 ft., no drainage would be made onto neighboring property and pending a legal lot survey to identify the property line. Motion passed Aye 5, Nay 0.

Variance 99-17 Mark and Patricia Liana 321 Apple Trail variance from Section 300 to allow an indoor riding arena at a 26' setback to Apple Trail/Hidden Creek.

-Mark Maki reported the public notice was given and no correspondence was received. The zoning requirements were all met except for the fact that after construction it was found to be 26' from the existing road and 30' was required. Apple Trail is a private road and it appears not to be a major problem. There are only a limited number of homes beyond this building.

-Mark Liana 321 Apple Trail spoke indicating that he owns the property across the road from the building and he has no problems with it being 4 ft. closer to the road. If push comes to shove, he would be willing to donate property to realign the road over 4 ft.

-A motion was made by Bill Sanders and seconded by Carol Hicks to approve variance 99-17 to allow 26' setback from Apple Trail allowing the present building to remain as in that no particular difficulty is foreseen.

Motion passed Aye 5, Nay 0.

Variance 99-18 William Mahan, Deerview Trail, variance from Section 403 to allow a dwelling at a 75 foot setback to Cherry Creek. 100 foot setback required.

-Mark Maki reported that public notice was given and one letter was received from Carl Lindquist representing the Chocolay Watershed project. He opposes the setback in that the 100 ft setback is to maintain vegetation for erosion control and that it would set a bad precedence for future development in that area.

-Mr. Mahan spoke indicating that the only logical building site was at this setback. The topography drops off beyond this point and would require massive fill to raise the house. He distributed copies of his drawings showing the elevation of the house and the profile of the hill.

-ZBA members suggested some alternatives to keep the setback closer to compliance and to reduce the amount of fill required.

-A motion was made by Carol Hicks and seconded by Bill Sanders to approve variance 99-18 with the following conditions: The setback from Cherry Creek is to be held to 80 ft thus allowing a 20 ft variance with the condition that the vegetation be allowed to re-grow to its original state within the first 60 ft from the creek and that existing ground cover remaining be undisturbed. This variance is in no way to be construed as a precedence for future setbacks on lots within this area. Motion passed Aye 5, Nay 0.

Home Occupation 99-2 Mathew M. Wall, 677 Lakewood Lane (counseling services) Sec. 107 provides standards for home occupations.

-Mark Maki reported that public notice was given and the Jim and Sandy Meibur, 669 Lakewood Lane, opposes this home occupation. Margaret Norman, 681 Lakewood Lane, is not opposed to the request. His only question is the type of services allowed for home occupation. Whenever they become professional, should they not be located in a professional office.

-Mr. Wall spoke to clarify the type of services he offers and the possible number of clients arriving to his home. It meets the square footage requirements.

-A motion was made by Bill Sanders and seconded by Lois Sherbinow to approve Home Occupation 99-2 with the conditions that it be for a three year period, the maximum area of the office be no more than $\frac{1}{4}$ the dwelling area, no signs be permitted, and subject to review upon written complaint. Motion passed Aye 5, Nay 0.

Class A Nonconforming request 33 (#33 was requested to be heard before #32 by Mr. Blondeau) for expansion and enlargement for 112 E Wright Place. Expansion to permit building addition and new separate washing facility.

-Mark Maki reported that public notice was given and that correspondence received was previously presented during the Public Hearing.

-Steve Wahlstrom, 1371 Ortman Road, spoke indicating that he gives his 100% support to the Blondeau request.

-Mark Maki continued to report the background to this request. He took the ZBA through the history since 1947 to the present. The question about the number of trucks allowed was presented to the ZBA Board in 1986 and again in 1988. The number of allowable trucks was 15. In 1994 a Stipulated Injunctive Order was agreed upon between the Chocolay Board and Blondeau Trucking with set the allocated number of vehicles to 75 (15 of which are tractors).

-Lee Blondeau gave a presentation including a video leading the ZBA through a point-by-point rebuttal to arguable issues. In 1983, Class A non-conforming status was granted. In 1986 ZBA modified and set limits of 15 trucks with parking for 35 vehicles, in 1988 ZBA reconfirmed it to be 15 trucks, then the 1994 Stipulated Agreement outlined the present conditions of operation.

-Discussion evolved around these issues and the report prepared by Michael G. Summers, Township Attorney. Mr. Summers concluded that Mr. Blondeau could (1) file application with ZBA requesting an expansion or 2) file a petition to the Township Board requesting a change in zoning classification from C-2 to C-3.

-Mr. Blondeau spoke indicating that he did not have a chance to review the report and requested that the ZBA table the issue allowing for his review of the materials.

-A motion was made by Bill Sanders and seconded by Bob Fisher that we table the Class A non-conforming request #33 pending the findings on the legality of the ZBA to act on this issue. Motion passed Aye 5, Nay 0.

-Discussion as what to do with Class A Non-conforming Request #32. Mr. Blondeau requested that this also be tabled.

-A motion was made by Bill Sanders and seconded by Bob Fisher to table request #32. Motion passed Aye 5, Nay 0.

V. **UNFINISHED BUSINESS: NONE**

VI. **PUBLIC COMMENT: NONE**

VII. **ADJOURNMENT AT 10:40 P.M.**

Submitted by Carol Hicks, Secretary



**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS MINUTES
NOVEMBER 4, 1999**

The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by the Chair Robert Pecotte at 7:38 p.m. on November 4, 1999, in the meeting room.

Members present: Lois Sherbinow, Bill Sanders, Robert Pecotte, Carol Hicks and Robert Fisher. Also present was Mark Maki, Zoning Administrator

I. PUBLIC COMMENT:

Maggie Meiss, 105 W. Wright Place, spoke indicating her opposing to any expansion.

II. APPROVAL OF MEETING MINUTES OF OCTOBER 28, 1999

It was reported that they were still being drafted and would be prepared shortly.

III. UNFINISHED BUSINESS

1. Consider Class A #33 Applicant: Leroy Blondeau

A. Review legal status of ZBA Authority

B. Consider proposed expansion/extension/additions/new structures

-Mark Maki reported that Township Attorney, Michael Summers, was present to answer any questions that the ZBA might have. He presented a copy outlining the Zoning Chronology for Blondeau Trucking and walked the ZBA members through this listing. A copy of the report dated November 2, 1999, from Attorney Michael Summers, was presented along with a copy of excerpts from that report.

-Lee Blondeau arrived and spoke to clarify the Stipulated Injunctive Order. He stated that he was under the assumption that he would receive a copy of the Township's attorney's report and have a chance to review it. Mr. Michael Summers spoke and indicated how tight the time frame was to prepare his report and that it was delivered to the Township hall this morning.

-A motion was made by Carol Hicks and seconded by Lois Sherbinow to table issue Class A Nonconforming #33 until the next officially scheduled ZBA meeting, thus allowing Mr. Lee Blondeau time to review the recent materials. Motion passed Aye 5, Nay 0.

-Discussion as what to do about Class A Nonconforming Designation #32. A request was made by Mr. Lee Blondeau to also table #32.

-A motion was made by Carol Hicks and seconded by Lois Shebinow to table issue #32 until the next officially scheduled ZBA meeting. Motion passed Aye 5, Nay 0.

IV. NEW BUSINESS:

1. First National Bank of Negaunee in Harvey request for Class A Nonconforming to alter the roof structure on the Drive-Thru.

-Mark Maki reported that he had a problem with this new business in that he did not have sufficient time to give public notice and have it published for the allotted time.

-A motion was made by Carol Hicks and seconded by Bill Sanders to table any action on Nonconforming request #34 for First National Bank of Negaunee allowing time for proper public notice. Motion passed Aye 5, Nay 0.

V. PUBLIC COMMENT:

Maggie Meiss spoke indicating the proper notice must be given and that she opposed any expansion at Blondeau Trucking.

VI. ADJOURNMENT AT 8:29 P.M.

Carol Hicks

Submitted by Carol Hicks, Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS MINUTES
NOVEMBER 18, 1999**

The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by the Chair Robert Pecotte at 7:30 p.m. on November 18, 1999, in the meeting room.

Members present: Lois Sherbinow, Bill Sanders, Robert Pecotte, Carol Hicks and Robert Fisher.
Also present was Mark Maki, Zoning Administrator

I. PUBLIC COMMENT:

1. Joseph E. Morgan, 111 E. Wright Place, lives close by and hears little noise and supports the addition.
2. Elwin Leach, 425 Green Bay Street, spoke indicating that he believes that complaints are not warranted. He is in favor of the addition and very supportive as he feels he should support his neighbor. He saw the article in the paper.
3. Steve Wahlstrom, Wahlstrom's Restaurant, spoke giving his support to the Blondeau's.
4. Mildred Morgan, 111 E. Wright Place, supports the expansion.
5. Maggie Meiss, 105 W Wright Place, opposes any expansion because of her documented health reasons and the continual pattern of expansion/contrary to the zoning laws.
6. Scott Jaeger, Tri-Media Consultants, spoke indicating that his firm has an ongoing environmental assessment of the Blondeau operation and that they are in full compliance and meet DEQ compliance with their action plan. Mark Maki took exception at least with respect to the last time he checked with DEQ as they were not in full compliance but were doing some clean-up as required.
7. Public Comment closed at 7:47.

II. APPROVAL OF MEETING MINUTES

A motion was made by Lois Sherbinow and seconded by Bob Fisher to approve the minutes of October 28, 1999, as revised including the setting of the November 4, 1999 meeting. Motion passed Aye 5, Nay 0.

A motion was made by Bob Fisher and seconded by Bill Sanders to approve the minutes of November 4, 1999, as revised including the setting of the November 18, 1999 meeting. Motion passed Aye 5, Nay 0.

III. UNFINISHED BUSINESS

Items 1 & 2. Mr. Blondeau requested that item Class A #33 be heard before item Class A #32.

Mr. Lee Blondeau gave a brief review of events:

Driveway Issue

CDL Testing

Newspaper article of October 28, 1997, and a claim that the Township gave to the media 1994 Stipulated Order of Agreement

Quotes from Michael Summers Letter of Opinion

Guidelines for notice of public meetings and comments on how conveniently the ZBA amended their minutes regarding the meeting schedule.

Mr. Lee Blondeau commented on how the ZBA votes on this will tell him a whole lot on their honesty and character. Mr. Lee Blondeau then requested to withdraw his Class A #33 application and also requested that the ZBA table his Class A #32 request until Arlene Hill, Clerk, reviews the notice requirements.

-Bill Sanders spoke indicating that the ZBA should give written notice to all applicants prior to any meeting.

-A motion was made by Carol Hicks and seconded by Bill Sanders to accept Mr. Lee Blondeau's withdrawal of Class A #33 application and to table Class A #32 request until the next regulely scheduled ZBA meeting on the 4th Thursday in January.

-Discussion evolved as to the ZBA's actions and the last two special ZBA meetings. The ZBA has on numerous occasions scheduled special meetings in order to accommodate township residents and when they do they seem to have problems. Perhaps they should make special attempts to accommodate the various requests whenever possible.

-All five ZBA members specifically addressed the November 4, 1999 meeting and it was all their recollection that Mr. Lee Blondeau was present and clearly was aware of the setting November 4, 1999 meeting on October 28th.

3. Class A Nonconforming Designation #34 First National Bank of Negaunee in Harvey, Request for Class A and alter roof structure on drive-thru.

-Mark Maki reported that public notice has been given. The request was to simply take off the flat roof to the drive-thru and replace it with a new pitched roof connecting to the existing roof with a slight increase of 1 foot in overhang at the same size. He had no problems with the request.

-It was established that the present drive-thru encroaches within the 40-foot setback requirement.

-The existing canopy is about 3 or 4 feet set back to the front lot line.

-A motion was made by Bill Sanders and seconded by Bob Pecotte to approve Class A Nonconforming request #34 for First National Bank of Negaunee to allow them to construct a new roof over the existing drive-thru as submitted in the application.

Motion passed Aye 5, Nay 0.

IV. **NEW BUSINESS:** None

V. **INFORMATION/CORRESPONDENCE:** None

VI. **PUBLIC COMMENT:**

-Elwin Leach spoke indicating that when one is dealing with the public one has to precisely cover all bases and follow established guidelines and feels that the ZBA has been conducting a difficult job.

VII. **ADJOURNMENT AT 8:28 P.M.**

Carol Hicks

Submitted by Carol Hicks, Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS MINUTES
APRIL 13, 2000**

I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by the Chair Robert Pecotte at 7:30 p.m. on April 13, 2000, in the main office area of the Township Hall.

Members present: Lois Sherbinow, Bill Sanders, Robert Pecotte, Carol Hicks and Robert Fisher. Also present was Mark Maki, Zoning Administrator

II. **PUBLIC COMMENT: NONE**

III. **APPROVAL OF MEETING MINUTES**

The minutes for our last meeting of November 18, 1999 were tabled due to the fact that a section was missing from the distributed copy.

IV. **NEW BUSINESS**

The agenda item number 2000-1 was moved to the end of the list waiting for the applicant.

-2 Variance 2000-2, Rick Mallo – 2025 M-28 East. Request a variance to allow a garage at a 2-foot front setback and a 14-foot side setback in OS (30 foot setback required.)

Mark Maki reported that public notice was given and that this lot is on the shore of Lake Superior. A letter from Russell and Jill Henderickson was read into the record.

-Discussion continued on the merits of this variance and the possible adjustments that could be made.

-A motion was made by Bill Sanders and seconded by Bob Fisher to grant variance 2000-2 for Rick Mallo at 2025 M-28 East to allow a 10-foot setback to the easterly line and that the size of the garage will not exceed 28' x 32'.

Motion passed Aye 5, Nay 0.

-4 Home Occupation 2000-1, Taxi Tycoon-Allan Blondeau – 6245 US 41 South. To operate Taxi Tycoon at this address.

-Mark Maki reported public notice was given. He continued to read a letter from Ed and Cynthia LaMere who owns property adjacent to the driveway to 6245 US 41 South.

They are opposed to the operation and raised questions as to the number of vehicles, time of operation, employee parking, mechanical repair of vehicles etc. Patty Bell spoke and explained the business operations and addressed questions that had been raised. Many questions continued to arise.

-A motion was made by Bill Sanders and seconded by Carol Hicks to table this item until the next meeting and pending more information and clarification to be provided.

Motion passed Aye 5, Nay 0.

-3 Variance 2000-3, Chocolay Township –5010 US 41 South. Requests a variance for a front setback at 14-foot off a seasonal County Road right of way for a basketball court at 131 Kawbawgam Road (40-foot setback required).

-Mark Maki reported and explained how this property came about along County Road BAA and that the right of way requirement is close to the proposed basketball court area. The area is presently used as a parking lot for the recently developed cross-country ski trail. A letter from the County Road Commission was read into the record. The county sees no problems with this and it is the desire of the Township that the County does not abandon the road.

-Linda Johnson who resided in the Kawbawgam neighborhood spoke and basically supports the project but raised questions as to vandals and police patrolling of the area. Discussion evolved around these issues and as to the pole lighting of that area and how that light might encourage it to become a "hang-out" area.

-A motion was made by Carol Hicks and seconded by Bill Sanders to grant variance request 2000-3 to allow the construction of a basketball court with 26' variance.

Motion passed Aye 5, Nay 0.

-1 Variance 2000-1, Greg Dupras- 123 Blemhuber. Request a variance to allow a 15.8 acre lot in RP and a garage before a single family dwelling in Section 33 T47NR24. (20 acres minimum lot size) Lot address is at 700 Little Lake Road.

-Mark Maki reported that public notice was given and that one letter from Bruce Dupras' adjoining neighbor raised the question of hunting and gun shots close to residential housing. It was noted that the ordinance addresses the minimum distance required in the close proximity to residential housing. It was noted that the ordinance addresses the minimum distance required in close proximity to residential homes. This property was acquired from the father and the land on the east side of Little Lake Road went to his brother, Darren, and that Greg obtained the property on the west side of Little Lake Road (15.8 acres). This size was not precisely determined but approximated from area maps. Discussion ensued about the County Road Act under the 1930's system.

Discussion evolved as to whether or not this situation could not be corrected now by having a quit-claim deed drafted to divide the property with the westerly 20 acres being signed to Greg Dupras.

-A motion was made by Bill Sanders and seconded by Bob Fisher to approve variance 2000-1 to allow a single-family house to be built due to the unique configuration of division due to the location of Little Lake Road. This approval is for parcel 133-011-50 as a permanent building site and that no additional building sites be allowed. This variance is also to allow the construction of a garage prior to the construction of a single family dwelling, no outside storage of materials shall be allowed around this garage. This variance is due to the uniqueness of the road division and that no useful purpose would be served by the strict interpretation of the ordinance.

Motion passed Aye 4, Nay 1.

V. UNFINISHED BUSINESS

- a. Variance 97-11 Chocolay Township – Plantings/Chocolay Office/Police Department Addition. A letter was read from Township officials attempting to justify why the letter of the variance was not carried out and the alternate planting had been made. The ZBA members wish to have a further clarification as to why the variance was not followed up as granted.

VI. INFORMATION/CORRESPONDENCE: None

VII. PUBLIC COMMENT: None

VIII. ADJOURNMENT at 9:22 PM

Carol Hicks

Respectfully submitted by Carol Hicks, Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF MAY 25, 2000**

L The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chair Robert Pecotte at 7:35 p.m. on May 25, 2000 in the meeting room of the Township Hall.

Members present: Lois Sherbinow, Bill Sanders, Robert Pecotte, and Robert Fisher. Absent: Carol Hicks. Also present was Mark Maki, Zoning Administrator.

II. PUBLIC COMMENT:

1. No public comment.

III. APPROVAL OF MEETING MINUTES:

April 13, 2000 minutes not available.

IV. UNFINISHED BUSINESS:

Variance Request: 2000-4 - Jennifer Walther for 1065 Mangum Road. Read Anna Hultgren's letter into record; supported.

Public notice advertised in paper.

- ◆ Mark explained history of the area and suggested conditions.
- ◆ Applicant gave an overview of house plans to be completed by 2003; framed-in, etc. by November 2001.

Motion by Bob Fisher and supported by Bill Sanders to accept with the following conditions. Motion carried Aye 4, Nay 0.

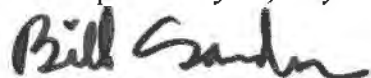
1. Only one dwelling be occupied at any one time.
2. The 14 x 70 dwelling are removed within 30 days of occupancy of the new house.
3. New house must be framed-in by November 2001 or applicant will be informed of noncompliance and need to obtain approval of the 14 x 70 dwelling as a recreational use only from the Planning Commission.

Variance Request: 2000-5 - John West for Co. Rd. BX - 80 acres W1/2 of SE1/4

- ◆ Public notice advertised in paper.
- ◆ Lewis Peters' letter read into the record; supported.
- ◆ Mark gave overview. Not many, if any, similar requests. Existing structure is in good shape; new well, etc.
- ◆ Old house intended to be used as a temporary incidental guest lodging (summer only) for family only.
- ◆ Mark suggested that no additional house be built on the SW1/4 of SE1/4, part if variance is granted, so that the density is limited.

A motion was made by Bill Sanders and seconded by Bob Pecotte to approve the variance request 2000-5 for John West, 400 Mangum Road to allow a single family dwelling and further provided that the original dwelling be used for recreational purposes, specifically guest lodging summer only on an 80 acre parcel in a resource production district in addition to the existing seasonal use construction on the site provided no additional dwelling be constructed on the SW ¼ of the SE ¼ of Section 22 T47N R24W.

Motion passed Aye 4, Nay 0.



Submitted by Bill Sanders, Acting Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF JUNE 22, 2000**

Meeting called to order by Chair Robert Pecotte at 7:42 p.m. in the main office area of the Township Hall.

Members present: Robert Fisher, Robert Pecotte, Bill Sanders and Lois Sherbinow. Also present, Mark Maki, Zoning Administrator.

I. **PUBLIC COMMENT:** NONE

II. **APPROVAL OF MINUTES:**

Motion by Sanders, support Sherbinow to approve minutes of April 13, 2000 meeting as submitted. Motion passed Aye 4 Nay 0. Motion by Sherbinow, support Fisher to approve minutes of May 25, 2000 meeting as submitted. Motion passed Aye 4 Nay 0.

III. **NEW BUSINESS:**

Variance 2000-6. Request by Dan Coats, 133 Dana Lane, for variance from Sec 300 to allow a 28 x 40 detached garage at a 6' side setback. No written correspondence rec'd on this request. Discussion focused on possible alternative locations for the garage. Current location of well and septic placement presented some limits. An unusual topography was the limiting factor for this variance request. Motion by Sanders, support by Pecotte to approve as submitted because of topography limits. Motion passed Aye 4 Nay 0.

Variance 2000-7. Request by Chris Burnett, 550 Karen Road, for variance from Sec 300 for an addition at a 6' front setback; variance from Sec 604(C)(D)(3) for an addition at a 6' front setback; request for a Class A #34 expansion per Sec 604(C)(D)(3) 1-5.

Board determined that the Class A request met the four (4) necessary requirements. After considerable discussion re: history, road placement by the county, other area residences, the Board saw no useful purpose would be served by strict application of the current ordinance on a very rural road. Motion by Sanders, support Sherbinow to approve the Class A request. Motion passed Aye 4 Nay 0. Motion by Sanders, support Pecotte to approve variance for a 6' front setback with the condition that there be no future structural encroachment including such things as a porch, etc. Motion passed Aye 4 Nay 0.

III. **UNFINISHED BUSINESS:** \

Variance 2000-1. Taxi Tycoon. No further development. Mark Maki will send correspondence to Allan Blondeau. Tabled until next regularly scheduled meeting.

IV. **INFORMATION CORRESPONDENCE:** NONE

V. **PUBLIC COMMENT:** NONE

VI. **ADJOURNMENT:**

Meeting was adjourned at 8:35 p.m.

Submitted by  Acting Recording Secretary, Bob Fisher

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF JULY 27, 2000**

- I. Meeting called to order by Chair Robert Pecotte at 7:35 p.m. in the meeting room of the Township Hall.
Members present: Lois Sherbinow, Robert Pecotte, Carol Hicks and Robert Fisher, (Bill Sanders arrived a few minutes later). Also present, Mark Maki, Zoning Administrator.
- II. PUBLIC COMMENT: NONE
- III. APPROVAL OF MEETING MINUTES: Motion by Lois Sherbinow and seconded by Carol Hicks to approve the minutes of June 22, 2000 as submitted. Motion passed Aye 4, Nay 0.
- IV. NEW BUSINESS
Variance 2000-8 Request by Kari Stordahl and Terry Seethoff, 171 East Main, for variance from Sec 300 to allow a 24' x 30' detached garage at 1' side setback from alley side and 4' from other side.
-Mark Maki reported that public notice was given and no correspondence was received. The unusual use of an alley to serve as a private driveway for several homes in the area creates the request for this variance. Discussion evolved around the possible solutions.
-A motion was made by Carol Hicks and seconded by Bill Sanders to approve variance request 2000-8 allowing for a 24' x (up to 30') detached garage at 2' setback from the Westerly alley side and 2' from the closest point on the Northerly side due to the uniqueness of the property and the alley location. Motion passed Aye 5, Nay 0.
- Interpretation Number: Mark Maki had requested an interpretation on the C-2 to C-3 "Motor Vehicle Sales" and "Motor Vehicle Service".
Auto Body repair is allowed in C-2 but only as a conditional use. Where does the accessory use such as replacement of parts, minor repairs, etc. stop as it related to the sale of these products, and where does motor vehicle service as only permitted in the C-3 zoning district begin?
When a business sells a product it would be assumed that a certain amount of service would be customarily associated with that product. If the service is minor (ie. only a small part of the company's income source such as 25% or less) it would appear to be in line with the intent of that operation. If the "service" element became greater than 50% or the majority of the income source it now dominates the business and would be inappropriate.
-A motion was made by Bill Sanders and seconded by Carol Hicks to affirm Mark Maki's interpretation that minor service of small motor vehicles would be appropriate as an accessory to the sales of those products. If the company is in sales of a product and then provided a service of only that product as an minor accessory of their business it would appear to be in line with the intent of the ordinance. Motion passed Aye 5, Nay 0.
- V. HOME OCCUPATION UPDATE: Taxi Tycoon has not responded to the ZBA's request and no action was taken on their request.
-Scott Ely - garage/outdoor storage. Mark Maki reported that he has observed and written Mr. Ely a letter with respect to the storage of items including race cars outside of his garage. This outside sotrage was in violation to the stipulated agreement given at the time of the variance request. A follow-up letter would be sent.
-Chocolay Township Board. Mark Maki asked the ZBA for guidance on the issue of the variance that was given to the Township to allow for the addition to the Police office in reference to the stipulated re-landscaping along that side of the building. It is the ZBA's stance that this stipulated agreement has not been met.
- VI. INFORMATION/CORRESPONDENCE
Mark Maki reported to the ZBA about the letter regarding judgment against Timothy Menbennick in regards to the six year law suit brought against the Township. The Township has invested over \$15,000 in costs and the case was thrown out of court and Mr. Menhennick was billed court cost of approximately \$3,000.

VII. PUBLIC COMMENT: NONE

VIII. ADJOURNMENT: at 8:20 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Carol Hicks

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF AUGUST 24, 2000**

- I.** Meeting called to order by Chair Robert Pecotte at 7:37 p.m. in the meeting room of the Township Hall.
Members present: Lois Sherbinow, William Sanders, Robert Pecotte, Carol Hicks. Also present, Mark Maki, Zoning Administrator.

II. PUBLIC COMMENT: NONE

- III. APPROVAL OF MEETING MINUTES:** Motion by Bill Sanders and seconded by Lois Sherbinow to approve the minutes of July 27, 2000 as submitted. Motion passed Aye 4, Nay 0.

IV. NEW BUSINESS

A Variance 2000-9 Frank Stabile - 121 Vista View Trail. Proposed garage before house/variance from Section 107 & 208, which requires house before garage.

-Mark Maki reported that public notice was properly given and no correspondence was received. He had sent out 10-11 letters. There is a 95 acre parcel and the owner will be selling off some 5 acre parcels keeping approximately 50-60 acres for himself. There is no height or perimeter limits in this zoning district. Discussion evolved with regards to the ordinance requiring a house before a garage.

-A motion was made by Carol Hicks and seconded by Bill Sanders to approve variance request 2000-9 for Frank Stabile to build a detached garage prior to the house with the provision that no outside storage of materials and debris would be allowed around the perimeter of the building and that the zoning administrator would be allowed to visit and inspect the building upon completion. The motion passed Aye 4, Nay 0.

B Variance 2000-10 Michael James - 1642 M-28 East. Variance to build a 36 x 36 storage building at an 11 foot rear setback to lot line adjacent to old railroad right-of-way.

Mark Maki reported that public notice was given and that no correspondence was received. The building size has been approved in that it does not exceed the perimeter of the house. The uniqueness lies with the M-28 ROW and the Railroad ROW both tapering to the East where things are rather narrow. The rear setback is suppose to be 35 feet.

-Discussion evolved around the abandonment of the railroad and what happens to that strip of land.

-A motion was made by Bill Sanders and seconded by Carol Hicks to approve variance 2000-10 for Michael James allowing a 36' x 36' garage within 11 feet from the rear lot line, thus a 24 foot variance, due to the uniqueness of the Right-of-Ways of both M-28 and the railroad. Motion passed Aye 4, Nay 0.

C Variance 2000-11 Luke Palmer - 911 S. Willow Road. Request a variance to allow a detached garage at a height of 16 feet, 3 inches. 4 feet is the height limit.

-Mark Maki reported that public notice was given and that no correspondence was received. It meets the ordinance except for the height limit. The proposed design has a loft second floor for storage. The roof has a 7/12 pitch.

-Mr. Palmer spoke indicating that the loft storage space would only have a pull down stairs and that the height with the steep roof was to match the existing roof pitch of the entry of his existing house, thus the design look was important to him.

-Discussion evolved about possible solutions.

-A motion was made by Bill Sanders and seconded by Lois Sherbinow to approve variance request 2000-11 for Luke Palmer allowing a garage to be build with a height of

16', 3" thus an allowance for the additional 2',3" with the condition that the space in the attic was for storage purposes only. The motion passed Aye 4, Nay 0.

V. UNFINISHED BUSINESS: NONE

VI. INFORMATION/CORRESPONDENCE - LAND DIVISIONS

VII. PUBLIC COMMENT: NONE

VIII. ADJOURNMENT AT 8:15

Respectfully submitted:

Carol Hicks, Secretary



CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF SEPTEMBER 28, 2000

- I. Meeting called to order by acting chair William Sanders at 7:35pm in the meeting room of the township hall. Members present: Lois Sherbinow, William Sanders, Robert Fisher. Also present, Mark Maki, Zoning Administrator.
- II. **PUBLIC COMMENT: NONE**
- III. **APPROVAL OF MEETING MINUTES:** Motion Sherbinow, support Fisher to approve the minutes of August 24, 2000 as submitted. Motion passed Aye 3, Nay 0.
- IV. **NEW BUSINESS:**
- A. Variance 2000-12, Carl N. Miller, 685 Magnum Rd. To allow a storage building at a 5 foot setback to a side lot line(30 foot required). Public notice was properly given and no correspondence was received. There are two buildings (house and barn) already in place on the property. The Board perceived no adverse effects because of this variance. Motion Sanders support Sherbinow to approve the variance request. Motion passed Aye 3, Nay 0.
- B. Variance 2000-13, Andrew Beck, 513 Lakewood Ln. To allow two additions to an existing single family dwelling at a 5 foot setback to a west side lot line(30 foot required). Public notice was properly given and one letter was received from Marla Buckmaster-not in favor of the variance. Mark Maki also received one phone call in support of the variance. Discussion by the Board saw no adverse effects because of this variance. Motion Fisher, support Sanders to approve the variance request. Motion passed Aye 3, Nay 0.
- V. **UNEFINISHED BUSINESS: NONE**
- VI. **INFORMATION/CORRESPONDENCE:** Two letters were presented for information only. The first letter was from Mark Maki to the Chocolay Township Board regarding expansion of L. Blondeau & Sons Trucking in a C-2 Zone. The second letter was from Mark Maki to attorney Mike Summers regarding rehearings.
- VII. **PUBLIC COMMENT: NONE**
- VIII. **ADJOURNMENT:** Meeting was adjourned at 8:05pm.

Respectfully submitted:


Bob Fisher, Acting Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF OCTOBER 26, 2000**

I. Meeting called to order by Chairperson Robert Pecotte at 7:35 in the meeting room of the Township Hall. Members present: Lois Sherbinow, Robert Pecotte and Carol Hicks. Also present, Mark Maki, Zoning Administrator.

II. PUBLIC COMMENT: NONE, However individuals wished to speak during specific agenda items.

III. APPROVAL OF MEETING MINUTES: Motion by Lois Sherbinow and seconded by Carol Hicks to approve the minutes of Sept. 28, 2000 as submitted. Motion passed Aye 3, Nay 0.

IV. NEW BUSINESS:

A. VARIANCE 2000-14, Ted Sulik, 177 Lakewood Lane, add a second story at a 2-foot setback and a 6'-9" setback.

-Public notice was given and no correspondence was received.

-Mark Maki reported that the existing house is legal and non-conforming but does not meet the current setback standards. Up to 1977 5' setbacks were required and now it's 10'. The wish to add a second floor is for additional living and bedroom space along with another bath. It was noted that a neighboring garage is 7' to the lot line. It was believed that this addition would have little impact to the neighboring properties.

-Motion was made by Carol Hicks and seconded by Bob Pecotte to approve Variance request 2000-14 allowing a second story addition over the existing structure at the 6'-9" setback but not over the first floor bath area that is at 2' setback. Any additional new construction would be at the setback of 6'-9" instead of the required 10', thus a variance for 3'-3". Motion passed Aye 3, Nay 0.

B. VARIANCE 2000-15, Karen Pekkala and Bobbi Jo Twewhella, 225 J.H. Lane, Section 36T47NR24W. Variance from Section 401 (A) (B) (C) (E), standards for dwelling. Section 401 General Standards for single family dwellings.

-Mark Maki reported that public notice was given and correspondence was received as well as personal inquiries. The Townships history with mobile homes has lead to the language found in Section 401 General Standards for single family dwellings that was adopted in 1994. A manufactured single family home must meet certain standards pertaining to foundations, framing and general construction specifications. These dwellings must meet current code issues such as roof load designs. Section 401 states: Requires a minimum width at 20 feet for a dwelling, Requires permanent attachment to foundation, If a mobile home-wheels and undercarriage must be removed, and Requires that dwelling meet certain fire codes/roof load codes, etc. It was noted that most mobile homes would not meet these standards. The applicant wishes to place a trailer on site for a temporary period of time. A new structure 12'x66' would be built along side the trailer. The addition is to be framed in no later than November, 2001. The addition is to be completed by November 2002. The trailer will be removed no later than June of 2003 and a second addition will replace the trailer. The second addition will be on a permanent foundation and completed by November 2003.

-Letters were read into the record from the following:

-Pattie Greenhurst and Duane Rogers stating that they had no problems with the request.

-Robert and Marva Ittner, 240 J H Lane, requesting that we approve the request with conditions.

-Michelle Hastings, 6263 U.S. 41, stating that we should approve the request.

-Bill Harris, 42 Quarry Rd., Sands Township spoke that he owns adjacent property and

that there are no trailers on JH Lane. He strongly opposes the variance request and indicates that his property would be de-valued.

-Sharon Gardner, 170 Orchard Lane spoke to indicate that she owns 10.1 acres backing onto this property. She does not oppose and supports the request.

-Dick Andrews spoke against the request.

-Kelly Klatt spoke indicating that he is opposed to the request and would not purchase land in the area if there were a trailer located on this property.

-Paul Marin (attorney) representing Mrs. Pekkala spoke. The trailer would be approximately 100' in from the road, one person Mr. Ittner lives down the road. He then listed her hardships. No renderings or drawings were provided.

-Mr. Harris spoke again, indicating where his property was in relationship to this property. He again strongly opposed any variance request.

-Mr. Marin indicated that with Mrs. Pekkala's approval the request would be tabled until a later ZBA meeting date and that would give them time to draft a plan along with designated drawing as to how it would look.

-Chairperson Robert Pecotte accepted the request to table.

-Mr. Harris spoke again opposing the request to place a trailer on the property and requested that the ZBA go and take a look at the property.

V. UNFINISHED BUSINESS: NONE

VI. INFORMATION/CORRESPONDENCE

A letter from Carol and Fred Margrif was presented pertaining to a 10 acre parcel across the river from Timberland that has been proposed for building a house for Mr. Van Neste. The questions of wetlands etc. was raised. Mark Maki indicated that the issue was before the planning commission and was a variance denial in the 1980's. It also went to circuit court and was decided in favor of the Township.

VII. PUBLIC COMMENT

-Mr. Harris spoke regarding property values.

VIII. ADJOURNMENT: Meeting was adjourned at 8:45 p.m.

Respectfully submitted

Carol Hicks, Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF FEBRUARY 22, 2001**

- I. Meeting called to order by Chair Robert Pecotte at 7:30 p.m. in the meeting room of the Township Hall.
Members present: Lois Sherbinow, Bill Sanders, Robert Pecotte, Carol Hicks and Michele Wietek. Also present, Mark Maki, Zoning Administrator.
- II. PUBLIC COMMENT: NONE
- III. APPROVAL OF MEETING MINUTES: Motion was made by Lois Sherbinow and seconded by Bill Sanders to approve the minutes of October 26, 2000 as submitted. Motion passed Aye 5, Nay 0.
- IV. NEW BUSINESS:
- A. Variance 2001-1 Paul and Judith Ring, 128 East Main St. Harvey. Requesting a variance for an 18' x 22' addition at a 7' setback to the east side.
-Public notice was given and no correspondence was received.
-Mark Maki reported that there is a 100 ft. parcel of land that is a leftover after the Rail Road abandonment. Our zoning requires a 10' side yard distance. Presently, the house is 25' from the line and his request is to build an 18' addition that would be 7' from that lot line.
-Mr. Ring spoke and indicated that he did not know about the setbacks and only when a building permit was applied for did he realize what was needed. That abandoned RR strip provided a strip of clearance to adjoining property.
-Mark Maki indicated that this was a part of the old village plat of Harvey with only a few 100' wide lots along this old abandoned rail road grade and that granting this variance should not cause similar requests.
-Motion by Bill Sanders and seconded by Bob Pecotte to approve variance request 2001-1 for Paul Ring allowing up to a 16' wide by 24' of depth addition. This would place the structure 9' from the property line thus only a 1' variance from the required 10'. Motion passed Aye 5, Nay 0.
- B. Request for determination and suggested amended language regarding Section 403 Waterfront setback / exemption.
-Mark Maki reported that the language refers to every aspect of the project and would like to spell out the language to clarify that the 100' setback is with the structure and not the buffer.
-Discussion continued.
-Motion by Carol Hicks and seconded by Michele Wietek to establish the proposed language of clarification to change Section 403 Waterfront setback. This proposed language was to be forwarded to the Planning Commission along with our recommendation. Motion passed Aye 5, Nay 0.
- V. UNFINISHED BUSINESS:
-We have been receiving inquiries about variance information for towers, windmills etc and they all refer to height variances. These issues should be addressed sometime in the future and perhaps further language changes would be in order to spell-out and clarify this.
- VI. INFORMATION / CORRESPONDENCE: NONE
- VII. PUBLIC COMMENT: NONE
- VIII. ADJOURNMENT AT 8:00 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Carol Hicks

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF APRIL 26, 2001**

- I. Meeting called to order by Chair Robert Pecotte at 7:30 p.m. in the meeting room of the Township Hall.
Members present: Lois Sherbinow, Robert Pecotte, Bill Sanders, Michele Wietek, and Carol Hicks. Also present, Mark Maki Zoning Administrator.
- II. PUBLIC COMMENT: NONE
- III. APPROVAL OF MEETING MINUTES: Motion was made by Bill Sanders and seconded by Lois Sherbinow to approve the minutes of February 22, 2001 as submitted. Motion passed Aye 5, Nay 0.
- IV. NEW BUSINESS:
- A. Variance 2002-2 Brad LaPine, 600 Brookfield, Requesting a variance from Sec 300 (F) to allow a 28 x 50 garage, which exceeds the perimeter of the principal dwelling.
- Mark Maki reported that the proposed project meets all other requirements such as lot setbacks, height etc. but, the existing house is 900-1,000 square feet and the garage is to be 1400 square feet. He could build two garages and it would be ok. The lineal footage of the house is 128 where as the garage is to be 156 L.F. The lot is zoned R-2 allowing mobile homes.
- ZBA members questioned aspects of the variance and what the owner had in mind for the use of the structure.
- Public notice had been properly given.
- Dick Arnold, CO. RD. 545 spoke indicating that this garage would be unsightly and not representative of a residential area.
- Motion was made by Bill Sanders and seconded by Lois Sherbinow to approve variance 2001-2 for Brad LaPine, 600 Brookfield allowing a secondary accessory building to have a larger perimeter than the house due to the unique small size of the existing house. The house being built before 1976 and in a R-2 zoned district. Motion passed Aye 5, Nay 0.
- B. Request for interpretation on attached structures (ie. breezeway, underground tunnels, etc.)
- Mark Maki briefed the ZBA on the request and presented the ordinance language pertaining to this question. A discussion continued.
- Marcia Thieme, M-28 East, spoke and gave a definition from the Dictionary of Architecture of an "attached" building. Basically, it was when roof connects between the two structures.
- Paul Uimari, Architect, representing Paul and Marcia Thieme, spoke and indicated that a research of the definition varies and that if any physical connection can be made it should be deemed as attached.
- A motion was made by Carol Hicks to table any action on this definition / interpretation and requesting that the Zoning Administrator research comparable ordinances from surrounding areas and return to the ZBA with a proposed language for discussion and consideration. The motion was seconded by Bill Sanders. Motion passed Aye 5, Nay 0.

V. UNFINISHED BUSINESS: NONE

V. UNFINISHED BUSINESS: NONE

VI. INFORMATION / CORRESPONDENCE:

A. Zoning Administrator letter regarding definition of contractors' yards/parking of commercial vehicles in residential zones.

B. Zoning Administrator letter to Allen Blondeau regarding previous home occupation application.

C. Information regarding variances for land division ordinance.

VII. PUBLIC COMMENT:

Dick Arnold spoke about the ordinance in general and the difficulty to enforce aspects of the ordinance.

VIII. ADJOURNMENT: AT 9:14. p.m.

Respectfully submitted:



Carol Hicks, Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF MAY 24, 2001**

- I. Meeting called to order by Chair Robert Pecotte at 7:30 p.m. in the meeting room of the Township Hall.
Members present: Lois Sherbinow, Robert Pecotte, Michele Wietek. Also present, Mark Maki, Zoning Administrator.
- II. PUBLIC COMMENT: Lee Blondeau, Tracy Lane, had a question about the meeting being posted on the outside display case and indicated that the definition of a semi-trailer in the zoning ordinance is flawed as it could include a boat.
- III. APPROVAL OF MEETING MINUTES: Chair Robert Pecotte noted that the recording secretary is out of town, and that the meeting minutes will have to be considered at the next meeting.
- IV. NEW BUSINESS:
- A. Variance 2001-3. Glen Kassel for 6400 US 41 South, Marquette
-Mr. and Mrs. Kassel were present and explained the need for a front setback variance for a 20 x 24 canopy to the clear vision area near County Road 480 and US 41 south. The pumps have existed prior to the 1977 Zoning Ordinance and are located near the clear vision area. They will have to be actually moved back to allow the canopy to cover both islands. The canopy will be at a 0 foot setback from the clear vision area as the State Highway Department will not allow the canopy to extend over the clear vision area. The canopy will be at a greater setback than a typical right-of-way due to the clear vision area.
-Mark Maki, Zoning Administrator, noted that the Township had dealt with similar canopy variances for the Holiday Gas Station, Shaw's Gas Station and Citgo Station in Harvey, as canopies traditionally are in the front of the buildings.
-Motion by Lois Sherbinow, second Michele Wietek, to approve a 20' x 24' canopy at a 0 foot setback to the clear vision area.
- B. Variance 2001-4. Ivan and Colleen Fairfield for 829 Lakewood Lane, Marquette are requesting a variance to build a detached 30 x 40 garage with a height of 17' 2" as defined by our Zoning Ordinance. The Zoning Ordinance height as defined allows a height of 14 feet in the R-1 Zoning District.
-Mr. Fairfield indicated that he had reduced the garage down from 40 x 50 to 30 x 40 and that the roof pitch was the minimum that he could get by with. The boat on the trailer is 12' 18" and this creates a minimum of 14 feet at the eaves. With a 5/12 pitch, this puts the peak at 20' 3" = average height of 17' 2". The garage will be sided similar to the house and will be a nice looking building. Mr. Fairfield responded to a question about reducing the width that he felt he had reduced it as small as he could for his needs.
-Member Pecotte raised concerns about the height variances and what other heights had been approved.
-Motion by Pecotte, second by Lois Sherbinow to table until the other two members are present. Carried 3-0
- C. Interpretation/Accessory Uses/Contractors Yard
-Mark Maki, Zoning Administrator, identified the need to define some issues regarding what is allowed as an accessory use to residential use as identified in Section 107 and what constitutes a contractor's yard. The issue is due to the proliferation of commercial type vehicles in residential areas, including larger vehicles including contractor's equipment and even semis. The problem is that these types of vehicles are not compatible with single family neighborhoods.

Possible solutions include revising home occupation language in rural areas (RR-2 & RP). As they do require some review procedure, as they vary in the size and activity level.

The problem is where does it cross the accessory use to residence line in R-1 type zones.

-Mark Maki put forth the following language for consideration to define accessory uses relative to residential zones:

Accessory use as identified in Section 107 does not include: the parking of commercial equipment and/or vehicles, including semi trailers, not used as a customary personal family vehicle, unless a home occupation permit has been obtained.

-This language requires a review of any specific "vehicle parking" issue by way of a home occupation review, but is more flexible than the requirements of the City of Marquette, which prohibit all commercial type vehicles in residential zones.

We need to define as best possible vehicles allowed without a home occupation. One approach would be to amend the Zoning Ordinance and/or define what constitutes a "commercial vehicle." Typically light utility van type vehicles or pickups used by residents and parked at home are not what he would consider out of the ordinary. However, large commercial vehicles, school buses, semi-trailers, etc. generally are not typical in residential zones. Residents operating a business out of their home, including the storage of some vehicles used in conjunction with that business are currently a violation unless they have home occupation approval. Some existing home businesses grandfathered to some degree in that they were active prior to the 1977 Zoning Ordinance. These have been considered grandfathered. Item tabled for further information.

V. PUBLIC COMMENT:

1. Lee Blondeau commented on the broad definition of contractor's being one who contracts to perform work and indicated that contractors like Sunrise and Lambert keep nice looking properties on US 41.
2. Dick Arnold was concerned more about junk vehicles as being unsightly. It is unfair to clean-up contractors, as junk and junk cars are worse.
3. John Smith feels this request is circumventing the normal procedure, as this was reviewed before by the Planning Commission and Township Board.
4. Bob LaJuenesse Jr. commented on the need to have some requirements other than home occupation, as this language may prohibit people from operating contractor businesses. He hasn't had any problems with neighbor's complaints. He would like to build a building to store his equipment, but that Mark won't let him, as the current language would not allow this big of a building for this purpose.
5. Mrs. Albrecht, Lakewood Lane, commented on her concerns that she doesn't feel a semi-tractor is appropriate next door. She has a problem with noise and also view, as it does not fit in.
6. A question was raised if the noise problem could be handled under the Noise Ordinance.

VI. ADJOURNMENT AT 9:00 P.M.

Respectfully submitted:

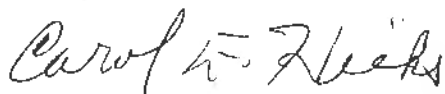
Mark Maki

Mark Maki, Acting Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF JUNE 28, 2001**

- I. Meeting called to order by Chair Robert Pecotte at 7:35 p.m. in the meeting room of the Township Hall.
Members present: Lois Sherbinow, Bill Sanders, Robert Pecotte, and Carol Hicks. Also present, Mark Maki, Zoning Administrator.
- II. PUBLIC COMMENT: Tim Hawkins spoke on behalf of Ivan Fairfield variance request and will reserve to make comments on that agenda item.
- III. APPROVAL OF METING MINUTES: Motion was made by Bill Sanders and seconded by Lois Sherbinow to approve the minutes of April 26, 2001 as submitted. Motion passed Aye 4, Nay 0.
- IV. NEW BUSINESS: NONE
- V. UNFINISHED BUSINESS:
- A. Variance 2001-4 Ivan and Collene Fairfield for 829 Lakewood Lane. Request a variance to allow a 30 x 40 detached garage with a height of 17 feet 2 inches (Peak 20 feet 4 inches)
- Mark Maki reported that this item was tabled from the last meeting. Since 1995 we have had six requests for higher than normal garages a list was provided for ZBA members.
- The question came up with respect to the re-posting of public notice when and if an item becomes tables to a later meeting. Mr. Maki responded that perhaps a full public posting should be published for a re-hearing. Notice for the regular meeting along with agenda items is in the newspaper five days prior to the meeting.
- Tim Hawkins spoke to explain the variance request and that one stall was for a 12x13 door.
- Ivan Fairfield spoke indicating his intended use and that there were four similar oversize garages along Lakewood.
- ZBA members offered some possible alternatives in design and various methods that would help to reduce the overall height and still achieve his objective for use.
- A motion was made by Carol Hicks and seconded by Bill Sanders to approve variance 1001-4 for Ivan and Collene Fairfield at 829 Lakewood Lane allowing for a 1'-6" variance above the required 14' average, thus allowing for a maximum height of the structure to be 15'6". Motion passed Aye 4, Nay 0.
- ITEMS B - Interpretation/Contractor's yard, and ITEM C -Request for interpretation on attached structures (ie. brcezeway, underground tunnels, etc.) relative to height and setback issues, was tabled until the next meeting due to the lack of public re-notice.
- VI. Information/Correspondence: None
- VII. Public Comment: NONE
- VIII. Adjournment at 8:15 p.m.

Respectfully submitted:



Carol Hicks, Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF JULY 26, 2001**

- I. Meeting called to order by Chairperson Robert Pecotte at 7:35 p.m. in the meeting room of the Township Hall.
Members present: Lois Sherbinow, Robert Pecotte, Bill Sanders (arrived late), and Michele Wietek. Also present, Mark Maki, Zoning Administrator.
- II. **PUBLIC COMMENT:** Jim Boyer, 350 Karen Road. Complaint regarding late start of meetings and 3 postponements to earlier meetings of contractor's issue making it difficult to participate in the process.
- Bob LaJenuesse, 407 Little Lake Road. Requests that contractors' yard issue be moved up to 3rd on the agenda.
- III. **APPROVAL OF MEETING MINUTES:** Minutes from June meeting not submitted to the board. Item postponed until next meeting.
- IV. **NEW BUSINESS:**
- A. **VARIANCE 2001-5.** Chris Kinnunen, 105 Deerview Trail. Request for variance to allow a 24' x 32' detached garage to be built prior to home.
- Public notice was given and no comments received.
 - Mark Maki summarized the lot situation and the history of these types of requests. Mark Maki reported that most instances of the garage being built first were not a problem.
 - Robert Pecotte asked if we have approved these requests in the past; Michelle Wietek asked if we had ever required a signed agreement stating that a house would be built.
 - Mark Maki reported that we usually granted the request, usually with conditions, or that, because of enforcement difficulties, signed agreements were not requested.
 - Robert Pecotte motioned and Michelle Wietek seconded to approve Variance 2001-5 request to allow a 24' x 32' garage to be built before dwelling on the condition that the dwelling would be built as soon as possible and the condition that no outdoor storage be permitted until the house is constructed.
 - Motion passed. Ayes 3 (Bill Sanders not present yet), Nays 0.
- B. **VARIANCE 2001-6** Jeff Trudeau, 211 Cedar Lane. Allow a 40' x 40' detached garage to be built on Lot #4.
- Mark Maki reported that notice was given and no comments received.
 - Mark Maki reported that no house was intended to be built on this lot and that the garage would serve a house to be built on an adjacent lot where wetlands and a pond made a garage difficult.
 - Robert Pecotte asked why he couldn't combine the adjacent lots into a parcel and expressed concern that the lot with the garage could be sold as a separate unit.
 - Mark Maki reported that combining the lots would be difficult because they were platted lots, although they could be put together for tax purposes.
 - Motion to build garage on Lot 4 approved on the conditions of no exterior storage and that a house will be built on the adjacent lot, which meets or exceeds the perimeter dimensions of the garage as it is accessory. Ayes 3 (Bill Sanders not yet present) 0 Nays.
- C. **VARIANCE 2001-7.** Mr. and Mrs. Carl Linna, 508 County Road 480. Request to allow a 12' x 8' porch addition with a 24' setback (30' required).
- Mark Maki described the house, lot and neighborhood.
 - Robert Pecotte expressed concerns regarding road expansion in future.
 - Mark Maki reported that the 12' expansion would require a 24' setback and that, when the area was developed, only a 25' setback was required. Therefore, the request was consistent with the standards met by other houses originally built in the neighborhood.
 - Bill Sanders (now present) asked about the dates of setback zoning changes and Mark Maki provided dates.

- Lois Sherbinow asked about the use of the porch and if it would be used seasonally or was it more of a house addition.
- The Linna's reported that it would be a 3-season structure.
- Motion was made by Lois Sherbinow and seconded by Bill Sanders to approve Variance 2001-7 allowing the porch addition at a 24 foot front setback. Ayes 4, Nays 0.

V. UNFINISHED BUSINESS:

Lois Sherbinow requested that the contractors' issue be moved up the agenda to V. A. and that the attached structure issue be dealt with as V. B.

A. Interpretation/Request by Zoning Administrator regarding commercial vehicles/contractors' yards in residential zones.

- Mark Maki reported that contractors' yards are not residential uses and are not permitted in residential areas. Home occupation uses are permitted in residential areas with a home occupation permit. However, contradictory language in the Ordinance makes it very unlikely that a contractor would be allowed to get a home occupation permit due to outside storage issues. Mark Maki referenced language in the 7-23-2001 memo to Zoning Board of Appeals.
- Mark Maki stated that this would not change the Ordinance, it would clarify the home occupation language to clear up whether outdoor storage was allowed or not. This would give existing contractors an opportunity to get a permit and be in compliance with the Ordinance.
- Mark Maki read letter by anonymous contractor's opposing any restriction on contractors' activities and saying that there have not been enough complaints to warrant taking action to enforce the Ordinance.
- Mark Maki responded that it was illegal for him to act only on complaints and that that would amount to unequally enforcing the Ordinance. Problems such as selective enforcement issues would result and open the Township from being barred from enforcement.
- Mark Maki also responded to the issues raised in the letter saying that the Planning Commission had already dealt with this issue. Mark Maki responded by saying that the Planning Commission had dealt with the parking issues, but that their language did not make contractors' yards in residential areas acceptable.
- Lee Blondeau asked about the number of complaints the Township had received regarding contractors.
- Mark Maki reported that there had been three recently regarding semis and contractors.
- Bill Sanders asked Mark Maki for clarification regarding his enforcement intent pertaining to commercial vehicles similar to residential vehicles, such as pick-ups or cars.
- Mark Maki indicated that it was not his intent to consider these violations.
- Bill Sanders noted that it would be a benefit to the contractors to have the Ordinance language changed to allow them to operate in compliance with the Ordinance.
- Robert Pecotte asked about enforcing against contractors using the Noise Ordinance.
- Mark Maki responded that that was not an effective way to achieve the goals of the Zoning Ordinance because other issues than just the noise exist.
- Michelle Wietek noted that the board was not changing the Ordinance but was merely making a suggestion to the Planning Committee on contradictory language.
- Lee Blondeau commented that making the permit language more open to contractors' activities is good but that the definition of contractors' yard should be dropped.
- Jim Boyer stated that the definition would pull too many people into the Ordinance.
- Bob LaJeunesse stated that other more disruptive uses would be allowed in his area but that his contractors' business would be prohibited.
- Motion made by Robert Pecotte to recommend that the Planning Commission review the contractors' yard definition and home occupation additions including correcting any conflicts as suggested by Mark Maki for possible inclusion into the Ordinance. Bill Sanders seconded. Ayes 4, Nays 0.

B. Request for interpretation on attached structures' definition.

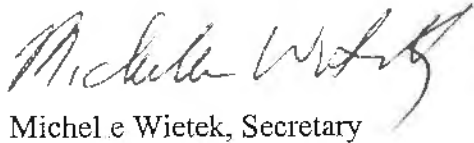
- Mark Maki reported that there are different requirements for attached and detached garages, but no definition of attached is provided. The issue had been raised to him regarding a garage and a house with a subsurface passage between them, or something like a breezeway.

- Mark Maki referenced language he suggested in 7-23-2001 memo that attached means having a common wall, common foundation and common roofline.
- Marcie Theme asked if an attached structure had to have all three components.
- Bill Sanders provided some examples of garages that would and would not fit the proposed definition and expressed concern about dictating how people build their houses.
- Bill Sanders suggests that definition be changed so that attached is any structure that has two of the three common elements.
- Motion made by Bill Sanders to support Mark Maki's definition of attached with the condition that it be changed to have attached mean two of the three following elements: common roofline, common wall, common foundation. Ayes 4, Nays 0.

VI. **PUBLIC COMMENT:** None

VI. **ADJOURNMENT**

Respectfully submitted:



Michele Wietek, Secretary

**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: AUGUST 23, 2001**

- I.** The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:30 in the meeting room of the Township Hall. Members present: Lois Sherbinow, Bill Sanders, Robert Pecotte, and Carol Hicks. Also present, Mark Maki, Zoning Administrator.
- II. PUBLIC COMMENT: NONE**
- III. APPROVAL OF MEETING MINUTES:** A motion was made by Bill Sanders and seconded by Lois Sherbinow to approve the minutes of July 26, 2001 as corrected. (Item V-B). Motion passed: Aye 4, Nay 0.
- IV. NEW BUSINESS:**
- I.** Variance 2001-8 Variance from Sec 300 setback and 300 F as accessory building exceeds perimeter of dwelling. John Sandin, 146 Lakewood Lane. To allow an addition of 30x60 sq. Ft. to an existing garage which is 400 sq. Ft. and which exceeds the perimeter dimensions of the dwelling. (Perimeter of existing house is 144 l.f. while addition and existing perimeter would be 220 l.f. The accessory addition to the garage does not meet the front lot line setback of 30 feet. The accessory addition/garage is setback 7 feet to the railroad right of way.
- Mark Maki reported that public notice was given and one letter of support was received from Christine and Robert Yuill. The Yuell's being an adjacent neighbor had no objections to the variance request.
 - Roberta Kisslinger spoke and explained why her and her fiancée (John Sandin) were requesting this variance. They plan to build an addition onto the house within the next few years.
 - Mark Maki indicated there was a third issue in that what was labeled as a wood working area looks like an apartment with a bath room and a kitchen sink etc.
 - The ZBA questioned aspects of the request and the possibility of building only the garage part as Phase I and then the workshop as Phase II when and if the house addition is completed.
 - A motion was made by Bill Sanders and seconded by Carol Hicks to grant a variance for applicant John Sandin 146 Lakewood Lane allowing for only a garage portion of the addition (28 x 30) added to the existing garage yielding a perimeter of 164 l.f. thus exceeding the house by 20 l.f. A variance of 20 l.f. over the perimeter of 144 being the existing house. The 30 x 30 workshop (Phase II) could be added when the addition was constructed onto the existing house. In addition this variance would allow for a 20' deviation from the required 30' setback. (Allowing the garage to be within 10' of the property line). Motion passed Aye 4, Nay 0.
- 2.** Interpretation/clarification on requirements for home occupation language.
- Our ordinance in reference to Home Occupations, Item A, and numbers 3 and 4 need an interpretation and possibly a re-write. Items three and four addresses "outdoor display" and are in conflict with one-another. The reference to signs and outdoor storage are in conflict.
 - Lee Blondeau spoke and agreed that a conflict appears to be present in the wording of the ordinance.
 - A motion was made by Carol Hicks and seconded by Bob Pecotte to recommend to the Board that line item #3 should be limited to signs and not outdoor storage and that item #4 should pertain to storage. Motion passed Aye 4, Nay 0.
- 3.** Interpretation of Accessory Structures Size in RR-2, RP and OS zones.
- Mark Maki reported that accessory structures in the zoned districts for RR-2, RP, and OS are getting larger and that numerous requests have been made over the years for these larger than normal structures. In R-1 districts we have the 14' height requirements etc

however, no height reference to RR-2, RP and OS districts. No clear language specifically to accessory buildings.

-Accessory buildings as expected usage that are designated as "customary" to that zoned area. The overall question is what is "customary"? We need guidelines for what is customary accessory along with some numbers on height, square footage, and lineal footage.

-Lee Blondeau spoke that customary characteristics vary with different areas or districts. The lineal footage issue would be the same for R-1 as for OS if that were the only characteristic of distinction.

-Bob LaJeunesse spoke with regards to the issue.

-The ZBA was in agreement that this should go before the Planning Commission for some language clarification. We simply provide some input to assist future variance interpretations and suggested language.

V UNFINISHED BUSINESS: NONE

VI INFORMATION/CORRESPONDENCE: The Planning Commission is holding a public hearing on height issue with the recommendation to increase the detached accessory building from 14' to 15'.

VII PUBLIC COMMENT:

-Bob LaJeunesse spoke and discussed his issue with regards to a zoning compliance check and approval by Mark Maki for a 30' x 60' accessory garage building that was later revoked with Mr. Maki indicating he would approve a 30' x 50' building.

-Lee Blondeau spoke to support Mr. LaJeunesse interpretation of accessory buildings.

-Mark Maki and the ZBA members discussed this issue with no formal resolution.

VIII ADJOURNMENT: AT 9:15 p.m.

Respectfully Submitted: Carol Hicks, secretary



**CHARTER TOWNSHIP OF CHOCOLAY
ZONING BOARD OF APPEALS
MINUTES: SEPTEMBER 27, 2001**

- I. The Zoning Board of Appeals of the Charter Township of Chocolay was called to order by Chairperson Robert Pecotte at 7:32 p.m. in the meeting room of the Township Hall. Members present: Lois Sherbinow, Bill Sanders, Robert Pecotte, Carol Hicks and Michelle Wietek. Also present, Mark Maki, Zoning Administrator.
- II. Public Comment: Bob Pasco spoke and indicated he would address his upcoming variance. Carol Lamirand spoke indicating that she was only an observer.
- III. Approval of August 23, 2001 minutes: Mark Maki suggested that this be tabled to a later date due to the fact that they were only received a few days ago and due to our long agenda. Carol Lamirand spoke and questioned as to why the minutes were not available.
- IV. NEW BUSINESS:
- A. Variance 1001 - 9 Scott Stephenson, 103 Cindy Lane. Request a variance to allow a 28' x 40' garage at a questionable setback to the front lot line.
- Mark Maki reported that his site visit and measurements showed that the front setback is unknown and could range from as 11' to 21' thus requiring a variance from the required 30' setback of from 9' to 19'.
 - Scott Stephenson spoke and told the ZBA that the garage was to be 28' x 28' being for cars and the last 12' x 28' was for a workshop. Cindy Lane is a private road and he resides at the end of the road and that the true Right-Of-Way is unknown.
 - Carol Hicks asked if a survey was ever made of his property. How can we as ZBA members put a number on the requested setback when it is an unknown.
 - ZBA continued to discuss the variance request.
 - A motion was made by Bill Sanders and seconded by Bob Pecotte to grant Variance 1002-9 for Scott Stehpenson, 103 Cindy Lane allowing him to construct a 28' x 40' garage at a setback distance resulting in no more than 11' from the front line. Motion passed Aye 5, Nay 0.
- B. Variance 2001 -10 Bob Pasco, 825 Willow Road. Request a variance to allow a 30' x 56' garage/accessory building, which exceeds the perimeter dimension of the dwelling on site.
- Bob Pasco spoke indicating that he has since revised the size to 28' x 56'.
 - Mark Maki reported that this new size garage would have 1008 sq. ft. and 168 lineal feet. The house has only 132 l.f. thus a variance of 36 l.f. His original garage and combined out-buildings, which was destroyed by fire last January, had a total of 1888 sq. ft. This new garage/accessory building would be small and consolidate all yard materials.
 - A motion was made by Carol Hicks and seconded by Bill Sanders to approve variance 2001-10 for Bob Pasco, 825 Willow Road, allowing for a 168 l.f. garage to be constructed that exceeded his house by 36 l.f. with the provision that no items were to be stored behind nor alongside the new structure. Motion passed Aye 5, Nay 0.
- C. Home Occupation 2001-1 Mark Maki, 370 Karen Road. Office for Township business contracts.
- Mark Maki reported that he was requesting an Home Occupation just to make sure that no loose ends were left and to clean-up and questions as to his home occupation.
 - A motion was made by Bill Sanders and seconded by Michelle Wietek to approve Home Occupation 2001-1 for Mark Maki, 370 Karen Road with the standard provisions.
 - Before the question was called discussion was conducted as to phone calls, signage, and additional traffic, etc.
 - Lee Blondeau spoke and questioned exactly to what degree of involvement was that business and what was the nature of his home business.
 - Mark Maki responded indicating that he has contractual obligations with up to nine different townships and he serves as the zoning administrator for West Branch Township

and that nobody comes to his home for business.

-The question was called and the motion passed Aye 5, Nay 0.

D. Appeal 2001-1 Robert LaJuenesse, 407 Little Lake Road. An appeal of the Zoning Administrator definition regarding the limits on size of customary accessory garage.

-Robert Pecotte read into the record a letter dated 09/27/01 from Township Supervisor Ivan Fende. This letter encouraged the ZBA to reinstate the original Zoning Compliance Permit.

-Two letters of correspondence were received: One from MaryLou Shimmon, 130 Shimmon Court expressing no objections to the LaJuenesse request. The second from Frank and Madilene Zimmerman 407 Little Lake with no objections.

-A motion was made by Robert Pecotte and seconded by Lois Sherbinow to approve appeal 2001-1 from Robert LaJuenesse, 407 Little Lake Road to build a 30' x 60' garage.

-Discussion ensued prior to the question and vote.

-Michelle Wietek spoke indicating that she needed further information in that she was not present at last month's meeting.

-Mark Maki reported that the Township attorney indicated that he was perfectly within his right to revoke the original zoning compliance. He would have no problem with a 30' x 50' building and has indicated this to Mr. LaJuenesse.

-Mark Maki read into the record his long standing issues with Mr. LaJuenesse starting with June 11, 1984 to present.

-It was questioned as to the decision of what is a "customary accessory structure", is it a 30' x 50' or 30' x 60' and does that 10' difference change things.

-Mr. LaJuenesse spoke in answer to ZBA questions and indicated that he proceeded with the building as planned and now has the roof on, without any building permit.

-Lee Blondeau spoke that we allow RR-1 smaller garages and RR-2 should be allowed to have a larger garage. Confusion of dimensions and historical disputes better Mr. Maki and Mr. LaJuenesse have been long standing.

-Carol Lamirand spoke inquiring as to why did the Zoning Administrator change his decision. Mark Maki answered.

-The question was called and the vote was taken. Appeal 2001-1 for Robert LaJuenesse, 407 Little Lake Road passed. Aye 3, Nay 2.

E. Appeal 2001-11 Tod Pentecost, 2368 M-28 East, Marquette, Mi. Request to build a 32' x 60' garage/workshop prior to the house.

-Mark Maki reported that this was another garage proposed before the house. He has 23 acres and a lot of setback in a wooded area. A future house is proposed for Spring of 2002 and it will also have an attached garage.

-The ZBA had several questions with respects to this request. Historically, the ZBA has granted similar requests but has been burnt on several occasions in that the house was never built.

-Chair Robert Pecotte read into the record a second letter submitted by Township Supervisor Ivan Fende dated 09/27/01 noting the request for yet another very large garage to be built prior to a home being constructed. He has asked to Planning Commission to look into this issue at their earliest convenience. He encouraged the ZBA to refrain from future requests until the Planning Commission can review these standards.

-A motion was made by Carol Hicks and seconded by Bill Sanders to table request 2001-11 for Tod Pentecost, 2368 M-28 East pending further information about the garage and the proposed house size, lineal footage, etc. and the potential outcome from our Township Planning Commission. Motion passed Aye 5, Nay 0.

F. Variance 2001-12 Charles Mankiewicz, 441 Cherry Creek Road. Request to build 28' x 30' garage at a 17' setback in a RR-2 zone. (30' required)

-Mark Maki reported that the original site had two detached garages and a wood shed and that this new 3-car garage would be replacing the original two garages. This new garage would be attached to the house with a breezeway.

-A motion was made by Bill Sanders and seconded by Bob Pecotte to approve variance 2001-12 for Charles Mankiewicz at 441 Cherry Creek Road allowing for a new 28' x 30' garage at 17' setback thus a variance of 13'. Motion passed Aye 5 Nay 0.

**CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF OCTOBER 11, 2001**

- I. Meeting called to order by Chair Robert Pecotte at 7:35 p.m. in the meeting room of the Township Hall.
Members present: Lois Sherbinow, Bill Sanders, Robert Pecotte, and Carol Hicks.
Members absent: Michele Wietek
Also present, Mark Maki, Zoning Administrator and Cathy Phelps, Recording Secretary, Kathryn and Carl Menze.
- II. PUBLIC COMMENT: None
- III. APPROVAL OF MEETING MINUTES:
June 28, 2001 minutes: Bill Sanders moved, Lois Sherbinow supported to approve the minutes as presented. Aye: 4, Nay: 0. Motion passed.
August 23, 2001 minutes: Lois Sherbinow moved, Bill Sanders supported to approve the minutes as presented. Aye: 4, Nay: 0. Motion passed.
September 27, 2001 minutes: Bill Sanders made correction regarding Page 3, F. (should be: Aye 5, Nay 0 to replace Aye 0). Bill Sanders moved, Robert Pecotte supported to approve the minutes with correction. Aye: 4, Nay: 0. Motion passed.
- IV. NEW BUSINESS:
- A. Appeal 2001 – 2. Carl Menze, 2210 US 41 South, Marquette, MI 49855
Wolverine Door Service.**
- Discussion: Mark Maki explained the construction of the new addition to building. The old lean to was 8' x 50' and the new addition plan is 16' x 30'. The old section was no longer functional and in bad repair. Carl Menze described his type of business and why he needed the addition. Accessory Buildings have a height restriction of 14' and setback of 5'. Maki mentioned Zoning Board of Appeal denial of the Lambert case in 1994, which was similar. He explained Section 300 (F). He has no authority to give a zoning permit to a nonconforming structure. The Zoning Board of Appeals only has the authority in this case. Mark Maki said the accessory building is encroaching on the adjoining property. He stated that if the building burned down, it could not be rebuilt at its present height and setback.
- Carl Menze showed a picture of the old section that he wants replaced. He does not have a building permit at this time. Some engineer told him if it was less than 100 square feet he did not have to get a permit. He felt the C-3 zoning was intended for medium to large size contractors and that he fit into C-2. Being a sales and service contractor.
- Robert Pecotte stated that Carl Menze has no building permit, his addition is nonconforming, the main building is encroaching on the neighboring property. He felt if they approved the Menze request, they would have to approve it for everyone else. They cannot do that.
- Carl Menze questioned the encroachment.
- Bill Sanders asked Mark Maki what he uses to test the ordinance for additions/replacing buildings?
- Maki read from the Ordinance book giving four things for qualification.
- Kathryn Menze said the original building was built in 1945 by McDonald Construction, and the lean-to was built at that time.
- Carol Hicks stated that the Lambert case was denied.
- Mark Maki noted that it is a problem because Section 300 (F) came after the Lambert case.
- Lois Sherbinow noted that the Lambert case was a new building, and Menze is replacing a section of the building.
- Mark Maki said that when the old section fell down it's gone and the new addition is a different size. He stated that you cannot add on to a nonconforming structure without approval of the Zoning Board of Appeals.
- Carol Hicks asked what if they deny the Menze's? They have it half built, do they have to tear it down?
- Mark Maki answered, "yes, it is in violation because they have no building permit." He suggested they apply for a Class A designation, but the ZBA cannot grant a Class A designation tonight. He has already given them the application, and has partially filled it out.
- Bill Sanders made a motion to deny Carl Menze Appeal 2001-2, appeal of Zoning Administrator's determination that a 16' x 30' addition for storage to an existing 32.7' x 56' shop/storage building in a C-2 zoning district is not authorized except as an expansion of a

line runs on the property? Tim L'Hote said the line ran near the river. Hicks mentioned saving the tree line and that it would hide the new garage. L'Hote mentioned he has talked to his neighbor nearest the area where he plans his garage and they have no problem with it.

Carol Hicks moved, Michele Wietek second to approve the variance from Section 300 to allow a 22' x 24' garage at a 10' front lot line setback (30' required) to Timothy and Kathy L'Hote at 149 E. Main Street, as it is located on a unique, dead end street and that the lot has limited building area due to slope. Aye 4, Nay 0. Motion passed.

C. Interpretation 2001-3.

Request by Zoning Administrator for determining Section 704 and Zoning Permit regarding failure to allow inspection resulting in revocation of Zoning Permit or request for injunction to require inspection.

V. INFORMATION/CORRESPONDENCE:

Mark Maki indicated that the zoning permit application requires authorization to inspect the site. Section 704 refers to zoning permits and requires revocation if obtained under false statements. Recently a zoning permit was approved, which authorized site inspection, but it was later reversed verbally and threats were made if the Zoning Officer came on site.

Mark Maki is looking at options such as amending the ordinance (Section 704) to be more specific on conditioned approval.

In this case, Mark Maki thinks an injunction should be secured requiring inspections. The issue may be resolved, as the District Court has allowed inspection of the same site on a different issue.

Mark Maki recommended that the Zoning Board of Appeals table this as the issue may resolve itself based on this District Court order and that amendments will be made to the Zoning Ordinance.

Lee Blondeau had questions on inspections and if inspections could be done prior to issuing of the permit to insure compliance. It was noted this is done in many areas but it would add time to the permit approval process.

VI. PUBLIC COMMENT:


Mark Maki gave brief notice on a court proceeding regarding Carl Besola and a contractors' yard in R-1 zone. Carl Besola gave testimony of a pre-existing use. Maki believes there was a break in business activity. The judge granted the status as a nonconforming use, although he was not specific.

Mark Maki also updated the Zoning Board of Appeals on a zoning violation case regarding another contractors' yard and a ticket issued to Bob LaJuenesse, Jr. at 407 Little Lake Road. A motion was made by Mr. LaJuenesse's attorney to throw out the case because contractors' yard as used is too vague. The Judge denied the motion and a trial date has to be set.

VII. ADJOURNMENT AT 8:25 P.M.

Respectfully submitted:


Cathy Phelps, Recording Secretary


Carol Hicks, Secretary

**CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF NOVEMBER 8, 2001**

- I. Meeting called to order by Chair Robert Pecotte at 7:35 p.m. in the meeting room of the Township Hall.
Members present: Lois Sherbinow, Robert Pecotte, Carol Hicks, and Michele Wietek.
Members absent: Bill Sanders.
Also present, Mark Maki, Zoning Administrator and Cathy Phelps, Recording Secretary, Kathy and Carl Menze, Kathy and Tim L'Hote, and Lee Blondeau.
- II. PUBLIC COMMENT: Lee Blondeau requested a copy of agenda.
- III. APPROVAL OF MEETING MINUTES:
May 24, 2001 minutes: Lois Sherbinow moved, Carol Hicks supported to approve the minutes as presented. Aye: 4, Nay: 0. Motion passed.
October 11, 2001 minutes: Carol Hicks moved, Michele Wietek supported to approve the minutes as presented. Aye: 4, Nay: 0. Motion passed.
- IV. NEW BUSINESS:
- A. Class A and Expansion Request 2001-1 Carl Menze, 2210 US 41 South**
Mark Maki reported that property owners were notified and an ad was put in the Mining Journal. He has received no written comments. There are two areas to look at: 1) Height in C-2 zone, and 2) Not meeting 5' setback. Maki recommends approval of existing building with provision that if it is destroyed, it needs to be rebuilt with conforming setbacks, and he recommends granting approval for the storage addition. Approval is based on compliance with standards in Section 601A and Section 604 (C) as per his letter and review.
- Carl Menze noted that he had no additional information. Bob Pecotte questioned the parking. Maki answered there were no parking problems.
- Carol Hicks motioned that approval be made for Carl Menze (Wolverine Door Service) to allow Class A designation for the nonconforming existing structure based on compliance with standards as noted in the zoning report. Lois Sherbinow seconded the motion. Aye 4, Nay 0. Motion passed.
- Carol Hicks motioned that approval be given for Carl Menze (Wolverine Door Service) to build a 16' x 30' addition for storage once Mr. Menze gets a zoning permit from the Zoning Administrator based on meeting the standards for expansion. Michele Weitek seconded the motion. Aye 4, Nay 0. Motion passed.
- B. Variance 2001-13, Timothy and Kathy L'Hote, 149 E. Main Street Marquette, MI**
Maki explained the L'Hote's are asking for a variance from Section 300 to allow a 22' x 24' garage at a 10' front line setback (30' is required). Maki has informed the property owners within 300' of the L'Hote property. Maki has received one response from Don Salo, Lakewood Lane and Alice Salo, 145 E. Main Street, they have no objection.
- Discussion was had on the L'Hote's plans. Their house is on a dead end road, they live approximately in the middle of the block. Presently the garage is attached to the house, there is no direct entrance from the house to the basement at this time. They would like to build a new garage and redesign the present garage into a family room with access to the basement. They would prefer to use the flat area of their lot as a play area for children. Maki sees no problem with this plan, it blends in well with the surrounding neighborhood. Pecotte questioned the slope of the yard and where the doors and windows were located. Timothy L'Hote noted that they do foster care in their home and would like to keep a safe area in their yard for children to play. They have the Chocolay River in the back yard, and would rather that the children do not play near the river. They want to be able to watch the play area from the house. This plan would allow them to keep the existing driveway, and the new garage would be hidden behind a row of trees. Michele Wietek questioned if the planned garage height was conforming? Maki answered, "yes." Tim L'Hote said he was very conscious about having the new garage blend in with the existing house and neighborhood. Carol Hicks asked if the basement was finished? Tim L'Hote stated that one half of the basement was finished. Hicks also asked where the sewer

G. ELECTION OF OFFICERS

Nominations were made for Robert Pecotte to continue as Chair and Carol Hicks to continue as Secretary. A motion was made by Lois Sherbinow and seconded by Bill Sanders to approve the slate of Officers as nominated. Motion passed Aye 5, Nay 0

V. UNFINISHED BUSINESS: NONE

VI. INFORMATION/CORRESPONDENCE RECEIVED:

- Those already read into the record
- Letter to Bob LaJueness, Jr. re: complaint
- MSPO- Packet Handout to follow

VII. PUBLIC COMMENT:

- Carol Lamirand questioned what was the letter of complaint. This letter was then read.
- Discussion ensued with regards to the original motion for Robert LaJuenesse in that his request for a 30' x 60' garage is an addition onto and existing 30' x 50' garage and not a stand-alone 30' x 60' garage. Our original motion might need to be amended somewhat.
- A motion was made by Robert Pecotte and seconded by Lois Sherbinow to amend and clarify Appeal 2001-1 to read 30' x 60' addition onto an existing garage. Motion passed Aye 5, Nay 0.

VIII. ADJOURNMENT AT 9:12 p.m.

Respectfully Submitted:




Carol Hicks, Secretary

**CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF NOVEMBER 29, 2001**

- I. Meeting called to order by Chair Robert Pecotte at 7:30 p.m. in the meeting room of the Township Hall.
Members present: Lois Sherbinow, Robert Pecotte, Carol Hicks, and Michele Wietek.
Bill Sanders.
Also present, Mark Maki, Zoning Administrator and Cathy Phelps, Recording Secretary.
- II. PUBLIC COMMENT: Bill Lambert, builder, mentioned he was representing Duane Kern.
- III. APPROVAL OF MEETING MINUTES:
November 11, 2001 minutes: Carol Hicks moved, Bill Sanders supported to approve the minutes as presented. Aye: 5, Nay: 0. Motion passed.
- IV. NEW BUSINESS:
- A. Variance 2001-14 Duane Kern for 6413 US 41 South**
Mark Maki reported that property owners were notified and an ad was put in the Mining Journal. He has received one written comment from Leo Goodwin at 6309 US 41 South. Mr. Goodwin had no objection.
- Duane Kern wants to replace existing porch and extend his kitchen with double doors, which would bring his home 2 feet closer. Most of the other houses in the neighborhood are setback a long way, except for two houses. If this variance is approved, Kern's house would be even with the house to the north.
- Bill Lambert, representing Mr. Kerns, explained he needed the extra length for the roof pitch to have the proper header for a double sliding door off the dining room.
- Michele Weitek motioned that approval be made for Duane Kern to allow variance from Section 300 for front setback for an addition with a 22' setback with condition that nothing be added closer to the front lot line. Bill Sanders seconded the motion. Aye 5, Nay 0. Motion passed.
- B. Variance 2001-15, Patrick Healy, 125 County Road 545, Marquette, MI**
Mark Maki explained the parcel layout being only 100' wide with 30' setbacks in the RR-2 zone. This makes it difficult to build on. He also explained that no one would be able to build north of his lot, as a 50 feet wide strip is unbuildable. Mark Maki has informed the property owners within 300' of the property. Maki has not received any response. The addition is setback 1 foot from the existing house relative to the front setback.
- Carol Hicks moved, Michele Wietek second to approve variance from Section 300 for front setback 24'6" and side setback 22' with the understanding that nothing be constructed closer to the front lot line. Lois Sherbinow seconded the motion. Aye 5, Nay 0. Motion passed.
- V. UNFINISHED BUSINESS :
Mark Maki mentioned the need to review the bylaws. They could not act on them at this meeting. The bylaws fee language needs to be changed to read "fees as established by resolution of the Township Board".
- VI. INFORMATION/CORRESPONDENCE None.
- VII. PUBLIC COMMENT:
The next meeting will be held on Thursday, December 27, 2001. If there are any changes, Mark Maki will inform the Zoning Board of Appeals.
- VII. ADJOURNMENT AT 7:53 P.M.

Respectfully submitted:


Cathy Phelps, Recording Secretary


Carol Hicks, Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF DECEMBER 27, 2001**

- I. Meeting called to order by Chair Robert Pecotte at 7:36 p.m. in the meeting room of the Township Hall.
Members present: Lois Sherbinow, Bill Sanders, Robert Pecotte, and Michele Wietek.
Members absent Carol Hicks.
Staff present: Mark Maki, Zoning Administrator, Cathy Phelps, Recording Secretary, Doug Riley, Director of Planning.
Others Present: Ron Katers, Nick LaFayette, Jennifer Pickering, Dan Landers, Randy Bertram, Steve Owen, Elaine Reff, Steve White, and Lee Blondeau.

II. PUBLIC COMMENT:

Dan Landers of 2010 Granite, Marquette. Wants to reserve time to discuss the sign issue, as he represents Cook Sign Service and Northern Michigan Bank and First National of Negaunee.

Randy Bertram, 202 Van Epps, Marquette. Would like more information regarding the possible Movie Shop along US 41 South.

III. APPROVAL OF MEETING MINUTES:

November 29, 2001 minutes: Lois Sherbinow moved, Bill Sanders supported to approve minutes as presented.
Aye 4, Nay 0. Motion passed.

IV. NEW BUSINESS:

A. **Variance 2001 – 16.** Wells Fargo Bank/M-K Enterprises for 2366 US 41 South, Setback variance abutting R-1 zone for Movie Shop building. A 30-foot setback is required.

Michele Wietek noted that she needs to abstain on this appeal as the company she works for is working with Wells Fargo Bank on clean-up. She would like permission to participate in the discussion however. There was no objection.

Discussion:

Maki explained that his review requires additional review of where the zoning district line is as it is unclear. He also explained that the scale of the map is incorrect. The zoning history on this 20-foot strip needs to be studied. Another issue Maki noted is parking. A minimum of 24 feet is needed for an aisle. To be in total compliance, the building would have to be set on the property differently. Maki does not support variance as applied for. He stated that there are requirements for landscaping (planting to separate business from residential area). Maki also feels that there could be a traffic problem along US 41 in that area due to the intersections of Main Street and Van Epps.

Ron Katers stated that the building could be built at a different angle so as to comply. He would rather have the parking in the front of the building.

Wietek asked Maki if he supports the zoning change on the 20-foot strip from R-1 to C-2?

Maki stated that the Planning Commission and Township Board would have to consider the zoning change.

Steve White mentioned that the garage, which has been taken down but the slab is still on the property, would have been nonconforming, as it does not meet the 30-foot setback.

Elaine Reff stated that the slab is fairly new. The garage that was on the property only had a dirt floor. The garage and house were built there long before the Township had a

zoning ordinance, so at that time there were no setbacks.

Bill Sanders asked if the application would allow a 20-foot setback on the south side (R-1/C-2 boundary line)?

Mark Maki said a 30-foot setback is required but it is unclear as to where the R-1/C-2 zone is. He stated that this building was used as a home up to this point in time. It is important that we arrive at a decision as to where the R-1 zoning district is located. He feels that he should do some checking as to the history of the zoning of the 20-foot parcel. He will then inform the Zoning Board of Appeals of the map determination.

Bob Pecotte suggested that this issue be tabled until more information is known.

Lois Sherbinow asked if there are any other areas in the Township with this type of problem?

Maki stated the zoning map is generally okay, but with a 20-foot it is hard to determine without checking further. Hopefully the past will provide an answer.

Bill Sanders noted that if tabled and the 20-foot strip is in R-1, then the request can be changed.

Maki stated that the applicant can change the application at that time. If it is found that the area is in a C-2 zone, they may not need a variance, if they change the building plans to meet the 30-foot setback.

Sanders moved that they table Variance 2001-16 until the zoning district boundary line is determined and the Zoning Board of Appeals can then make a decision. Lois Sherbinow seconded.

Aye 3, Nay 0. Motion passed

B. Appeal 2001-4/2001-5. Cook Sign Service for Northern Michigan Bank at 5096 US 41 South and First National Bank of Negaunee at 216 West Terrace Street, regarding electronic message center signs.

Dan Landers from Cook Sign Service, Representing Northern Michigan Bank and First National of Negaunee Bank, described what he thinks "similar" signs are. He feels electronic message center signs and time and temperature signs are similar because they use interchangeable parts. He does not believe they change light intensity, and states that they do not have flashing or blinking lights. Some of the old signs used open bulbs and did flash. He used an example of pointing arrows. There are two kinds of electronic message signs: 1) Fixed electronic sign; and 2) Computer controlled variable.

Landers said the Township should be careful not to restrict the rights of businesses in Chocolay. He does not believe the Chocolay Township Ordinance is clear. The local businesses want to have equal opportunity to advertise as the businesses in outlying communities. He showed a video of some U.P. message center signs.

Bill Sanders stated that it does allow a larger message in less space. He questioned if Chocolay could limit the size of signs?

Dan Landers thought that Chocolay could limit sizes. He noted that he did not discuss with Marquette City and Marquette Township regarding the changes in their ordinances. The City had changed theirs prior to his working at Cook Sign Service.

Bob Pecotte asked why this issue is brought to the Zoning Board of Appeals since it is also being discussed by the Planning Commission at the same time?

Dan Landers noted that the local businesses would like to hurry the process of changing the Ordinance in Chocolay, they do not want to wait for a year or more for the change. The Ordinance needs to be clarified, they want to know what "similar" means. They have two options; the Planning Commission and by legal means.

Bill Sanders said the Planning Commission will continue to work on clarifying the ordinance.

Bob Pecotte does not feel that the Zoning Board of Appeals should approve any changes when the Planning Commission is seeking clarification.

Mark Maki stated that six months ago he was approached on this issue when the Northern Michigan Bank purchased property in the Township. Some areas have taken time and temperature signs out of their ordinances. Some communities like Marquette and Marquette Township have recently added these types of signs. He feels that when Chocolay's Ordinance was written in the 70's, and included similar signs that does not think they wrote it regarding electronic message center signs, as there was no such thing at that time. They were not in existence then, so we cannot take the word "similar" and use that to decide if they meant it was appropriate to use electronic message centers. They accepted time and temperature signs at that time, but rejected flashing, fluttering signs, etc. specifically. He believes that electronic message center signs can have different looks, but they can have changing light intensities, heightness of color, animation and moving symbols, which are specifically prohibited. Maki also referred to his review in the December 5, 2001 memo to the Zoning Board of Appeals.

Bill Sanders feels it should be left up to the Planning Commission and the Board to consider the issue in its entirety.

Bob Pecotte moved that Appeals 2001-4 and 2001-5 be denied. Electronic message signs are not allowed in Chocolay Township as stated in Section 810 SIGN ILLUMINATIONS as based on the reasons set forth in the Zoning Administrator's letter of 12-05-2001. Bill Sanders seconded.

Aye 4, Nay 0. Motion passed.

Lois Sherbinow stated that "similar" does need to be clarified.

Bill Sanders thanked everyone for giving good suggestions and that it will be looked at by the Planning Commission.

V. UNFINISHED BUSINESS

Mark Maki noted that the Bylaws regarding fees paragraph #4 in Rules of Procedure be changed from "Application Fee for a variance \$50.00, application fee for an appeal \$50.00, home occupation fee - no fee." Be changed to: Fees are established as per resolution of the Township Board. (No value will be included).

Bill Sanders moved to approve the above changes, Bob Pecotte seconded.
Aye 4, Nay 0. Motion passed.

VI. INFORMATION/CORRESPONDENCE RECEIVED: None

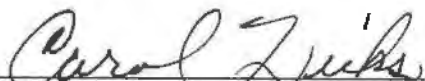
VII. PUBLIC COMMENT:

Lee Blondeau questioned a statement by Attorney Summers regarding Minutes of July 26, 2001 of the Zoning Board of Appeals, if the Zoning Board of Appeals approved definition of "contractor's yard" or if they just recommended the definition to the Planning Commission?

Bill Sanders explained that the Zoning Board of Appeals did not make a change in the ordinance, they only recommend to the Planning Commission to review specific language, which should be considered.

VIII. Adjournment at 8:55 p.m.

Respectfully submitted:


Carol Hicks, Secretary


Cathy Phelps, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF JANUARY 24, 2002**

- I. Meeting called to order by Chair Robert Pecotte at 7:30 p.m. in the meeting room of the Township Hall.
Members present: Lois Sherbinow, Bill Sanders, Robert Pecotte, Michele Wietek, and Carol Hicks.
Staff present: Mark Maki, Zoning Administrator and Cathy Phelps, Recording Secretary.
Note: Several members of the public present.

Bob Pecotte first wanted to revise the agenda before beginning. 1) Zoning Administrator request for clarification regarding "contractors yard"; 2) Variance 2002-01 Katherine Ezo variance from Section 300; 3) request by Gary Niemela to cancel his variance request; 4) Zoning Administrator request for clarification regarding Section 210 (C).

All agreed.

II. PUBLIC COMMENT:

Mark Maki stated that the Mining Journal article created confusion regarding this issue. Quoting from the Mining Journal, Bud Sargent's article, *Chocolay zoning debated*, Maki stated:

- 1) "The Chocolay Township Board Zoning Board of Appeals tonight is expected to consider new language revising a section of the township's zoning ordinance that regulates commercial-vehicle parking." There is not a revision to the Township Ordinance, only a request for the Zoning Board of Appeals to accept the Zoning Administrator's determination on the term 'contractors' yard' as is only allowed in C-3 zones.
- 2) Sargent reported, "Several tickets have been written in recent months citing contractors who parked company trucks or other equipment at their homes." This also is not true. Two tickets have been issued in the past twenty years regarding contractors' yards. One ticket was to Carl Besola. Besola agreed he was running a contractors' yard on his property. This case has been resolved. The second was to Bob LaJeunesse, Jr. He had 4 or 5 pieces of equipment/contractors' items on his property. This case is still in court. So whether the Zoning Board of Appeals affirms or adopts the definition of contractors' yards tonight, if someone is operating a business out of their home and does not have a home occupation permit, they are currently in violation of the Chocolay Zoning Ordinance.

Two people who went to court on the issue of contractors' yards complained that Chocolay Township does not have a definition in the Township Zoning Ordinance and tried to get the Zoning Ordinance ruled unconstitutional. The definition is to define a term already in the Zoning Ordinance.

Lynn Swadley stated that he was from Sunrise Builders representing Katherine Ezo, and that he would like time to speak regarding Variance 2002-01.

Walt Racine asked how the version of contractors' yards would affect his business?

Cathy Peterson wanted all in attendance to keep in mind the following: All that is necessary for evil to triumph, is for good men to do nothing.

Bill Brondyke stated he was from the Department of Natural Resources. He wants to know how this will affect the Ford Road DNR Shop?

Lee Blondeau noted that three citations have been given out. Two were regarding contractors' yards in residential areas, and one contractors' yard in a commercial area. He stated that on Monday, January 21, the Chocolay Supervisor felt that because so many questions were raised a Special Meeting on January 29th was called to discuss enforcement actions. Lots of tax payers'

money has been used for legal fees and none of the Board members seem to realize what is going on, so they instructed the Supervisor to call a Special Meeting. The timing of the meeting is important. A court case is scheduled for February 15th. If it goes to trial and the Township is successful in litigation, then the result of that case will change the ordinance. It is important for the zoning board to table this issue until the Board has time to address it. He states that the transcripts of the court case show that the Township Attorney said, "This really isn't about contractors' yards, this is about parking commercial vehicles in residential areas."

Steve Wahlstrom noted he has looked at the contractors' yard language, and thinks he may be in violation with the trailers/semis parked at his business belonging to the customers staying in the motel. He wants to know how this language will affect him?

Bob Pecotte read over the terminology proposed by Mark Maki. Pecotte noted that he needs clarification regarding cargo vans. He asked if that would include ½ ton and ¾ ton trucks, pickups, delivery vans, and home nursing vehicles? He suggests tabling until the definition of cargo van is cleared up.

Cathy Peterson asked who has the authority to approve this language? She thought it should be the Planning Commission or the Board.

Bob Pecotte closed Public Comment at 7:43.

III. APPROVAL OF DECEMBER 27, 2001 MINUTES

Bill Sanders made the motion to approve Minutes of December 27, 2001.

Michele Wietek noted that in Item #4 New Business, she had abstained voting on this issue, so the vote Aye 4, Nay 0 should be changed to Aye 3, Nay 0. With 1 abstention (Michele Weitek). Bill Sanders again made the motion with the changes, Bob Pecotte Seconded.

Aye 5, Nay 0. Motion passed.

IV. RESPONSE TO PUBLIC COMMENT QUESTIONS

Mark Maki wanted to respond to questions asked in Public Comment.

Walt Racine: Your property is zoned C-2. It does not allow contractors' yards. If you have vehicles on site for repair (contractors' equipment) you are allowed to service and repair them.

Bill Brondyke/DNR: This will not apply to the DNR property at its current use and activities.

Steve Wahlstrom: Maki stated that this is not a contractors' yard, this is part of the motel/restaurant business. They are guests of the business and are not considered a contractors' yard.

V. NEW BUSINESS

1. ZONING ADMINISTRATOR REQUEST FOR CLARIFICATION Determination of term 'Contractors' Yard' as determined by Zoning Administrator

Bob Pecotte stated he has trouble with the definition and he will not support it until he sees 'cargo vans' further defined.

Bill Kimmes said he has a service van (a big van) that he uses for his business. He parks it at his home. He is not a contractor.

Mark Maki asked Mr. Kimmes if he has a Home Occupation Permit? If not, he is already in violation of the ordinance. Mr. Kimmes needs to apply for a Home Occupation Permit.

Bill Kimmes said he runs a service business out of his vehicle. He goes to customers. He states his vehicle is bigger than a cargo van. His business instructs him to park the vehicles at his home in a garage for insurance purposes. He asked Mr. Maki if he is not a contractor but if the vehicle falls into the description of a contractors' yard, is he in violation?

Mark Maki said you have a residential piece of property that is supposed to be used for residential purposes. Maki asked Bill Kimmes to come in and talk about this at a separate time.

Unknown person asked about campers being parked near homes, if they were customary residential vehicles?

Mark Maki answered yes.

Walt Racine wanted to know how they can change the ordinance?

Mark Maki said you can amend the zoning ordinance by filing a rezoning text amendment, but wondered if the people living in residential areas will support semi trucks and similar large equipment parked in residential areas?

Bob Pecotte again motioned to table this issue until at least the next meeting regarding defining 'cargo van'. Lois Sherbinow Seconded the motion.

Discussion by Zoning Board:

Carol Hicks noted that many citizens have given up their time to be heard tonight. He stated that the Zoning Board of Appeals does not write ordinances, they only recommend to the Planning Commission to reject or accept, and then it goes to the Board. This issue should be discussed and he agrees with tabling it.

Bill Sanders said he understands Mark Maki's position. The term 'contractors' yard' does need defining. The Zoning Board of Appeals needs to interpret that. Looking at the bigger picture, this issue needs defining and it is clear we cannot do it tonight, but this term is already in the zoning ordinance contractors' yards/C-3 zones.

Bob Pecotte called for a vote to table the clarification.
5 Aye, 0 Nay. Motion passed.

2. VARIANCE 2002-1

Katherine Ezo, 781 Lakewood Lane, Marquette, MI
Requests a variance from Section 300 side setback to allow an addition and garage at a 6-foot setback.

Mark Maki reported that it is 100-foot lot. The owners are requesting a variance for an addition and garage, which do not meet the 10-foot setback as required on side lot lines. He received two letters regarding this issue. One was from Mr. Neil Jandron with no objection, and the second was from John Wilson with no objection. The most impacted neighbor would be the one to the west and they have not responded. When it was built in 1977 it was 24 feet from the lot line. They would like a 16-foot addition, which would be at an angle so it varies from 6 to 8 feet from the lot line. The garage is also angled 6 feet to 8 feet from the lot line. If the garage was moved, it would have a 10-foot setback.

Lynn Swadley from Sunrise Builders representing Katherine Ezo. He brought in building plans and photos for the ZBA. He stated that the owners had a large investment and they need a two-car garage at least 24 feet in width. They would like to leave the pine trees and do not want to encroach on the dune. This does not impact any of the neighbors. The grade elevation makes it difficult to do this any other way.

Bill Sanders asked about possibly going to the east with the addition. He felt it was the same grade change going east as it was the west.

Lynn Swadley noted the kitchen would lose one of the three windows if moved to the east. He said the owners have looked at a number of plans and wanted the plan he proposed to the ZBA to ask for a variance.

Carol Hicks supports the variance but not in total. He asked what would be the priority, the family room at 16 feet or the 24-foot x 24-foot garage? He supports 8 feet from the property line. He suggests shifting the garage or building it 22 feet wide. Which would need a 2' variance.

Lynn Swadley said the land next door is essentially vacant, and the adjacent owner will not be affected.

Carol Hicks noted that it was built in 1977 and that now it is not square to the lot. He would favor a 2', 3' or 4' variance. A 10-foot setback is required.

Carol Hicks made a motion to approve variance 2002-1 with a 3' variance allowing no point closer than 7 feet from the lot line. Bill Sanders Seconded the motion.

Aye 5, Nay 0. Motion passed.

3. ZONING ADMINISTRATOR REQUEST FOR CLARIFICATION
Interpretation on Section 210 (C), regarding outdoor storage. Determined that it requires an accessory use to the principal use.

Mark Maki noted that when the amendment was put forth 3 or 4 years ago, the intent was if someone had an existing use on their property and wanted outdoor storage, the Planning Commission wanted to review the outdoor storage. The problem with the adopted language is that it is not clear if a person is required there be a principal use. The language is not clear.

Carol Hicks made a motion to recommend that in Section 210 (C), that outdoor storage shall be in conjunction with primary use of a primary structure. Bill Sanders Seconded the motion.

Aye 5, Nay 0. Motion passed.

VI. UNFINISHED BUSINESS

1. Letter to Wells Fargo regarding Zoning District Line R-1 on 20-foot strip of land south of 2366 US 41 South, Marquette.

Mark sent a letter to Mr. Katers and Mr. White prior to January 1, 2002 and has not received any feedback.

2. Training Bulletin – May 2002

The form needs to be filled out and returned to Mark. He will send it in.

VII. INFORMATION/CORRESPONDENCE

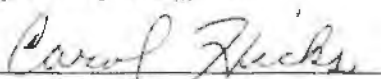
None.


VIII. PUBLIC COMMENT

None.

IX. ADJOURNMENT 8:45 P.M.

Respectfully submitted:


Carol Hicks, Secretary


Cathy Phelps, Recording Secretary

**CHOCCLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF APRIL 25, 2002**

- I. Meeting called to order by Chair Robert Pecotte at 7:30 p.m. in the meeting room of the Township Hall.
Members present: Lois Sherbinow, Bill Sanders, Robert Pecotte, Michele Wietek, and Carol Hicks.
Staff present: Mark Maki, Zoning Administrator and Cathy Phelps, Recording Secretary.
- II. **PUBLIC COMMENT** None.
Bob Pecotte closed Public Comment at 7:31.
- III. **APPROVAL OF JANUARY 24, 2002 MINUTES**
Lois Sherbinow Motion to approve Minutes of January 24, 2002.
Carol Hicks Seconded. Aye 5, Nay 0. Motion passed.
- IV. **NEW BUSINESS**
Mark Maki gave a history of the Shimon property at 130 Shimon Court. Mary Lou Shimon recently requested a rezoning of 40 acres. The west 20 acres was rezoned from RP to RR-2. Shimon's garage would be estimated at 6 feet within the proposed 66 foot right of way extension. He explained that Mary Lou Shimon's options to comply are: 1) remove her garage or 2) build the road north. This type of issue has never come before the Zoning Board Appeals in the past. Service vehicles would have a problem in this area. The road is not paved, and it is not realistic that it would turned into a county road. The road is the natural extension, especially with a cul-de-sac as it is now a dead end.
- Mary Lou Shimon noted that the extension of Shimon Court is the best way for her to proceed based on cost, natural extension with cul-de-sac and extension of electricity.
- Mark Maki stated that he received no responses from the letters he sent to all neighbors with 300 feet. He also stated that the Hendrickson's storage building is already nonconforming at an estimated 0 to 2 foot setback.
- Lois Sherbinow questioned Mary Lou Shimon if she would ever think of building roads all the way around her property as pictured by Mark Maki? Mary Lou Shimon said, "no, that would be too expensive, only one house is planned."
- Bill Sanders stated that if she sells the property in the future, maybe the new owner would want to put in the roads.
- Bob Pecotte noted that if the garage was removed, the road could go through and be in conformity.
- Mark Maki said the Zoning Ordinance requires a minimum of an 18-foot road width and a 66-foot right of way. He noted there is a potential for three lots in RR-2. If developed in compliance, the garage would need to be removed. He suggests granting a limited variance, allowing her to build the one house that is proposed due to the unique circumstances being the existing of the two garages.
- Carol Hicks noted that action taken by the Zoning Board of Appeals tonight would affect future provisions. He feels it should be a limited variance, with the one house concept and that the future development must comply with zoning.
- Carol Hicks Motioned, Bill Sanders Seconded that:
The Zoning Board of Appeals grant a limited variance provision where one house be constructed in the RR-2 zoned parcel, and when and if additional divisions are requested, the road must comply to all ordinances and requirements including removal/moving of existing garage.

Roll Call: Aye 4, Lois Sherbinow, Bill Sanders, Carol Hicks and Michele Weitek. Nay 1, Robert Pecotte. Motion Passed.

V. UNFINISHED BUSINESS None

VI. INFORMATION/CORRESPONDENCE

Court Order regarding Chocolay Township vs Bob LaJuenesse, Jr.

Mark Maki reported that the judgement was given to all board members. The Judge ordered that commercial vehicles be removed from parking and storage on site.

VII. PUBLIC COMMENT None.

VIII. BOARD COMMENTS

Bob Pecotte noted that he would like to see Chocolay Township tighten its belt when it comes to parking commercial/construction vehicles in residential areas. Marquette is tough and would like Chocolay to be also.

Mark Maki noted that the Zoning Ordinance has never authorized non-residential parking of commercial vehicles in residential zones.

IX. ADJOURNMENT 8:20 P.M.

Respectfully submitted:



Carol Hicks, Secretary



Cathy Phelps, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF MAY 30, 2002**

- I. Meeting called to order by Chairman Bob Pecotte at 7:31 p.m. in the meeting room of the Township Hall.
Members present: Lois Sherbinow, Bill Sanders, Bob Pecotte, Michele Wietek, and Carol Hicks.
Staff present: Mark Maki, Zoning Administrator and Cathy Phelps, Recording Secretary.

II. **APPROVAL OF AGENDA**

Motion by Bill Sanders, Seconded by Carol Hicks to approve agenda as presented.
Aye 5, Nay 0.
Motion carried.

III. **PUBLIC COMMENT (Limit 5 minutes)**

None
Closed Public Comment at 7:33.

IV. **APPROVAL OF APRIL 25, 2002 MINUTES**

Motion by Carol Hicks, Seconded by Michele Wietek to approve Minutes of April 25, 2002.
Aye 5, Nay 0
Motion passed.

V. **NEW BUSINESS**

- A. **Variance 2002-03 Scott and Kellie Johnson, 159 Baker Street
Requests a variance for Section 300 front setback to allow a detached garage 26' x 36' at a 10 foot setback (30' required).**

Mark Maki noted that he had received correspondence from Steven, Thomas, Leroy, and Anna Wahlstrom with support for Mr. and Mrs. Johnson's variance application. Maki gave a brief history of the parcel, stating that Mr. Johnson purchased seventy-five addition feet of property from the Wahlstroms to build the garage. He explained why the garage is drawn up with the angle shown. Maki noted that East Wright is essentially a dead end street, and if Mr. Johnson were to move his driveway closer to the corner, it would be a dangerous situation. The garage as drawn would not be out of character to others in the neighborhood. Entrances to Mr. Johnson's home are all on the side where the garage is planned.

Scott Johnson stated that there are no doors on the other side of the house, moving the garage to the opposite side would not be practical. He noted there is a telephone pole, which prohibits him from straightening out his driveway. Scott Johnson also explained to the Zoning Board how his large deck was situated. He is concerned about having his driveway coming straight off from East Wright.

Bill Sanders suggested rotating the garage counter clockwise until it met the ordinance requirements, and move the culvert and pole to straighten the driveway.

Carol Hicks suggested moving the garage back (further south) to meet all setback requirements. Scott Johnson said he would prefer not to move the garage as Mr. Hicks suggested because he would be looking at his garage roof when on his deck, besides he would have to drive around his deck area to get to the garage.

Bill Sanders suggested building further back, as Carol Hicks suggested, building it at an angle to accommodate the driveway.

Carol Hicks said he could approve a variance of 10 feet. Michele Wietek noted that she would want to see a new plan drawn up. Carol Hicks stated that it could be built without a variance, but he would not be opposed to a smaller setback. Hicks suggested a 20-foot setback, and Bill Sanders agreed.

Michele Wietek does not believe the Zoning Board of Appeals should give a variance because the other neighborhood buildings are setback the same distance. Many of the buildings were constructed before the Township had ordinances and when the old buildings come down they will not be replaced.

Mark Maki agreed that a 20-foot setback would probably be workable.

Carol Hicks Motioned, Bill Sanders Seconded that the Zoning Board of Appeals would approve a 10-foot variance requiring a front setback no closer than 10 feet and requiring a 10-foot side setback.

Aye 4,
Nay 1
Motion Passed.

**B. Variance 2002-04 Robert Abel, 2354 M-28 East
Requests a variance to build a detached accessory building prior to the house at 2354 M-28 East.**

Mark Maki noted that Mr. Abel applied for the original variance in 1995, and the garage was never built. Mr. Abel now wants to build a 40' x 80' building before the house is constructed to be used as a temporary storage building for his music business materials, (1700 sq. ft. of merchandise), household items and three vehicles. Mr. Abel is asking for two things; one that he is able to build the garage before the house, and that he can build the garage bigger than the first request.

Michele Wietek noted that maybe the Zoning Board of Appeals should look at revising the policy on building garages before houses.

Bill Sanders was concerned about the commercial items being stored in the garage. He said he would approve the original size of the garage being built before the house, but not the enlarged 40' x 80' building.

Mark Maki noted that this is zoned RP. He thought there should be a limit on the size of the building, but the issue here is the building of the garage before the house, since no specific limit exists other than the Zoning Administrator's determination of customary. Maki said only one out of the various variances given out regarding garage before the house has been a problem, which involves outdoor storage although it's not visible from off the site. He stated that Mr. Abel asked the original garage to be 32' x 60' in size.

Carol Hicks asked Mark Maki if there is a height limit on buildings in RP? This garage would be 20 feet high with 14-foot sidewalls. He questioned if this building could become attractive for a commercial use because of its size? The height limit is 30 feet, although this possibly needs amendment.

Mark Maki said he thought it was impossible to enforce building a house after the garage. He said Negaunee Township has an ordinance saying the garage built before a house cannot be larger than 768 sq. feet, and even with the limit they are having variance requests.

Carol Hicks noted that Mr. Abel's variance was approved seven years ago, and he feels the Zoning Board of Appeals should stick to the original variance request. If Mr. Abel wants to change the size of the building, he will have to apply for a new variance.

The Zoning Board of Appeals members agreed to refuse the change, and that Mr. Abel must apply for a new variance.

VI. UNFINISHED BUSINESS

None.

VII. INFORMATION/CORRESPONDENCE

A. Zoning Administrator's update on request for clarification of definition of the term "contractors' yard" and "accessory uses to residential use" and withdrawal of request for Zoning Board of Appeals determination by Zoning Administrator.

Mark Maki stated that the Zoning Board of Appeals has had numerous discussions regarding the definitions of the above terms. Mark Maki noted in the recent District Court case it was affirmed that in residential zones contractors' yards are not allowed so he is withdrawing his request for the Zoning Board of Appeals to get a definition for "contractors' yard."

Regarding "accessory uses to residential use," Mark Maki had given the Zoning Board of Appeals a definition, and asked them to affirm it. The issue is now irrelevant, as the District Court has stated that the ordinance is enforceable relative to the parking and storage of commercial vehicles in residential zones.

B. Zoning Ordinance enforcement issue update

Mark Maki stated the LaJuenesse case is being appealed. Circuit court has made a decision, and that decision stands and must be adhered to.

Mark Maki noted that on May 24th, 2002, the DRB court case was tabled for a month and a half at the request of the DRB Properties.

Maki also noted that many complaints were brought up in court recently. A letter has or will be sent to these individuals regarding these complaints. (Frito-Lay, an area on Green Garden Hill, M-28, Heinz-Gentz, South Big Creek junkyard, and other various junk complaints. He stated that the police department handles junk car complaints.

Bob Pecotte asked about parking old snowmobiles. He felt it was the same as junk cars. This would also be covered by the Chocolay Police Department or Junk Ordinance.

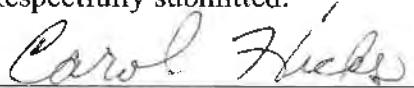
Mark Maki gave a brief explanation of the home-occupation language, and said that you cannot run a business out of a residential area. If you do run a business out of a residential area, you must obtain a home occupation permit.

VIII. PUBLIC COMMENT None

IX. BOARD COMMENTS None

X. ADJOURNMENT 8:55 P.M.

Respectfully submitted:


 Carol Hicks, Secretary


 Cathy Phelps, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF JUNE 27, 2002**

- I.** Meeting called to order by Chairman Bob Pecotte at 7: 33 p.m. in the meeting room of the Township Hall.
Members present: Bob Pecotte, Bill Sanders, Carol Hicks and Michele Wietek
Staff present: Mark Maki, Zoning Administrator and Cathy Phelps, Recording Secretary.

II. APPROVAL OF AGENDA

Motion by Bill Sanders, Seconded by Michele Wietek to approve agenda as presented.
Aye 4, Nay 0.
Motion carried.

III. PUBLIC COMMENT (Limit 5 minutes)

None

IV. APPROVAL OF MAY 30, 2002 MINUTES

Motion by Carol Hicks, Seconded by Bill Sanders to approve Minutes of May 30, 2002 with following change: Under New Business/A/Variance 2002-03 for Scott and Kellie Johnson changing the Aye 5 to Aye 4, and Nay 0 to Nay 1.

Aye 4, Nay 0
Motion passed.

V. NEW BUSINESS

- A. Variance 2002-5 Thomas and Sue Ballreich for 447 Mangum Road Requests a variance from Section 403 waterfront setback variance to allow a single family dwelling at a 70-foot setback (100' required per Section 403).**

Mark Maki reported that the Zoning Ordinance requires in this case a 100-foot setback and a 30-foot natural buffer. The Ballreich's request a 70-foot setback. He showed the Zoning Board pictures of the area, looking east and west, the area where the driveway would come in, and the knoll on the site where the house is proposed. The sunroom would have the best view with the house angled.

Lynn Swadley stated that the angle of the house was because of the limited space on the knoll. West of the house is low and wet ground, there is a 50-foot buffer of trees on the lakeside, where the owners do not want to bother the soil or trees. If the house were built parallel to the lake, the driveway would require more wood-cutting and fill on the slope. This angle makes the best use with the least disturbance.

Michele Wietek asked if the opening to the garage could be changed?

Lynn Swadley noted that it would change the looks of the house. He said the lake was the primary focus from the sunroom, which would have to be at the angle.

Thomas Ballreich stated the he owns 200 acres, and there is not much high ground in that area. At this angle, the house could be built on the higher knoll.

Michele Wietek asked what the height difference was from the knoll to the surrounding area?

Mark Maki said probably about 10 to 20 feet.

Carol Hicks complimented Mr. and Mrs. Ballreich for giving their approval to

look at the site. He said he did go and look at the site. He noted that there are other high spots on the 200 acres, but this would be the only one near the lake. He said it does drop off immediately to the west about 20 feet. By moving the angle of the house, they would need fill, maybe DNR permits, wetland permit. It would most likely have to be surveyed. They would not see the lake if they were further back. There are heavy cedars in front of the house. He doesn't believe there would be an erosion problem. They possibly could go another 10 feet back.

Bob Pecotte asked what the practical difficulty would be if the house was built with the 100-foot setback?

Sue Ballreich noted that they have owned the land for 20 years, and they never plan to subdivide it. There are two lakes on the property. They will never clear cut the trees. She feels they are good keepers of the land.

Michele Wietek asked if they could find a different house style, or size of house to build?

Thomas Ballreich said they would prefer to keep this style of house, and if there was dry ground nearby, they certainly would move the site, but there is not.

Bill Sanders said they could get another style of house, or change their present house plans.

Carol Hicks stated that there are very little other ways to move the house. The terrain is part of the practical difficulty. He stated that he did design the house for Lynn Swadley, not specifically for the Ballreich's plans, but had designed it awhile ago. He asked the other members if he should vote on this matter, since he was involved with the house design?

Bob Pecotte suggested tabling the issue until the next meeting, July 25, 2002. He said he would not vote for this variance.

Lynn Swadley said Mr. and Mrs. Ballreich had driven to Marquette from Ohio especially for this meeting tonight.

Bill Sanders asked if it was possible to move the proposed house 10 feet further back? That would bring it to an 80-foot setback. He asked Lynn Swadley if the proposed house could then be spun another 10 feet, which would bring it to a 90-foot setback?

Carol Hicks thought possibly 5 feet, but not 10 feet.

Michele Wietek asked Mark Maki if others of this nature had been granted?

Mark Maki said yes, (1) the development of 5087 US 41 South, (2) Deerview Trail/Cedar Creek, and (3) Eileen Urbaniak regarding the pool behind the house. Most lots in Chocolay are exempt as existing building sites and nonconforming lots are exempt from the 100' setback. Mark Maki noted that this language could be recorded in the deed regarding the 50-foot buffer.

Bill Sanders said that this way any future landowners would have a record of this variance and the provisions along with it. If he voted for the variance, to protect the wetlands, he would like to see both sides protected in the variance.

Bill Sanders noted he would not support the variance as it is. He feels that the very wet low area is a practical difficulty. With an 85-foot setback and the extended 50-foot (required 30-foot) buffer, he would support the variance. He wants the wetlands protected into the future, so if the language was written in the deed the future owners will know the action taken by this zoning board.

Bill Sanders Motioned, Michele Wietek Second that approval is granted for Variance 2002-5 Thomas and Sue Ballreich on 447 Mangum Road to allow a

waterfront setback of 85 feet due to practical difficulties of site topography and proximity of wetlands to first lake, with provisions that the waterfront natural buffer of 30 feet be extended to 50 feet, and that a 50-foot wide conservation zone in the wetland areas to the west be provided and those conditions are attached to the recorded deed.

Aye 3, Nay 1
Motion passed.

B. Variance 2002-6 Jon Carlson for 6417 US 41 South requests a variance from Section 300 for a 8' x 16' porch at a 21' setback (30' required)

Mark Maki noted that there are only two houses in the immediate area, and Mr. Carlson would be consistent with the setbacks.

Bob Pecotte asked if there are any vacant lots near the area?

Jon Carlson said there is one to the south, possibly. Mark Maki noted that Mr. Carlson's house has been there since the 1950's and other than these three houses, most of the houses to the south are setback further.

Bob Pecotte asked that in the future, if the highway becomes four lanes, would there be enough room?

Mark Maki answered, "yes."

Carol Hicks said it has a 1-foot encroachment now, so that would make it a 9-foot variance. He questioned if it would line up with the neighboring houses?

Mark Maki stated, yes, it would line up with the houses directly to the north.

Jon Carlson said he has no plans for a front deck, it is facing the highway, and he would not want that.

Carol Hicks Motioned, Bill Sanders Seconded to approve Variance 2002-6 for Jon Carlson at 6417 US 41 South granting a 9-foot variance allowing a porch addition 21 feet in from the right-of-way with the provision that no deck or stoop or other structure exceed this distance.

Aye 4, Nay 0
Motion passed.

C. Variance 2002-7 for Mike Wittler for 6750 US 41 South requesting a variance from Section 208 (B) to allow a detached garage (28' x 32") prior to the construction of a single family dwelling.

Mark Maki said he has received no comments to the notices. The garage would not be visible from the road. The Zoning Board of Appeals has granted most cases like this. Maki noted again that Negaunee Township allows garages built before the house if 768 square feet or smaller. The conditions in Chocoday have been that there be no outdoor storage. Mark Maki noted that he is weary of extra large garages being built before the house, but this is 28' x 32' garage, this garage is standard and he sees no problems with it. It also meets all setbacks which are 30 feet.

Mike Wittler said he was finishing the garage with T-1 11, and the color depended upon his wife.

Carol Hicks Motioned, Bill Sanders Seconded that they approve variance 2002-7 for Mike Wittler of 6750 US 41 South allowing the variance for building a detached garage before the house with provisions that there be no outside storage allowed.

Aye 4, Nay 0.
Motion passed.

- VI. **Unfinished Business** None
- VII. **Information/Correspondence** None
- VIII. **Public Comment** None
- IX. **Board Member Comment**


Bob Pecotte noted that this was Mark Maki's last day. He thanked Mark for helping this board, and that he has done a great job. He extended his best wishes to Mark.

Mark Maki said he would be continuing on a part-time basis through the end of August.

- X. **Adjourn**

Bob Pecotte adjourned the meeting at 8:58 P.M.

Respectfully submitted:



Carol Hicks, Secretary



Cathy Phelps, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF JULY 25, 2002**

- I.** Meeting called to order by Chairman Bob Pecotte at 7: 30 p.m. in the meeting room of the Township Hall.
Members present: Bob Pecotte, Bill Sanders, Carol Hicks, Lois Sherbinow and Michele Wietek
Staff present: Mark Maki, Zoning Administrator and Cathy Phelps, Recording Secretary.

II. APPROVAL OF AGENDA

Motion by Bill Sanders, Seconded by Lois Sherbinow to approve agenda as presented.
Aye 5, Nay 0.
Motion carried.

III. PUBLIC COMMENT (Limit 5 minutes) None

IV. APPROVAL OF JUNE 27, 2002 MINUTES

Motion by Lois Sherbinow, Seconded by Carol Hicks to approve Minutes of June 27, 2002 as presented.
Aye 5, and Nay 0.
Motion carried.

V. NEW BUSINESS

- A.** Variance 2002-8, Guy Paananen, near 1605 M-28 East.

Mark Maki noted that the attached map in the packets shows the layout of the lots. In the late 1970's variances for 100' wide lots in this undeveloped area between M-28 and Lakewood Lane was allowed for lots 600' to 700' deep. This lot was subdivided in 1994. The lot to the west and other lots nearby were granted variances. This is one of the last lots to be subdivided. This lot originally was 100' x 670' and split to 100' x 335', or about 33,500 square feet. There is a 10' side setback, which will not be a problem with their house plans.

Carol Hicks was interested in the health issue, with the houses being built in close proximity to each other, and each having a well and septic. Mark Maki noted that the Health Department does check these lots.

Bill Sanders motioned, Carol Hicks Seconded that approval be given for Variance 2002-8, Guy Paananen, near 1605 M-28 East, with 100' frontage requesting a variance from Section 300 to allow a single family dwelling on a lot which does not contain 125 feet of lot width in Section 11 T 47 N, R 24 W being the East 100' of West 541.5 lying North of M-28 exc. N ½.

Aye 5, Nay 0
Motioned carried.

- B.** Variance 2002-9, Gail Durand, 137 Dana Lane

Mark Maki noted that two years ago language was changed regarding garage sizes being controlled by the perimeter of the house. A sub committee of the Planning Commission is looking at alternatives, since garages are being built larger now. This would fit in with the character of the other garages in the area.

Bob Pecotte asked where Dana Lane was located, and asked if it was a subdivision? He is concerned that the large garage would become a meeting place for snowmobilers, a place for parties. He noted that building a 28' x 36' garage would not need a variance, as the 28' x 40' garage does, since the house is 24' x 40'.

Gail Durand noted that she re-measured the distance from the centerline and would like to correct the distance to 78' from the center of the road. She stated they do not need the variance for the setback. She said they want the large garage to store vehicles, as they have 4 vehicles, a boat, and snowmobiles. She noted that they would like to store as much as they can in the garage instead of having it in their yard.

Mark Maki noted that these variance issue allow for review of height, setback, and etc.

Bill Sanders agreed with Mark. It is hard to show a hardship in this case. With the 8' perimeter, they are still in character with the neighboring buildings.

Michele Wietek supports Bob Pecotte's statement. She asked where should you stop at giving a variance, 4', 6' or 10'. There is a zoning ordinance set up for a reason, and she thinks we should go with the ordinance unless there is a practical difficulty.

Lois Sherbinow stated that she doesn't want to make it difficult for anyone to get a variance for something like this. She does not feel that a 4' wider garage makes a difference.

Bob Pecotte mentioned a concern for people who comply.

Bill Sanders asked if there is a practical difficulty ever? The variance application is available to anyone.

It was noted that his perimeter requirement is only a few years old. Carol Hicks questioned the reason for the 40' depth? The answer was because they have a truck with a plow. Carol Hicks asked if it was going to be built with the 40' length toward the street? The answer was yes, with two garage doors and one regular walk-in door. It was explained that there is a septic system behind the garage, so they cannot move it back further.

Lois Sherbinow Motioned, Bill Sanders Seconded, that Variance 2002-9, Gail Durand of 137 Dana Lane be granted a variance from Section 300 (F) to allow the building of a detached garage 28' x 40' deep, which exceeds the perimeter dimensions of the principal dwelling on the lot.

Aye 3, Nay 2
Motion carried.

VI. UNFINISHED BUSINESS

Mark Maki reported that the results of the court case regarding DRB Properties (Carlson Tree Service), which involved commercial equipment in a C-2 zone. Judge Girard ruled that no commercial equipment, not related to the business can be parked in C-2 zoning area. They will have to remove the equipment.

Mark Maki gave a short history on the Waselesky's junkyard. His son was on the Chocoy Fire Department. The fire department did practice extrications several years ago at Mr. Waselesky's site. The Fire Department had no authority to let Waselesky's haul the vehicles to his property and Mr. Waselesky had no approval to expand his nonconforming use. Now Mr. Waselesky is blaming the Township for the vehicles on site. We are awaiting the ruling.

VII. INFORMATION/CORRESPONDENCE None

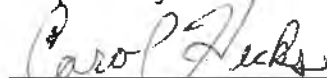
VIII. PUBLIC COMMENT None

IX. BOARD MEMBER COMMENT None

X. ADJOURNMENT

Bob Pecotte adjourned the meeting at 8:08 PM

Respectfully submitted:



Carol Hicks, Secretary



Cathy Phelps, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF AUGUST 22, 2002**

- I. Meeting called to order by Chairman Bob Pecotte at 7: 30 p.m. in the meeting room of the Township Hall.
Members present: Bob Pecotte, Bill Sanders and Michele Wietek
Staff present: Mark Maki, Zoning Administrator and Cathy Phelps, Recording Secretary.
Members absent: Lois Sherbinow and Carol Hicks
- II. **APPROVAL OF AGENDA**
- Motion by Bill Sanders, Seconded by Michele Wietek to approve agenda as presented.
Aye 3, Nay 0. Motion carried.
- III. **PUBLIC COMMENT (Limit 5 minutes)** None
- IV. **APPROVAL OF JULY 25, 2002 MINUTES**
- Motion by Michele Wietek, Seconded by Bill Sanders to approve Minutes of July 25, 2002 as presented.
Aye 3, and Nay 0. Motion carried.
- V. **NEW BUSINESS**
- A. Variance 2002-10, Michael Miller for 1083 Ortman Road.
A variance from Section 300 to allow a detached garage 28 x 40 prior to the construction of the single family dwelling, Section 7 T47N R24W a part of the SE ¼ of SE ¼ being about 200 x 400 feet.
- Mark Maki noted that this site is across the road from Cherry Creek Road and Ortman Road and is about 2 acres in size. It is completely surrounded by Elder property. It is zoned R-1, single family. The garage will be back in the trees, and will not be seen. This is not a true variance case. Mark Maki feels that the Planning Commission should become the review body for these types of cases. He said in West Branch they changed their zoning ordinance to allow people build garages before the house. This Township needs to have some limit on size of outbuildings; they should address this issue in the future.
- Mark Maki recommends that if approved, the standard conditions regarding storage should be put in place. No outdoor storage is allowed, as long as only a garage is on site.
- Bob Pecotte stated that it cannot be used as a hang out for snowmobilers or parties. He asked Michael Miller what he plans to store in this large garage? And also asked where he lived now?
- Michael Miller said he wanted to store his "toys" (Snowmobiles, boats, etc.). He noted that he was a builder himself. He said he was living in Negaunee Township at this time.
- Michele Wietek motioned, Bill Sanders Seconded that approval be given for Variance 2002-10, Michael Miller for 1083 Ortman Road for a variance from Section 300 to allow a detached garage 28' x 40' prior to the construction of the single family dwelling. With the condition that no outdoor storage be allowed and use being storage only until the house is present.
- Aye 3, Nay 0. Motioned carried.
- Mark Maki noted that in these cases, it is important to have the neighbors notified of the building being considered.

UNFINISHED BUSINESS - None**VI. INFORMATION/CORRESPONDENCE**

Bob Pecotte questioned Mark Maki about the recent lawsuits and their outcome.

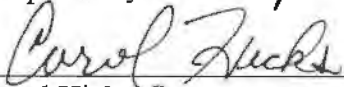
Mark Maki explained the lawsuits were concluded in favor of the Township.

Mark Maki then he explained that the Waselesky situation should be taken care of by October 1st, when all the cars should be out or screened.

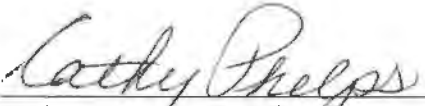
VII. PUBLIC COMMENT - None**VIII. BOARD MEMBER COMMENT - None****IX. ADJOURNMENT**

Bob Pecotte adjourned the meeting at 7:45 PM

Respectfully submitted;



Carol Hicks, Secretary



Cathy Phelps, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF SEPTEMBER 26, 2002**

- I.** Meeting called to order by Chairman Bob Pecotte at 7: 32 p.m. in the meeting room of the Township Hall.
Members present: Bob Pecotte, Bill Sanders, Michele Wietek, Lois Sherbinow and Carol Hicks
Staff present: Doug Riley, Director of Planing and Research (Interim Zoning Administrator) and Cathy Phelps, Recording Secretary.

II. APPROVAL OF AGENDA

Motion by Bill Sanders, Seconded by Carol Hicks to approve agenda as presented.
Aye 5, Nay 0. Motion carried.

III. PUBLIC COMMENT (Limit 5 minutes) None

IV. APPROVAL OF AUGUST 22, 2002 MINUTES

Motion by Lois Sherbinow, Seconded by Michele Wietek to approve Minutes of August 22, 2002 as presented.
Aye 5, and Nay 0. Motion carried.

V. NEW BUSINESS

A. Variance 2002-11 Roberta Lynd of 325 Brookwood.

A variance to allow the construction of a garage 192 square feet larger than the residence and to have a 4' side yard setback where 10 feet is normally required.

Doug Riley gave a brief description of the property and explained what Roberta Lynd was requesting.

Bob Pecotte asked if there were neighboring garages larger than the houses and of those, how many met the setbacks? Doug Riley said there were a few larger garages in the neighborhood. Doug was not sure on the setbacks.

Carol Hicks noted that the house and garage should be figured by lineal footage, and in this case it would met as the lineal footage both the house and garage are 128 lineal feet, so this variance would just involve the setback issue.

Bob Pecotte questioned the possibility of moving the electric pole and if the Board of Light and Power would do that for a charge? Roberta Lynd said it sounded costly to move, although she had not received a price from the Board of Light and Power as of this time. Roberta Lynd said she is already checking on moving the guide-wire.

Roberta Lynd said that the garage probably will have a setback more like 6 feet but she wanted to ask for the 4 feet just to be safe, since there was a question in the measurement.

Michele Wietek asked Roberta Lynd if she considered building on the south side? Roberta Lynd said there are many trees and her well is located on the south side. Roberta said she just got her loan and would like to start as soon as possible.

Carol Hicks questioned if the distance included the roof overhang? Roberta Lynd said she thought they overhung 12 to 18 inches, and yes that was included. She said the garage overhang was about 2 feet from the electric pole, and six feet from the property line.

Michele Wietek asked how long before the Board of Light and Power was going

to get back to her on a price to move the guide wire? Roberta Lynd said she has called twice and has not received a return call.

Bill Sanders noted that the electric pole could be a problem. Bob Pecotte asked if the electric pole could be moved, so the garage could be built closer to the house, and it would not need the variance? Bill Sanders said it looks like a big line coming to the pole.

Bob Pecotte asked for Mark Maki's comments regarding previous variances in this area. Mark Maki said there may be many garages larger than the house in that area, since there are many trailers. The lots generally are 150 feet wide, and not many setback variances have been requested.

Bob Pecotte said the closeness to the lot line bothers him.

Bill Sanders Motioned, Lois Sherbinow Seconded that approval be given for Variance 2002-11 to Roberta Lynd for 325 Brookwood Lane to allow a 6' north setback for a 24' x 40' garage.

Aye 5, Nay 0.

Motioned carried.

B. Home Occupation – 2002-01 Bob LaJeunesse of 407 Little Lake Road
Request for home occupation approval for a septic service business.

Doug Riley gave a brief overview of the request. He said there was a court case involving 407 Little Lake Road, and Bob LaJeunesse was found to be in violation regarding his storage of business vehicles. Mr. LaJeunesse is now filing a home occupation request. The Board amended four regulations in the spring of 2002 for Home Occupations following the recommendations from the Zoning Board of Appeals and the Planning Commission.

Bob Pecotte asked Bob LaJeunesse to give the Zoning Board his reason to request a home occupation permit, and what equipment (vehicles) he wants to park at his home.

Bob LaJeunesse said he would like to park his portable toilet truck, his pump truck and his sanding truck at his home at 407 Little Lake Road.

Bob Pecotte asked LaJeunesse why he has to park all of them at his house, and if he does park them at his house, would they be parked in the back? Then Pecotte noted that LaJeunesse has a storage area at the Varvil Center, why does he have to bring them to his home?

Bob LaJeunesse stated that he does now park his vehicles in the back area, sometimes they are left in the front during emergencies, and occasionally overnight as by court order. He said he wanted to park his vehicles there for convenience.

Bob Pecotte asked if LaJeunesse had any other employees besides his wife? Bob LaJeunesse said no, only he and his wife. He noted that he has planted three white spruce in his yard, and plans to plant more next spring for screening. Doug Riley said the house and garage also screen the equipment if parked in the rear.

Bob Pecotte asked if all of his equipment would fit in the large garage he built recently? Bob LaJeunesse said yes, but he is not allowed to park them in there right now. Carol Hicks asked if LaJeunesse would park his residential vehicles, antique cars in his garage also? Bill Sanders said just so they are screened, in or out of the garage. Sanders wants to be sure LaJeunesse's residence looks like a home and not a business.

Michele Wietek asked LaJeunesse if he would be doing maintenance of his vehicles there? Will he wash them there? Bob LaJeunesse said he would do

maintenance there, and wash them also. Wietek was concerned about cleaning the inside of the septic truck. LaJeunesse noted that he does not wash the inside of the septic truck, only the outside. Michele Wietek then asked if he was approved for the septic service, would he be storing gravel equipment (Mr. LaJeunesse Sr. equipment) at this residence? Bob Pecotte asked Bob LaJeunesse if he could store his sanding equipment at his fathers, across the street? Bob LaJeunesse said no, he cannot because his father cannot expand his business, or store any other equipment there.

Carol Hicks then wanted to clarify that LaJeunesse wanted to store two septic trucks plus a sander at this residence. Hicks said the March 2002 ordinance amendment states that $\frac{1}{4}$ of home occupancy can be used, and only 320 square feet of an accessory structure. Could he be in compliance with this if the equipment is in the building? Carol Hicks asked why LaJeunesse has to store both septic trucks on site, since there is only one driver? Bob LaJeunesse answered, "for security and convenience." He noted that the two trucks are different; one is small for servicing the portable toilets and the second is for pumping. Carol Hicks questioned if they were now stored in the building on M-28? Bob LaJeunesse answered yes. Bill Sanders noted that the welding business they reviewed on Timber Lane was similar. Carol Hicks said the business was used at night, and it was approved.

Carol Hicks asked Doug Riley a question regarding the court order and the highlighted "permit," if the Zoning Board of Appeals approved this home occupation permit, would this negate the court order?

Carol Hicks asked if it would be business as usual if approved? Bob LaJeunesse said that is why he is applying for the home occupation. The judge said he needed to have a permit from the Township.

Mark Maki (public comment) said he drives by this address and sees the business equipment parked there. The septic truck is wide and meeting it on the residential streets is a safety hazard. These are large trucks and should not be going up and down residential areas unless doing business. There is no place for this type of business in residential areas and it is not zoned for that purpose. They affect all roads in the Township. They were never authorized for a convenience reason, there is a business area for them to be parked along M-28. Noise is also a problem in residential areas. It looks like a commercial operation, not a home. Dumping untreated septic waste is in violation with the Township ordinance and needs immediate corrective action. This is not a home, but a business in a residential area. The court said to get proper zoning approval and permits, not a home occupation permit. The definition of Home Occupation excludes machinery and equipment. A small vehicle would be okay, but not more than that.

Bob LaJeunesse said he received a letter from Ivan Fende stating that he inspected his Land Application site and said what he is doing on this property is permitted. LaJeunesse said he also called the DEQ, and they said he is in compliance.

Mark Maki said he has a letter on file stating that Mr. LaJeunesse is in violation in dumping the untreated septic waste on his fields. He has to correct this and comply with the zoning ordinance. The court ruled that there be no parking or materials on this site, why would the Zoning Board reverse the court action? There are problems on this site, and Mr. LaJeunesse has an alternate site to park these commercial vehicles. There is no reason he should have them parked in this residential area.

Bob LaJeunesse said he has permits to land apply the septic materials, and this property is zoned for farming. Ivan Fende called him and told him that Mark Maki's letter was a mistake. He personally inspected the site.

Bob Pecotte wanted to clarify that parking this heavy commercial equipment at his residence is just for convenience. Why can't this equipment be parked at the

Varvil Center?

Michele Wietek noted the language of Section 107 of Accessory - Home Occupation Permits. Just being an inconvenience to drive to his business site to get his trucks, does not give reason enough to give a permit. In RR-2, septic waste is not warranted. A home occupation permit is for having an office in your home with a phone and fax, not heavy equipment. Mr. LaJeunesse keeps adding stored equipment, and he has 2 to 4 deliveries of materials per week to his home, this is all additional traffic in the area. She cannot vote for this, only for a business office in his home.

Doug Riley read the definition of "Home Occupation."

Bill Sanders said he would agree with a home occupation as long as it does not make a big presence. Two to four deliveries a week is not unusual for a home occupation. It would fit in the neighborhood. This big equipment is just driven to the work site to do business. It is not a big deal to him, but there must be a limit. Some approval is appropriate.

Bob Pecotte said the plowing business would not be a problem. Two pick ups, the other small septic truck on site would be okay with him, if the rest were stored on M-28.

Bob LaJeunesse stated he does his land application on his 40 acres east of his house. Traveling back and forth to M-28 for storage of the truck would cause double the traffic.

Bob Pecotte and Michele Wietek stated the number of large trucks was a safety concern. Bob Pecotte asked LaJeunesse what could he live with that is less than what he is asking for now? Could he just leave one truck at this site? Bob LaJeunesse said the septic truck is not used much during the winter months and he could store it along M-28. Bob Pecotte asked if he could store the sander on M-28 in the summer, and only drive one truck to his home?

Carol Hicks stated that the court order does not say what kind of permit is needed. If a home occupation change were made, this may negate the court order.

Bob LaJeunesse said he has been in business since 1991.

Bob Pecotte stated that a home occupation permit is for businesses just getting started, generally given for three years, then the business is expected to move on, perhaps expanding to a business zoned area. He feels this home occupation will be used to get around the court order. He agrees with Michele Wietek, that an office would be okay for a home occupation permit, but not heavy equipment. He feels there are too many attachments wanted with this home occupation permit.

Bill Sanders began a motion to allow specific equipment only.

Carol Hicks noted Mr. LaJeunesse is only one person running this equipment, he only needs one vehicle, he has three or more he is asking to store at this site.

Michele Wietek stated that home occupations are not equal. She feels that a septic service is distasteful and is not the same as other businesses. Some neighbors support this home occupation permit, but these people will not live there forever. They may sell in time, and she feels the zoning ordinance should be followed in this case.

Bob LaJeunesse said all of his friends approve of this storage of equipment. Michele Wietek said some neighbors, not necessarily friends, that do not approve of this. In this zoning district people within 300 feet are notified, which is only a very limited number of people living in that area. She would like the Zoning Board to think about making the area larger so other neighboring persons could be

contacted on these activity changes.

Bill Sanders said this home occupation is not a permanent approval. It is only good for three years, and could be changed later.

Bob Pecotte noted there was one complaint filed already. We should keep that in mind.

Doug Riley read the letter from Lucille Scotti opposing this home occupation permit approval.

Bob LaJeunesse listed exactly what he would park at his site on Little Lake Road.

Mark Maki said there are other problems unresolved other than Bob LaJeunesse's parking of business equipment. Heinz-Gentz with heavy equipment and earth piles and Bob LaJeunesse, Sr. with commercial equipment in the field and his mining operation. There are many contractors on Little Lake Road and some along County Road 480. If the Board wants to change the zoning, go ahead, but do not give a zoning permit.

Bill Sanders defined the three activities Bob LaJeunesse is asking for:

- 1) septic pump service
- 2) portable toilet service
- 3) plowing and sanding service

He noted that this equipment is just driven to the work site. He stated he would support this to some degree. He hates to see residents in Chocolay Township not being able to do anything work related on their properties. To a degree this keeps the community healthy.

Bob Pecotte agreed that Chocolay residents need to work and live here, but he does not want to see infringements on their neighbors' rights. There is a fine line, and we need to make this work.

Bob LaJeunesse said the judge stated he could come and go with his business vehicles, he just had to park the equipment out of sight at night. It was okay if there was no noise, and the equipment was out of sight. Mark Maki disagreed.

Bob Pecotte said this approval was not meant to have all the equipment parked there day and night. Mr. LaJeunesse is only one man, he should only have one vehicle at his residence at one time.

Michele Wietek said we all want to be good neighbors. She is concerned with the wording of a motion. She has issues relating to the inspection. She wants to be sure he is in compliance. She asks about putting in special wording about being able to inspect the site.

Mark Maki said Bob LaJeunesse has many items regarding the court order which are still in violation and he did not allow an inspection. Bob LaJeunesse stated that the home occupation only refers to the 6 acres of his property.

Doug Riley noted that there is a lot of case law involving the land application of septic waste. The Township Attorney has been researching that matter.

Carol Hicks suggested getting an opinion from the Township Attorney before making any decisions. He would like to table this issue until that time. He would like the attorney's opinion on the language of the court order and the land application issue.

Bob LaJeunesse noted that there has been land application at Gentz's farm for 10 to 15 years. Why was nothing ever said about that?

Michele Wietek said there is a big difference from animal waste and human waste. There are many diseases that can be traced to human waste, and more are being found all the time.

Doug Riley said if the land application is not allowed by the State, or even the Township in the future, then we still have to get a vote on the parking of equipment per this home occupation request.

Michele Wietek noted that if land application is changed, then there would be not need for Bob LaJeunesse to park his equipment at his home.

Bob Pecotte suggested the Zoning Board of Appeals wait for the Township Attorney's opinion. Carol Hicks says it should not be approved if it negates the court order. We need to be careful in approving a permit.

Lois Sherbinow agrees.

Carol Hicks Motioned, Bill Sanders Seconded, that the home occupation request for Bob LaJeunesse of 407 Little Lake Road be tabled pending the Township Attorney's opinion regarding the court order.

Aye 5, Nay 0.

Motion carried.

VI. Information

Doug Riley said there has already been a request filed for a variance for the October meeting.

Carol Hicks asked to have the Township Attorney come to the October meeting. Bob Pecotte will let the board know, and a copy will be given to the board before the meeting.

VII. Unfinished Business

Michele Wietek noted the 300' notification being inadequate in this issue (a rural area) and would like to discuss a change. Doug Riley said the state sets the minimum distance for notification, but townships can increase this distance. Michele Wietek asked what the process would be. Doug said a text amendment must go to the Township Board following a recommendation from the Planning Commission.

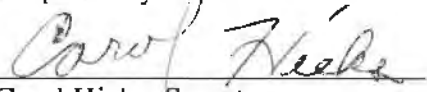
VIII. Public Comment

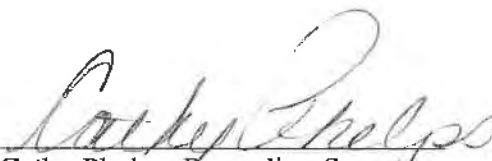
Mark Maki noted there are unresolved problems with zoning violations, some are under court order. A tree service has now moved some vehicles to Wahlstroms, then removed, now he sees them parked at Walt's Auto. He thinks it is important for the Township to keep an eye on them. The Heinz-Gentz property, and also problems with the Ace Hardware signage. He will put a list together, as there may not be a zoning administrator hired for a long time. This activity should not continue.

IX. Adjournment

Bob Pecotte adjourned the meeting at 8:55 PM

Respectfully submitted:


Carol Hicks, Secretary


Cathy Phelps, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF OCTOBER 24, 2002**

- I. Meeting called to order by Chair Robert Pecotte at 7:30 p.m. in the meeting room of the Township Hall.

Members present: Lois Sherbinow, Bill Sanders, Robert Pecotte, Michele Wietek and Carol Hicks.

Also present: Cathy Phelps, Recording Secretary

- II. AGENDA APPROVAL

Bill Sanders Motioned, Carol Hicks Seconded that the agenda be accepted as presented. Aye 5, Nay 0. Motion carried.

- III. PUBLIC COMMENT

Robert Grove would like time reserved during the discussion of Variance 2002-12.

Madeline Zimmerman would like to reserve time during the discussion of Home Occupation 2002-01 supporting Bob LaJeunesse, Jr.

Cathy Peterson would like to reserve time whenever she feels she would like to speak.

Public Comment closed at 7:33 P.M.

- IV. APPROVAL OF SEPTEMBER 26, 2002 MEETING MINUTES:

Lois Sherbinow Moved, Carol Hicks Seconded to approve the September 26, 2002 Minutes as presented.

Aye 5, Nay 0. Motion carried.

- V. NEW BUSINESS:

- A. VARIANCE 2002 - 12. Robert Grove of 115 Glenwood, requesting a 10' variance to the setback off from the M-28 right-of-way for the construction of a sunroom.

Bob Pecotte asked Mr. Grove to explain where the house is located and asked if that was the only area on the lot for the sunroom? Robert Grove said he wants the sunroom on the south side of the house for the sun to shine into the room, if it cannot be there, he does not want to construct one.

Carol Hicks asked what size the storage building was? Mr. Grove answered 10' x 16'.

Bob Pecotte asked if any neighbors had buildings located closer to the street than this sunroom would be? Mr. Grove said the Sommers A-frame was closer.

Bob Pecotte noted that there was no response from the neighbors. This addition of 8' x 12' would not be seen from the road except possibly the top of the roof. It is going to be a glass enclosure. He noted that it has a topographic hardship.

Bill Sanders Motioned, Carol Hicks Seconded that Variance 2002-12 be approved to allow a 20' setback from the right-of-way for an 8' x 12' sunroom.

Aye 5, Nay 0.

Motion carried.

- B. VARIANCE 2002-13. Brian Mulador for 108 Cindy Lane (Proposed building site). Requests a variance to allow a detached accessory building 24' x 24' to be constructed prior to the single-family dwelling.

Bob Pecotte noted there were two pieces of correspondence. One was from Scott Stevenson, the second from Larry DeParios; both with no objection. Bob Pecotte stated that these types of variances in the past have been positive experiences. The smaller garage is in his favor. Bob Pecotte asked Mr. Muladore if he has applied for his well and septic approvals?

Brian Muladore said that his well and septic have already been approved, and that he plans to build a log home next summer after the garage is built this fall.

Bob Pecotte informed Brian Muladore that no outdoor storage would be allowed.

Carol Hicks asked how much property Mr. Muladore owned? Mr. Muladore said he owns 20 acres. He has cleared a 125' x 190' area.

Carol Hicks noted that there were no problems with setbacks.

Brian Muladore said he plans to match the garage to the house with ½ wall log siding.

Michele Wietek asked if Mr. Muladore was doing the building himself and if the plans were completed for the house? Mr. Muladore said yes he plans to do the work and that some house plans were done.

Carol Hicks asked if the garage was standard height? Mr. Muladore said it would have a 8/12 pitch. Carol Hicks noted that would meet the height standards.

Carol Hicks Motioned, Bill Sanders Seconded that Variance 2002-13 for Brian Muladore be granted to allow a 24' x 24' detached garage accessory garage prior to the house construction with no outdoor storage allowed. Aye 5, Nay 0. Motion carried.

- C. VARIANCE 2002-14 – Faith Assembly of God Church – 1510 M-28 East requesting a variance to permit a sign of 64 square feet where 32 square feet is permitted.

Rob Rousseau stated that he checked with MDOT and they need a 100' setback. They cannot remove the trees, so they want to expand the sign size. Traffic visibility is a problem, and they feel that is very important. They need a large sign for their graphic display for events at the church and their times.

Carol Hicks noted that a sign must be on the owner's property.

Bob Pecotte asked how long the church has been there? Mr. Rousseau said 10 years.

Carol Hicks questioned the safety issues. He wanted an explanation of the need for a larger sign, which he thought would decrease visibility. He asked how this is a safety problem? Mr. Rousseau explained that people driving along M-28 have a hard time finding the driveway to turn into the church parking lot. He said the entrance is hard to find. Carol Hicks noted he has no problem seeing the sign, and thinks it is adequate. Carol Hicks does not feel they need a larger sign. Rob Rousseau said it would be for their graphics. It is a goal post type of sign. By using 6" size letters they need more space to be able to put messages on the sign. Carol Hicks asked if they could just put their messages in bulletins or fliers.

Lois Sherbinow said she understood that this may attract new members who would not see their bulletins or fliers. This would work the same as restaurants trying to entice customers.

Carol Hicks stated that the other churches in the area have the smaller size signs.

Rob Rousseau noted that the Prince of Peace Church is close to M-28, and is easy to see. The Faith Assembly of God Church sets back, and they need this larger sign to attract people's eyes that are passing by on M-28.

Lee Blondeau said he understands, and they may use it to put up spiritual messages.

Michele Wietek felt the Zoning Board of Appeals cannot play favorites with churches. Rob Rousseau asked if other churches had applied for a variance?

Bob Pecotte stated that he would have to vote no on this issue if it were voted on tonight. He suggested tabling to have time to do research on this variance request.

Rob Rousseau asked if this sign request was different from other business signs? Carol Hicks answered yes, that it was a conditional use in a residential district.

Lois Sherbinow repeated the suggestion to table this issue. Rob Rousseau said he was willing to wait for a later meeting.

Bill Sanders stated that he also would vote no tonight.

Michele Wietek noted that the research results may change the board members' minds. She thought it was appropriate to table this until a later meeting.

Bob Pecotte Motioned, Bill Sanders Seconded to table Variance 2002-14 until the next meeting.

Ayes 5, Nay 0.

Motion carried.

VI. UNFINISHED BUSINESS

- A. HOME OCCUPATION 2002-01 Bob LaJeunesse of 407 Little Lake Road, request for home occupation for a septic service business.

Bob Pecotte noted that at the last meeting the board requested information from Michael Summers, the Township Attorney.

Carol Hicks asked if there was any other correspondence received from neighbors? Bob Pecotte answered there was none.

Madeline Zimmerman of 400 Little Lake Road said she could see the LaJeunesse home from her house, and it was always neat and orderly. They constructed the garage and vehicles are parked behind it. She sees no reason to turn their request down.

Bob LaJeunesse noted that at the last meeting traffic was mentioned as a problem from County Road 480 to his house. He has a statement signed by 35 people on Little Lake Road regarding their support of Bob LaJeunesse, Jr. in his quest to be able to park his trucks at his residence, out of sight.

Bob LaJeunesse noted the concern about the UPS truck delivering to his home. He recorded that the UPS truck only delivered 2 times last month and both were of a personal nature.

Bob Pecotte asked Attorney Summers about his October 2nd letter?

Attorney Summers explained home occupations and the Township Rural Zoning Act. He noted that a large number of people have some degree of commercial business in their homes and feels it is not a problem as long as it is unobtrusive to the neighbors. He said the board should determine where to draw the line. Some loosening is expected for business.

Bob Pecotte stated that Bob LaJeunesse has two full-blown businesses on one parcel.

Mike Summers said the business on the other 40 acres is another issue. The 5 acre residential piece is related to this home occupation request, although the driveway is used to pass through with the other business.

Carol Hicks wanted a definition of home occupation. He asked Mr. LaJeunesse if this business was secondary or primary?

Bob LaJeunesse said his home is primary. This business is not his full time job. He works for his father full time.

Carol Hicks asked Mr. LaJeunesse if he has a business established at the Varvil Center and if he owned property there? Mr. LaJeunesse said he owned three buildings there and rents 2 of these buildings.

Michele Wietek noted this was zoned Resource Production and asked if the septic truck was allowed to dump there now, and if in the future the land application rules changed, would the truck be removed? She asked Mike Summers if he knows of any upcoming changes? Mike Summers did not know.

Mike Summers said the 5 acres may be used for a route to get to the 40 acres. The rules to operate the land application site were responded to by the letter from Ivan Fende. Keep these two sites separate. This only refers to 407 Little Lake Road. Attorney Summers said the board has to work out the dividing line regarding what kind of vehicles, how long they can be parked on the site and look at the request for temporary parking for convenience sake of business vehicles. This is different from storage of vehicles (contractors yard). Judge Girard had made a decision in the case brought to court. The Judge did not say "something beyond that point would be disallowed." (See order)

Carol Hicks stated that this was defined by the Judge in the order.

Mike Summers noted that this may be impractical to enforce.

Bill Sanders brought up a similar request in R-1 District with a primary business.

Carol Hicks sees no problem. A denial would not hurt Mr. LaJeunesse's business. It is just for convenience.

Bob LaJeunesse stated that it is not secure at the Varvil Center. Bob Pecotte stated that security was another issue.

Bill Sanders said this is in a RR-2 District. This is different. This is not a home occupation, Mr. LaJeunesse goes out to do business elsewhere. Physical activity is the same or less than other home occupations. He said if the equipment is outside, it may change the character of the neighborhood. If the equipment were covered it would be okay with him. If in the future, the neighbors find offense, it can be changed then.

Michele Wietek asked if the home occupation goes with the property or the owner? What would happen if someone purchased the property from Mr. LaJeunesse?

Bill Sanders said the whole or part was subject to debate.

Bob Pecotte said the five vehicles would be a problem with him. Bob LaJeunesse said his platform truck is in Sands Township. Bob Pecotte said if it were one or two trucks, it might be okay with him, but there must be a limit. Bob Pecotte asked Mike Summers if they could inspect the property at any time? Mike Summers suggested to the board that when deciding about the home occupation

permit, they should make the limits very clear on what specific vehicles could be parked or stored on this property being out of site, as best as possible. Making the limits clear for both parties.

Bob Pecotte stated that the large garage was built and approved to store antique cars only. It was presented to the township in that way for the variance. If the home occupation changes, would park commercial equipment in the enclosed garage?

Lois Sherbinow said she understood why Mr. LaJeunesse did not want to park his high priced equipment where it may be damaged if left unattended at the Varvil Center. She asked Bob LaJeunesse if the Varvil Center was full and they fit at the property on Little Lake Road, would he park them so they would not be visible by the neighbors? Bob LaJeunesse said yes, he would. He said the garage and house would block the equipment.

Bob Pecotte again noted that the large garage is for storing antique cars only. He feels the commercial property at the Varvil Center should be used to park the business vehicles. He feels a home occupation permit is not for two commercial businesses.

Michele Wietek said the sander truck used in the neighborhood is okay to have parked/stored at 407 Little Lake Road with her, but not the septic equipment.

Bob Pecotte also agreed that the plowing trucks would be okay at this site but not the septic equipment. Emptying the septic waste in site is okay with him.

Bill Sanders noted the number of vehicles, but they are seasonal.

Bob Pecotte wants to make sure the Township is able to inspect the property with notice to Bob LaJeunesse.

Michele Wietek said parking should be limited to two or three models only.

Bill Sanders said the septic is not an issue. The residents in Chocolay need to have this service. He feels any truck could be parked there. Bill Sanders said we could limit the vehicles, but not the activity. This is a rural township, we need to have room for a working landscape. He would not support re-zoning.

Mark Maki said Bob LaJeunesse has been convicted of violating the ordinance. He has lost in court once. If the Township wants him to be able to continue his business out of his home, they should re-zone. What happens if the next person wants the same thing? This is not a residential activity. He suggests amending the zoning ordinance. It should be allowed by the ordinance, or not at all. It will snowball. The need just for convenience, home occupations have never been approved before.

Bill Sanders sees no problem with it.

Mark Maki again said to then amend the ordinance.

Carol Hicks asked if there is room to expand at the Varvil Center to fit the vehicles discussed inside buildings so they would be secure?

Bob LaJeunesse said he could use one if it were not rented out. Yes, there is room. Carol Hicks asked if his intent for building the garage at 407 Little Lake was to store commercial equipment why not build at the Varvil Center instead?

Bob LaJeunesse said he did build the garage for his antique cars, but if the home occupation language changed, then he would use it for his commercial vehicles. He noted that everyone in Chocolay who has a snowplow can park their truck at their home. He feels that pickup trucks shouldn't be included as commercial vehicles. He said he has always done snowplowing in the winter and the septic

service in the summer. He feels the septic truck and the portable toilet truck are the same business. He would like to ask to park three trucks.

Michele Wietek feels if they allow more than one, they are back in the lawsuit issue again. Storage of equipment on residential property is what the lawsuit was regarding.

Mark Maki noted that the court said it is not allowed. It is an accessory to principle use. Change the zoning ordinance.

Cathy Peterson asked what areas in Chocolay Township are available for commercial?

Bob Pecotte noted that Mr. LaJeunesse has 2 acres in the Varvil Center.

Cathy Peterson said she can see the two sides. She feels a couple vehicles are okay, but then others should have the same rights.

Bob Pecotte feels it is easy to see if it is not your neighbor, we want consistency.

Don Britton feels that people don't apply for home occupation permits, maybe we should re-write it. Not many people have come in for the permit.

Bill Sanders said lots of people apply for home occupation permits, that is not true.

Don Britton feels more people should come in to apply for home occupation permits, they just don't apply. We should review each one individually.

Mike Summers stated that the Zoning Board of Appeals will be setting presidents, all citizens will have the same right. This should be within reason with some extended boundaries.

Don Britton said they can put on conditions to the home occupation permits, so the Zoning Board of Appeals will have some recourse.

Bob LaJeunesse noted that some vehicles could be used for personal and business uses. He said he is applying now and wonders how many will apply after this? He feels that many people are watching to see what the outcome is.

Bill Sanders feels that there are bigger issues in the Township. We do not want people violating the ordinance. If we limited it to two vehicles, he would then support it, excluding the pickups. Limit it to two commercial vehicles only, and those two would be Bob LaJeunesse's choice.

Michele Wietek feels that it is far to open ended. She would support it if it was just one vehicle.

Bill Sanders supports two vehicles, if they are screened. This permit can be revoked if there are complaints.

Carol Hicks said if this is denied others will not come forward. There are lots of home occupations, and few are denied. He feels Chocolay residents are not afraid to apply. He thinks we should rezone some areas. There is a big growth in Marquette Township and not in Chocolay because they do not feel welcome here. We need to rezone.

Mike Summers feels the pick up trucks are not a problem, he does not feel they are commercial vehicles.

Lois Sherbinow also feels that the pickup trucks should not be counted as commercial vehicles.

Michele Wietek asked if the application listed the vehicles? She asked for model numbers for these vehicles.

Bob LaJeunesse said the sander was a 1985 Ford 8000, the septic truck was a 2002 Sterling L 13, the pump was a 2000 Ford 550.

Michele Wietek asked again if the permit belongs to the owner or the property?

Mike Summers said the owner for use of the property, but he could be wrong, but in any instance the permit would expire in three years.

Bill Sanders Motioned, Lois Sherbinow Seconded that Home Occupation 2002-01, Bob LaJeunesse of 407 Little Lake Road, be approved for operation of a business known as Bob's Septic Service. Being able to park two of the following vehicles at the same time, inside a building or outside: Septic Pumping Truck, Portable Toilet Truck, and sanding truck. There would be a limit of 2 vehicles at one time on the property, and it may include septic pumping maintenance. The vehicles must be screened. This does not include the two personal pickup trucks. This Home Occupation Permit is for the residence address only, for a three-year period or until a written complaint is filed. Chocolay Township officials shall be allowed to inspect with reasonable notice. This includes a 120 square foot area for office space.

Aye 2, Nay 3

Michele Wietek Motioned, Bill Sanders Seconded that Home Occupation 2002-01, Bob LaJeunesse of 407 Little Lake Road, be approved with limitations, as follows, allowing operation of administrative aspects of septic service, including phone/fax and receipt of reasonable unobtrusive deliveries; having one vehicle on site for use, limited to one of the following vehicles:

1985 Ford LT 8000 Sander

2002 Sterling LT 9513 Septic Truck

2000 Ford F 550 Truck

This does not preclude the storage of vehicles legally allowed under the zoning ordinance. In the event the listed vehicles are replaced by significantly different models, it must be reviewed by the Zoning Board of Appeals. Also, inspection by Township officials shall be permitted by applicant with minimal notice. This permit will be granted for three years subject to review by any written complaint. This permit is limited to use of a 120 square feet office space and a 320 square feet of accessory structure for purposes allowed by the Home Occupation Permit.

Aye 4, Nay 1.

Motion carried.

VII. CORRESPONDENCE – None

VIII. PUBLIC COMMENT

Madeline Zimmerman stated that Chocolay Township is not user friendly.

Cathy Peterson thought that Michele Wietek should not be voting on the Home Occupation issue, as it is a conflict of interest since her mother wrote a letter of objection to the zoning board, and her mother lives near the applicant.

Mike Summers, Township Attorney, said that it is not a conflict of interest for Michele Wietek. Besides she voted in favor of the applicant, she made a favorable motion for the applicant.

Michele Wietek noted that just because you know someone is not a reason to step down. She is not in the position to make money, or gain in any way.

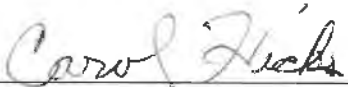
Cathy Peterson made a comment on Michele Wietek's mother's occupation.

Mark Maki noted that it will now snowball. He feels the board should not have allowed a business of this sort in a residential district. He said they will not be getting more requests for large commercial vehicles to be allowed in residential areas.

Bob LaJeunesse stated that Mark Maki's home occupation permit says he has no employees. He knows that Steve Kinnunen is working for Mark Maki. He wants to complain.

IX. Adjournment at 9:25 P.M.

Respectfully submitted:



Carol Hicks, Secretary



Cathy Phelps, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF NOVEMBER 21, 2002**

- I. Meeting called to order by Chair Robert Pecotte at 7:30 p.m. in the meeting room of the Township Hall.
Members present: Lois Sherbinow, Robert Pecotte, Michele Wietek and Carol Hicks.
Members Absent: Bill Sanders
Also present: Randy Yelle, Zoning Administrator and Cathy Phelps, Recording Secretary

II. AGENDA APPROVAL

Lois Sherbinow Motioned, Carol Hicks Seconded that the agenda be accepted as presented. Aye 4, Nay 0. Motion carried.

III. PUBLIC COMMENT - None

IV. APPROVAL OF OCTOBER 24, 2002 MEETING MINUTES

Will be moved to item IX on the Agenda.

V. NEW BUSINESS

- A. VARIANCE 2002 – 15. James Belles of 136 Dandelion Lane requesting a 10' variance to the height limit to construct an amateur radio tower/antenna (The Ordinance permits "structures" up to 30' in height in the R-1 zoning district) and the application would like to construct his antenna 40' in height.

Bob Pecotte asked Mr. Belles to explain his plans for the structure. James Belles explained that for reception the higher the antenna is the better the communication. He will be using HF and VHF bands. He is a member of the Hiawatha Amateur Radio Club, and is involved with weather watching and emergency communications. He would like it high enough to enjoy his hobby but not to the point where it has an impact on his neighbor's. He believes there is a higher antenna along US 41. Bob Pecotte introduced Randy Yelle, the new zoning administrator. Bob Pecotte asked what the background is in Chocolay Township regarding towers? Randy Yelle noted that James Belles tower is already constructed up to the 30' limited height, and is very well constructed. The average height for towers in Sands Township is 35' to 45'. He noted that the tower along US 41 is believed to be higher than 40'. Also that Mr. Belles neighbor has a flagpole higher than the tower.

Carol Hicks welcomed Mr. Yelle. Carol Hicks noted that he also is a Hiawatha Amateur Radio member, and has done some extensive research on this subject. He asked what type of antenna would be used on the tower? He noted that an antenna 30' high can cause television interference, whereas a 40' tower would cause less interference. He said the federal regulations allow 60' towers. He asked Mr. Belles how many watts he would use? James Belles answered 100 watts. Carol Hicks said the Chocolay ordinance limits "structures" to 30'. He feels this is in the ordinance for the safety of everyone involved in the case of fires in a building. This being a tower, it should be looked at differently. He sees no problem in passing a motion for this variance.

Lois Sherbinow stated that good communication in times of emergency is critical, and also for storm watching. She feels this communication is needed in Chocolay Township.

Michele Wietek agrees, especially if there is less television interference at the 40' height.

Randy Yelle noted he received no responses to the letters from the neighbors.

Carol Hicks Motioned, Michele Wietek Seconded that Variance 2002-15 by James Belles of 136 Dandelion Lane requesting a 10' variance to the height limit for the construction of an amateur radio tower/antenna be approved for the 10' variance from the 30' limit to a 40' height limit. Aye 4, Nay 0. Motion carried.

- B. VARIANCE 2002-14. Faith Assembly of God Church of 1510 M-28 East requesting a variance to permit a sign of 64 square feet where 32 square feet is permitted.

Randy Yelle noted there were pictures in each of the board members packets of the sign traveling from both directions on M-28 East. He said he had no problem seeing the sign while driving. He said he did research back to 1995 and found no variance.

Lois Sherbinow asked what the ruling was regarding one sign this size of a parcel, noting if it was possible to have two signs? Randy Yelle thinks there can only be one sign. Carol Hicks stated it was figured by total square footage. He also noted that if there were directional signs (such as signs at the oil change business in Harvcy showing where to drive when entering the car wash or the garage the square footage could go over the limit.

Reverend Taylor spoke of his family and his moving to the area. He said he planned no major undertakings for the church in his first year but the parking lot turned out to be a large project. He feels the signage does need improving at this point. The size and quality of the sign needs to be improved. He is new and feels he needs to learn more about the Township's regulations. He said that someone coming into Marquette County from the east get their first impression of the area in Chocolate Township. He thinks it is critical for people to get a good first impression. He feels our signage should be positive. The church would like to do more expansion in the future, and these are the first steps in that process. They want to have a good relationship with the Township so each party can trust one another and this includes good communication. His plan for a larger sign is included in his handout. They would like to install a 5' x 10' sign with 9" lettering. They feel taking the speed of the traffic along M-28 into consideration, a sign this size is needed in order for people traveling by to be able to read it. They are looking for direction from the Township.

Bob Pecotte noted if a variance is given to them then everyone will be asking for a variance for larger signs. He suggested Reverend Taylor go the Township Board, or make an appointment with the Supervisor, Mr. Fende, to discuss this issue and possibly get other alternatives. He thinks the Board and/or Planning Commission could look at this issue.

Carol Hicks said he drives by the church every day and sees no visibility problem with the sign as it is. He has driven around the Township and checked out the signs for all the churches. Some have no signs and some have just the church name on the building. He feels there is good clearing for people turning into the driveway for the church. He also agrees that coming into Marquette County from the east, people come into Chocolate Township first and get their first impression, but he feels that any sign is a distraction to the natural beauty we have in the area. He questioned what the maximum height for a sign was? He feels the higher the sign the better. He noted the sign at Kassel's Korner, which was brought to the Zoning Board of Appeals at one time with the same type of problem. Carol Hicks noted that getting a bigger sign would not improve the safety issue. He asked how could a larger sign increase safety? Reverend Taylor stated that turning into the church driveway could be a tough corner when traffic is speeding along, but safety is not the main issue.

Bob Pecotte noted that a sign for the golf course on M-28 was cut down by MDOT

because of safety issues. Also the Varvil Center asked for a variance because of the number of small businesses on that parcel. They did put signs on each of the store fronts but that is zoned C-2. The church property is zoned R-1.

Lois Sherbinow asked if they could remove more trees? Reverend Taylor was not sure. He noted that he was worried about people over shooting the driveway since the lighting is situated 100' back from the center of M-28. Lois Sherbinow asked if having a separate entrance and exit would help? Reverend Taylor said MDOT would have to approve of that, and possibly they would ask them in the future.

Carol Hicks suggested that Reverend Taylor drive to Green Garden and look at the signs at the Lutheran Church. They have a brick sign with symbols that extend over the sign (a cross). He suggests increasing the sign with symbols such as this.

Bob Pecotte Motioned, Michel Wietek Seconded to deny Variance 2002-14 for the Faith Assembly of God Church at 1510 M-28 East requesting a variance to permit a sign of 64 square feet. Ayes 4, Nay 0. Motion carried.

Reverend Taylor thanked the board for the information and said they are not discouraged and will try to go in another direction after they have done additional research.

VI. INFORMATION/CORRESPONDENCE RECEIVED - None

VII. PUBLIC COMMENT - None

VIII. APPROVAL OF OCTOBER 24, 2002 MINUTES

Michele Wietek stated she has some concern on the wording of the draft of the motion she made regarding Home Occupation 2002-01 Bob LaJeunesse of 407 Little Lake Road. She repeated her motion for the record.

Michele Wietek Motioned, Lois Sherbinow Seconded that the October 24, 2002 Minutes be approved with changes made to the draft copy. Aye 4, Nay 0. Motion carried.

Bob Pecotte suggested the motion be typed for the Zoning Administrator, Randy Yelle, to deliver to Bob LaJeunesse, Jr. personally to make sure the motion is understood.

IX. BOARD MEMBER COMMENTS

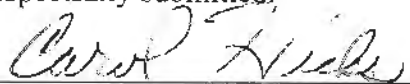
Carol Hicks noted that the signage at the Varvil Center has been increasing. First there was a sign added regarding jerky and now there is a sign regarding deer processing. He feels Dave Meadows is doing a wonderful job with the meat market, and is the best meat cutter in the area, and Memories is doing a great business, as it is hard to get in because of all the patrons, but the zoning ordinance must be followed. He asked if Randy Yelle could stop by and check out the additional signs and discuss the sign regulations with Dave Meadows. Larger signs seem to be creeping in. Lois Sherbinow stated that just because business owners are wonderful people and are prospering in Chocolay Township, they still have to follow the rules.


The December meeting will be canceled, as there are no items for the agenda.

X. ADJOURNMENT

Bob Pecotte adjourned the meeting at 8:18 P.M.

Respectfully submitted:


 Carol Hicks, Secretary


 Cathy Phelps, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF MARCH 27, 2003**

I. Meeting called to order by Bill Sanders at 7:34 p.m. in the meeting room of the Township Hall.

Members present: Lois Sherbinow, Michele Wietek, Bill Sanders and Carol Hicks.

Members Absent: Robert Pecotte

Also present: Randy Yelle, Zoning Administrator and Cathy Phelps, Recording Secretary

II. AGENDA APPROVAL

Lois Sherbinow Motioned, Michele Wietek Seconded that the agenda be accepted as presented. Aye 4, Nay 0. Motion carried.

III. PUBLIC COMMENT - None

IV. APPROVAL OF NOVEMBER 21, 2002 MEETING MINUTES

Carol Hicks Motioned, Bill Sanders Seconded that the November 21, 2002 Minutes be approved as presented. Aye 4, Nay 0. Motion carried.

V. NEW BUSINESS

A. VARIANCE 2003-01 Brian Garwood of 330 W Wright Place.

Randy Yelle explained the Zoning Ordinance allows a side setback of 10 feet, and Brian Garwood is requesting a variance of 8 feet allowing the garage to be built 2 feet from the east lot line. No negative responses were received. There is an existing building on the site at this time which is on skids. Mr. Garwood does not want to build the garage at an angle because it would be over a septic field, although it was not in use, as the Garwoods are on city sewer. Randy Yelle noted to the Zoning Board that he would like to see the garage built at an angle.

Brian Garwood noted that the 2-foot distance from the lot line was measured from the eaves. There is a septic field to the west of the proposed garage. He said they have gone over all the options of sites on his lot, and he feels the best place would be where he has proposed. He and his wife do not want the garage at an angle, as they think it will look out of place since all of the other buildings are built parallel to the street.

Carol Hicks asked questions about the attached garage and what his plans were for the storage shed? Brian Garwood said he plans to move it to a higher area behind the house toward the back of his lot. Carol Hicks said that would give him two accessory

buildings. Carol Hicks asked if Brian Garwood had thought about just adding another stall to the existing garage to achieve similar goals? Brian Garwood stated that it would be more expensive because of the roof, they would need to make a new roofline.

Carol Hicks asked about the elevation difference to the neighbor's property, and if there was water ponding in the neighbor's yard? Brian Garwood noted that it is about 3 to 4 feet lower and there were no water problems there. Brian said he planned to have gutters on the garage to direct the water to his property in the back. He assured the Zoning Board that there would not be a problem with water runoff.

Carol Hicks suggestion is to build the garage at an angle. Brian Garwood noted that his wife would not let him do that. He feels it would be a problem for him to get his large van into the garage at that angle.

Bill Sanders asked about the large tree in respect to the proposed garage. Brian Garwood said the limbs were 2 to 4 feet away, and the trunk was 12 to 14 feet away from the proposed garage. Bill Sanders suggested moving the garage 2 feet back and 2 feet west of the proposed location.

Carol Hicks noted that he would not okay a 2-foot side setback, but would consider if it were 5 feet, if the garage was guttered and drained to the back. Brian Garwood assured him it would be built professionally/properly.

Michele Wietek said she has concerns. 2 feet is too close to the lot line, and feels the site may not support the garage (too many buildings in close proximity). This is an R-1 district, small lots. It doesn't appear to be practical.

Bill Sanders asked when the house was built? Brian Garwood said it was built in 1952. Bill Sanders said it was built 25 years before the ordinance. The setback distance is his only concern. Brian Garwood stated that other neighbors also have garages close to lot lines. Carol Hicks stated that when the house was built, they did not consider for future planning.

Lois Sherbinow noted that families back then were one-car families, but that has changed. We now need a garage for two cars and living in this area with our harsh winters we need a two-car garage.

Bill Sanders asked how the back of the neighbor's garage lined up with the proposed garage? Brian Garwood stated the full garage was further back than his neighbors. Bill Sanders said he was comfortable if the garage could be built 5 feet from the lot line and if the gutters were on the garage for water control.

Carol Hicks Motioned, Bill Sanders Seconded that Variance 2003-01 for Brian Garwood of 330 W Wright Place be allowed a 5-foot side setback variance to build a garage 5 feet from the side lot line with the stipulation that the roof be guttered for

water runoff on the Garwood's property.
Aye 4, Nay 0. Motion carried.

B. VARIANCE 2003-02

Randy Yelle gave the explanation of the garage height, as Brian Garwood wants to match the house height.

Bill Sanders noted that the ordinance states that it is the average height, not the peak height. Carol Hicks did the figuring to find the average height, and came up with an average of 14 feet.

Bill Sanders said no variance is needed for the height issue for Brian Garwood, and noted that Mr. Garwood should get a refund for the second variance.

VI. UNFINISHED BUSINESS - None

VII. INFORMATION/CORRESPONDENCE RECEIVED - None

VIII. PUBLIC COMMENT

Two students from an NMU planning class said they were at this meeting to take minutes for their portfolios.

Cathy Phelps asked if there was anyone interested in taking minutes for either the Zoning Board of Appeals or the Planning Commission Meetings?

IX. BOARD MEMBER COMMENTS

Bill Sanders noted that the last Planning Commission meeting was the best meeting ever. There was great participation and everyone worked well together. He reported the results regarding amending the ordinance on Home Occupation and Commercial Vehicle Parking. Carol Hicks stated it would relieve the pressures from the Zoning Board of Appeals. Bill Sanders said the Planning Commission decides on issues regarding conditional use, where they can be more flexible. He noted that Doug Riley did a fabulous job getting this all together. Carol Hicks stated that the Planning Commission was forced to make more rules and regulations concerning commercial vehicle parking.

X. ADJOURNMENT

Bill Sanders adjourned the meeting at 7:08 P.M.

Respectfully submitted:

Carol Hicks, Secretary

Cathy Phelps, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF AUGUST 28, 2003**

I. Meeting called to order by Bob Pecotte at 7:30 p.m. in the meeting room of the Township Hall.

Members present: Bob Pecotte, Michele Wietek, Bill Sanders and Carol Hicks.
Members Absent: Lois Sherbinow
Also present: Randy Yelle, Zoning Administrator and Cathy Phelps, Recording Secretary

II. AGENDA APPROVAL

Bill Sanders Motioned, Carol Hicks Seconded that the agenda be accepted as presented. Aye 4, Nay 0. Motion carried.

III. PUBLIC COMMENT - None

IV. APPROVAL OF MARCH 27, 2003 MEETING MINUTES

Bill Sanders Motioned, Carol Hicks Seconded that the March 27, 2003 Minutes be approved as presented. Aye 4, Nay 0. Motion carried.

V. NEW BUSINESS

Mark Maki suggested that the Zoning Board hear John Cuth's variance before his appeal. A change was made in the agenda switching Mark Maki's appeal with John Cuth's variance.

A. VARIANCE 2003-04 John Cuth of 749 Lakewood Lane requesting a one-foot side setback for a 23' x 64' accessory building.

John Cuth explained his plans for the accessory building.

Bob Pecotte questioned building an accessory building this size in a residential area? He asked Mr. Cuth how many automobiles he has rebuilt? Mr. Cuth answered one in ten years.

John Cuth answered that the size of the building is in accordance with the ordinance. He feels it fits in with the neighborhood.

Carol Hicks noted that it is only the one-foot side setback variance that he is requesting because he would incorporate his existing garage and that was built 9'3" from the lot line.

John Cuth explained the types of homes in the neighborhood. People are buying the older homes, demolishing them and building large, grandiose houses. These people need large garages for a place to store their toys instead of leaving them outdoors, which looks junky.

Carol Hicks said his first thought was the accessory building looks like a production shop, but this is for Mr. Cuth's hobbies (auto restoration).

Bob Pecotte asked what if someone buys this parcel and wants to start a business in this large garage in this residential area?

John Cuth said he is sensitive to pollution. This building is only for his hobbies. He needs a large storage area for them.

Bill Sanders said it is less than a foot that Mr. Cuth needs the variance for, he really

only needs a few inches in the variance.

Bill Sanders said he only needs a 6" variance. How strict are we going to be? The 6" is not going to make a difference, while the perimeter already meets the ordinance requirements. He feels Mr. Cuth should be able to build his accessory building as planned.

Michele Wietek asked Mr. Cuth how many cars per year does he rebuild?

John Cuth answered one in the past ten years.

Michele Wietek asked how Mr. Cuth disposes of the waste from his hobbies?

John Cuth said he is a Senior Hazardous Waste Manager. He disposes of his paint by spreading it on cardboard, drying it, and then disposing of it in the regular garbage pickup. Oil is recycled by dropping it off at the proper stations.

Michele Wietek asked how he disposes of the left over paint thinner? And also asked how he disposes of the sand after sand blasting?

Mr. Cuth said he only does spot priming and sand blasts very little, so there is very small amounts he has to dispose of. He is aware of the proper disposal of heavy metal shavings/sand, that it must be boxed and disposed of properly. He said he is a licensed professional engineer.

Bob Pecotte asked Randy Yelle if there have been any other similar variances along or near Lakewood Lane?

Randy Yelle said not that he knows of, but since Mark Maki was in attendance, maybe he could answer that question. Mark Maki said a variance was given to John Cuth regarding his house.

Carol Hicks agrees with Bill Sanders. The variance being requested is very insignificant (only inches). The existing garage is grandfathered. He asked about the east side of the house being right on the lot line.

John Cuth said it was built that way originally; the porch is right on the line.

Carol Hicks asked Randy Yelle if the public notice was sent out properly?

Randy Yelle stated it had been sent, and no correspondence was received.

Carol Hicks Motioned, Bill Sanders Second that the variance request # 2003-4 for John Cuth of 749 Lakewood Lane granting him up to a one-foot (1') variance to build an addition to his garage within nine (9') of the property line. Aye 4, Nay 0. Motion carried.

B. APPEAL – Mark Maki regarding the Zoning Administrator's performance.

Mark Maki stated that he was not asking for a review of the Zoning Administrator's performance, but was concerned about the following issues that were pending when he left this position. He gave a history of the issues he is concerned with.

Tom Waselesky was ordered by the court to clean up his junkyard on 11-01-02. DRB was ordered to remove contractor's equipment from the C2 zone immediately. It was just moved to Wahlstrom's parking lot in late August. Carlson's tree vehicles were moved to Walt's. A letter from Mark Maki was sent to Walt Racine on 8-23-02 regarding the violation of the ordinance, and he was requested to stop.

Mark Maki said that after he left the Township, Doug Riley became the interim Zoning Administrator. Maki gave Riley a list of the current issues, which needed ongoing enforcement. This is when the bullying of Township officials began. This was the ugliest recall effort he has ever seen. There were so many lies spread about

the Board members being recalled. This ended up in the loss of the Township Supervisor, Mr. Fende.

In April Maki began questioning the follow-up of issues that were on the list. No information was given to him. Waselesky had not yet cleaned up is junkyard, and Walt's vehicles were still parked there.

These court orders have not been enforced. Mark Maki will not let the Township forget about the orders. He feels they must be upheld. After the court has given these orders, and no action has been taken to enforce these orders, why do we even have a zoning ordinance?

Mark Maki requested that Walt Racine's issues be tabled until they have been clarified. He claimed that Walt Racine is advertising for the Thunder Valley Raceway. He feels the ordinance in Section 804 says that no off premise signs are allowed in a C2 zone. He can only advertise for Walt's Auto. These signs are up for 3 to 4 months. This should not be allowed.

Sue Racine asked how the Township can allow advertising on the cross-walk over US 41?

Mark Maki asked if Walt Racine is really working on Carlson's Tree equipment? He said it looks like the Bill Kimmes' home occupation issue has resolved itself. Tom Waselesky has added more cars, even after the court order stated to get the cars out.

Maki said the court rejected that there was selective enforcement of the zoning ordinance. The recall group said there was selective enforcement, this is not true.

Mark Maki stated that the Zorza parking lot is gravel. Dave Zorza says it is not a public parking lot. Mark Maki said he needs to get a permit.

Bob Pecotte asked Mark Maki if he feels the Zoning Board of Appeals should do something? Should this be tabled?

Bill Sanders said they should decide on some action and not table this. Randy Yelle has made a determination and is enforcing the zoning ordinance and Mark Maki is appealing this by saying Randy Yelle has not been enforcing the zoning ordinance. The Zoning Administrator does not have authority to waive any zoning ordinance. Randy has only been working for Chocolay Township for a few months. He has been working on these issues as he can only working 2 days per week. Randy has not waived any ordinances. He is doing his job. He sees no reason for the appeal. There was a long list of undone items, and he feels that the Zoning Administrator is working on them.

Bob Pecotte said he sees a need for further action. It is between the Zoning Administrator and the Board.

Bill Sanders said an appeal application has been filed with the Zoning Board of Appeals, and he feels the Zoning Board should act on it as a general appeal on Section 703 and 707.

Bob Pecotte said Mark Maki's comments are appropriate, as he too is concerned.

Michele Wietek feels the Zoning Board should somehow act on Mark Maki's concerns.

Bob Pecotte said the Zoning Administrator works with the Township Board and Doug Riley, acting as Randy's supervisor for the interim. Randy Yelle said he does report to Doug Riley.

Carol Hicks made note that a Organizational Chart in the packet clearly shows branching of the Zoning Administrator directly under the Supervisor. It shows the

chain of command.

Mark Maki stated that the Zoning Administrator does not answer to the Township Supervisor. The Supervisor does not enforce the zoning ordinance. He asked if the Zoning Administrator does nothing for a year, why have an ordinance? He said he is concerned about these issues. By creating a parking lot without a permit, Zorza is now allowed to continue using it.

Bob Pecotte said Randy Yelle is working on these issues.

Mark Maki said he must enforce them now, not years from now.

Michele Wietek wanted examples from Randy Yelle on what he has been working on.

Randy Yelle listed the following:

- 1) Bill Kimmes has come in for a home occupation permit, it is going to the Planning Commission next month.
- 2) Walt Racine has been cleaning up. They have had personal contact.
- 3) John Sommers on Timberlane has cleaned up over 200 tires.
- 4) Tom Waselesky is working on enlarging his junkyard. It is tied up right now; there is a gag order.

Randy Yelle showed his violations folder and said it was open for the public to see it. He said he is enforcing the Township zoning ordinance.

Bill Kimmes said he did receive a letter from Randy Yelle on August 6, 2003, and it was very specific as to what needed to be done. Kimmes felt he responded in an appropriate time frame and was positive and he felt they could work together. Randy was professional and not argumentative. He said he had only verbal comments from Maki and one letter, which was very confusing.

Bob Pecotte asked Kimmes how long he lived on Fernwood and how long he has been running his business from his home?

Bill Kimmes answered 23 years living on Fernwood and 13 years in business.

Bob Pecotte asked if he had been running the business for 13 years in violation of the ordinance?

Bill Kimmes said he received a letter from Randy Yelle on August 6, 2003, right after the recall election. Before acting on this issue, clarifications were needed regarding contractors' yards. This has been going on for a couple of years. Mark Maki told him to hold tight, but Maki did not put it in writing. He feels it is questionable if he is violation. He said he owns Snap On Tools, and owns three step tool vans. The third one was added in 2001.

Bob Pecotte asked Bill Kimmes why he was not in violation. Commercial vehicles are parked and stored in a residential area. He asked Kimmes how many more vans does he plan to add? He asked how much area does Bill Kimmes own?

Bill Kimmes said he owned three lots in a residential area. He said home occupations are clarified now and he will finalize it. He feels Randy Yelle is doing a great job.

Sue Racine asked how the Township can approve a business and not allow any parking for that business? Zorza's use their property for customer parking. The Racine's are responsible if anyone gets hurt on their property. She explained that there probably should be no parking allowed on the ingress and egress of the highway.

Bob Pecotte asked if she feels the ordinance should be enforced in that case?

Cathy Phelps said her daughters rent from Dave Zorza and they park their vehicles

behind their house. They have rented from them for a couple of years. Customers do not park behind the business, only renters and employees.

Mark Maki stated that Zorza has not been granted a permit from the Planning Commission for the parking lot. When they expanded the parking lot, Mr. Zorza said they don't park there.

Mark Maki said he is not saying Randy Yelle is not doing his job. Since April he has been trying to find out what is going on with these five cases mentioned, he finally had to file this appeal. He stated he had to spend \$157.00 to make this appeal and these are not low issues. People should not have to pay this amount of money. On November 1, 2002 the court ordered an order for Walt Racine to clean up. Don't wait, this should be number one.

Bob Pecotte felt this is an issue for the new Supervisor, that it is not the Zoning Board of Appeal's job.

Mark Maki said the Supervisor does not arrest drunk drivers on the highway; the police department does that.

Walt Racine said he moved here in 1949 and started his business. There was a trucking business in that area and a parking lot. It was then classified as a "general business" area. He started worked on Carlson's equipment thirty five years ago first with their father. They use their equipment, it breaks down often – continuously. Walt has a payment book to prove he works on their equipment.

Michele Wietek has sympathy toward Mark Maki's concern for zoning enforcement. She has respect for his service to the community, he worked as Zoning Administrator for the Township for many years and has knowledge of the zoning issues. She has also looked closely at the materials from Mr. Yelle and Mr. Maki. She has contacted Mr. Riley and feels Randy Yelle is working towards enforcing the Zoning Ordinance although it may not be in the fashion that Mark Maki did.

Bill Sanders Motioned, Michele Wietek Seconded that Mr. Maki's appeal in regard to Section 703 and 707 of the ordinance and that the Zoning Administrator is fulfilling his obligations to enforce the ordinances according to these sections. Aye 4, Nay 0. Motion carried.

VI. UNFINISHED BUSINESS – None

VII. INFORMATION/CORRESPONDENCE RECEIVED - None

VIII. PUBLIC COMMENT

Mark Maki said you have just condoned the actions of a citizen who questioned the activities of the Zoning Administrator, you cannot ignore the issues for months with no excuse – just I'm working on it. What is the time limit to work on it? This is a violation of the open meetings act. The rule of the mob works. The Township is now ruled by the mob, you just condoned that. I will be back at the next meeting with other appeals.

Michele Wietek asked what Randy Yelle's hours at Chocolay Township were?

Randy Yelle said he works 14 to 20 hours per week – authorized for 18 hours per week.

Don Britton thanked Randy Yelle for doing a good job. He feels Mr. Yelle can reason with people and discuss without being sarcastic. 99% of the time he gets results without ending up in court.

Bob Pecotte also stated that Randy Yelle is doing a good job, but he must say "no" to some people 99.9% of the time if he is the Zoning Administrator. If someone is in violation – he or she is in violation!

Walt Racine said Randy Yelle is open minded and easy to work with.

Bill Kimmes said people have different opinions and some things will never change. He wanted to know if there is something the Township can do to prevent a citizen from harassing Township employees or other citizens regarding especially an x-employee?

Sue Racine said Randy Yelle is not doing his job as Mark Maki wants it done; that is the problem.

Bill Sanders said regarding the ice cream shop, how can you have a business with no parking lot? We have the Site Plan Review section of the ordinance now, which we did not have before, to deal with things like this in the future. It is another tool in the box. Regarding the harassment, there is a remedy. The applicant tonight is saying we are doing something improper. What we did tonight was absolutely the proper thing to do. I have no second thoughts that we did something improper. Randy Yelle does a fantastic job. We will see a change now on how the Township approaches some zoning issues. Regarding the question in Walt's case that it is an off premise sign, the advertising for Thunder Valley is related to his business. He is in the auto body business, and what brings in more business than the raceway? It is like a bike shop advertising the Ore to Shore Bike Race. It is a sell tactic. Is this an off premise sign? Sanders does not believe it is. Walt is now advertising remote starters. Randy Yelle is doing a great job.

Carol Hicks noted that Randy Yelle has only been at the Township for 10 months, that is not much time to get anything going. He inherited a lot of issues, and how is he to resolve them all so soon? Regarding the court orders, what is the next step? Is this the District Attorney's job not the Zoning Board of Appeals? Randy Yelle is bringing peace and tranquility to this Township with respect to these issues that have arisen in these past years.

Michel Wietek asked Randy Yelle if he has said "no" to anyone since he has been with Chocoley Township?

Randy Yelle said yes he has. His violation folder is public record. He will be issuing a civil infraction in a few days. In regard to the ice cream parking lot, he saw no change since he has been here. It was done one and a half to two years ago. It should have been handled then, but I will contact the Zorza's. It has been in place for some time already.

Walt Racine said Zorza can use his parking, but he does charge Zorza rent - an ice cream cone!

IX. BOARD MEMBER COMMENTS – None

X. ADJOURNMENT

Bill Sanders adjourned the meeting at 8:30 P.M.

Respectfully submitted:

Carol Hicks, Secretary

Cathy Phelps, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF SEPTEMBER 25, 2003**

I. Meeting called to order by Bob Pecotte at 7:30 p.m. in the meeting room of the Township Hall.

Members present: Bob Pecotte, Lois Sherbinow, and Carol Hicks.

Members absent: Michelle Wietek and Bill Sanders.

Also present: Randy Yelle, Zoning Admin. and Lori DeShambo, Recording Secretary.

II. PUBLIC HEARING – no comments, closed.

III. AGENDA APPROVAL

Carol Hicks Motioned, Lois Sherbinow Seconded that the agenda be accepted as presented. Aye 3, Nay 0. Motion approved.

IV. PUBLIC COMMENT – none.

V. APPROVAL OF AUGUST 28, 2003 MINUTES

Absent member Michelle Wietek submitted to the ZBA proposed changes to the Minutes of August 28, 2003. Her written comments and the Zoning Boards changes were as follows:

- 1.) page 2, 3rd paragraph – should be left over thinner.
- 2.) page 4, 9th paragraph - the word “too” as he is concerned too.
- 3.) page 6, 5th paragraph - typographical error – daughter’s should be plural (daughters’ rent)
- 4.) page 7, 5th paragraph - (under Public Comment) the word “you” are in violation should be changed to he or she.

Carol Hicks Motioned, Bob Pecotte Seconded that the August 28, 2003 Minutes be approved with the four above referenced corrections. Aye 3, Nay 0. Motion approved.

VI. NEW BUSINESS

A. Variance 2003-5 for Lloyd Buckmaster.

Requesting a rear setback variance of 15 feet (ordinance required 35 feet) to allow him to build a storage/garage out building on his property at 126 Ford Road. Mr. Buckmaster’s rear lot line is also the rear lot line of the DNR property and Mr. Buckmaster’s proposed storage building will be back to back to the DNR storage buildings.

Mr. Yelle stated that he has been to Mr. Buckmaster’s home and reviewed the area in question regarding approval.

Bob Pecotte remarked that he too had looked at the property and remarked on moving/removing an old building. Mr. Buckmaster stated he had removed the “lean-two” and the 12’ x 12’ building on his property.

The question was asked by the ZBA to Mr. Buckmaster if any of his neighbors have objected to this, of which the answer was no and stated there was one approval noted, however the individual and address was not stated during the meeting.

Bob Pecotte Motioned, Carol Hicks Seconded that Variance Request #2003-5 for Lloyd Buckmaster at 126 Ford Road granting a 15-foot variance be approved allowing the building of a storage/garage unit 20 feet from his rear property line. Aye 3, Nay 0. Motion approved.

B. Non-Conforming Use #2003-6 for Tom Waselesky.

Requesting to enlarge his Non-Conforming Use/Junk Yard (O/F:970371.07) area from its approved size of 360 ft. x 225 ft to 700 ft. x 800 ft.

Mr. Yelle stated that Mr. Waselesky was presently in violation of the ordinance.

Mr. Waselesky states that his property is “grandfathered” and feels his request for enlarging his junkyard is valid.

The correspondence from Diane Pettinelli dated 09/12/03, a letter from Mark Maki dated 09/10/03, as well as the Central Lake Superior Watershed Partnership letter dated 09/16/03 were noted as opposition to Mr. Waselesky’s request. They referenced contaminants at the junkyard as posing a health threat.

Mr. Yelle pointed out on the proposed enlargement diagram that the creek runs through it and obviously there are many concerns regarding contamination. Discussion was had regarding a de-containment area and the size of containers Mr. Waselesky uses.

Bob Pecotte advised that although Michelle Wietek was not able to attend this meeting, she wanted it known that she opposed the enlargement of Mr. Waselesky’s junkyard.

Mr. Waselesky stated that he bought his property 30 years ago. He has cleaned up the area. He presented the following facts:

- He does the fluid removal from vehicles.
- He has an apple orchard that surrounds the junkyard and the apples are growing.
- He would be the first person to be contaminated on his property, why would he put himself in harm’s way?
- This junkyard started as a hobby as they were left over stock cars.
- His policy has been that junk cars are unsafe. He asks the owners of junk cars to provide a title to the vehicle and he will dispose of the vehicle at no cost to the owner.
- He has a scrap metal bin and the scrap metal is brought to Iron Mountain.
- Public Service Garage takes the left over oil.
- There is no gas left in the junk/crushed cars.
- He has received up to 20 vehicles in a single weekend.
- If for any reason gas is spilled on the ground, he burns the area.
- Due to salvage costs, there are times that his crushed cars will stack up.
- He has transported 490 tons of metal.
- He is the only person that will take your vehicle for free and dispose of it.
- His junkyard does a service to the community by offering engine parts, etc.
- He has been doing this since 1962 and now finds himself in violation.
- He currently has 42 cars to pick up within the Township.

Mr. Waselesky stated that he needs to expand his junkyard because it is getting larger. He will keep the junkyard 300 feet from the road and will surround the yard with a fence so the public would not see it. He advised that people drop off junk cars when he is not home. By having an enlarged area, which is fenced in, these cars can be dropped off and not left for public view.

He understands the ordinance and the concern of the Township regarding pollution, however, he believes the only problem with his junkyard is its visibility and that by moving the yard and fencing it in, that would solve the problem. He states he has retired and will have more time to devote to the junkyard.

Billy R. Jenkins, Sr. of 362 So. Big Creek Road stated Mr. Waselesky’s junkyard does not bother him. He knew that the junkyard was there when he built his house on Big Creek Road.

Mark Maki of 370 Karen Road voiced his displeasure citing from the Zoning Ordinance. He stated that the site plan fails the requirements, does not include an evaluation and did not include a written recommendation. He pointed out that any ground water contamination would affect the people of the Brookfield subdivision. He also pointed out that 10-15 people at the end of Big Creek did not get notice of Mr. Waselesky's request for enlarging his junkyard as they are out of the 300-foot area.

Thomas Kidd of 6245 US 41 South (Assistant Chief of Chocolay Township Fire Department) praised the fact that the department was able to use Mr. Waselesky's junkyard. He pointed out that according to the bylaws, the department has to have eight hours of training and that could take up to 45-60 cars for that training. Since the department has not been able to use Mr. Waselesky's junkyard, they have had to find junk cars and do their training in the parking lot of the fire department. The last time they had a training exercise, they had ten cars at the cost of \$1,200.00 for each car. Unfortunately, the budget of the department will not allow for this to continue. The Chocolay Township Fire Department benefits from Mr. Waselesky's junkyard as they complete their excavation training requirements there.

The Asst. Fire Chief, Tom Kidd, noted that there are numerous vehicle accidents on M-28 which require excavation from a vehicle and that with the new volunteers to the department, it is detrimental to the department that they not be able to use Mr. Waselesky's junkyard for training.

The issue of liability on the part of the Township was raised if the fire department were to have a problem due to insufficient excavation training.

Bruce Smith of 616 Brookfield (?) stated he has no problem with the junkyard and he would rather see the cars at the junkyard than left on the side of the road.

Bob Pecotte suggested that they table this request and wait for the full Zoning Board to be in attendance stating Mr. Waselesky requires three of the Zoning Board members to approve the request.

Mr. Yelle pointed out that the next meeting would be the 4th Thursday of October 2003. Mr. Waselesky stated this has been going on since 1962, he could wait another month and agreed to table the request.

VII. UNFINISHED BUSINESS – None.

VIII. INFORMATION/CORRESPONDENCE – None.

IX. PUBLIC COMMENTS

Lee Blondeau, 30 Tracie Lane, Sands Twp., stated that Mr. Waselesky does the Township a service by taking these junked vehicles. He didn't agree with Mr. Pecotte's reasoning on voting no to the enlargement due to the ruling of Judge Girard.

Mark Maki of 370 Karen Road stated that should ground water be contaminated, the Township would be liable. He stated that Mr. Waselesky's site plan is poor.

X. BOARD MEMBER COMMENTS

Mr. Hicks stated the site plan needs to be more specific. He asked if it was possible for a faster turn over of crushed metal therefore limiting how much room Mr. Waselesky needs for his junkyard.

The Zoning Board addressed health issues such as testing wells and who pays for the testing. Mr. Yelle pointed out that Mr. Mattson has his water tested every 18 months and he pays for that testing. Lois Sherbinow questioned whether rodents could be a health issue.

XI. ADJOURMENT

Bob Pecotte adjourned the meeting at 8:28 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Lori DeShambo, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF OCTOBER 23, 2003**

I. Meeting called to order by Bob Pecotte at 7:30 p.m. in the meeting room of the Township Hall.

Members present: Bob Pecotte, Carol Hicks, Bill Sanders and Lois Sherbinow, Trustee.
Members absent: Michelle Wietek.
Also present: Randy Yelle, Zoning Admin. and Lori DeShambo, Recording Secretary.

II. AGENDA APPROVAL

The proposed Agenda to be addressed was as follows:

1. Non-Conforming Use #2003-6 For Tom Waselesky
2. Special Approval #2003-7 for Bell Hospital
3. Variance #2003-8 for Kathie Lindberg
4. Appeal #2003-2 for Louis Houghton

Bob Pecotte requested that the Agenda be changed to the following:

1. Variance #2003-8 for Kathie Lindberg
2. Special Approval #2003-7 for Bell Hospital
3. Appeal #2003-2 for Louis Houghton
4. Non-Conforming Use #2003-6 For Tom Waselesky

Bill Sanders Motioned, Carol Hicks Seconded that the October 23, 2003 Agenda, Section V New Business format be changed to the format requested by Bob Pecotte. Aye 4, Nay 0. Motion approved.

III. PUBLIC COMMENT – none.

IV. APPROVAL OF SEPTEMBER 25, 2003 MINUTES

Lois Sherbinow Motioned, Carol Hicks Seconded that the September 25, 2003 Minutes be approved. Aye 4, Nay 0. Motion approved.

V. NEW BUSINESS

1. Variance #2003-8 for Kathie Lindberg

Requesting a height variance of 2.3 feet to allow placing of a garage on the property.

Kathie Lindberg purchased a pre-built garage of which she did not realize the height of this garage would be in violation of the current ordinance and therefore requested a variance.

Mr. Yelle looked at the property and advised the Zoning Board that all is in compliance except for the height of the garage. Ms. Lindberg has 2.6 acres of property.

The Zoning Board discussed how similar cases have been approved.

Carol Hicks Motioned, Bill Sanders Seconded to approve Variance request #2003-7 authorizing Kathie Lindberg of 417 Quarry Road a height variance of 2.3 feet for a storage garage/accessory building. Aye 4, Nay 0. Motion approved.

2. Special Approval #2003-7 for Bell Hospital

Requesting approval to install a directional sign to the medical building which is located at 425 Corning Drive.

Rich Rossway of 704 Hennepin Road, Marquette, Michigan addressed the Zoning Board on behalf of Bell Memorial Hospital as it's Public Relations Director and outlined the rationale behind the request to share the Harvey Laundry sign and pole.

The medical center located at 425 Corning Drive is going to expand and add a family practice physician and internist to the current staff of a general practitioner. This is a medical facility that can be used as an emergency center. The practice is equipped to handle emergency situations wherein time is of the essence, i.e.: bee stings for those with allergic reactions, excessive bleeding, vehicle accidents, traumas, etc.

The Zoning Board discussed the fact that other businesses will want to place off premises signs as well and should priority be given to Bell Memorial because it is a medical care facility? It was noted that this medical service is not an emergency room and is not open 24-hours per day; however, the facility does provide a service to the community.

The Harvey Laundry owner is willing to share his sign space with Bell Memorial, not add another sign but update the older sign presently on the property. This property is zoned as C-2.

The Zoning Board discussed approval of the request *with a strong understanding of the following conditions:*

That the total square footage of the sign which includes Harvey Laundry advertising is not to exceed 100 feet square feet and 10 feet in height. It is to be known that approval was given only due to the fact that this sign serves as a directional sign for emergency medical services.

Carol Hicks Motioned, Bob Pecotte Seconded to approve special approval request #2003-8 for Bell Medical to install a Tourist Directional Sign (Section 809) at 505 Corning Drive, sharing the existing Harvey Laundry sign and pole, directing traffic to the Bell Medical Building with the provisions stated above. Aye 3, Nay 1. Motion approved.

3. Appeal #2003-2 for Louis Houghton

Requesting a Home Occupation Permit to operate an auto/light truck service/repair shop out of his garage at 311 Kawbawgam Road.

Mr. Louis Houghton was not in attendance at the October 23, 2003 Zoning Board of Appeals Meeting.

The ZBA discussed whether this appeal should be tabled or dealt with. Mr. Yelle pointed out that this is Mr. Houghton's third violation of the ordinance and that the property in question is an LS/R zoned district. Mr. Houghton *should be in attendance* at this meeting.

Agreeing with the Zoning Administrator's determination that an auto service/repair shop does not fall within a home occupation and the ordinance clearly states that this type of business is allowed in a C-3 district only.

Bob Pecotte Motioned, Bill Sanders Seconded to deny appeal #2003-2 for Louis Houghton, request for a home occupation permit to operate an auto/light-truck service/repair shop out of his garage at 311 Kawbawgam Road. Aye 4, Nay 0. Motion approved.

4. Non-Conforming Use #2003-6 for Tom Waselesky

Tabled from the September 25, 2003 meeting. Requesting approval to enlarge his Non-Conforming Use/Junkyard area from 360 ft x 225 ft to 700 ft. x 800 ft.

Mr. Waselesky addressed the Zoning Board pointing out a new site plan/diagram which was more specific than what was presented previously. He reiterated his history and why he is requesting approval to enlarge his junkyard.

Bob Pecotte asked Mr. Waselesky how many acres of property he owned and how much of that property was grandfathered in of which he answered 30 acres and approximately 3.8 acres are grandfathered. It was noted during discussion with the ZBA that there is a discrepancy with the Court Order as to how many acres are actually grandfathered in on the Waselesky property.

Carol Hicks asked if Chocolay Township residents were the only car owners requesting disposal of their junk vehicles. Mr. Waselesky stated that he "believed" the majority of the vehicles were, however, he could not be sure as not all vehicle owners have their vehicles properly titled. He also volunteered that the Marquette Police Department has asked him to dispose of vehicles.

Carol Hicks addressed the issue of why cars are only crushed once per year. Mr. Waselesky described his situation to the ZBA regarding the gentleman who lives in Newberry, Michigan that collects his metal.

The Zoning Board discussed in great detail conditions under which approval could be given to Mr. Waselesky for his requested expansion. Bill Sanders noted it is imperative that these conditions include a defined square footage area and the minimum set backs.

The Zoning Board asked Mr. Waselesky if he could abide by the conditions being proposed at that time of which he replied "any acreage expansion given is better than none."

Carol Hicks Motioned, Bill Sanders Seconded to enlarge the Court ordered (M01-1356-CM)) 360 ft x 225 ft. to 520 feet x 400 feet with the following conditions:

- a. Applicant shall immediately construct a non see-through fence obscuring view of junk vehicles from normal eye level, not to exceed eight (8) feet in height all the way around the approved area, subject to approval of Zoning Administrator;
- b. No junk vehicles, parts, or other related materials shall be outside the fence and no salvage activities shall occur outside the fenced-in area with one exception. The Fire Department training area may be located outside of the fence. Waselesky's salvage/junkyard is responsible for cleanup of the training area. This area will be cleaned up within 36 hours after the completion of said training.
- c. Applicant shall plant or put in place a natural screen occupying the area between the above-mentioned fence and any surrounding residential properties to obstruct view of the junk and salvage yard;
- d. All structures and fencing, including any and all salvage/junkyard activities will comply with a waterfront setback of 150 feet minimum from any rivers, lakes, streams, creeks, or impoundments;
- e. Tires will not be stored in any outside area;
- f. The removal or draining of fuel/fuel tanks, oil, lube, antifreeze, engines, transmissions, differentials, radiators, mercury switches, etc. will be done over a containment area two-thirds (2/3) larger than the item being drained and/or removed;
- g. Applicant shall maintain a license from the State of Michigan authorizing operation of a salvage/junkyard;
- h. Wells on properties downstream from the Applicant's salvage/junkyard will be tested for contamination (fuel, oil and heavy metals) within three (3) months of October 23, 2003, along with a similar test every thirty-sixth (36) month thereafter. At his option, Mr. Waselesky may implement his own township approved test well

installed within Applicant's salvage/junkyard and Applicant shall be responsible for any and all reasonable costs associated with such testing. Other properties to be tested may include, but are not limited to; DeVooght, Shimon and Brookfield Lane. The "downstream" direction of water flow is WNW into Big Creek as agreed and understood to be that established by the DEQ for the property identified as Section 28-T47N-R24W, being in the NE-1/4 of the NE 1/4;

- i. Upon reasonable notice to Applicant (Waselesky), the Township Zoning Administrator is authorized to perform a site visit within three (3) days of such notice. Applicant is notified that the Township, at a minimum, shall inspect the property once per year;
- j. Any of the conditions above or actions required of the Application that are not otherwise due by a specified date shall be accomplished no later than July 1, 2004.

Mr. Waselesky asked the ZBA regarding the cost of test wells. Discussion was had regarding the depth of drilling, doing test wells on Mr. Waselesky's property first then moving on to neighbors if need be and that there are five (5) heavy metal standards to check for.

- k. The cost of the test well drilling is to be bore solely by Mr. Waselesky and not by the Township.

Aye 4, Nay 0. Motion Approved.

VI. UNFINISHED BUSINESS.

Mr. Yelle advised the Zoning Board that Mr. Sommers has been progressing with his vehicle clean up. He supplies disposal tickets to Mr. Yelle in proof that he is properly disposing of items. He was given an extension of time to complete the set requirements.

VII. INFORMATION/CORRESPONDENCE – None.

VIII. PUBLIC COMMENTS – None.

IX. BOARD MEMBER COMMENTS

Bob Pecotte asked for specific information regarding the September 8, 2003 Planning Commission Meeting regarding the request for Conditional Use #66 by William Kimmes – Home Occupation/Parking of Commercial Vehicles. Said information was provided.

X. ADJOURNMENT

Bob Pecotte adjourned the meeting at 9:01 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Lori DeShambo, Recording Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF FEBRUARY 26, 2004

I. Meeting called to order by Bob Pecotte at 7:30 p.m. in the meeting room of the Township Hall.

Members present: Bob Pecotte, Carol Hicks, Michelle Wietek, Bill Sanders

Members absent: Lois Sherbinow

Also present: Randy Yelle, Zoning Administrator and Cathy Phelps, Recording Secretary.

II. APPROVAL OF OCTOBER 23, 2003 MINUTES

The following changes are to be made to the October 23, 2004 Minutes:

- 1) II. Agenda Approval: *Carol Hicks* replaces Carl Hicks
- 2) IV. Approval of Minutes: *Carol Hicks* replaces Carl Hicks
- 3) V. 4. Add a "K" after the paragraph beginning with "Mr. Waselesky asked".....
please add:
K. The cost of the test well drilling is to be bore solely by Mr. Waselesky and not by the Township.
- 4) VI. Unfinished Business. *Mr. Sommers* replaces Mr. Summers.

Carol Hicks Motioned, Bill Sanders Seconded that the October 23, 2004 Minutes be approved with the above corrections. Aye 4, Nay 0. Motion approved.

III. AGENDA APPROVAL

Carol Hicks Motioned, Michelle Wietek Seconded that the February 26, 2004 Agenda be approved as presented. Aye 4, Nay 0. Motion approved.

IV. SCHEDULED PUBLIC HEARINGS

- A. Application Class A Non-Conforming Classification #2004-1**
- B. Application Variance #04-01**

Randy Yelle explained the history of the church. He said churches in a RR-2 have never been addressed that he has knowledge of.

Bill Sanders said he would comment in New Business.

V. PUBLIC COMMENT – none.

VI. UNFINISHED BUSINESS – none.

VII. NEW BUSINESS

A. Application Class A Non-Conforming Classification #2004-1

Randy Yelle would like to see the Class A Non-Conforming #2004-1 authorized in RR-2. He said Attorney Summers also agrees. He said a text amendment to RR-2 will be introduced later.

Bill Sanders explained they would like to get a jump on the demolition and building, and not waiting for the text amendment.

Michelle Wietek supports it also, but asked if Randy Yelle thought it might have been overlooked when the Zoning Ordinance was drafted? Randy Yelle thought that was the case. Michelle Wietek said if it properly modernized, this application would conform.

Carol Hicks agreed that churches belong in all residential areas including RR-2.

Bill Sanders also agreed that churches and schools should be located in residential areas. He noted that they are not sure where the property line is located. Reason being that US 41 was widened years ago from 66 feet to 200 feet and the legal description is still showing the property line in the middle of the highway. The existing hall was moved to the present location at that time. It was the original German school, and then was used for the kindergarten classes in the 1950's. He said the road will probably not be changed in the future, as it would destroy the antique church building.

Michelle Wietek asked if they could just build it back 15 feet? Bill Sanders explained the layout of the structures, noting that by building it with a 30-foot setback it would spoil the relationship of the new building with the existing buildings (pastor's residence). Also they want to save the trees.

Carol Hicks asked why they want a detached structure? Why not attach it to the church? Bill Sanders explained they the congregation began to make plans for an addition in 1992. The majority of the congregation did not want to disturb the character of the church. Carol Hicks agreed that the church is quite visible from the highway.

Bob Pecotte asked how many people make up the majority? Bill Sanders answered about 100 or so.

Carol Hicks asked what the plans were for the dimensions of the porch, and the projection for the lift? Bill Sanders said the building is planned to be a 40'x 60' rectangle with the 8 foot wide covered entry. He said the setback to the main foundation of the building would then be 23 feet. Carol Hicks noted that they would only need a variance for the 7-foot encroachment to the building. Carol Hicks said the variance should read 7' and not 15' as the porch encroachment is not considered living quarters.

Michelle Wietek suggested the building be built 7 feet back, so the variance would not be necessary. Just the covered entry porch would be encroached.

Motion by Bob Pecotte, Seconded by Carol Hicks that the request for a Class A Non-Conforming Use/Structure for St. Paul's Lutheran Church #2004-1 be approved as requested. Aye 3, Nay 0, with Bill Sanders abstaining. Motion approved.

B. Application Variance #04-01

Discussion by the Zoning Board was continued regarding the front setback variance, which was being requested. St Paul's Lutheran Church is requesting the ZBA to approve the demolition of the existing accessory building to the church and construction of a new and larger building on the same site.

Motion by Carol Hicks, Seconded by Michelle Wietek that the requested Variance #04-01 be approved allowing a variance of 7-foot front yard setback to the foundation of the building proper allowing for a covered entry porch to project forward. The reason for the variance is to locate a new structure precisely in line with the existing structure, which is to be removed. Aye 3, Nay 0, with Bill Sanders abstaining.

VII. PUBLIC COMMENT – none.

**VIII. TOWNSHIP BOARD MEMBERS' COMMENT
PLANNING COMMISSIONER MEMBERS' COMMENT**

Carol Hicks noted he read the information packet from Randy Yelle, which was interesting reading. He feels that Randy Yelle is doing a thorough job answering questions. Bob Pecotte agreed.

Bob Pecotte asked if Randy Yelle would review the terms for Zoning Board of Appeal members, and for the chairperson position. Randy Yelle said the term is 3 years and they elect officers at each October meeting.

Randy Yelle said he had given Greg Seppanen, the Supervisor, a memo regarding adding alternates to the ZBA. Mr. Seppanen agreed with the memo. Randy Yelle asked if anyone knew anyone who may be interested. (Pat Dooley, Cori or J.P. Bodeman were mentioned.)

Michelle Wietek requested that Randy Yelle inspect Bob LaJeunesse's Home Occupation Permit for compliance, as it has been some time since his permit was approved.

Michelle Wietek also asked about the permit denied to Mr. Houghton, and if Randy Yelle had checked if it was cleaned up. Randy noted that he is received a complaint against Mr. Houghton at 311 Kawbawgam, after he was denied a Home Occupation Permit. Michelle Wietek asked if that was his 3rd violation, and asked if Mark Maki had addressed these violations? Randy Yelle said no, and that he probably would be going to court regarding Mr. Houghton. He has three violations: 1) home occupation, 2) nuisance violation, and 3) junk car violation. Bill Sanders said the junk car ordinance, as it exists, is terrible to try to enforce. The Planning Commission is directing the staff to re-write the ordinance. It is unenforceable as it reads now. Randy Yelle said he has studied the ordinance from CUPAD, other townships. There is a possibility the zoning administrator may be given the enforcement responsibility in the near future.

IX. INFORMAL REPORTS AND COMMUNICATIONS

A. RELIGIOUS LAND USE "ACT OF 2000"

Carol Hicks stated that this act was a result of storefront churches in California. Randy Yelle said he wanted the ZBA members to get a copy of this.

B. INFORMATION – MTA – LEGISLATIVE UPDATES

X. ADJOURNMENT

Bob Pecotte adjourned the meeting at 8:10 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Cathy Phelps, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF APRIL 22, 2004**

I. Meeting called to order by Michelle Wietek at 7:32 p.m. in the meeting room of the Township Hall.

Members present: Michelle Wietek, Bill Sanders, Lois Sherbinow and Albert Denton
Members absent: Bob Pecotte and Carol Hicks
Also present: Randy Yelle, Zoning Admin. and Lori DeShambo, Recording Secretary.

II. ROLL CALL (Welcome newly appointed alternate member, Albert Denton)

III. APPROVAL-MINUTES OF THE FEBRUARY 26, 2004 MEETING

Lois Sherbinow Motioned, Bill Sanders Seconded that the February 26, 2004 Minutes be approved. Aye 4, Nay 0. Motion approved.

IV. APPROVAL OF AGENDA

Michelle Wietek requested that Non-Conforming Use #2003-6 Tom Waselesky matter be brought up to date under Item VIII, New Business. Bill Sanders Motioned, Albert Denton Seconded. Aye 4, Nay 0. Motion approved.

V. SCHEDULED PUBLIC HEARINGS

A. Application Variance #04-02

Mark Maki of 370 Karen Road, Marquette, MI 49855 commented that the request from Paul Cowley for a setback variance was not required and quoted excerpts from the ordinance that pertains. He stated that the lot and home were established before the ordinance was put into order in 1997. He also commented that the Cowley's should not have paid the \$150.00 fee for the variance request.

VI. PUBLIC COMMENT

Mark Maki of 370 Karen Road, Marquette, MI 49855 addressed the Zoning Board with his displeasure at how the Waselesky matter is being handled. He stated he has been asking for updates on the clean up project and gets no response.

Mr. Yelle explained that Mr. Waselesky informed the Township that the water results would be in sometime on the 23rd.

Mr. Maki had drawn a diagram on the chalkboard and attempted to address his displeasure by showing chronologically how the Waselesky matter has progressed.

At this time it was noted that the agenda had been amended and that the Board of Appeals should move on to discussion of the setback variance, returning to the Waselesky under Item VIII.

VII. UNFINISHED BUSINESS – None.

VIII. NEW BUSINESS

A. Variance 04-02

Randy Yelle stated to the Mr. and Mrs. Cowley that should he discover that the fee of \$150.00 was incorrectly charged for the setback variance request, they would be reimbursed their money.

Discussion was had with the Board of Appeals members and Randy Yelle as to how exactly one measures a river set back regarding a variance.

Mr. Yelle stated he, Doug Riley and Denny Magadanz measured the distance. The river was up 7.5 feet above the normal water level when it was measured.

Michelle Wietek asked Mr. Cowley if he had looked at other options to construct his proposed garage other than what he proposed to the Zoning Board of Appeals. Mr. Cowley informed all the due to practical purposes and the fact that he and his family would have to walk 110 feet from the back door of their home.

Mr. Cowley discussed all options regarding his property and where to build a garage and the proposed lay-out was the most feasible. The building of this garage would have a low impact on the environment.

Michelle Wietek asked if the garage could be built at the front of the existing home for which Mr. Cowley stated the sewer was there. There is only eight to ten feet in front of the house to build a garage and that is not enough room.

Discussion was had between the Zoning Board of Appeals members and the Mr. Cowley as to exactly what size garage did he propose to build. The final answer was 34' 8" wide x 24' deep

Michelle Wietek asked if there were any further comments regarding the set back variance proposal of which there was none.

Motion by Albert Denton, Seconded by Lois Sherbinow to approve Variance #04-02 allowing Mr. Cowley a thirty-five (35) foot river side setback variance, to construct a 34' 8" x 24' garage sixty-five (65) feet from the rivers edge at 145 East Main Street, Chocolay Township parcel number 52-02-203-001-11, for the reason of practical difficulty and economic hardship. The approval is subject to the following stipulation: That the new garage can be contracted no closer than the existing retaining wall. Aye 4, Nay 0. Motion approved.

B. Newspaper posting.

Mr. Yelle advised that Greg Seppanen of the Township Board had asked him to approach the Zoning Board of Appeals to advise that posting an upcoming meeting was not required in a local newspaper. It is only necessary to notify persons surrounding 300 feet of any proposed variance request. To achieve this, the Zoning Board of Appeals would need a motion stating that only property owners within 300 feet of a proposed variance be notified, and there will no longer be newspaper notification of the Zoning Board of Appeals meetings. This will save Chocolay Township money.

Lucille Scotti of Little Lake Road asked about the web site for Chocolay Township and whether notices would be posted there? Could the public find an agenda and minutes on the web site? She was answered positively.

Bill Sanders suggested the same be posted on the bulletin board at the Township Hall and perhaps other locations within Chocolay Township.

Mark Maki of 370 Karen Road stated he thought it was nonsense that the township has to alert the public.

Mr. Maki also questioned the increase in fees. He stated that in most cases the fees had doubled.

Michelle Wietek thanked Mr. Maki for his comments. She stated that she did not feel that not posting a variance request in the newspaper was the right thing to do. Giving the neighbors within 300 feet is not enough information to adjacent property owners. She stated she would ask the Planning Commission to increase the parameter from 300 feet to 500 feet. She stated the newspaper ads were needed and she would not support this motion.

Bill Sanders asked what type of issues would impact a variance request? Traffic on roads?

At this point Lois Sherbinow suggested the issue be tabled until the absent members, Bob Pecotte and Carol Hicks, could be in attendance to discuss this issue.

Motion by Bill Sanders, Seconded by Michelle Wietek to table the issue of newspaper posting. Aye 4, Nay 0.

C. Non-Conforming Use #2003-6 Tom Waselesky.

Mr. Waselesky is clearing his property for the expansion allotted him. He is aware of the fact that he has a July 31, 2004 deadline. When the clearing is complete, the cars will be relocated.

Mr. Yelle noted that Mr. Waselesky knows he has a house that needs to be moved. Mr. Yelle also reminded him that he has a fence to put up.

Lois Sherbinow asked if Mr. Waselesky understands the type of fence he is to put up?

Mr. Yelle stated that Mr. Waselesky understands the requirements of the fence as well as the natural barrier that he must plant.

Michelle Wietek then told Mark Maki he could have his public comment for which he asked Mr. Yelle where Mr. Waselesky obtained his water testing bottles. Mr. Yelle stated the bottles were obtained at the Township Hall and/or D.E.Q. .

Mr. Maki stated that Mr. Waselesky was not doing to right type of water testing if the bottles came from the Township Hall. These tests would not address fuel, heavy metal, benzine, etc. He stated that the Zoning Board of Appeals can not overrule a judicial court order and that he would file a complaint with the Board.

Bill Sanders then took the floor stating that Randy Yelle has been doing a good job as administrator and that progress has been seen in the Waselesky matter. It is hoped that this matter will be cleared up by the July 31, 2004 deadline.

Michelle Wietek asked if there were any other comments regarding the Waselesky matter.

Lucille Scotti asked about the removal of fuel, oil, gas, etc., from the vehicles before being crushed. Michelle Wietek noted that variance #7 lays out all the particulars regarding drainage.

Randy Yelle advised that the State of Michigan requires that no release of oil, gas, etc. be released into the ground and that Mr. Waselesky is aware of that.

Mark Maki asked what will happen with the water testing results.

Mr. Yelle stated the Township would follow through with Mr. Waselesky if the test results came back positive.

Michelle Wietek stated she agreed with Mr. Maki in that the water test results must be specific and have addressed the issues of gas, fuel, etc.

Lucille Scotti questioned whether she could be in attendance when the cars were crushed.

Mr. Yelle replied that a township person could be there, otherwise, permission from the property owner would have to be obtained.

Bill Sanders asked Randy Yelle if the DEQ could be brought in for the crushing? Mr. Yelle stated yes if they had a reason to suspect the requirements were not being adhered to.

IX. PUBLIC COMMENT – None.

X. TOWNSHIP BOARD MEMBERS COMMENT/PLANNING COMMISSION MEMBERS COMMENT

The resignation of Doug Riley as Director of Planning and Research was discussed.

Lois Sherbinow commented that there have been good applicants for the open position.

Mark Maki asked if these interviews are open to the public.

Bill Sanders advised Mr. Maki that he should contact the Chocolay Township office to obtain an answer as to whether the interviews for the position of Director of Planning and Research would be open to the public.

XI. INFORMATIONAL REPORTS AND COMMUNICATIONS

- A. Memo (Stipulation and Order – Draft)**
- B. Memo (Informational “role of the chair”)**
- C. Memo (TWP BD-appointment of ZBA members and alternate)**

Mr. Yelle advised that all the information listed above could be reviewed in the packets provided to the members of the Zoning Board of Appeals.

XII. ADJOURNMENT

Michelle Wietek adjourned the meeting at 8:29 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Lori DeShambo, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF JUNE 24, 2004**

I. Meeting called to order by Bob Pecotte at 7:32 p.m. in the meeting room of the Township Hall.

Members present: Michele Wietek, Bill Sanders, Bob Pecotte, Lois Sherbinow and Albert Denton

Members absent: Carol Hicks

Also present: Randy Yelle, Zoning Admin. and Lori DeShambo, Recording Secretary.

II. ROLL CALL

III. APPROVAL-MINUTES OF THE APRIL 22, 2004 MEETING

Lois Sherbinow Motioned, Albert Denton Seconded that the April 22, 2004 Minutes be approved. Aye 5, Nay 0. Motion approved.

IV. APPROVAL OF AGENDA –

Someone made a motion to approve the Agenda as presented. Aye 5, Nay 0. Motion approved.

V. PUBLIC COMMENTS

Mark Maki of 370 Karen Road, Marquette, Michigan objected to three (3) particular sentences in the April 22, 2004 where he stated he was “misquoted.”

Mr. Maki advised the Zoning Board of Appeals that he had several issues with Mr. Yelle including but not limited to the Waselesky junkyard clean up issue and most recently, a permit for the Lakenen sign.

Mr. Maki advised the Zoning Board of Appeals that he had a meeting scheduled with Mr. Seppanen and Attorney Michael Summers on July 14, 2004, to occur at the law office of Attorney Summers so he could air his grievances. This would be at no charge by Attorney Summers.

Public comment closed.

VI. UNFINISHED BUSINESS – NEWSPAPER POSTING

Discussion was had with Mr. Yelle and the Zoning Board of Appeals regarding the request to withdraw postings in the local newspaper for the purpose of notification. Mr. Yelle advised the Board that Mr. Seppanen had asked him to address this issue with the Board in an effort to save the Township money.

Discussion was had on the cost of newspaper ads, the savings for not posting these ads to the Township.

Michelle Wietek pointed out that the only way she knew what was happening in the community in the past was to read the local newspaper. She feels strongly on keeping the ads in the paper for the sake of keeping the Township apprised of proposed changes.

Lois Sherbinow pointed out that once an ad is placed in the newspaper, the Zoning Board of Appeals can state that the public was informed and they had the opportunity to voice an opinion. We are doing our part to inform.

Motion by Bob Pecotte, Second by Bill Sanders, that the Zoning Board of Appeals will continue to post Zoning Board of Appeals requests in the local newspaper for the purpose of notification. Aye 5, Nay 0. Motion Approved.

VII. NEW BUSINESS

A. ELECTING ZONING BOARD OF APPEALS CHAIR

Bob Pecotte stated he would like to pass on the chairperson’s position and motioned that Michele Wietek should be elected to the position. Bill Sanders supported the motion. Michele Wietek questioned the term for which the response was 1 year. Aye 5, Nay 0 to elect Michele Wietek as Zoning Board of Appeals chair

B. ELECTING ZONING BOARD OF APPEALS SECRETARY

Bill Sanders motioned that Carol Hicks be elected Zoning Board of Appeals Secretary. Bob Pecotte seconded. Aye 5, Nay 0 to elect Carol Hicks as Zoning Board of Appeals Secretary.

VIII. PUBLIC COMMENT – Closed.

IX. TOWNSHIP BOARD MEMBERS COMMENT/PLANNING COMMISSION MEMBERS COMMENT

Topics of discussion included the Waselesky clean up status. Water sample testing results have been received. Thus far, all results within limits *except for* arsenic found in drinking water. However, it was pointed out that the Chocolay area has **HIGHER** levels than normal. This information was going to be researched by Michelle Wietek.

The Chocolay Township Fire Department utilized the Waselesky junk yard within the past month; 6 cars were cut up.

If Mr. Waselesky does not confirm his property to the restrictions administered by the Zoning Board of Appeals by the deadline, he may be fined and ultimately shut down.

The issue of the Lakenen sign was discussed. Mr. Yelle laid out the order in which a permit was obtained for the park and then later for the sign.

Attorney Michael Summers at the Township Board meeting of June 19, 2004 volunteered to meet with Mark Maki and others free of charge. Mr. Yelle feels this may open the door for other entities/persons in the community to come forward and want a no charge meeting with an attorney and several members of various Boards of Chocolay Township.

Bill Sanders stated that he agreed with Mr. Yelle and will not participate in this meeting as the Zoning Board of Appeals has acted on the appeal from Mr. Maki .

X. INFORMATIONAL REPORTS AND COMMUNICATIONS – MTA INFORMATION

Bill Sanders asked about the status of the questionnaire being sent out by the planning consultant. It was discussed as to who was inputting for the comprehensive plan. This questionnaire asks general questions about the community.

XI. ADJOURNMENT

Al Denton motioned to adjourn the meeting at 8:03 p.m. Bob Pecotte seconded. Motion approved . Aye 5, Nay 0.

Respectfully submitted:

Carol Hicks, Secretary

Lori DeShambo, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF JULY 22, 2004**

I. Meeting called to order by Michelle Wietek at 7:33 p.m. in the meeting room of the Township Hall.

Members present: Michelle Wietek, Bill Sanders, Bob Pecotte and Carol Hicks
Members absent: Lois Sherinow
Also present: Randy Yelle, Zoning Admin. and Lori DeShambo, Recording Secretary.

II. ROLL CALL

III. APPROVAL-MINUTES OF THE JUNE 22, 2004 MEETING

Bob Pecotte Motioned, Bill Sanders Seconded that the June 22, 2004 Minutes be approved. Aye 4, Nay 0. Motion approved.

IV. APPROVAL OF AGENDA –

Applicant for variance 04-03 (Mr Joe Gibbs) Pulled from Agenda by Zoning Administrator. Applicant for variance 04-04 (Mr. Tim Djupe) not in attendance at the beginning of the meeting.

Michelle Wietek Motioned to approve the agenda with holding variance request 04-03 and 04-04 holding to see if applicants arrive. Bob Pecotte Seconded. Aye 4, Nay 0. Motion approved.

V. PUBLIC COMMENTS

None to be had as the applicants for variances and an extension were not in attendance. Public comment closed.

VI. UNFINISHED BUSINESS – None.

VII. NEW BUSINESS

- A. VARIANCE 04-04 – Tabled to the August 26, 2004 meeting.
- B. REQUESTED EXTENSION FOR WASELESKY – Tabled to the August 26, 2004 meeting.

There were comments/questions posed regarding variance 04-04 request. The request is for a side setback variance of 15 feet to allow Mr. Djupe to build a detached garage. Mr. Yelle addressed the Zoning Board of Appeal members regarding this variance request.

Bob Pecotte asked how close are the applicant's neighbors?

Mr. Yelle's response was that the applicant only has one neighbor which is located 100 feet away with the other side of his property being a field.

Michelle Wietek asked when the lot was conformed.

Mr. Yelle advised this was done before the adoption of the Ordinance (May 9, 1977).

Bill Sanders asked if the house had been built prior to 1976 of which Mr. Yelle responded that yes, it was built prior and is an older home.

The Board of Appeals members commented on reducing the size of the requested garage. Another topic was why the applicant would want a detached garage.

Bob Pecotte motioned to table 04-04 variance request to another meeting when the applicant can be in attendance. Carol Hicks Seconded. Aye 4, Nay 0. Motion approved.

Mr. Waselesky requested an extension of time to complete the removal of the pallet fence on his property. Mr. Waselesky was not in attendance at this meeting, however, his son was.

Michelle Wietek pointed out that no decisions can be made regarding this issue without Mr. Waselesky being in attendance at this meeting, however, open discussion can be had to bring all up to date.

Issues discussed regarding Mr. Waselesky and his junkyard clean up:

- ✓ New overview of property was shown.
- ✓ The house trailer needs to be removed, however, waiting for the cars to be removed by the “crusher” which was scheduled to arrive in the fall (September, October, November). It was noted that the “crusher” could possibly be in the area and the cars would be moved shortly. The fence could then be moved with a new fence built at the tree line.
- ✓ It has been two years since Mr. Waselesky had cars removed/crushed from his property.
- ✓ The issue of water testing was addressed – how many wells tested, which wells were tested, from what direction was the water flowing when the one and only water test was taken? It was suggested that an Affidavit be obtained from Mr. Waselesky attesting to the manner in which he collected the next water samples.
- ✓ A Court Order directed to Mr. Waselesky and his required clean up is now two years old and the issues have yet to be completely addressed.
- ✓ The required fence was discussed in detail with Mr. Waselesky’s son stating that members of the Chocoy Fire Department had “volunteered” their personal time to assist in the building of this fence in thanks for being able to use Mr. Waselesky’s property to practice emergency drills.
- ✓ The question was raised of whether anyone had actually spoke with the “crusher” owner to see if he had Mr. Waselesky on his proposed agenda for pick up.
- ✓ As Mr. Waselesky is in violation for not conforming to all aspects of clean up according to the deadline, it was suggested that he be fined.
- ✓ What type of containment area is currently being used at the Waselesky property was discussed.

The decision was made that Mr. Yelle would go to Mr. Waselesky’s home and discuss with him fencing issues, water issue and potential fines.

Bill Pecotte Motioned to extend the July deadline to the August 26, 2004 Zoning Board of Appeals meeting when issues can be specifically addressed to Mr. Waselesky. Carol Hicks Seconded. Aye 4, Nay 0. Motion approved.

Please note: The Zoning Board of Appeals came to this decision to allow an extension only because Mr. Waselesky has made progress on his property and the fact that Mr. Yelle will be addressing the above outlined issues within days; giving Mr. Waselesky days to respond.

VIII. PUBLIC COMMENT – None.

IX. TOWNSHIP BOARD MEMBERS COMMENT/PLANNING COMMISSION MEMBERS COMMENT

Bob Pecotte commented on the sign for Gentz’ golf course. He stated it has zero set back. Mr. Yelle stated that the sign has put there prior to him becoming the Zoning Administrator.

Bob Pecotte noted that variance request 04-03 is addressing the need to change a set back for a sign and that the ZBA should be up to speed on the Gentz sign for the next meeting so they can properly address variance request 04-03.

Bill Sanders noted that several difficult and important issues have been raised of late and wondered if a professional opinion would be in order for some of these decisions to be made.

Michelle Wietek stated that she would like to see the ZBA not make a motion decision the first night it is proposed. ZBA should take the time to evaluate and properly word their response(s) with respect to major issues.

Bill Sanders noted that he would not want this board to get a reputation of getting requests at one meeting and making people wait until the next month's meeting to get a decision.

X. INFORMATIONAL REPORTS AND COMMUNICATIONS

A. MTA INFORMATION

B. WASELESKY WATER TEST LABORATORY REPORTS

Mr. Yelle provided to the Zoning Board of Appeals members a packet with updated MTA information. Michelle Wietek asked if the Togo/Track sign in violation. Mr. Yelle stated they were and MDOT investigated. Nothing has been done by MDOT at the present time.

The Waselesky water test laboratory reports will be pursued further as other samples must be taken.

XI. ADJOURNMENT

Michelle Wietek adjourned the meeting at 8:30 p.m. Bob Pecotte seconded.

Respectfully submitted:

Carol Hicks, Secretary

Lori DeShambo, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF AUGUST 26, 2004**

I. Meeting called to order by Carol Hicks at 7:30 p.m. in the meeting room of the Township Hall. (Chair Michelle Wietek in attendance, however, ill with throat condition, thus Carol Hicks acting Chair for this meeting.)

Members present: Michelle Wietek, Bill Sanders, Bob Pecotte, Carol Hicks and Lois Sherbinow

Members absent: None.

Also present: Randy Yelle, Zoning Admin. and Lori DeShambo, Recording Secretary.

II. ROLL CALL

III. APPROVAL-MINUTES OF THE JULY 22, 2004 MEETING

Michelle Wietek asked that Section IX, page 3, paragraph 4 that read "Michelle Wietek stated that she would like to see the ZBA not make a motion decision the first night it is proposed. ZBA should take the time to evaluate and properly word their response(s)." be changed to add the wording "with respect to major issues."

Lois Sherbinow Motioned, Bill Sanders Seconded that the July 22, 2004 Minutes be approved with the above referenced change. Aye 5, Nay 0. Motion approved.

IV. APPROVAL OF AGENDA

Bob Pecotte Motioned, Bill Sanders Seconded that the agenda for the August 26, 2004 Zoning Board of Appeals meeting be approved. Aye 5, Nay 0 Motion approved.

V. SCHEDULED PUBLIC HEARING

A. Application of variance 04-03, Joe Gibbs Sign.

B. Application of variance 04-04, tabled from the July 22, 2003 meeting.

Carol Hicks asked Randy Yelle if the public hearings to be heard today have been posted. Mr. Yelle responded with yes, the hearings were posted and he had received no response(s).

VI. PUBLIC COMMENT

Mark Maki of 370 Karen Road, Marquette asked if these public hearings were posted in the local newspaper and did this publication include anything regarding the Waselesky request for extension of deadline?

Mr. Maki also inquired as to the status of his correspondence dated 08/19/04 to the Zoning Board members. Mr. Yelle stated he did not receive that letter and, furthermore, the Chocolay Township staff has been instructed to forward any correspondence, etc. from Mr. Maki to Greg Seppanen for his handling.

Mr. Maki stated his correspondence is to advise of a law suit being filed against the Zoning Administrator. He also advised that Mr. Seppanen has written to him instructing him on the procedure that he should take to voice his concerns/complaints.

Tim Djupe, 440 Green Garden, Marquette asked the Zoning Board members on who to approach with his concerns regarding the speed limit on Green Garden Hill now that the bridge work is near completion and the vehicles are speeding through. He stated there are 7 children that reside in the area (all under 6 years of age) and he is concerned for their safety. He wanted to know if a sign could be posted something to the effect of "Slow, Children Playing."

Carol Hicks told Mr. Djupe that the Zoning Board of Appeals does not make that type of decision and that he should be addressing the County Road Commission. He was advised to contact Dennis Stachewicz, Chocolay Township Planning Director for more specifics.

VII. UNFINISHED BUSINESS – SEE B UNDER NEW BUSINESS

VIII. NEW BUSINESS

A. VARIANCE 04-03 GIBBS

Carol Hicks asked Randy Yelle to update the Zoning Board members on this request. Mr. Yelle stated that this issue has been brought before Michigan Department of Transportation (herein referred to as MDOT), as well as Alger Delta Electric and no objections or concerns were raised. Mr. Yelle asked Mr. Joe Gibbs who was in attendance at this meeting if he had anything to add to the request of which he did not.

Carol Hicks verified the specific setback request.

Mark Maki wanted to know specifically how many feet would this proposed sign be from the centerline of M-28 and argued about many feet is correct. He disagreed regarding the right of way issue. Although Mr. Yelle and the Zoning Board of Appeals members did their best to answer his questions, Mr. Maki became quite belligerent with Mr. Yelle demanding that Mr. Yelle give him the answers he was looking for. A disagreement then followed between Mark Maki and Joe Gibbs with Mr. Gibbs pointing out to Mr. Maki that MDOT would not have approved his request for the setback variance if the footage in question by him was incorrect. A heated discussion was had between Mr. Maki and Mr. Gibbs at this time. Mr. Hicks asked the gentlemen to kindly behave and allow the meeting to continue.

Bill Sanders remarked to Carol Hicks that in the past, the issue of right of way concerning a trailer park has been raised which proceeded to the courts and it was determined that the Zoning Board of Appeals has no jurisdiction on that issue. Mr. Maki advised that this issue went to the Appeals Court and the decision was overturned.

Bill Sanders attempted to advise Mr. Maki that the road commission will grant variances that are within reasonable limits and, therefore, the issue of correct footage is moot. As Mr. Sanders had the floor and was attempting to explain the footage, right of way and variance request, Mr. Maki continued to interrupt him and then approached the meeting table where the Zoning Board of Appeals members sit wanting to look at the packet regarding the agenda for this meeting which contains a copy of the variance request of Mr. Gibbs. Michelle Wietek was kind enough to give him her copy. Mr. Maki was asked to step away from the members meeting table and to take a seat (for the third or fourth time).

At this point, a loud verbal argument ensued between Mark Maki and Tom Waselesky to a point where an effort was made to find a police officer from the department located within the building to escort Mr. Maki out of the building. Unfortunately, an officer could not be found.

Once things calmed down, Bill Sanders who still had the floor reviewed the request, remarked on a map included with the request regarding the specific footage for the variance. He stated he thought the request to be reasonable.

Once again, Mr. Maki voiced his objections and wanted to see the map. Carol Hicks provided him with the map and asked him again to please sit down. Mr. Maki reviewed the map and again argued that the variance request was wrong. Carol Hicks told Mr. Maki that Mr. Sanders had the floor and that he would have an opportunity to speak following Mr. Sanders.

Mr. Sanders stated that in light of the fact that the requested variance had been given the go ahead by MDOT and electric company, he would have no objections to granting the request.

Mr. Maki then provided the Zoning Board of Appeal members with his interpretation and opinion of this variance request.

Mr. Hicks advised Mr. Maki that the members would act on the request as it is presented. He advised that he had been to the site where the proposed sign was to be placed as he had a

concern regarding clear sight distance from the private road onto a major highway. It is imperative that a vehicle have clear sign distance when pulling onto a highway such as M-28. Having been on the site and reviewed where the proposed sign would be placed, Mr. Hicks stated he was comfortable with the clear sight distance issue.

Michelle Wietek voiced her opinion that just because MDOT feels the request is reasonable, that does not mean that the members have to agree with their decision. She had concerns regarding the surrounding neighborhood and the effect the proposed sign would have.

Bill Sanders advised Michelle Wietek that the board requirements are being met with this variance request and provided her with a copy of the variance wording found in the packet which she had allowed Mr. Maki to review.

Bob Pecotte stated to Carol Hicks that in comparison to the Gentz sign (Homestead Golf Course on County Road 480, subject of discussion during a previous meeting), that the sign of Mr. Gibbs is back further so if the Gentz sign has been approved, then the Gibbs sign should be as well.

At this point, Michelle Wietek advised that the language of the variance puts her concerns to rest.

Bob Pecotte asked Randy Yelle what the wood planking before the mailboxes on M-28 just before the private road to the golf course was all about. Mr. Yelle had not seen this nor had he been apprised of this but said he would look into it.

Motion by Bill Sanders and Second by Lois Sherbinow to approve Variance number 04-03, allowing the placing of one Chocoday Downs Golf Course sign no less than 60 feet south of the centerline of M-28, and 48 feet west of the centerline of Chocoday Downs Golf Drive for the reasons of visibility and practicality. Aye 5, Nay 0. Motion carries.

B. VARIANCE 04-04 DJUPE

Carol Hicks again asked Randy Yelle to update the members on the specifics regarding the set back request by Mr. Djupe for the purpose of building a garage.

Carol Hicks pointed out that this request was on the agenda from the July 2004 meeting, however, had been tabled due to questions the members had and the absence of Mr. Djupe at that meeting to answer them. Mr. Djupe advised that he was not aware of the fact that he needed to be in attendance at the meeting and apologized for any inconvenience.

Carol Hicks asked Mr. Djupe why he does not want his garage built attached to his home. Mr. Djupe stated for insurance reasons and because he desires a separate building. He wants to the footage between his home and the garage for snow removal purposes.

Mr. Hicks asked the applicant why not build a standard 24' foot garage versus the requested 26 foot. Mr. Djupe stated it is his personal preference to have a larger garage and stated with the pitch of the roof and with a man door, he prefers a larger garage.

Mr. Djupe was asked how close would this proposed garage be to his neighbor and as Mr. Djupe was not sure on the footage, he "guessed" 200 feet.

Bill Sanders remarked that Mr. Djupe has made some major improvements to that home and it looks great.

Bob Pecotte remarked to Mr. Djupe that he does not have any practical reasons for this variance for which the applicant stated he had two. He can't go forward because he would run into the variance for the easement on the road and he can't go back because of the septic field. He stated he was trying to centrally locate the garage.

Lois Sherbinow asked if there had been any input from the neighbors regarding this request for which there has not.

Motion by Bill Sanders Second by Lois Sherbinow to approve Variance number 04-04, allowing the detached garage to be built 15 feet from the east lot line approving a 15 foot variance from the required 30 foot. Reason being the lot of record was before May 9, 1977, which was the date of the Ordinance adoption. We considered this a practical difficulty as it applies to this variance. Aye 5, Nay 0. Motion carried.

C. REQUESTED EXTENSION FOR WASELESKY

Carol Hicks asked Randy Yelle to update the members on the progress Mr. Waselesky has made regarding his junkyard. Mr. Waselesky provided color photographs of his property and other information to the members.

Mr. Waselesky advised the members of the following issues:

Crusher (Troop Auto) will arrive in weeks.

Area will be cleaned up following crusher departure

Fencing will be moved

Fencing will be redone

The Chocolay Fire Department has been coming to the yard two to four times per week and practicing emergency removal tactics

Trailer house will be removed as part of the area clean up

Bob Pecotte pointed out to Mr. Waselesky that he had a deadline of July 2004 to have all of this done.

Mr. Waselesky advised that his daughter's home burned in the interim which superseded the junkyard project. Also, Mr. Yelle has been issuing tickets to residents of Chocolay Township of late regarding old vehicles and their removal which means the cars come to Mr. Waselesky's junk yard. He stated that between his daughter's personal loss, the fire department and an influx of junk cars, he has had little time to work on his clean up project.

He has been piling brush along his property line to assist as a visual aid/fencing.

Mr. Waselesky did state he has a pallet type fence up now so the neighbors can not see the junk cars and, this deters from theft as he experiences a lot of breaking into the junk yard at night.

Carol Hicks asked Mr. Waselesky exactly what type of extension of time are you looking for?

Mr. Waselesky pointed out that from November of 2004 until March of 2005, not much can be accomplished due to the weather.

Mr. Waselesky stated that the main concern that was voiced to him previously is that the people wanted a fence around the junk yard so you could not see the cars. This was done. They constructed a pallet fence, utilized steel poles and 2 x 4 lumber. This is a heavy duty fence. He stated that there is no fence ordinance. He understands that the Zoning Board of Appeals does not care for a pallet fence but states that you can not see through the fence. Mr. Waselesky stated that if he were forced to take down the pallet fence, the robberies would start again.

Bob Pecotte asked Mr. Waselesky again, what type of time limit are you looking at?

Mr. Waselesky stated he wished he could say the end of fall of this year, he's not dragging his feet but for what all need to be done in sequence, this will cost hundreds of dollars even before getting the fence down. There are several things to be done before the fence could come down. Perhaps a time limit could be implemented to have items taken care of in stages.

Bob Pecotte advised Mr. Waselesky that the members are willing to work with him but requires a date for a deadline.

Carol Hicks asked if he was going to build the fence himself or would he contract the job out. Mr. Waselesky stated he was going to do the fence himself but right now, his priority is to get

the cars into the junk yard, get them cleaned and ready for crushing. He does not have the funding to contract out for this fence.

Michelle Wietek pointed out that planning, making commitments and having financial responsibilities are all part of having a business.

Bill Sanders asked if the crusher would take all the vehicles he has on hand now. Mr. Waselesky stated yes plus any other metal he has.

Bill Sanders asked if when the cars are gone, can the fence be moved immediately? You may have to stop taking cars for a while or, put them in the back.

Bob Pecotte suggested the fence be moved within one month after the crusher leaves.

Michelle Wietek stated she would prefer a deadline in the fall; she is not comfortable with a spring date.

Bob Pecotte suggested then that December be a deadline date.

Mr. Waselesky stated that he has paid \$500.00 for water samples. His neighbors are happy with the existing fence and that time limits don't work for him.

Carol Hicks again told Mr. Waselesky that a deadline was needed. He reminded him that there was a Court Order issued regarding his junkyard and that the ZBA has been diligently working with him. Randy Yelle has commented to the members on the progress he has made and the ZBA is happy about that but more advances need to be made. If the ZBA weren't working with Mr. Waselesky, he would be out of business. Mr. Hicks then asked Mr. Waselesky to give the members a date; he was told to pick a date.

Mr. Waselesky responded with at least late fall.

Bob Pecotte reiterated December 1, 2004.

At this time, Mr. Waselesky realized that the ZBA was looking at having a four sided fence completed by December 1, 2004. He stated this was impossible. He can not afford to contract out a fence to be built. He again advised that he has piled brush up as a visual barrier. All that would have to be moved, as well as firewood, and there just isn't the time nor the funds to do all this by December 1, 2004.

The Zoning Board of Appeals members discussed this at length as Mr. Waselesky had agreed to have this fence in place by July and here they were again, having to grant another extension.

It was finally decided that by December 1, 2004, the front portion of the fence must be completed.

Mr. Waselesky was asked what it was that the ZBA expected to gain from this fence.

Randy Yelle responded with safety and Bill Sanders with visual.

The topic of the pallet fence was discussed. The ZBA does not want a pallet fence. Mr. Waselesky stated the is corrugated metal up as far as eight feet on the back side of the fence and you can not see through the pallet fence.

Motion by Michelle Wietek and Second by Bill Sanders to extend the deadline to December 1, 2004 for Mr. Waselesky to complete the required fence. Aye 5, Nay 0. Motion carries.

IX. PUBLIC COMMENT

Mr. Waselesky asked the ZBA why they tolerated Mark Maki's actions?

Carol Hicks advised that he has a right to attend any public meeting and to express his opinion.

**X. TOWNSHIP BOARD MEMBERS COMMENT
PLANNING COMMISSION MEMBERS COMMENT**

Michelle Wietek voiced her opinion regarding the verbal confrontation that Mr. Maki, Mr. Gibbs and Mr. Waselesky engaged in earlier in the meeting. She stated this can not be tolerated.

Bill Sanders stated that the Zoning Board of Appeals was going to submit a letter to the Township Board requesting that Mr. Yelle be given more hours to complete his job as the Zoning Administrator. The job is becoming impossible to complete on a part-time basis.

Carol Hicks asked Michelle Wietek if she would draft this letter to which she said she would.

XI. INFORMATIONAL REPORTS AND COMMUNICATIONS

- A. LETTER DATED JULY 27, 2004 SIGN FOR HOMESTEAD GOLF COURSE**
- B. MTA FAXES OF JULY 23rd and 30th, 2004.**

Mr. Yelle provided a packet of information to the ZBA. Bob Pecotte noted there were a few legitimate issues on a letter from Mark Maki. Mr. Yelle stated he could not respond as he has yet to see the letter.

XII. ADJOURNMENT

Carol Hicks adjourned the meeting at 8:55 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Lori DeShambo, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF SEPTEMBER 23, 2004**

I. Meeting called to order by Michelle Wietek at 7:30 p.m. in the meeting room of the Township Hall.

Members present: Michelle Wietek, Bill Sanders, Bob Pecotte, Carol Hicks and Lois Sherbinow

Members absent: None

Also present: Randy Yelle, Zoning Admin, Sgt. Gary Heinzelman, Police Dept. and Mary Kratzke, Recording Secretary.

II. ROLL CALL

III. APPROVAL-MINUTES OF THE AUGUST 26, 2004 MEETING

Carol Hicks asked that Section XII Adjournment, page 8, be corrected to show his name as Carol Hicks instead of Carol Hunt.

Michelle Wietek recalls that under Section VIII New Business, Part C – Requested Extension for Waselesky, page 7, that she made the motion to extend the deadline to December 1, 2004 for Mr. Waselesky to complete the *entire* fence rather than the front section of the fence.

Lois Sherbinow Motioned, Carol Hicks Seconded that the August 26, 2004 Minutes be approved with the above referenced changes. Aye 5, Nay 0. Motion approved.

IV. APPROVAL OF AGENDA

Bob Pecotte Motioned, Michelle Wietek Seconded that the agenda for the September 23, 2004 Zoning Board of Appeals meeting be approved. Aye 5, Nay 0. Motion approved.

V. SCHEDULED PUBLIC HEARING

Appeal Wayne Goodwin 2004-01

Carol Hicks asked Randy Yelle to update the Zoning Board members on this request. Randy Yelle stated that there is property on N. Big Creek Road, which is zoned RR2, which has a track constructed that ATV's operate on. And, according to his interpretation, this is in violation of Chocolay Township Zoning Ordinance Section 208. Race tracks are neither a permitted use or a conditional use in the RR-2 zoned district.

VI. PUBLIC COMMENT

None.

VII. UNFINISHED BUSINESS.

None.

VIII. NEW BUSINESS

Appeal Wayne Goodwin 2004-01

Complainant Judy Copeman was unable to attend tonight's meeting, so her son Jason Copeman was representing her tonight. Jason indicated that his mother has concerns regarding machinery at the Goodwin property upsetting her horses. They tried to work out something amicably, however this could not be done thus far. He stated that muffler devices have been used to help alleviate the noise problem. However, now a track has been constructed and this is against zoning. Jason stated that the main issues are noise and dust.

Brandi Goodwin stated that their property consists of 35 acres and in addition, her father-in-law owns another 15 acres. They have been riding their four-wheelers on both pieces of property and she stated that this was not a constructed track, it's just a track consisting of all natural hills. She presented a hand-drawn map to the Board and answered any questions/concerns

Board Members had. Brandi Goodwin also presented a petition containing signatures of 16 neighbors on their road who don't have a problem with them riding their 4-wheelers on their own property.

Wayne Goodwin stated that he did not feel that he had to notify Judy Copeman each time they rode their 4-wheelers (Judy had originally made this request of the Goodwin's). He stated that since they are not allowed to ride their 4-wheelers anywhere else in Chocolay Twp. that they should be able to at least ride them on their own property for their own recreational use.

Jason Copeman then presented photographs that showed equipment on the Goodwin's property that supposedly was used on "natural hills"; Wayne Goodwin spoke up saying that this equipment was used on the driveway construction on his property – not on the trail. However, Copeman states the equipment was very obviously on the track. Copeman addressed any questions/concerns that Board Members had on the photographs he provided.

Carol Hicks asked if the track was just a natural trail or if it has been graded with machinery. Goodwin stated that equipment was used for his driveway.

Carol Hicks was also concerned as to exactly who is using this track and Goodwin stated that it was family members only.

IX. PUBLIC COMMENT

Jim Negri, 545 N. Big Creek – States that he thinks the track looked really nice and he's aware of the fact that the modified pipes they installed on the ATV's have curbed the noise. He stated that horses must kick up dust, too.

Bob Basal – 400 N. Big Creek – He feels that property owners should be able to do what they want as that is why they're living where they are. He states that they smell manure from the horses, but they don't complain. It does not bother him what the neighbors do on their own property. Wanted to know where's the dividing line between the government and the property owner; says he has reservations about the whole Zoning Board anyway.

Stan Wittler, Co. Rd. 545 – Stated he was at the meeting tonight as an observer and believes a person has the right to do whatever they want on their own property as long as it doesn't affect the neighbors. He thinks you should mediate if there's noise, etc., otherwise property owners should be able to do what they want.

Mr. Copeman – Made a comment that dust is not being kicked up by horses.

Darrell Britton (relative of Goodwin's) – Stated that he rides ATV's on Goodwin's property and when they noticed the dust blowing towards Copeman's house, they halted their activities.

Brandi Goodwin stated that, at most, they ride for 1-2 hours per week, mostly on the weekend. They adhere to safety precautions and the riding is for family enjoyment. She stated that they have a flag up to help them determine wind direction in dust issues.

X. TOWNSHIP BOARD MEMBERS COMMENT PLANNING COMMISSION MEMBERS COMMENT

Bob Pecotte stated that if the Zoning Admin. thinks that Goodwin's have a track in their yard, then you must adhere to the ordinance. Mr. Yelle is only policing the ordinance.

Bill Sanders agreed that Mr. Yelle has made an interpretation of the land use rules. He stated relying on the applicant's statement and that only family members are using the track, he is less convinced that people can't use their land the way they want, as long as it's not like 20 unrelated people.

Carol Hicks says he tends to agree with Sanders, however he's concerned that it's a constructed, machine-graded track. Also, he commented on the petition containing 16 signatures "for" the approval versus only 1 opposition heard tonight. He was wondering about the radius of those 16 people from the Goodwin residence...how far away are they?

Jason Copeman interacted and stated that this is an ordinance violation as these are motorized units on a trail. And, that he observed this was being a constructed track. He stated that this area is zoned for horses, not for tracks. He said that the noise is an issue and that this track is just a continuation of this matter.

Bill Sanders states it's a land use question. However, if it's an issue of people not getting along, that's something the Board can't resolve. Sanders also stated that people who live on that parcel should be able to ride ATV's.

Bob Pecotte questioned why every RR-2 and R-1 parcel for that matter could have a track?

Wayne Goodwin reiterated that it is only family that rides on their property and Bill Sanders confirmed that it can only be family members riding.

Stan Wittler asked what the definition of a trail is and of a track. Randy Yelle said that the township attorney's verbal opinion is that if the ordinance does not address it, then it is not allowed. Randy also stated that he has attempted to resolve this with both parties, but has been unsuccessful.

Bill Sanders stated that he did not feel that this was a racetrack. Bob Pecotte disagreed.

Brandi Goodwin said that Mr. Yelle has not seen the entire trail. Mr. Yelle stated that from what he did see, it appeared to be a constructed track for motorized vehicles, whether the use is for recreation, racing or whatever, it is a track for motorized use and is a violation of the Zoning Ordinance Section 208. Also the Goodwins were never told that they could not ride of their property only on the constructed motorized track that was constructed in violation of the Township Ordinance.

William Goodwin says that since there's no ordinance covering trails, then common sense has to prevail. So, only if it's written in an ordinance, then can you do it?

Darrell Britton stated that Judy Copeman has previously called the cops, who never found anything wrong, However, the police now stated they were not going to intervene once it became an ordinance issue.

Lois Sherbinow said it sure would be nice if everyone could work this out.

Jason Copeman said the noise and original close proximity to the fence are big issues. He states that the muffler work has helped the noise, however.

Mr. Goodwin said that if the dust is an issue, they could water down the trail because that's only a small part of it.

Michelle Wietek suggested that Randy Yelle take a look at the area in question again before the Board makes a decision. She says he needs to view the entire track. And, she thinks this should be tabled until the October meeting.

Mrs. Goodwin stated that their lawyer told them that if they received a "no" from the ZBA, that they can then bring the matter to the township board, then to court.

Randy Yelle stated that was not true, the Township Board cannot overturn a Zoning Board of Appeals Determination. The only recourse would be to appeal through circuit court.

Bob Pecotte said he's wondering why the Planning Committee isn't dealing with ATV's in Chocoday Township now that it's an issue.

Bill Sanders said that if this is denied, the Goodwins could apply for a conditional use permit through the Planning Comm.

Carol Hicks stated that RR2 intent is (as written in the ordinance) it would have to be a wide-range that allows for low density recreational activities. He stated he would like to see an amicable agreement between the two parties regarding noise, dust, etc.

The Goodwin's stated that they are willing to compromise

Michele Wietek questioned if Randy's interpretation is right or wrong.

Lois Sherbinow agreed that Randy should go view the track and possibly change his determination.

Brandi Goodwin stated that they would make arrangements to have their mother-in-law accompany Randy Yelle for a site visit on their property since neither she nor her husband are available during the hours that Mr. Yelle is available.

Motioned by Michelle Wietek; Seconded by Bill Sanders that this appeal be tabled until the October ZBA meeting allowing time for Randy Yelle and additional Board members to view the entirety of the site. Ayes 5; Nays 0. Motion carried.

Wayne Goodwin asked what activities they could engage in while "in appeal" and Michelle Wietek advised them that while the investigation is going on, they should be discreet in their choice of riding.

PUBLIC COMMENT:

Stan Wittler stated he was confused as to what the Zoning Board is now going to do and where they are going. Michelle Wietek said that they will decide next month if Yelle's determination is correct or not and go from there.

Bill Sanders told the group that there's a process underway in writing the Comprehensive Plan – it's going on right now and anyone with concerns should come to a Planning Comm. Meeting, which are held on the 2nd Monday of each month at 7:30PM in the Chocoley Twp. Hall. He stated that the present plan is 14 years old. If anyone has an interest in what's happening in the township, they should consider attending.

NOTE: At this point, Michelle Wietek re-opened "New Business" so that the Board could view a video that the Goodwin's brought and so that the Board could receive any additional comments.

XI. INFORMATIONAL REPORTS AND COMMUNICATIONS
MTA INFORMATION

Michelle Wietek presented a letter she drafted to Greg Seppanen (twp. supv.) requesting an increase in Randy Yelle's hours. It was decided that they should request 30 hours weekly for Mr. Yelle. Michelle will format the letter and submit to Mr. Seppanen.

Randy Yelle stated that the salvage yard on S. Big Creek has been crushing daily and should be done within the next couple of weeks.

XII. ADJOURNMENT

Michelle Wietek adjourned the meeting at 9:01 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Mary Kratzke, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF OCTOBER 28, 2004**

I. Meeting called to order by Michele Wietek at 7:32 p.m. in the meeting room of the Township Hall.

Members present: Michele Wietek, Lois Sherbinow, Robert Pecotte, William Sanders and Carol Hicks

Members absent: None

Also present: Randy Yelle, Zoning Administrator and Lori DeShambo, Recording Secretary.

II. ROLL CALL

III. APPROVAL-MINUTES OF THE SEPTEMBER 23, 2004 MEETING

Bill Sanders Motioned, Carol Hicks Seconded that the September 23, 2004 Minutes be approved. Aye 5, Nay 0. Motion approved.

IV. APPROVAL OF AGENDA

Robert Pecotte Motioned, Bill Sanders Seconded that the agenda for the October 28, 2004 Zoning Board of Appeals meeting be approved. Aye 5, Nay 0 Motion approved.

V. SCHEDULED PUBLIC HEARING

Variance 04-05 – Lakenen 3 foot height variance
Add Variance 04-06 Brey variance from Section 402

VI. PUBLIC COMMENT

Mr. Yelle advised the ZBA members that he approves of both variances being requested above. Public comment closed at 7:39 p.m.

VII. UNFINISHED BUSINESS

Tabled from the September 2004 ZBA meeting allowing Mr. Yelle time to further investigate the track in question.

Discussion was had regarding the Goodwin/Copeman issue. Mr. Yelle has not changed his opinion from the last ZBA meeting. Michele Wietek inquired if Mr. Yelle had reviewed the “whole” track in question of which Mr. Yelle stated he had not. The ZBA members asked for the opinion of the Township’s attorney of which Mr. Yelle advised was found in the packet for this evening’s agenda.

Mr. Yelle explained his interpretation of land lay out versus equipment being brought to the Goodwin property to construct the track.

Jason Copeman spoke on behalf of his mother, Judy Copeman, stating the issue at hand is not that the track exists but more so the riding on the track and how it interferes with his mother’s horse farm. He stated there needs to be an agreement made between the parties as to where and when the ATV’s are ridden, notice of activities provided to each party, notify of riding lessons on his mother’s property, etc.

Wayne Goodwin of 355 North Big Creed Road stated he is in agreement with the Copeman’s that something can be worked out but he feels that the “Township” should be making these arrangements as others in the community will want the same advantages they have.

William Goodwin of 215 N. Big Creek Road addressed the issue from the last month’s meeting of whether moving dirt around on one’s property is allowed, i.e.: to allow ATV tracks.

Reference was made to the correspondence of Attorney Michael G. Summers dated October 13, 2004 wherein he states that “the observed use and track is not permitted in residential districts.”

Mr. Yelle stated that the only violation of the Goodwin’s is that the track was built – a constructed track built with the use of heavy equipment.

Mr. Yelle advised the ZBA members that this issue should be addressed by the Planning Commission in the Comprehensive Plan that is currently being developed.

Michele Wietek advised that a “track” is not defined in the zoning ordinances. The job of the ZBA is to look at the conditions.

Bill Sanders pointed out that Mr. Yelle has ruled that the Goodwin track is in violation and that the ZBA only has the power to agree or disagree with Mr. Yelle.

William Goodwin asked that if their request is turned down, can they not use the property that has not been constructed (as in dirt moved by equipment).

Mr. Yelle stated that if the ZBA members agree with him, then the Goodwin’s are in violation in that they have a track and you can not maintain a track.

Tony Lakanen of 910 S. Willow Road stated that he has a track that his kids ride electric golf carts on (on his property). The track is there for the safety of his children and erosion of his property.

Carol Hicks pointed out to Tony Lakanen that he has a “trail” Not a track. He went on to say that there is no definition of “trail” in the zoning ordinances. Mr. Yelle borrowed the language of the definition of a track from Sands Township for a basis of discussion. Chocolay Township will be defining what a track is in the near future as defined in the Comprehensive Plan.

Bob Pecotte asked if the ZBA supported Mr. Yelle’s assessment and the Goodwin’s appeal is denied, what would be the next step of recourse for the Goodwin family.

Michele Wietek motioned to support Randy Yelle’s determination regarding Appeal 2004-1 (Goodwin) based largely based on the legal opinions submitted by Attorney Michael Summers and the language of Section 208 Rural District RR2 which does not include “track” as an allowed use. Bob Pecotte Seconded. Aye 5, Nay 0.

VIII. NEW BUSINESS

Variance 04-05 – Mr. Daniel Lakenen is requesting a (3) foot variance to allow for the construction of a winter storage garage for his motor home.

Mr. Yelle recommended that the ZBA members approve this request. He had received no comments from nearby property owners, nor any response to the ad that was placed in the newspaper.

Bob Pecotte asked Mr. Yelle if there were any records to show that the ZBA had ever approved a variance of (3) feet? Mr. Yelle stated they had.

Conversation was had between Dan Lakenen, Carol Hicks and Bill Sanders as to the requested three feet variance and if different dimensions (i.e., reduce the pitch, adhere to codes) and other alternatives were looked at, a variance of only (2) feet would be needed.

Bob Pecotte asked Mr. Lakenen if his winter storage garage would be larger than his residence to which Mr. Lakenen said no.

Tony Lakenen of 911 Willow Road stated that he has an identical size garage and he doesn’t understand why Dan would have to settle for a lesser sized garage.

Tom Lakenen pointed out that he basically has no neighbors to object as his parents live on one side of him.

Bill Sanders explained the requirements of the ZBA to allow variances.

Michele Wietek pointed out that the job of the ZBA is to look for a practical reason to allow a variance to an ordinance.

Carol Hicks states that the ZBA has the right to deny a variance request and that a reasonable difficulty must be shown to the ZBA as to the variance request.

Bob Pecotte pointed out that Mr. Lakenen's current relatives could sell that home at any time.

After further discussion regarding trusses, berm and reduced dimensions, the ZBA motioned as follows:

Motion by Bill Sanders, Seconded by Carol Hicks to approve variance request number 04-05 approving only a (2) foot height variance from height, total average feet of 17 feet, as no practical purpose was presented. Aye 3, Nay 2.

Variance 04-06 – Mr. James Brey is requesting a variance from section 402 of the Chocolay Township Zoning Ordinance to allow for the construction of a single-family dwelling on a non-confirming lot.

Mr. Yelle advised the ZBA members that the former assessor had approved this lot. There is enough room to build a home and a driveway.

Bill Sanders asked Mr. Brey if he could meet the requirements to build of which Mr. Brey states yes.

Bob Pecotte asked Mr. Brey why he didn't purchase the lot next to this non-conforming piece of property to avoid the variance request of which Mr. Brey stated it would cost too much money.

Jill Brey advised the ZBA members that the relator had told them the parcel could have a home built on it and they were not aware of the restrictions until they attempted to have a septic system installed, well, etc.

Discussion was had between ZBA members regarding researching this lot and the approval given to it by the previous assessor, then ruled out due to a time factor and the Brey's not being able to start construction of their home.

Motion by Carol Hicks, Seconded by Bill Sanders to approve variance number 04-06 allowing a single family dwelling be constructed on the lot at 162 Ridgewood Drive with 38 feet of approved road frontage. Reasoning that this lot was created by the Township after the Zoning Ordinance was adopted in 1977. Aye 3, Nay 2.

Mr. Yelle advised the ZBA members that he would find that information for them regarding approval of that particular lot. The Brey's were provided with the necessary paperwork by Mr. Yelle following this meeting.

IX. PUBLIC COMMENT

Wayne Goodwin asked when he could ride his ATV's on his property.

Mr. Yelle told him he would send him a letter outlining the agreement.

X. TOWNSHIP BOARD MEMBERS COMMENT PLANNING COMMISSION MEMBERS COMMENT

The ZBA members acknowledged that this was the last meeting for Lois Sherbinow and thanked her for her time and participation.

Mr. Yelle advised the ZBA members that this was the last meeting for the year of 2004 as his hours had run out. He told Michele Wietek that she is welcome to conduct a meeting should something come up in the interim.

**XI. INFORMATIONAL REPORTS AND COMMUNICATIONS
MTA INFORMATION**

XII. ADJOURNMENT

Michele Wietek adjourned the meeting at 8:50 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Lori DeShambo, Recording Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF APRIL 28, 2005

I. Meeting called to order by Michele Wietek at 7:31 p.m. in the meeting room of the Township Hall.

Members present: Michele Wietek, William Sanders, Carol Hicks, Dan Maki and Albert Denton

Members absent: None

Also present: Randy Yelle, Zoning Administrator and Lori DeShambo, Recording Secretary.

II. ROLL CALL – Welcome new member, Dan Maki.

III. APPROVAL-MINUTES OF THE OCTOBER 28, 2004 MEETING

Carol Hicks Motioned, Bill Sanders Seconded that the October 28, 2004 Minutes be approved. Aye 5, Nay 0. Motion approved.

IV. APPROVAL OF AGENDA

Adding variance request #05-01. Placed as Item B under new business

Albert Denton Motioned, Dan Maki Seconded that the agenda for the April 28, 2005 Zoning Board of Appeals meeting be approved with the above noted addition. Aye 5, Nay 0 Motion approved.

V. SCHEDULED PUBLIC HEARING

A. Application Class A Non-Conforming Classification and approval for entrance renovation #05-01

Discussion was had regarding a meeting attended by new owners of hotel, MDOT representative and Dennis Stachewicz regarding the request to reclassify the Marquette Motor Lodge to a Class A thus allowing renovations. MDOT is okay with proposed renovations as long as approval obtained from ZBA and Planning Commission.

B. Variance request #05-01

Discussion was had regarding the request to build a garage before a home is built.

VI. PUBLIC COMMENT

Michele Wietek addressed the public – any comments? There were none, thus, public comment was closed at 7:36 p.m.

VII. UNFINISHED BUSINESS

A. Waselesky – fence update.

The new fence has yet to be constructed and the old fence has not been removed. Mr. Yelle spoke with Mr. Waselesky who stated he did not want to remove the existing fence until he had the materials available to build the new fence due to possible theft.

May of 2005 and October of 2005 – crusher will be coming to pick up junk cars.

Mr. Waselesky *was not in attendance* at this meeting.

VIII. NEW BUSINESS

A. Class A Non-Conforming Classification/entrance renovation #05-01.

Michele Wietek asked for a summary of the difference between Class A and Class B. Bill Sanders cited several paragraphs from the **Chocolay Township Zoning Ordinance**.

It was again discussed that the new owners had a meeting with MDOT, Randy Yelle and Dennis Stachewicz in an effort to gain approval for the Class A application/renovation request.

Jim Beckman – owner/representative of Marquette Motor Lodge and Richard Uren of Northern Design Works addressed the ZBA with their thoughts and plans as to the renovation of the hotel, right of way issues, snowmobiles still having access on the highway, as well as the bike path being open.

Carol Hicks asked where the Marquette Motor Lodge sign would be placed.

Mr. Uren remarked that it is shown on the plans that were laid out on the ZBA table allowing access to proposed plans (enhanced from packet material) and indicated this to Mr. Hicks.

Bill Sanders Motioned to support the request of the Marquette Motor Lodge for a Class A Non-conforming structure/use designation to parcel #52-02-107-005-00, Section 7-47N-R24W; Albert Denton seconded the Motion.

Aye 5, Nay 0. Motion approved.

The ZBA members agreed that the proposed renovations would enhance the community and falls within the criteria necessary with the ordinance.

Carol Hicks Motioned and Michele Wietek Seconded to grant a Class A non-conforming Structure/Use Designation to Marquette Motor Lodge parcel #52-02-107-005-00, Section 7-47N-R24W including approval of the requested “Entrance Renovation” as presented in the site plan prepared by Northern Design Works for Marquette Motor Lodge (Entrance Renovation project no. 0421 dated March 29, 2005). Marquette Motor Lodge must acquire approval from MDOT and Chocolay Township Planning Commission.

Aye 5, Nay 0. Motion approved.

B. Variance 05-01 is requesting to construct a garage prior to the home being built.

Dan Trotochaud of 439 Lakewood Lane advised the ZBA that he was in attendance as a representative of Christopher Knuff who is the applicant looking for the variance. Mr. Trotochaud explained that Mr. Knuff would be relocating to this area soon and desired to build a large garage to house materials and items prior to his relocating and building a home.

Randy Yelle pointed out to the ZBA that this has been done in the past, however, there have been a handful of bad outcomes wherein a home is not built and a garage is left on property as a single structure.

A preliminary drawing of the proposed building(s) had been provided to the ZBA members. It was discussed at length the need for a site development plan, should this issue be tabled, what type of stipulations could be put on the variance, how large the proposed garage would be, and the fact that the property was located in a “wet” area.

Randy Yelle directed the ZBA members to the fact that a variance is to be granted **only** if the board finds a practical difficulty or unnecessary hardship.

Dan Maki pointed out that the ordinance is not clear the way it is currently worded.

Bill Sanders pointed out that the Township needs to incorporate young people into Chocolay Township, allowing them to build homes and raise their children here.

The dimensions of the proposed garage were discussed and clarified between Mr. Trotochaud and Carol Hicks. Apparently, Mr. Trotochaud had miscalculated and Mr. Hicks advised of the proper dimensions. Also discussed were the two overhead doors and access to each.

Michele Wietek pointed out that many times issues have come back to haunt them and that they should be cautious in their decision.

Motion by Dan Maki, Seconded By Albert Denton finding no practical difficulty or unnecessary hardship and whereas a local developer is contracted for this project, Variance #05-01 allowing the construction of an accessory building (garage) prior to the principle structure is denied.

Aye 4, Nay 1. Motion approved.

New business concluded at 8:25 p.m.

IX. PUBLIC COMMENT

Jim Beckman remarked on how difficult it is to adhere to the ordinances within the Township.

X. TOWNSHIP BOARD MEMBERS COMMENT PLANNING COMMISSION MEMBERS COMMENT

Dan Maki remarked that a good look should be made at these ordinances as they are ambiguous and require updating. Bill Sanders pointed out the Comprehensive Plan which is being finalized at this time by the Planning Commission will allow for these ordinances to be reviewed and revised if need be. A meeting is planned for May 12, 2005 wherein the Comprehensive Plan will be presented to the public.

XI INFORMATIONAL REPORTS AND COMMUNICATIONS

A. Information – MTA Legislative Updates

Randy Yelle pointed advised the ZBA that a particular gazebo was not built in conformance to the granted permit and that he would be addressing this issue with the owner, and the owner has the option to appeal.

Randy Yelle is compiling a list of violations that are being addressed at this time. This information is being provided to Mr. Stachewicz updating him of the Zoning Department actions. The ZBA members asked if the junk car issue was on the list and this was briefly discussed. Michele Wietek requested that the members be provided a copy of that list of which Mr. Yelle agreed to provide.

XII. ADJOURNMENT

Michele Wietek adjourned the meeting at 8:36 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Lori DeShambo, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF MAY 26, 2005**

I. Meeting called to order by Michele Wietek at 7:35 p.m. in the meeting room of the Township Hall.

Members present: Michele Wietek, Dan Maki and Albert Denton

Members absent: Carol Hicks and William Sanders

Also present: Randy Yelle, Zoning Administrator and Lori DeShambo, Recording Secretary.

II. ROLL CALL – Albert Denton was asked to replace Carol Hicks as secretary for this meeting in lieu of his absence. Moved by Michele Wietek and Seconded by Dan Maki. Aye 3, Nay 0. Motion approved.

III. APPROVAL-MINUTES OF THE APRIL 28, 2005 MEETING

Albert Denton Motioned, Michele Wietek Seconded that the April 28, 2005 Minutes be approved. Aye 3, Nay 0. Motion approved.

IV. APPROVAL OF AGENDA

Dan Maki Motioned, Al Denton Seconded that the agenda for the May 26, 2005 Zoning Board of Appeals meeting be approved. Aye 3, Nay 0 Motion approved.

V. SCHEDULED PUBLIC HEARING

A. Application Class A Non-Conforming Classification/entrance renovation #05-01 revised.

The Marquette Motor Lodge had revised their original site plan and these changes were discussed, i.e.: angle parking, landscaping and parking

VI. PUBLIC COMMENT

Mark Maki of 370 Karen Road, Marquette, Michigan voiced his displeasure at not having access to the materials presented before the Zoning Board of Appeals' meeting for this evening. He stated that this public hearing was in violation of the law as he could not have access to the records. The fact that he was unable to review these materials makes it impossible for him to have any public comment. He stated he wanted a copy of the cassette recording taken by the recording secretary during each Zoning Board of Appeals meeting.

Although Mr. Maki did not have the necessary information, he believed that the Marquette Motor Lodge should be presenting itself to the Planning Commission and not the Zoning Board of Appeals.

VII. UNFINISHED BUSINESS – None.

VIII. NEW BUSINESS

A. Class A Non-Conforming Classification/entrance renovation #05-01 revised.

Dan Maki asked if this revision does indeed belong before the Planning Commission and not the Zoning Board of Appeals. Pursuant to Randy Yelle, once the Class change has been granted by the ZBA, then the Marquette Motor Lodge will present itself to the Planning Commission.

Dan Maki Motioned, Albert Denton Seconded, to approve the revised Entrance Renovation of the Marquette Motor Lodge 5057 US-41 South, as presented in the Revised Site Plan dated May 5, 2005 by Northern Design Works project number 0421.

Aye 3, Nay 0. Motion approved.

IX. PUBLIC COMMENT – None.

**X. TOWNSHIP BOARD MEMBERS COMMENT
PLANNING COMMISSION MEMBERS COMMENT**

Dan Maki asked Randy Yelle about zoning materials he was interested in of which Mr. Yelle stated was forthcoming.

XI INFORMATIONAL REPORTS AND COMMUNICATIONS

A. Information – MTA Legislative Updates

Randy Yelle stated there was information to review in the handouts. .

B. Information – New Zoning Board of Appeals Alternate. The ZBA was pleased to hear that Lois Sherbinow has agreed to become an alternate.

XII. ADJOURNMENT

Michele Wietek adjourned the meeting at 7:44 p.m.

Respectfully submitted:

Albert Denton, Acting Secretary

Lori DeShambo, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF JUNE 23, 2005**

- I. Meeting called to order by Carol Hicks at 7:32 in lieu of the absence of Michele Wietek p.m. in the meeting room of the Township Hall. Carol Hicks would be the acting chair for this evening's meeting with Al Denton presiding as acting secretary.**

Members present: Michele Wietek (albeit 5 minutes late) William Sanders , Carol Hicks and Albert Denton

Members absent: Dan Maki

Also present: Randy Yelle, Zoning Administrator and Lori DeShambo, Recording Secretary.

- II. ROLL CALL – Noted as above – substitution of positions in lieu of member absences.**

- III. APPROVAL-MINUTES OF the May 26, 2005 MEETING**

Al Denton Motioned, Bill Sanders Seconded that the May 26, 2005 Minutes be approved. Aye 3, Nay 0. Motion approved.

- IV. APPROVAL OF AGENDA**

Al Denton Motioned, Carol Hicks Seconded that the Agenda be approved as is.

- V. SCHEDULED PUBLIC HEARING**

A. Variance #2005-02. Jim Pickett of 9433 U.S. 41 South spoke out above his request for a variance for the construction of a single family dwelling.

- VI. PUBLIC COMMENT**

Carol Hicks addressed the public – any comments? There were none, thus, public comment was closed at 7:34 p.m. Note at this time, arrival of Michele Wietek at 7:35 who presumed chair.

- VII. UNFINISHED BUSINESS -None**

- VIII. NEW BUSINESS**

A. Variance #2005-02

Jim and Dawn Pickett of 9322 U.S. 41 South, are requesting a 70-foot lot variance to allow for a single family dwelling on a 9.77 acre parcel number 52-02-121-068-66, with a 230 foot lot width on Little Lake Road.

Per Randy Yelle, said property was in dispute during a divorce and underwent a parcel split in December of 1977. The new Township ordinances were adjusted in May of 1977. It was properly assumed at that time in 1977 that the attorneys involved in the divorce did not think to have the new quit claim deeds drawn up during the divorce reviewed by the Township regarding lot size and registers the deeds with the county. Therefore, being that this lot was created after the adoption of the Zoning Ordinance, it requires a variance. .

Michele Wietek asked the Pickett's if this would be a sectional home of which they responded yes.

Carol Hicks asked the Pickett's how long ago did they purchase this land of which the response was six months ago. They had no idea that they would encounter a variance problem.

Bill Sanders pointed out that there must have been three owners of that property prior to the Pickett's purchasing and this 70-foot lot variance must have been overlooked for many years.

Al Denton Motioned and Michele Wietek Seconded finding evidence supporting practical difficulty and unnecessary hardship, the requested 70-foot variance 2005-02 is approved, allowing a single family dwelling on parcel number 52-01-121-068-00 with a front lot width on

Little Lake Road of 230 feet rather than the 300 feet required by the Chocolay Township Zoning Ordinance. Aye 4, Nay 0. Motion approved.

At this time, Bill Sanders directed a conversation to Randy Yelle regarding particular language found in this month's agenda regarding single family homes, sectionals and mobile homes. Mr. Sanders simply commented to ensure all Zoning Board of Appeals members are on the "same page" as to the language and it's meaning as far as placement of homes on property.

IX. PUBLIC COMMENT - None

**X. TOWNSHIP BOARD MEMBERS COMMENT
PLANNING COMMISSION MEMBERS COMMENT**

Carol Hicks complimented Randy Yelle on the thoroughness of this month's packet commenting that all questions he may have asked were covered in the agenda packet.

Bill Sanders remarked that the Comprehensive plan would be put before the Commission on August 4, 2005.

XI INFORMATIONAL REPORTS AND COMMUNICATIONS

A. Information – MTA Legislative Updates

XII. ADJOURNMENT

Michele Wietek adjourned the meeting at 7:44 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Lori DeShambo, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF JULY 28, 2005**

I. Meeting called to order by Michele Wietek at 7:31 p.m. in the meeting room of the Township Hall.

II. ROLL CALL

Members present: Michele Wietek, William Sanders, Carol Hicks, Dan Maki and Albert Denton

Members absent: None

Also present: Randy Yelle, Zoning Administrator and Lori DeShambo, Recording Secretary.

III. APPROVAL-MINUTES OF THE JUNE 23, 2005 MEETING

It was noted that the minutes of the Zoning Board of Appeals meeting of June 23, 2005 reflected an adjournment of the meeting at 8:44 p.m. The precise time this meeting ended was at 7:44 p.m.

Albert Denton Motioned, Carol Hicks Seconded that the minutes of the June 23, 2005 meeting are approved with the above referenced time closing adjustment. Aye 5, Nay 0. Motion approved.

IV. APPROVAL OF AGENDA

Bill Sanded Motioned, Albert Denton Seconded that the agenda for the July 28, 2005 Zoning Board of Appeals meeting be approved. Aye 5, Nay 0 Motion approved.

V. SCHEDULED PUBLIC HEARING

A. Variance number 2005-03

Randy Yelle advised the Zoning Board members that variance number 2005-03 was a request to extend an existing garage. Albert Denton asked Mr. Yelle is there were any problems with the size of an extended garage in comparison with the existing home which Mr. Yelle stated there would not be.

B. Variance number 2005-04

Randy Yelle explained to the Zoning Board members that Peggy Loy of Century 21, representing the buyer of said property, is requesting a variance for the building of an addition on a cottage located at 320 Shot Point. Mr. Yelle went into detail as to the setback limits, Lake Superior Shoreline/Dune Protection Overlay District not applying to Shot Point and that the

parcel is currently zoned LS/R. It was his recommendation to deny the request to build an addition due to the fact that the cottage is currently non-conforming structure stating that the rear of the building is built on the property line and the required 30-foot water setback is not there as it's only 25 feet to the waters edge.

Donna Heikkila of 200 Shot Point (and a representative of Century 21/Prime Realty) stated to the Zoning Board of Appeals that she was in attendance at this meeting not as representative of Elaine Hodge but that of a knowledgeable real estate agent familiar with setback limits, codes, etc.

Ms. Heikkila made several statements: this property should be grandfathered; therefore, the rules do not apply to the Hodge property and that this cottage can be sold if the buyers can build upwards (apparently the cottage is small) or add an addition.

Mr. Yelle advised that a neighbor of Ms. Hodge had called him and stated they did not approve of an extension to the cottage.

Peg Loy (Century 21) of 329 W. Washington Street, Marquette, asked the ZBA why she could not improve the structure that was currently there so she could sell the parcel/structure and generate more revenue for the Township.

Michelle Wietek intervened at this time stating there would be time in the upcoming agenda to address these issues and the agenda is to be followed.

VI. PUBLIC COMMENT

Michele Wietek addressed the public – any comments? There were none, thus, public comment was closed.

VII. UNFINISHED BUSINESS - None

VIII. NEW BUSINESS

- A. Variance number 2005-03
- B. Variance number 2005-04

Variance number 2005-03 proposes to extend an existing garage to accommodate the parking of a boat in the garage. Mr. Yelle provided the requested details to the ZBA members with the members asking several questions, i.e; were the photographs provided recent, exactly how far back of a variance is the applicant asking for, what is situated behind the applicant's property where the garage is, concerns of the neighborhood and the aesthetics of extending the building.

One concern was raised by Albert Denton who pointed out that eve ducts would have to be added to control the flow of water. The applicant stated he had no problem with making sure the addition/extension had the proper water drainage equipment.

Bill Sanders Motioned, Dan Maki, Seconded, approving Variance #2005-03 allowing the addition to the rear of the existing garage of eighteen (18) feet, therefore granting a side setback variance of seven (7) feet and a rear setback variance of four (4) feet. Finding practical difficulty and unnecessary hardship, whereas the existing garage was built prior to the adoption of the ordinance and whereas, offsetting the addition would look like an afterthought and whereas shorting the requested depth could not allow for the boat and trailer to be parked inside the addition. That control of the rain water run off onto the adjoining property.
Aye 5 Nay 0. Motion approved.

Variance number 2005-04 is requesting a variance to allow the building of an addition on a cottage located at 320 Shot Point. Michelle Wietek addressed the ZBA members asking them if they had any questions or concerns. The conversation was turned over to Randy Yelle at that time who advised that he had visited the lot/site in question, had measured the property, and noted that the structure had been moved due to the severe weather and finished with the fact that the cottage is a non-conforming structure.

Discussion was had regarding the request for an addition that would be impossible to grant, however, it would be possible to go up, extending the existing ceiling and making the structure taller rather than out as an addition, however, this structure was still non-conforming.

Carol Hicks advised that this structure (cottage) had been constructed by an officer from K.I. Sawyer AFB when the base was operating. This building was constructed without Zoning and Building Permits.

Dan Maki asked about the position taken by the neighbors of which Donna Heikkila answered. She also volunteered that the potential buyer of this cottage is a tall man and that he would like to purchase the cottage as a summer home.

Peggy Loy asked the ZBA members if Elaine Hodge would be allowed to add a second floor to the cottage including a bedroom. Mr. Yelle pointed out that this is still a non-conforming structure.

Carol Hicks asked Ms. Heikkila if she knew what the value of the land was without the cottage on it. Ms. Heikkila stated that she does not want to sell the property without the building, because without the building, only the rich would be able to buy it.

If a variance were granted to allow a second story, the following issues were raised: the DEQ would become involved and the health department along with the County Building Codes Department, and the fact that they would require a new septic system.

Mr. Heikkila stated that property taxes have been paid on that land for 17 years. They should have the ability to at least raise the ceiling and be able to sell the property with the existing building.

Bill Sanders advised that if this cottage were changed from its Class B to a Class A structure, the building could be expanded with the proper permits.

Michelle Wietek pointed out that if a Class A were permitted, then the owners would be open for other changes.

More discussion was had between the ZBA members regarding non-conforming and set back feet.

Dan Maki pointed out that a hardship has been pointed out to the members in that this house was built before the ordinance was adopted in May of 1977.

Michelle Wietek stated that the life expectancy of this house is limited as it sits so close to the water.

Carol Hicks pointed out that if the structure was changed from B to A, it does not create a problem as A allows a further investment.

Again, more discussion was had between the ZBA members as to their thoughts and which direction to go in as far as adjusting the classification, granting a variance to raise the roof or add an addition.

At this time, Michelle Wietek asked the ZBA members if they could make a decision.

Carol Hicks made a motion to adjust the classification from the Class B non-conforming to a Class A non-conforming structure. Bill Sanders supports adjusting the classification.

Michelle Wietek stated that she was not comfortable approving that if we are not going to be tying it in with the other ...

All members discussed at the same time that two issues were being addressed in this variance allowance.

Michelle Wietek advised that we have a motion and we have it seconded. (Bill Sanders supports adjusting classification and raising the roof.) Aye 5, Nay 0. Motion approved.

Carol Hicks made a motion, Bill Sanders Seconded that variance number 2005-04 for 320 Shot Point parcel be granted a variance allowing up to a 2' expansion of roof/ceiling.

Aye 5, Nay 0. Motion approved.

IX. PUBLIC COMMENT – None.

**X. TOWNSHIP BOARD MEMBERS COMMENT
PLANNING COMMISSION MEMBERS COMMENT**

None – Closed.

XI INFORMATIONAL REPORTS AND COMMUNICATIONS

- A. Information – MTA Legislative Updates
- B. Maki Fax from City of Munising
- C. Well Testing Golf Courses

XII. ADJOURNMENT

Michele Wietek adjourned the meeting at 8:46 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Lori DeShambo, Recording Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF AUGUST 25, 2005

I. Meeting called to order by Michelle Wietek at 7:30 p.m. in the meeting room of the Township Hall.

II. ROLL CALL

Members present: Michelle Wietek, William Sanders, Carol Hicks, Dan Maki and Albert Denton
Members absent: None
Also present: Randy Yelle, Zoning Administrator and Lori DeShambo, Recording Secretary.

III. APPROVAL-MINUTES OF THE JULY 28, 2005 MEETING

Albert Denton Motioned, Carol Hicks Seconded that the minutes of the July 28, 2005 meeting are approved. Aye 5, Nay 0. Motion approved.

IV. APPROVAL OF AGENDA

It was noted that the agenda for the August 25, 2005 meeting reflected approval of the minutes of June 23, 2005 meeting. This should have read July 28, 2005 minutes.

Michelle Wietek Motioned, Bill Sanders Seconded that the agenda for the August 25, 2005 Zoning Board of Appeals meeting be approved. Aye 5, Nay 0 Motion approved.

V. SCHEDULED PUBLIC HEARING

- A. Variance #2005-05
- B. Variance #2005-06
- C. Variance # 2005-07

A. **Variance #2005-05-** Mr. James Bradbury of 310 W. Wright Place is requesting a 20-foot front set back variance that will allow him to build a new two story single-family dwelling. It has been determined by Mr. Yelle that should this variance be approved, it would be conditional to removing an old existing structure and replacing it with the newly proposed structure.

B. **Variance #2005-06** – Ms. Barbara Carberry of 614 Lakewood Lane would like to split her property. If this were to be approved, Randy Yelle states it is a non-conforming lot that she will be attempting to sell.

C. **Variance #2005-07** – Mr. Bernie Stanaway of 240 West Main Street is requesting a variance for a 20-foot rear setback variance so he could build a 26 foot x 30 garage in his back yard. Randy Yelle advised that the old existing garage would have to be removed prior to building a new garage.

VI. PUBLIC COMMENT

Michele Wietek addressed the public in attendance if they had any issues to comment on and Barbara Carberry who is requesting variance number 2005-06 asked when she would be able to talk. She was advised that under VII – New Business, her request would be addressed.

VII. UNFINISHED BUSINESS - None

VIII. NEW BUSINESS

- A. Variance #2005-05

Randy Yelle advised the Zoning Board members that variance number 2005-05 was a request for a 20 foot variance from Section 300 of the Chocoday Township Zoning Ordinance

requirement of 30 feet to allow the building of a new home at 302 W. Wright Place, 10 feet off the County right-of-way

Randy Yelle pointed out that there is an easement on this property with a right of way. This is a corner lot. It requires a 30 foot setback. The County has no problem with Mr. Bradbury's variance being approved. Mr. Yelle advised that the 10 foot setback was approved by the County.

Bill Sanders asked if this road on the property was a country road. Mr. Yelle advised that this road is not developed; there is nothing there. It is a county easement that may or may not be developed at some future date.

Bill Sanders asked if that road could ever be used. Mr. Yelle stated that yes it could, but there are no plans to develop this area to date.

Carol Hicks advised the Zoning Members that he is currently engaged in the design of Mr. Bradbury's home and, therefore, will have to abstain from voting.

Mr. Bradbury advised that the original building plan has been revised.

Michelle Wietek asked if the new building would be more conforming (legal) than the existing building. Mr. Yelle stated yes, the building will be centered on the lot.

Bill Sanders pointed out that corner lots do not get special exemptions.

Bill Sanders asked Mr. Bradbury if that road next to his home would bother you and he stated no.

Dan Maki Motioned and Albert Denton Seconded to approve Variance #2005-05 allowing the building of a single-family dwelling on parcel #52-02-213-008-00 ten (10) feet from the east lot line, therefore granting a twenty (20) foot variance from the thirty (30) foot required by the Chocloy Township Zoning Ordinance Section 300, sighting practical difficulty and unnecessary hardship. Aye 4, Nay 0 and 1 Abstention. Motion approved.

B. Variance #2005-06

Randy Yelle advised the Zoning Board members that variance #2005-06 was a variance request from Section 300 of the Chocloy Township Zoning Ordinance allowing the creating of a non-conforming lot from the owner's property located at 614 Lakewood Lane. The requested lot would be fronted on M-28 East with a lot width of 101 feet. The Ordinance requires 125 feet with 25,000 sq. ft. required and if approved, this lot will be less than 18,000 sq. ft.

Mr. Yelle advised the Zoning Board members that if the proposed split were approved, it would create a non-conforming lot. Ms. Carberry discussed the issue of her property, where she proposes to split, where her neighbors have split, the size of lots, where septic fields have been placed, variances from M-28, etc.

After much discussion, the Zoning Board members asked Ms. Carberry if this issue could be tabled until the next meeting so the issue could be further investigated. A check with the assessor would be made regarding a split of property located near Ms. Carberry's property. Also investigated would be when this was done and the legality of the split.

Al Denton asked Ms. Carberry if it were okay to table her variance request until the members had an opportunity to fully review the matter and she was kind enough to agree. This variance request will be heard at the next ZBA meeting under VII. Unfinished Business.

Carol Hicks Motioned that we table variance request 2005-06 pending Mr. Yelle's investigation into the neighboring lot to the west as to how and when it was split. Al Denton Seconded the motion. Aye 5, Nay 0. Motion approved.

Michelle Wietek asked Ms. Carberry if she could have the letters of approval from the neighbors so they may be copied and entered as exhibits to the minutes. It was pointed out to

the applicant that opposition had been received by the Zoning Board of Appeals for this split as well and would be worked into the minutes.

C. Variance #2005-07

Mr. Yelle advised this variance request of 2005-07 is a request for a 20-foot rear setback variance from Section 300 of the Chocoday Township Zoning Ordinance. If approved, this would allow the building of a 26 x 30 foot garage in the back yard of Mr. Stanaway, which would put him at 15 feet from the rear lot line rather than the required 35-foot setback.

Mr. Yelle stated that he has received negative feedback from his correspondence to Mr. Stanaway's neighbors.

Michelle Wietek asked if she could see what the correspondence looked like that was sent to Mr. Stanaway's neighbors. Mr. Yelle advised that copies are in the board packets.

Carol Hicks asked Mr. Guy Paananen of 1603 M-28 East (designer of the Stanaway garage) regarding footage behind the existing house on which to build a new garage.

Bill Sanders was interested in the depth of the lot.

Michelle Wietek asked Randy Yelle if the proposed garage meets all the necessary requirements of which Mr. Yelle stated it did.

Motion by Bill Sanders, Seconded by Al Denton, to approve Variance #2005-07 allowing the construction of an accessory building (garage) to be located 15 feet from the rear lot line, therefore, granting a variance of 20 feet from the Zoning Ordinance requirement of 35 feet per Section 300. Sighting lot size deeded prior to the adoption of the Ordinance, therefore, creating a practical difficulty. Aye 5, Nay 0. Motion approved

IX. PUBLIC COMMENT – None.

**X. TOWNSHIP BOARD MEMBERS COMMENT
PLANNING COMMISSION MEMBERS COMMENT**

There were no comments from the Township Board Members. Bill Sanders advised that the Planning Commission has reviewed and approved the Comprehensive Plan.

XI INFORMATIONAL REPORTS AND COMMUNICATIONS

- A. Information – MTA Legislative Updates
- B. Communication;
- C. Reports; Waselesky

Randy Yelle advised the members that an attorney who practices in Marquette and has served on the Zoning Board of Appeals for Sands Township would be interested in being a second alternate to Lois Sherbinow. Her name is Joy Verlinden.

The Waselesky matter was briefly touched on. Randy Yelle had a death in his immediate family recently, therefore, did not have the time to research this topic thoroughly. He did state that there has been progress with the fence. Mr. Yelle will fully apprise the members regarding this issue at the next meeting.

XII. ADJOURNMENT

Michele Wietek adjourned the meeting at 8:25 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Lori DeShambo, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF SEPTEMBER 22, 2005**

I. Meeting called to order by Michelle Wietek at 7:31 p.m. in the meeting room of the Township Hall.

II. ROLL CALL

Members present: Michelle Wietek, William Sanders, Dan Maki, Lois Sherbinow and Albert Denton

Members absent: Carol Hicks

Also present: Randy Yelle, Zoning Administrator and Lori DeShambo, Recording Secretary.

III. APPROVAL-MINUTES OF THE AUGUST 25, 2005 MEETING

Dan Maki Motioned, Albert Denton Seconded that the minutes of the August 25, 2005 meeting are approved. Aye 5, Nay 0. Motion approved.

IV. APPROVAL OF AGENDA

Albert Denton Motioned, Michelle Wietek Seconded that the agenda for the September 22, 2005 Zoning Board of Appeals meeting be approved. Aye 5, Nay 0 Motion approved.

V. PUBLIC COMMENT - None

VI. UNFINISHED BUSINESS

A. Variance #2005-06 (Tabled from the August 25, 2005 meeting)

Randy Yelle addressed this issue with the Chocolay Township Assessor and was told that the parcel that Barb Carberry believes was split was indeed not split nor did the owner of that parcel of property ever intend on splitting the lot.

Barbara Carberry provided an additional letter of support authored by Ann Crandall of 618 Lakewood Lane. She also pointed out that this evening's agenda packet contained two other letters of approval for Mrs. Carberry request to split her lot.

Bill Sanders confirmed with Randy Yelle that Mrs. Carberry's lot presently is non-conforming.

Michelle Wietek asked the public if anyone in attendance is there to support this request of which there were none.

Al Denton pointed out that this issue had been discussed at length during the previous meeting and the ZBA had come to the agreement of waiting to see what the assessor had to say.

Michelle Wietek stated that allowing this variance/parcel split would set precedence for others to request the same.

Michelle Wietek Motioned to deny Variance Request #2005-06 (Tabled from the August 25, 2005 meeting), Albert Denton Seconded because of lack of practical difficulty, no unnecessary hardship, the fact that splitting the lot would add additional road cuts to M-28 and pose potential water and sewer issues as well as creating a non-conforming lot.
Aye 5, Nay 0 Motion to deny variance approved.

VII. NEW BUSINESS - None

VIII. PUBLIC COMMENT

Walter and Kim Racine were in attendance and asked several questions regarding Walt's Auto Body Shop, rezoned to C-2, the setbacks that would be required if the lot were split. The ZBA pointed out to the Racines' that their board was not the board to be talking to; they needed to discuss this issue with Dennis Stachewicz and the Planning Commissioners.

**IX. TOWNSHIP BOARD MEMBERS COMMENT (Dan Maki)
PLANNING COMMISSION MEMBERS' COMMENT (William Sanders)**

X INFORMATIONAL REPORTS AND COMMUNICATIONS

- A. Information – Zoning Map Change. Randy Yelle pointed out that changes have been made to the zoning map
- B. Communication; MTA Updates
- C. Reports; Waselesky. Michelle Wietek asked about the status of Mr. Waselesky and how close he was to completing his commitments. Randy advised that the DEQ went to the Waselesky junk yard as they had been told that he was now taking batteries. Al Denton and Bill Sanders discussed the subject of titles for these junk cars that are being crushed.

Michelle Wietek asked Mr. Yelle if Mr. Waselesky was making progress on the fence. Mr. Yelle advised that he hadn't gotten that far into the conversation or inspection but noted some building materials were on site.

Michelle Wietek wanted to know if the fence would be done by winter of which Mr. Yelle doubted. Michelle Wietek wanted to know if the ZBA was going to grant another extension to Mr. Waselesky. It was not decided upon what action would be taken but that Randy Yelle would be making a house call to remind Mr. Waselesky of his deadline.

XII. ADJOURNMENT

Michele Wietek adjourned the meeting at 7:47 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Lori DeShambo, Recording Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF OCTOBER 27, 2005

I. Meeting called to order by Michelle Wietek at 7:30 p.m. in the meeting room of the Township Hall.

II. ROLL CALL

Members present: Michelle Wietek, Lois Sherbinow and Albert Denton, Carol Hicks

Members absent: Dan Maki and Bill Sanders

Also present: Randy Yelle, Zoning Administrator and Lori DeShambo, Recording Secretary.

III. APPROVAL-MINUTES OF THE September 22, 2005, MEETING

Two changes were noted to the September 22, 2005 meeting minutes: Under Section X Informational Reports and Communications; second paragraph of item C, the paragraph should read:

- ✓ Michelle Wietek asked Mr. Yelle if Mr. Waselesky was making progress on the fence. Mr. Yelle advised that he hadn't gotten that far into the conversation or inspection but noted some building materials *were on site*.

Under Section X Informational Reports and Communications; the third paragraph of item C, the paragraph should read:

- ✓ Michelle Wietek wanted to know if the fence would be done by winter of which Mr. Yelle doubted. Michelle Wietek wanted to know if the ZBA was going to grant another extension to Mr. Waselesky. **The actual comment was that Mr. Waselesky had never applied for one so it would be whether the ZBA would review another extension request.**

Al Denton Motioned, Carol Hicks Seconded that the minutes of the September 22, 2005 meeting are approved with the above referenced changes. Aye 4, Nay 0. Motion approved.

IV. APPROVAL OF AGENDA

Michelle Wietek Motioned, Al Denton Seconded that the agenda for the October 27, 2005 Zoning Board of Appeals meeting be approved. Aye 4, Nay 0 Motion approved.

V. PUBLIC HEARING

- A. Variance 05-09
- B. Class A-non-conforming 05-02
- C. Class A-non-conforming 05-03
- D. Variance 05-08
- E. Class A-non-conforming 05-04

Michele Wietek narrated the 5 items that would be heard during this meeting. Mr. Yelle laid out the variance request of Jill Hendrickson (05-09).

Carol Hicks stated that he had to abstain from voting as he was the designer of this home. He may comment on the variance request, however, may not vote. He pointed out that all other members of the Zoning Board of Appeals must be in unison for a motion to pass with his abstention.

Jill Henderickson demonstrated to the ZBA members a map outlining the proposed change. Carol Hicks explained the layout of the home to the members.

Mr. Yelle next addressed 05-02 and 05-03 (Class A nonconforming – Steve Wahlstrom) Mr. Wahlstrom is asking that his property be placed as Class A non-conforming so he may present to the Planning Commission the proposed changes he would like to make to his business.

Lee Jay Blondeau and Walt Racine supported this change. So did Steve Wahlstrom.

The next issue briefly discussed was 05-08 (Variance to create a non-conforming lot, splitting 75 feet x 530 feet). Mr. Wahlstrom presented to the ZBA members a site plan taking off the building currently titled Sweets & Treats as a potential buyer for Wahlstrom's restaurant does not want the hardship of a non-conforming building and this would prohibit the selling of the restaurant.

Mr. Yelle presented 05-04 (Class A non-conforming use allowing the single-family apartment with the Sweets & Treats building.)

Lee Jay Blondeau requested time to address the ZBA members regarding the above issues once the panel had discussed the requests and was given approval.

VI. PUBLIC COMMENTS - None

VII. UNFINISHED BUSINESS - None

VIII. NEW BUSINESS

- A. Variance 05-09
- B. Class A-non-conforming 05-02
- C. Class A-non-conforming 05-03
- D. Variance 05-08
- E. Class A-non-conforming 05-04

Variance Request 05-09 was discussed by Mr. Yelle and the ZBA members. As the site plan looks good and there are no other options for Jill Hendrickson, the following motion was made:

Motion by Al Denton, Seconded by Lois Sherbinow to approve variance #05-09 granting a four (4) foot front yard setback variance from the third (30) foot required within the open space district Section 300 of the Chocolay Township Zoning Ordinance. Finding partial difficulty and unnecessary hardship, whereas this non-conforming lot has a frontage of 100 feet and depth of 150 feet with Lake Superior dunes to the north and M-28 to the south, this lot was created prior to the present Zoning Ordinance therefore is considered buildable.

Aye 3, Nay 0, Abstention 1. Motion passed

Carol Hicks asked how best to address the four (4) separate requests by Steve Wahlstrom. It was noted that Class A Non-Conforming structure request 05-02 and Class A Non-Conforming structure request 05-03. Mr. Hicks noted the lot split request which does not have the required frontage and offered another option utilizing an L shape outline. Carol Hicks asked Randy Yelle if this suggestion would meet the ordinance. Mr. Yelle did not think the Township assessor would approve due to depth. Michelle Wietek pointed out that this parcel could be made conforming using the suggestions of Carol Hicks. Mr. Denton pointed out if this variance is denied this evening, Mr. Wahlstrom would simply represent with an L shaped design in the near future.

Lee Jay Blondeau addressed the ZBA members that there are many zoning issues related to non-conforming structures along the highway in Harvey and that most of the owners are not even aware of this. The comprehensive plan commission was told of this and Mr. Blondeau had asked that this be included in the new plan.

Steve Wahlstrom pointed out that his business was conforming *before* the highway was moved.

Motion by Carol Hicks, Seconded by Michelle Wietek to approve Class A Non-Conforming structure request 05-02. Granting a Class A non-conforming structure classification to Sweets & Treats building located at 5045 US 41 South Chocolay Township. Owner must comply with Sections 601 through and including 604 of the Chocolay Township Zoning Ordinance. Sighting unnecessary hardship complying with the Zoning Ordinance front setback requirement of 40 feet. Aye 4, Nay 0. Motion Approved.

Motion by Carol Hicks, Seconded by Michelle Wietek to approve Class A Non-Conforming structure request 05-03. Granting a Class A non-conforming structure classification to Wahlstrom's Restaurant building located at 5043 U.S 41 South Chocolay Township. The owner must comply with Sections 601 through and including 604 of the Chocolay Township Zoning Ordinance, sighting practical difficulty and unnecessary hardship with complying with the required 40 foot front setback
Aye 4, Nay 0. Motion Approved.

Variance 05-08 is a request to allow the creation of a non-conforming lot splitting of 75 feet x 530 feet. Mr. Wahlstrom will bring the depth of the requested lot to 300 feet if necessary to meet the 1 to 4 depth to width requirement.

Motioned by Al Denton and Seconded by Lois Sherbinow, to disapprove variance request #05-08 allowing the creation of a non-conforming lot housing a Class B non-conforming use for the follow reasons:

- 1) No practical difficulty is noted.
- 2) No unnecessary hardship is noted.
- 3) Property is marketable as is, without creating a non-conforming lot, this lot, houses a Class B non-conforming structure/use.
- 4) The owner has other options to alter his property and based on Sections 601 through and including 604 of the Chocolay Township Zoning Ordinance laid out in variance approval for 05-02 and 05-03
Aye 4, Nay 0. Motion is denied.

E. Class A-non-conforming 05-04 is requesting a Class A non-conforming use classification allowing him to maintain the existing apartment (Single-Family) that shares the building with Sweets & Treats, at 5045 US 41 South Marquette, Michigan 49855.

Motion by Carol Hicks, Seconded by Al Denton, to approve Class A non-conforming use request #05-04 allowing the operation of a single-family dwelling rental unit occupying the back half of the Sweets and Treats building within a commercial zoned district for the following reasons:

- 1) It is a practical difficulty.
- 2) Unnecessary hardship is noted by the owner

Aye 4, nay 0. Motion is approved.

IX. TOWNSHIP BOARD MEMBERS COMMENT (Dan Maki) – None as Dan Maki was not in attendance

PLANNING COMMISSION MEMBERS' COMMENT (William Sanders) None as Bill Sanders

X INFORMATIONAL REPORTS AND COMMUNICATIONS

A. Communication; MTA Updates

XII. ADJOURNMENT

Michele Wietek adjourned the meeting at 8:20 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Lori DeShambo, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF FEBRUARY 23, 2006**

I. MEETING CALLED TO ORDER

Michelle Wietek called the meeting to order at 7:30 p.m. in the meeting room of the Township Hall. The Zoning Board of Appeals Welcomed Joy Verlinden.

II. ROLL CALL

Members present: Albert Denton, Carol Hicks, Michelle Wietek, Dan Maki and Joy Verlinden.
Members absent: None
Also present: Randy Yelle (Zoning Administrator) and Lori DeShambo (Recording Secretary).

III. APPROVAL-MINUTES OF THE OCTOBER 22, 2005, MEETING

Two changes were noted to the 10-27-05 meeting minutes

1. Under Section IX- Planning Commission Members' Comment (William Sanders) should read, "None, as Bill Sanders was not in attendance at this meeting."
2. Under V- Public Hearing (page 3). In the third paragraph, the second to last line should read, "Mr. Wahlstrom is asking that his property be placed as Class A non-conforming so he would simply re-present to the Planning Commission the proposed changes he would like to make to his business."

Al Denton motioned, Carol Hicks seconded that the minutes of the 10-27-05 meeting be approved with the above referenced changes. Aye 5, Nay 0. Motioned Approved.

IV. APPROVAL OF AGENDA

Al Denton Motioned, Michelle Wietek Seconded that the agenda for the February 23, 2006 Zoning Board of Appeals meeting be approved. Aye 5, Nay 0 Motion approved.

V. PUBLIC HEARING

A. Class A Designation Request #06-01

Pursuant to Randy Yelle, the Range Bank building is currently non-conforming. It requires a re-classification to allow the drive-thru to be relocated. Michelle Wietek asked if the front of the building will meet the set-back requirements. Randy Yelle responded with the front is much closer, the Terrace side does encroach on side easement.

B. Revoke Class A Designation - 320 Shot Point

The actual request was for a variance which was approved incorrectly. Randy Yelle is asking that this be revoked.

C. Class A Designation Request #06-02

This is a request to re-issue the Class A non-conforming classification that is being asked to be revoked by Mr. Yelle by the new owner.

D. Expansion/enlargement of Class A Designation #06-02

VI. PUBLIC COMMENT

Bruce Pesola of 2717 U.S. 41 West, Marquette, Michigan stated he is requesting the Class A Designation at Shot Point and the request for an expansion as he is the new owner. He would be happy to answer any questions.

Peggy Loy of 2382 Werner Street, Marquette (Century 21 real estate agent) in attendance with Mr. Pesola as she sold the property to Mr. Pesola. She recapped the July 28, 2005 ZBA meeting wherein the Appeals Board was told that this property was to be sold.

VII. UNFINISHED BUSINESS - None

VIII. NEW BUSINESS

A. Updated ZBA “Rules of Procedure”

Mr. Yelle has contacted the MTA regarding the Rules of Procedure regarding Zoning Board of Appeals meetings. There is an actual form that is to be used at every meeting wherein the decision is recorded and signed by all members at the time of the meeting.

An attachment to this meeting’s packet included a one (1) page document entitled Chocolay Township Zoning Board of Appeals Rules of Procedure 2006. It was decided that paragraph 10, second line from the bottom should read “Shall” versus “Would.”

Carol Hicks stated to Mr. Yelle that this new procedure was forwarded to the board members a while ago and he believes it to be a good improvement.

Dan Maki asked if there was any significance to the bold lettering within the one page document. Mr. Yelle stated this was done to bring attention to it. It was stated that there must be 3 regular members of the Zoning Board of Appeals in attendance at any meeting.

Therefore, taken from the Chocolay Township Zoning Board of Appeals Rules of Procedure 2006, item #9 “Any action taken by the Zoning Board of Appeals requires a majority vote of the appointed number of board members. (**3 votes required out of the 5 Zoning Board of Appeals members**) Carol Hicks Motioned and Dan Maki Seconded to approve and adopt the aforementioned rule of procedure. Aye 5, Nay 0. Motion Approved.

B. “Decision Order and Date of Entry Form”

Mr. Yelle provided the ZBA members with a new form entitled Chocolay Township Zoning Board of Appeals *Decision Order* and *Date of Entry Form*. This is a form that will be signed and dated at the time of the meeting and the decision of the ZBA Board. This puts into place the 21 days of appeal rule. Michele Wietek wanted to make sure that this form is not shortening the appeal process of which she was assured it would not.

Dan Maki questioned that the form be signed at the time of the individual meeting of which Mr. Yelle confirmed.

Motion by Al Denton, Seconded by Joy Verlinden, To approve the adoption of the “Decision Order and date of Entry” form to serve as the Date of Entry for the 21 day appeal period regarding decisions by the Chocolay Township Zoning Board of Appeals. The Form shall be signed prior to concluding the meeting at which the decision is made. Aye 5, Nay 0, Motion Approved.

C. Class A Designation request #06-01

Class A Classification request #06-01 involved the relocation of the drive-thru for the Range Bank. Mr. Yelle requested approval due to the fact that he was already under the assumption that this was a Class A structure. Michele Wietek stated it was unfortunate that this has be retro-active, however, but the building is consistent with its usage and the remodeling improves the zoning compliance. Motion by Michele Wietek, Seconded by Dan Maki Granting a Class A Non-conforming Classification to the Range Bank building, parcel #52-02-252-003-00. Finding an existing practical difficulty and unnecessary hardship. Aye 5, Nay 0, Motion Approved.

Note: The new Chocolay Township Zoning Board of Appeals *Decision Order* and *Date of Entry Form* was signed and dated at this time.

D. Revoke Class A Designation – 320 Shot Point

A meeting was held of the Zoning Board of Appeals on July 28, 2005 wherein property at Shot Point was given permission to add to an existing structure. The Zoning Administrator is now asking that this approved request be rescinded as proper procedures were not followed at the July 2005 meeting.

Motion by Al Denton, Seconded by Dan Maki because of procedure error, the approved Class A Non-conforming Structure Classification granted to the structure located at 320 Shot Point, parcel #52-02-003-010-00 at the Zoning Board of Appeals meeting of July 28, 2005 is hereby revoked. Aye 5, Nay 0. Motion Approved.

E. Class A Designation Request #06-02

Request is for a Class A designation of a non-conforming structure at 320 Shot Point. Owner would like to enlarge home. This structure must have a 100 foot setback from the water, which it does not.

Owner Bruce Pesola stated that currently the upper level of his home at 320 Shot Point consists of a small office that he uses as a bedroom and a small bathroom. He stated that he would like to expand to the back of the home that would consist of an average size kitchen, stairs, one bedroom, and one bathroom. He said the result would be a small living room, and office, family room, bedroom and bathroom.

Ms. Wietek inquired about where the property sits on the property line / set back line. In response, it was stated that the structure is on the property line, not the set back line.

Mr. Pesola spoke to the Board saying that he has done a lot of research regarding this. He said there is a physical line that is basically just a “high water mark.” He said that isn’t the end of the property line and that a property owner owns all the way to the water’s edge. He said that is what the legal description states. He reiterated that his home is not over the property line, and that the high water mark line and property line are different.

Mr. Pesola said he also spoke with a surveyor to confirm the property line. He also referred to Al Haikenn’s survey records from 1965. Mr. Pesola continued to say that a surveyor (referred to as Bob) told him that the Lake Superior high water mark is at 604 feet, and that they use a hundred year mean. Mr. Pesola said he is using this to show that the high water make is a mean average.

There was discussion made about what is the front yard and what is the back yard. Mr. Pesola said that the front setback is 30 feet and the back is 35 feet. Mr. Pesola said that he had a survey done to make sure that his additions would be at least 30 ft from the property line because that is what he was told he would have to make sure of. He said that he would follow that rule and all additions would be 30-40 feet from the property line. Mr. Pesola stated that he passed on other properties and bought this one at 320 Shot Point because it had a Class A non-conforming status.

Discussion referred back to the July 2005 meeting and minutes. It was said that the decision had been made to allow the roof to be raised to allow for more living space and still would require a variance from Sec. 403 of the Zoning Ordinance 100 foot setback.

Michelle Wietek said that nobody should have promised to grant permission to raise the height of the roof without making a motion. Carol Hicks stated he made the original motion regarding this property and that he was trying to find a way to help the homeowner. Joy Verlinden suggested that the ZBA approach the Township Attorney regarding the legalities of this issue. Carol Hicks and Michelle Wietek agreed.

Carol Hicks motioned, Al Denton seconded, that the Request 06-02 Class A Classification (320 Shot Point) be tabled until this issue has been reviewed and an opinion rendered from the Township Attorney. Aye 5, Nay 0. Motion Approved

Michelle Wietek motioned to table the second part of the non-conforming request to enlarge the structure until the Class A is resolved. Dan Maki seconded. Aye 5, Nay 0. Motion Approved.

IX. PUBLIC COMMENT

Mr. Pesola said he is not satisfied with this decision. He stated he could have purchased the lot next door for a lesser amount of money without any hassles. He stated that he is paying taxes on this Shot Point property in question.

Mr. Yelle advised that the next ZBA meeting will occur on March 23, 2006.

Peggy Loy wanted the members to understand that if they can not fix this problem, then she will end up having to fix it.

X. TOWNSHIP BOARD MEMBERS' COMMENT (Dan Maki)

Dan Maki stated that he hoped that the ZBA members and the Township Attorney would be able to do something to help them out. He also advised that he would not be at the next meeting.

PLANNING COMMISSION MEMBERS' COMMENT (Albert Denton)

Mr. Denton advised of the outcome of the issue regarding the snowmobile trail near the Bayou Bar and Grill and the DiLoretto property. He also said the Planning Commission has recommended approval of the proposal for rezoning of the O'dovero property.

Michelle Wietek asked that she be provided with a copy of the communication submitted to the Township attorney. Randy Yelle said that a copy will be forwarded to her by e-mail.

XI. INFORMATIONAL REPORTS AND COMMUNICATIONS

- A. Information: News Paper Ad, Residents Letter, ZBA Meeting Dates 06
- B. Communication: MTA updates
- C. Reports: Township Fee Update.

XII. ADJOURNMENT

Michele Wietek adjourned the meeting at 9:00 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Rebecca Stachewicz, Recording Secretary

Charter Township of Chocolay
Zoning Board of Appeals

March 23, 2006

7:30 P.M.

I. MEETING CALLED TO ORDER

Meeting called to order by Michelle Wietek at 7:33 p.m.

II. ROLL CALL

Present: Lois Sherbinow, Michele Wietek, Albert Denton, and Carol Hicks

Absent: Dan Maki and Joy Verlinden

Staff: Randy Yelle (Zoning Administrator) and Rebecca Stachewicz (Recording Secretary)

III. APPROVAL OF MINUTES FROM FEBRUARY 23, 2006 MEETING

Michelle Wietek recommended that the minutes from the 2/23/06 meeting be rewritten. Carol Hicks said that the meeting was taped so it shouldn't be a problem. Randy Yelle agreed. Ms. Wietek referred to the top paragraph on page four as being inadequate. She said some sentences are poorly written and some issues aren't clearly explained. It was decided that the minutes will be sent back to be rewritten from the tape.

IV. APPROVAL OF AGENDA

Michelle Wietek motioned to approve the agenda. Lois Sherbinow seconded the motion. Aye 4, Nay 0. Motioned approved.

V. PUBLIC COMMENT

None. Four attendees declined to public comment.

VI. UNFINISHED BUSINESS

A. CLASS A REQUEST # 06-02-tabled 02/23/06 meeting

Randy Yelle said it was his opinion that the structure was illegally built so they cannot issue a Class A permit. Mr. Yelle said he requested, and has received, an opinion on the matter from attorney Michael G. Summers. Attorney Summers' written opinion to the board was that no Class A designation or permit can be obtained in this situation.

Carol Hicks asked Mr. Yelle if he was right in the understanding that that a Class B cannot be altered. Mr. Yelle said this is correct; you cannot alter a Class B designation.

Michelle Wietek further reviewed Attorney Summers' findings. It was stated that the ZBA could not appoint Class A designation if it is not a legal structure. According the Attorney Summers, "Unless this was a legal nonconforming structure, it is not eligible for Class A designation. Illegal nonconforming structures, both by law and by ordinance, are to be eliminated, not maintained or expanded (Rural Twp. Zoning Act, MCL 125.286(3). Illegal nonconforming uses are defined as nuisances *per se* subject to mandatory abatement by the court. At the time this nonconforming building was constructed, the Township had in place the 1962 Ordinance. This structure does not meet the restrictions in place at that time and therefore was not legally commenced. No building permit or Zoning Compliance Permit was obtained."

Carol Hicks reviewed the case saying that the property owner wanted to increase the ceiling height by two feet, but you can't do this with a Class B designation, so it was suggested to change to a Class A in order to help the property owner accomplish what he wanted to do. At the time though, it wasn't realized that changing from a Class A to a Class B designation was not an option. Mr. Hicks also stated that they didn't give a proper public hearing in regards to

the possible class change. It was further explained that the property owner did not ask to change to a Class A. At the last meeting, the applicant seemed to think that she did request a Class A. Randy Yelle said that what they asked for was a variance, not a Class A designation, and only the variance was what was paid for. He also said that he made a hand written note on the variance request that says "Class A" but that was only a personal note to himself, nothing more, and it was made inadvertently.

Mr. Hicks asked if this structure were moved back 100 feet from the waters edge would it be conforming. Mr. Yelle said that it would meet Chocolay Township standards, but it may or may not meet county code.

Ms. Wietek commented that Chocolay Township doesn't cover ceiling height in its regulations.

Michelle Wietek moved to Deny the Bruce Pesola Trust, Class A request #06-02, Parcel # 52-02-003-016-00 at 320 Shot Point to grant a Class A designation. Al Denton seconded the motion. Aye 4, Nay 0. Motion approved.

Ms. Wietek stated that the facts from the attorney are that the structure is not legal, there's no building permit, and therefore the ZBA cannot give a Class A. In addition, the legal opinion lists a number of other issues to keep a Class A designation from being given. The property doesn't meet setbacks with influence to the lake and it is closer than other structures on the lake. In conclusion, other options exist for this structure: it could be moved, or it could be demolished and rebuilt.

VII. NEW BUSINESS

A. DATE OF ENTRY FORM FOR CLASS A #06-02

The date of entry form was signed.

VIII. PUBLIC COMMENT

None.

IX. TOWNSHIP BOARD MEMBERS' COMMENT (DAN MAKI)

None. Mr. Maki not present.

PLANNING COMMISSIONER MEMBER'S COMMENT (AL DENTON)

Mr. Denton stated that the last Planning Commission meeting was cancelled and not rescheduled, but they did hold a public meeting on 3-16-06 to discuss the U.S. 41 Grant Project. He said that they had a very good turnout and that all of the chairs were filled.

X. INFORMATIONAL REPORTS AND COMMUNICATIONS

Attorney's Opinion dated 3/8/2006, 1962 Ordinance, and Z.A. Information Letter: Randy Yelle stated that the attorney letter was already discussed. Also, he has started working on the ordinance amendments, and there is about 15 different items he is working on. He said the sign ordinance needs some changing.

Mr. Yelle stated that he has issued six zoning compliance permits for new homes and two demolition permits.

Al Denton asked Mr. Yelle if anything has been done with the Wasalesky property. Mr. Yelle said that he hasn't been down there, so no citations have been issued at this time. Michelle Wietek asked Mr. Yelle to look into it further because this issue has been going on for too long.

Lois Sherbinow asked Mr. Yelle about John Sommers property. Randy said all the environmental problems there have been taken care of, and all the "agent orange" is gone. He also said all of the 37-39 cars are gone, and one of the trailers has been burnt down, but one remains.

XI. ADJOURNMENT

Michelle Wietek adjourned meeting at 8:00 p.m.

Respectfully submitted:

Rebecca Stachewicz, Recording Secretary

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS
APRIL 27, 2006

I. MEETING CALLED TO ORDER

Meeting called to order by Michelle Wietek at 7:45 pm.

II. ROLL CALL

Present: Michelle Wietek, Joy Verlinden, and Albert Denton

Absent: Carol Hicks, and Dan Maki

Staff Present: Randy Yelle (Zoning Administrator) and
Rebecca Stachewicz (Recording Secretary)

III. APPROVAL OF MINUTES OF THE MARCH 23, 2006 MEETING

Al Denton motioned to approve minutes from 3-23-06; Joy Verlinden seconded. Ayes 3, Nays 0. Motion approved.

IV. APPROVAL OF AGENDA

Al Denton motioned to approve agenda; Joy Verlinden seconded. Ayes 3, Nays 0. Motion approved.

V. PUBLIC HEARINGS

A. Variance #06-02, Elwin H. Leach, 425 Green Bay Street

Randy Yelle stated that Mr. Leach of 425 Green Bay St. is requesting a variance to construct an addition to his existing home, for the purpose of having a bedroom on the first level. He said that a 16 ft. variance would be needed if granted as request. Mr. Yelle said he recommended approval.

Mr. Edwin Leach stated he had no comment.

Public comment: Mr. Mark Maki, 370 Karen Road, said he wanted to know why Mr. Leach needed a variance for this request when the Township doesn't follow the Zoning Ordinance.

B. Class A Classification #06-03 "Marina"

Randy Yelle stated that Chocolay Township is requesting a Class A classification be granted, along with the approval to improve the Marina at 137 W. Main St. He said that the marina, according to the information he has available, was in place prior to the adoption of the Zoning Ordinance in 1977 and has a Class B nonconforming classification as the zoning district is R1, and Marinas are allowed as a principle use within the LS/R zoned districts only.

Mr. Yelle said that the best way to approach this would be to request a Class A classification and approval allowing the improvements requested in accordance with the site plan provided.

Dennis Stachewicz, Chocolay Township Director of Planning and Community Development, said that they are dealing with a project with a lengthy history in Chocolay Township. He said it started in 2002 with a recreation survey, and subsequently, a recreational plan was done in 2004 that identified this project as part of the 5-year action plan. Mr. Stachewicz gave a handout to the ZBA Board members present that outlined his discussion regarding the Township Recreation Plan. He

continued, stating that in the end of 2005 / beginning of 2006, they found out that they received grant from state of MI to start implementation plan of this project. He said this is when the parcel was identified to be a Class B non-conforming use. He also said that when dealing with grants, it is bad if you miss the deadline and because it is very possible to lose the the money if this happens. Mr. Stachewicz said that the long-term intent is to make this right by working through the zoning ordinance but time is not on their side due to grant requirements. He asked for the ZBA to approve this request with any conditions to ensure property doesn't become a nuisance or become used for other than main purpose. He directed technical questions regarding grant issues to Tom Murray.

Mr. Murray presented the site plan and construction plan to the board and explained that they applied for this through the Michigan Natural Resources Trust Fund and it was awarded to them in late 2005. He further explained that the Township purchased this land area from the Nelson's and improvements will consist of a kayak storage locker on west side of existing boat ramp that will house 4 kayaks and its size will be 6 feet x 20 feet. He said the plan also shows a walkway, picnic table, and two 10 foot x 10 foot tent sites. He stated the walkway would be floating and function as a small fishing pier. He said there should be conditions placed to protect the property owners and to prevent things like bonfires. He said proposed quiet times would be between 10:00 p.m. and 9:00 a.m. and camping would be by permit only.

Michelle Wietek asked who would issue permits. Mr. Murray said more than likely it would be the Chocolay Township office.

Joy Verlinden asked if locker storage accessible by those staying at the campsites. Mr. Murray explained that it would be and that they kayak lockers would have locks. Mr. Stachewicz said the Township would work with the Hiawatha Water Trail group to ensure that it will not become a storage yard for kayaks and they will look for a way to police that.

Ms. Wietek asked about directions to the Chocolay Business District. Mr. Murray said that there will be an information board at the site.

VI. PUBLIC COMMENT

Shaun Devlin, Chocolay Township, said he has been working with Randy Yelle to place signs directing people from the highway to the access site. He said they would be glad to help with signs to direct trail users back to the business district.

Robb Cookman, 320 Green Garden Road, said there will be an access point brochure that will show motels, restaurants, sport shops, etc. He said that there is also a Hiawatha Water Trail Map and that there is currently no advertising in it because no one has wanted to step up and sponsor it, but it is an option in the future. He said that on the locker itself will have a sign stating various information and it could be used to encourage users to come into Chocolay businesses. As for the plan layout, they want to make it visible from road to make it easy to monitor and to keep undesirable activity to a minimum. He said that people using this area will be older well-established people and not young people who will cause trouble. He also stated that the people camping there will only have what they can carry with them in their kayaks.

Mr. Mark Maki, 370 Karen Rd., asked if any of the development is on the "island parcel". Dennis Stachewicz said that there is a floating boardwalk that leads to the peninsula but there is not any physical development on the land.

Joy Verlinden asked where the Township is in the process for applying for the needed permits. Tom Murray said they were submitted a couple a weeks ago, and that the DNR is excited about the project. Mr. Stachewicz said the Army Corp of Engineers and MDEQ has done an on-site evaluation in the past with the previous staff members who applied for the grant.

Mr. Maki commented that there is no public agenda available for the public and that there is no site plan or legal description available for the audience to have. Mr. Maki discussed the fishing platform on the island. He cited section 604.A.4 of the Zoning Ordinance and said the Township Board needs to rezone this, that the Zoning Board of appeals cannot approve it.

Mr. Maki stated that on 4-18-06 he submitted a letter requesting info on this proposal but hasn't received an answer. He said Greg Seppenan blocks his phone calls and when he comes down to the office the info isn't available. He said he wants to know why the Township is censoring mail.

VII. UNFINISHED BUSINESS

Approval of Minutes from February 23, 2006 minutes

Al Denton moved to approve minutes; Joy Verlinden seconded.
Ayes 3; Nays 0. Motion approved.

VIII. NEW BUSINESS

A. Variance #06-02

Randy Yelle said no written comments were received. Al Denton said the addition would line up with others in that area. He said it doesn't look distracting or of any negative impact. He said it was built in the 40's and has been well kept.

Ms. Wietek asked Mr. Yelle about character of neighborhood. Mr. Yelle said it is in-line with the other houses and he recommends approval.

Joy Verlinden questioned whether or not the expansion would be allowed per the Zoning Ordinance language that prevents further expansion of an existing non-conformity. It was decided by the Board that clarification was provided further in the ordinance that would support this request.

Motion by Al Denton, Seconded by Joy Verlinden to approve variance request #06-02 granting an 16 ft setback variance from Sec. 300 of the Chocolay Township Zoning Ordinance, allowing for the construction of an addition 12 feet from the right-of-way of East Wright Street, Parcel #52-02-218-017-00, Sec. 6, T47N-R24W, Township of Chocolay, County of Marquette, Michigan, mailing address of 425 of Green Bay St. Finding that practical difficulty exists.

Ayes 3, Nays 0. Motion approved.

B. Class A Classification #06-03

Al Denton said he was just out to the site that afternoon and he talked to neighbors and they are looking forward to a quality use for that site.

There was discussion about the soil on the island. Mr. Stachewicz said that the East side is sandy and there are a few people who fish there but there is no development proposed on the land. He said the DEQ will never allow any development on the peninsula, that's why the boardwalk is floating. Mr. Stachewicz said he talked to people who live across the

street and they said the current use of the area is seasonal, in line with fishing season.

Randy Yelle said he hasn't received any letters from residents.

Ms. Wietek addressed Mr. Maki's comments about the island. Joy Verlinden said what is proposed is not increasing or enlarging what was happening before, but it is of better quality and would make it more enjoyable for people and families.

Dennis Stachewicz asked Randy Yelle to research if the floating boardwalk could be approved as an accessory structure in the R-1 Zoning District.

Mr. Maki said it is the specific language he has a problem with and not the project. Michelle Wietek questioned whether or not the floating boardwalk was a very important part of the project.

Mr. Stachewicz said that the floating pier is an integral part of the grant and any changes to the project may affect the decision regarding disbursement of funding. He also said that the long range intent is to rezone Township owned parcels to the appropriate Zoning District, however, it can be a 60-90 day process per parcel.

Michelle Wietek asked if the floating walkway is a development on the actual land are of the island or changing the physical use of the island.

Tom Murray said that the fishing pier and boardwalk was encouraged by the DNR and was designed with U.P. Engineers and Architects and said it would not be easy to alter the plan.

Mr. Murray and the Board looked at a map and discussed parcels. Joy Verlinden believes that whether land was private or public, the previous use of the property can be established as accessible for fishing and recreation. Dennis agreed with her about the establishment of the previous use of the property being for recreational and fishing access.

Motion by Joy Verlinden, Seconded by Al Denton to grant parcel #52-02-203-010-00 a Class A Lawful Nonconforming Classification and approve the grant supported addition to the Marina, as proposed, with the following conditions:

1. That Chocolay Township and the Hiawatha Water Trail Association will cooperate in the enforcement of the conditions of approval; and
2. Signage shall be installed stating that the two tent platforms are intended for use by Water Trail participants and that use is allowed by permit only; and
3. Quiet hours be established and posted between the hours of 10:00 p.m. and 9:00 a.m.; and
4. Open fires are not permitted.

Ayes 3, Nays 0. Motion passed.

IX. PUBLIC COMMENT

Mr. Elwin Leach, 425 Green Bay St., said he appreciated working with Mr. Yelle and appreciates the Zoning Board's work.

Dennis Stachewicz, Chocolay Township Director of Planning and Community Development, said he appreciates professionalism of the board and said they will move forward on rezoning of parcel and it will be a public process. He

said he encourages residents to participate in Chocolay Township's planning issues and stated that they are working on updating the Zoning Ordinance this summer.

Joy Verlinden thanked Mr. Maki for his comments.

Mr. Maki read section 604.A.4 of the Zoning Ordinance into the record and stated the Class A Classification of the Marina was granted irrespective of the law.

X. TOWNSHIP BOARD MEMBERS' COMMENT

Dan Maki not present.

PLANNING COMMISSIONER MEMBERS' COMMENT

Al Denton said that the last Planning Commission meeting was a long one. He said they approved was several items including the Conditional Use Permit for Jill Hendrickson to build a house, recommended approval of a Private Road request for Mr. Frank Ward, recommended approval of a rezoning for the John English property on Kawbawgam Road, and recommended approval of vacating an alley between Main and Fairbanks Streets. He stated they are looking at hiring a company to help with updating the Zoning Ordinance.

XI. INFORMATIONAL REPORTS AND COMMUNICATIONS

Randy Yelle stated that Mr. Maki's letter was handed out to the Board members prior to the meeting because the letter was not received prior to the packets being sent to Board members.

He also said Mr. Wasalesky's license from the State was received (permit # C002588) and that he has issued a citation to Mr. Wasalesky for noncompliance with ZBA conditions.

The Board signed the date of entry forms for the record.

XII. ADJOURNMENT

Ms Wietek adjourned at 9:05 pm

Respectfully submitted:

Rebecca Stachewicz, Recording Secretary

Carol Hicks, Secretary

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS

August 24, 2006 7:30pm

I. MEETING CALLED TO ORDER

Meeting called to order by Michelle Wietek at 7:33 pm.

II. ROLL CALL

Present: Michelle Wietek, Lois Sherbinow, Albert Denton, Dan Maki, Joy Verlinden, and Carol Hicks

Absent: None

Staff Present: Randy Yelle (Zoning Administrator) and Rebecca Stachewicz (Recording Secretary)

III. APPROVAL OF MINUTES OF THE APRIL 27, 2006 MEETING

Joy Verlinden motioned to approve minutes from 4-27-06; Al Denton seconded. Ayes 6, Nays 0. Motion approved.

IV. APPROVAL OF AGENDA

Dan Maki motioned to approve agenda; Lois Sherbinow seconded. Ayes 6, Nays 0.

V. OPEN PUBLIC HEARING

a) Class A classification request #06-03

1. Zoning Administrator comments

Randy Yelle recommended to the board that the structure in question be granted a Class A classification.

2. Public Comments

Mr. Brian Gnauck asked that the property be given a Class A Classification. He stated that he didn't know that there was a zoning ordinance change and didn't know there was a problem in the classification until he went to build a new garage and request variance #06-06.

b) Variance #06-06, Brian G. Gnauck 282 Shot Point

1. Chair or Zoning Administrator comments

Randy Yelle recommended to the board that they do not grant a variance to the property in question.

Ms. Wietek asked Mr. Yelle to clarify the connection between 06-03 and 06-06. Mr. Yelle explained that the 06-03 would be for the Class A classification and 06-06 would be for a garage expansion.

2. Mr. Gnauck's presentation

Mr. Gnauck stated that he is requesting a variance allowing the setback from the lot line to be 8 feet verses the required 10 feet. He said that when he first built the house the setback was only 5 feet, and that he believed

that allowing him to do this would increase the tax base in the township. He also stated that his neighbors do not have any objections to the garage addition.

3. Public input “support”

None.

4. Public input “opposed”

None.

VI. PUBLIC COMMENT

None.

VII. UNFINISHED BUSINESS

None.

VIII. NEW BUSINESS

A. Amend and Adopt “Rules of Procedure”

Motion by Michelle Wietek; Seconded by Joy Verlinden

To amend the existing Rules of Procedure to incorporate the requirements of the Zoning Enabling Act, Act 110 of 2006.

Ayes 6, Nays 0. Motion approved.

B. Amend and Adopt “Date of Entry” form

Motion by Carol Hicks; Seconded by Dan Maki to amend the existing Date of Entry Form to incorporate the requirements of the Zoning Enabling Act, Act 110 of 2006, and adopt Date of Entry form; Ayes 6, Nays 0. Motion approved.

C. Class A Classification #06-03

Michelle Wietek asked Mr. Yelle about the process of going from Class B to Class A when the new ordinance was enacted. He advised that if the property owner or zoning administrator would have come in and asked for a change to Class A, at the time the zoning ordinance was changed, it would have, most of the time, automatically be granted by the Zoning Board of Appeals.

Ms. Wietek asked Carol Hicks about conflict of interest on his part. Mr. Hicks stated that he did have a conflict of interest and he removed himself from the table.

Dan Maki commented that granting the Class A Classification, would keep them in line with the comprehensive plan.

Motion by Joy Verlinden; Second by Al Denton.

Finding that said structure was in place prior to the adoption of the May 9, 1977 Zoning Ordinance and the property owner having no knowledge that he/she was required to request a Class A Classification, and that the Township did not address the classification, causing the structure to become a Class B structure, we shall consider this an unnecessary hardship and grant the requested Class A structure classification #06-03. Ayes 5; Nays 0; Abstained 1. Motion passed.

D. Variance #06-06

Randy Yelle stated that the ordinance “is what it is” and he recommends denial of this variance request because it does not meet the ordinance requirements.

Michelle Wietek asked property owner, Mr. Gnauck, why he can't meet the setback requirements.

Mr. Gnauck presented his drawing plans to the board and stated that his log home and garage is not like stick built where you can pick up the building and move it. He also stated that if he did try to move the building in question it would cut into his black top driveway.

Ms. Wietek asked about alternative building plans. He stated that doing it any other way than what he has planned, wouldn't architecturally make sense. He said that he does not want it to look like a shack, and he doesn't want it to look like an “add on” at all when he is finished.

Carol Hicks explained that the depth for the stall of a car in a garage is minimum 18 feet, and 16 ft for a canoe. He also said that, AGS, Architecture Graphic Standards, stated that the absolute minimum radius for a circle driveway is 18 ft, which is what he is at now, making him unable to cut into the driveway at all and that Mr. Gnauck drives a Ford Expedition with a canoe rack on top, so the full radius is needed.

Mr. Hicks also stated building it as planned will make it look like it belongs there.

Dan Maki asked about having the garage entry on the West and turning it around; instead of 16 wide by 18 deep, go 18 wide by 16 deep.

Mr. Gnauck looked at the plans and stated that wouldn't work with his round, black top driveway.

Mr. Yelle stated that they are trying to eliminate nonconformities and he would rather see the garage relocated to meet the current standards.

Mr. Hicks always thought that side yards and set backs were meant so that a person could walk around their property and structures without trespassing. He stated he believes you can do that with an 8 ft setback.

Michelle asked what “practical difficulties” there would be building this garage on another part of the property. Mr. Gnauck stated that it would be 33% more building material and logs are expensive, and he wants to integrate all of the buildings together.

Dan Maki said he would rather see this plan take place, then build another separate garage being built on the property.

Mr. Gnauck stated all three buildings are parallel in structure to each other, and made of the same material and would like to see it kept in line with what it is now.

Mr. Denton said that the plan seems to fit the property, and realizing we need to address the fact that much of this lot would be considered wetlands, the requested plan looks good.

Mr. Yelle stated that adding another building, though he recommends it, would be close to violating the open space restrictions. Dan Maki stated that the current plan has a shared roofline, which cuts that down the open space problem.

Ms. Wietek asked if it would be a practical difficulty to build a 4th building

Mr. Gnauck stated that to build somewhere else, a big pine tree would have to be cut down, approx. 20 inch wide.

Dan Maki stated that the big pines are unique to that area and would think that removing those would be a practical difficulty. Ms. Wietek stated that 4 buildings on a 1.5-acres, is a lot.

Ms Wietek asked Mr. Yelle if there is a more precise definition of practical difficulty they are missing. Mr. Yelle said “no” and that the definition is up to the board to determine.

Motion by Lois Sherbinow, Seconded by Al Denton,
Finding the existence of practical difficulties, the retaining of large pines, wetlands, and the existing blacktop driveway, variance #06-06 is approved.

Ayes 5; Nays 0; Abstained 1. Motion passed.

1. Date of entry form was signed

Carol Hicks rejoined board.

IX. PUBLIC COMMENT

No public present

X. TOWNSHIP BOARD MEMBERS' COMMENT

Dan Maki stated that the township board made a land deal with Dr. English, and made an amendment to a zoning map, from C3 to C2, 52-02-110-083-95 (Wennerberg)

PLANNING COMMISSIONER MEMBERS' COMMENT.

Al Denton stated that the Planning Commission met with Pat Coleman of U.P. Engineers and Architects to go over the Zoning Ordinance updates that are being addressed. He said there was a joint meeting between the Planning Commission and Township Board to discuss an all-purpose trail, and two grants are being submitted to MDOT for the project. The trail will allow for snowmobiling in the winter and other recreational uses in the non-winter months.

XI. INFORMATIONAL REPORTS AND COMMUNICATIONS

Mr. Waselesky property and his fences were discussed. Michelle asked Mr. Yelle to check on the progress monthly. Mr. Yelle stated “Citation have been written.”

Dan Maki asked Mr. Yelle to talk to property owners complaining about a residence collecting up trash. Mr. Yelle said it is an ongoing problem, he is there every other week and fines have been assessed. “Brookwood subdivision”

Al Denton asked Mr. Yelle to check on the Johnson property and junk cars on Cherry Creek Rd.

XII. ADJOURNMENT

Michelle Wietek adjourned meeting at 8:27pm

Rebecca Stachewicz, Recording Secretary

Carol Hicks, Secretary

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS
September 28, 2006 7:30 pm

I. MEETING CALLED TO ORDER

Meeting called to order by Michelle Wietek at 7:34 pm

II. ROLL CALL

Present: Michelle Wietek, Lois Sherbinow, Albert Denton, Dan Maki,
Carol Hicks.

Absent: Joy Verlinden

Staff Present: Randy Yelle (Zoning Administrator), Jackie Earl, sub-secretary

III APPROVAL OF MINUTES OF THE AUGUST 24, 2006 MEETING

Al Denton noted two minor changes 1) on the top of page 3, “add” instead of “ad”, and 2) on the bottom page 3, remove the extra “that”. He asked about the region that tended to be wet in reference to the motion accepted. .

Motion made by Al Denton, supported by Carol Hicks to approve the minutes from 8-24-06 with the corrections. 5 Aye, 0 Nay. Motion approved.

IV. APPROVAL OF AGENDA

Motion by Dan Maki, supported by Carol Hicks to approve the agenda as presented. 5 Aye, 0 Nay. Motion approved.

V OPEN PUBLIC HEARING ON 06-04 CLASS A REQUEST

A. Zoning Administrator Comments: If it is agreeable with the board, I would like to combine the my comments regarding the two Besola requests, as I don't think the Class A should be issued, if the variance is not going to be issued. I reviewed the court case, and confirmed that Carl Besola's contracting business was grandfathered, and is a Class B, non-conforming use of that property, as it is zoned R1. My opinion is that it would have to be granted a Class A classification prior to addressing any variance request. Normally, I would not recommend approval, but in this case, with the existing court case, it may be beneficial to the township to approve with the conditions set forth.

B. Public Comments

Mark Maki, 370 Karen Road. General comment. He said one of the primary things is that the procedure for obtaining Class A designation requires a site plan and detailed explanation of the major scope and extend of the lot for nonconforming use. That was not contained in application. Sec 602-D also requires that the Zoning Administrator is supposed to, prior to the public hearing, review and evaluate the request and that did not occur also. His main point was that it requires that proper documents be filed when the application is made. The Ordinance calls for you to have this.

His second point is just a protest of the process. He said he was denied access to speak to the Zoning Administrator which is uncommon. Mark had a conversation with the Township Supervisor (on tape) that he wanted to play. Michelle Wietek asked if the Supervisor was aware that he was being taped? She said listening to a conversation where the individual did not know that he was being taped is not appropriate. Michele noted that Mr. Maki is

taping this meeting as well. His general protest is that anyone in the township should be able to come and talk to Zoning Administrator and he submits the report. Mark said the problem is that the process has been blocked by an overzealous supervisor. This board should put a stop to it as it is not fair to the public hearing process. Mark said he wants documents that are required by the Ordinance to be submitted, and wants to process to be open and fair.

Carl Besola, 6262 US 41-South. Carl and his brother would like to build a 40 by 60 pole barn, and also two other brothers that live on the property. They have stuff to store too. He said it would be nice to have a roof, since they have no room for equipment. It would keep some things out of the weather and out of sight. Don't know why anyone would object. When he filed the original plan, he drew up a rough sketch of what the plans were. Mr. Yelle and Mr. Denton went out to see where they planned to put it, quite a ways from the highway; the legal distance. (60 feet back) If it has to be a farther distance, he can adjust it.

Jim and Carey Henning, 177 Sandy Lane. Their property adjoins Mr. Besola's property. His shifter is very noisy, which was okay for previous owners, but she is a stay at home mom and it is very loud and they cannot open windows or go outside. They know there is a lot more property and wondered why it can't be moved. Their only concern is about noise. They bought their house on a dead end road to have peace and quiet. Noise is their only grievance. They have no problem with the building.

PUBLIC HEARING CLOSED

VI. VARIANCE 06-07 CARL BESOLA, 6262 US 41 SOUTH

Mr. Besola requests a Class A Classification if he is approved to construct the building.

Randy Yelle: Nothing to add.

Carl Besola's Presentation: He doesn't want to be a nuisance and wants to be a good neighbor. Doesn't plan to quit his business but he also doesn't plan to expand too big. This building will just give him some place to get equipment out of the rain. He'll try keep the property up and be more responsible. He is okay with conditions as long as they are not too extreme.

A. PUBLIC INPUT FOR SUPPORT

Randy Yelle has received two letters from Robert Nieman and Michelle Hastings.

PUBLIC COMMENT

Lee Blondeau, 30 Tracy Lane: Supports Carl's project. He said to look at the character of the township. What makes it what it is? There are generations of families living here through the good and bad times. You see this less and less, the ma and pa businesses are going out of business because of large companies. He does not want extra burdens put on Carl.

Jim Henning, 177 Sandy Lane: He supports it and has no problem with it.

B. PUBLIC INPUT OPPOSED

Randy Yelle has no correspondence, nothing more.

Mark Maki, 370 Karen Rd. He is not necessarily opposed but under new business it also says agreement of conditions. He did not see anything in the packet. It is hard to comment on something you haven't seen.

Randy Yelle said it was there, the conditions he recommended.

Michelle Wietek closed the Public Hearing.

VII GENERAL PUBLIC COMMENT

Mark Maki commented that he did not feel it was a fair public process when one citizen is denied access to information, he said he submitted at 11:00 yesterday about three or four questions and has no answers yet. He feels it's a tainted process. This board has a responsibility to straighten this up.

Michele Wietek closed public comment.

VIII UNFINISHED BUSINESS - None

IX NEW BUSINESS

A. Class A Classification #06-04

Randy Yelle stated that the site plan which Carl Besola submitted is on the back of the Zoning Compliance Request dated April 21, 2006. It is very generic. It shows the setbacks.

Michele Wietek quoted from the Michigan Zoning Enabling Act in the packet, saying that Zoning Board of Appeals have the authority to grant variances for land uses if they are a township and a county that granted a use variance before Feb. 15, 2006. She said it doesn't have to be a use variance relating to the specific site, just a use variance in general, suggesting that the ZBA was a part of the routine.

Mark Maki said the Zoning Board of Appeals in this township has never granted a use variance.

Randy Yelle said in his opinion Waselesky's junk yard moving and expansion was a Class B changed to Class A. The authorized expansion was a use variance.

Carol Hicks asked Randy Yelle if this perhaps is similar to last month's meeting granting the Class B to A. The owner requested or the zoning administrator could initiate at the time the zoning was changed. Similar situation.

Randy Yelle said it will be similar again next month. He can get the attorney's opinion on use if you want to delay Carl Besola's variance. Normally we don't grant a change for non-conforming use.

Michelle Wietek said there is some question on whether the expansion of Waselesky's activities and granting him a Class A qualifies as a use variance?

Randy Yelle said as far as he was concerned it did. He can get our attorney's opinion if they want to wait.

Mark Maki said the term "use variance" is what he objects to. You granted Waselesky the ability to expand with his non-conforming use; you'd give Besola permission then to expand his conditional non-conforming use. You have the authority to do that. It's not called a "use variance". It's expansion of non-conforming use.

Michele Wietek cleared that Mark Maki was not objecting that the ZBA has the authority to do it, just objecting in using the term "use variance."

Mark Maki said don't get into the habit of granting use variances which you are not allowed to do. A use variance would be if Carl Besola came in and had no business on his property and said he wanted to start a contractor's yard. You guys

said ok we'll do that. That would be a use variance. He already has that grandfathered business there prior to 1977.

Michele Wietek agreed. She believes they have granted a use variance to LaJeunesse.

Mark Maki said no that was a Home Occupation.

Michele Wietek thanked Mr. Maki and read from Section 604 of the Zoning Ordinance. Contrary to public health safety or welfare, she asked Mr. Besola if his operation involves the storage of any chemicals used to maintain equipment of fuel?

Carl Besola said he has a fuel tank and one on top of the pick-up. Barrels for drain oil storage and then disposed of according to the law, it all kept under roof. All stays in the garage, uses long life oil and doesn't use a great deal. Can't see any public health risks. He stated the capacity one tank is 500 gallons and the tank on the pick up is 100 gallons. He has no steam cleaner, he uses a power washer. The skid tank located where the barn would be built. Would locate it inside the barn or back where his father's fuel tank is up in the air which hasn't been used in many years, there or behind the existing garage. It's above ground and it's on a skid. If it has to go, it can go, as it belongs to someone else.

Michelle Wietek asked Mr. Besola if he has ever done any environmental monitoring, soil boring, ground water investigation related to your dad's old tank?

Carl Besola said nothing is underground, it's all above ground and he has never had any environmental problems that I am aware of. No tests have been done.

Michele Wietek asked if there were any board comments contrary to the spirit of the zoning ordinance? She stated that 500 gallons can create long term concerns.

Carl Besola said many residents in the township that have underground fuel oil tanks that they are heating with, and you being Environmental Consultant may know much better than I, but it would seem to me that the underground tanks that do the polluting compared to above ground ones. The above ones can evaporate into the air.

Michelle Wietek stated you cannot see leaks underground but the above ground tanks can create considerable contamination with leaks, spills and overfills. She asked Carl Besola what is the role of brothers in your business?

Carl Besola said they have nothing to do with the business, that's unfortunate. We just want to build a barn, they need to store their personal toys.

Michele Wietek asked if there will be any increase in smoke, fumes, dust, heat, noise, noxious matter, glare or vibration? Anything else that by building this barn would allow you to expand?

Carl Besola said not from this barn. Not that I can see. I already have two dump trucks and heavy equipment and don't plan to go beyond that.

Michelle Wietek asked if he was willing to move the sifter?

Carl Besola answered yes, I'll either sell it for scrap iron or sell it to someone. He could move it to the other end of the property, by the highway where it is already noisy. It should not be a problem. He wants to just stick to the barn issue.

Michelle Wietek said the business at hand is storage of equipment related to the business. It is scattered all over, and we are looking at granting indoor storage in an R-1 residential area. The sifter is part of the business.

Al Denton stated he visited Carl's place and noted a lot of vehicles in disrepair and unlicensed. He asked if that would be the right word?

Carl Besola said out of service, not junk, not licensed at this time. Many are collectibles. Several pick-ups not licensed and several batteries not covered.

Al Denton said collectibles are if people have a nice little car in their garage. But I saw several pick-ups, a pile of batteries- 6 or 8. The equipment is the same as in the 1992 case. It has not changed, not expanded. There were a few more vehicles along the side; one on blocks, fixing the transmission. Carl is responsible since he is the owner.

Carl Besola said he is not totally responsible, there's joint ownership.

Al Denton said the condition of the property is unkept, lots of vehicles in less than running condition. There is a Ford van with junk stored inside, outboard motors. If you lived next to me, I wouldn't like it too much. I'd come over and say clean it up. With this new building you can get some of this inside, but certainly not all. Not the trucks and front end loader and backhoe. Your brothers have lots of equipment. You will be sharing the building with them. I'm not totally convinced that this building will clean up your area, but it probably won't make it any worse.

Carl Besola It's a really wide driveway so you cannot see much from the highway. If I build the barn, I do not plan to keep dump trucks in there all the time.

Michele Wietek agreed, but said maybe some of the stuff could be kept inside, not most. She is looking for the reason to expand the business and the benefit to the township would be to clean up this area in the R-1 district, which is the most stringent type of district, smaller lots, limited structures and activities.

Carl Besola said he doesn't want to sound snooty, but would they prefer to see us keep this as 50 acres, as it is, or subdivide the area? Their plan is to keep it a big pine plantation. They will clean things up. They were hell-raisers, but are now grown up and calming down. He doesn't think you can even notice his place if you keep your eyes on the road when driving by.

Al Denton wanted to get back to the court order. We can allow Carl to continue his business but not expanding or have additions. If we allow him to build this barn, and if we change this to a Class A, it is an expansion of the business. Then that court order is null and void, in my opinion.

Randy Yelle said that also is his understanding.

Carl Besola asked if he does expand in the future, would he have to go through this process again?

Al Denton answered yes, to build another building or increase 4 semis from 2. We have a court order that says you cannot expand without some procedures.

Lee Blondeau said in reading through the court transcript, the Township did not prove that there was not a business there. Carl Besola has not asked to expand. Carl wants to make it better and really, bringing in the court case just muddies the waters. In the Comprehensive Plan, you need to get this non-conforming use sorted out. Take a good look at it. The court case doesn't say he should not expand in the future.

Michelle Wietek asked Carl Besola if he has seen the conditions proposed and are these conditions livable for you? 1) She is concerned that they are not conditions that he would be able to live with. 2) It's going to be an ongoing battle with Besola being in compliance like Waselesky. Our actions in granting a Class

A and expansion would put us in legal straights. We should check on the implications of our decision before we go ahead.

Carl Besola said #1 is unacceptable and also he feels #10 is unnecessary and a hardship due to the cost of installing test wells. It would create undo hardship for me to have it tested professionally. Why can't he just test the ground water it from his sink? He is fine with keeping the appearance neat and clean and organized and fine with #8 and #6 if he can park his bulldozer. He lives on US 41 and there is lots of traffic from Little Lake, Ortman Road and Surrey Lane. There is lots of traffic entering 41. He thinks #4 is just a repeat. He has the 100' buffer zone. The 24 hour notice, he can live with that, but would rather not.

Michele Wietek said if she was enforcing these conditions she would be looking for a well driven well for ground water sampling looking for contamination from the fuel storage 15' deep maybe with the river there. There are issues with the indoor storage, as everything will not fit in the building.

Michelle Wietek said the board has been exceedingly quiet at this meeting. She would like table this issue to make sure we are not stepping on the court case in making any decisions on this and to give Carl a chance to look at the requirements and maybe talk with Randy on what precisely would be acceptable to keep outside and what would go inside, things like that. Then we can better gauge what benefit the township would see from granting this. We will check on the adequacy of the site plan to make sure we are not in violation of any definitions.

Carl Besola asked if instead of forcing the water testing on him, if he could dig a hole to test the ground water. It would only cost him \$5 for the fuel.

Michele Wietek he can negotiate while this is being tabled unless the board has an objection.

Dan Maki noted that process with the backhoe may contaminate the groundwater, it might hurt Besola to do that.

Michele Wietek said there are issues with that form of sampling. She can meet with Carl Besola and Randy on getting the cheapest groundwater sampling.

Motion by Michelle Wietek, supported by Albert Denton to table this issue until the next meeting so they can consult with the Township Attorney on the impact of our decision on the court case so we have the opportunity to research what is required for a site plan and so that Mr. Carl Besola has a chance to consider conditions he would be willing to comply with in terms of improvement to the condition of the property with regards to the new garage. The conditions will be negotiable within the coming month to be set if we make a decision in favor of the new garage next month. 5 Aye, 0 Nay. Motion accepted.

X Appoint ZBA Chair for 2007

Randy Yelle suggested to re-appoint Michelle to chair. Michelle said is expecting a child in March and it may impact her sanity, sleep and ability to attend all the meetings. She suggested the appointment of Joy Verlinden since she was once the chair in Sands Township. Since Joy was not present, they decided to wait to have Joy's approval.

Motion by Michelle Wietek supported by Carol Hicks to table the issue pending the potential replacement of chair being present at the next meeting so we can have her input on her acceptance or denial of the position. 5 Aye, 0 Nay. Motion accepted.

XI Appoint Secretary for 2007

Carol Hicks said it has been great when someone helps out. I will be willing to do it again; sign the book.

Motion by Dan Maki supported by Albert Denton to reappoint Carol Hicks as Zoning Board of Appeals secretary for 2007. 5 Aye 5, 0 Nay. Motion accepted.

XII. PUBLIC COMMENT – None

XIII. BOARD MEMBER COMMENT

Dan Maki reported it was a short meeting last month. They gave a 30 day extension for Ewing Pines.

XIV. PLANNING COMMISSIONER MEMBER COMMENT

Al Denton reported that they gave approval for the multi-family unit construction on Main Street and US 41 pending Health Department approval and permits from MDOT as they did not get permits in on time.

XV. INFORMATIONAL REPORTS AND COMMUNICATIONS

Randy Yelle received a fax from Mark Maki.

XVI. ADJOURNMENT

Michele Wietek adjourned the meeting at 8:44

Carol Hicks, Secretary

Cathy Phelps (from recorder and notes)

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS

October 26, 2006 7:30pm

(Not approved until 3-22-07)

I. MEETING CALLED TO ORDER

Meeting called to order by Michelle Wietek at 7:30 pm

II. ROLL CALL

Present: Michelle Wietek, Albert Denton, Dan Maki, Joy Verlinden, and Carol Hicks

Absent: Lois Sherbinow

Staff Present: Randy Yelle (Zoning Administrator) and Rebecca Stachewicz (Recording Secretary)

III. APPROVAL OF MINUTES OF THE SEPTEMBER 28, 2006 MEETING

Ms. Wietek noted several changes that need to be made from the 9-28-06 minutes. She said she would give Mr. Yelle her notes so it can properly be done.

Dan Maki motioned to approve the minutes from 9-28-06 with said changes; Al Denton seconded. Ayes 5, Nays 0. Motion approved.

IV. APPROVAL OF AGENDA

Al Denton motioned to approve agenda; Dan Maki seconded. Ayes 5, Nays 0.

V. PUBLIC COMMENT

None.

VI. UNFINISHED BUSINESS

A. Class A Request 06-04, The Besola Property

Mr. Yelle said this has been done before, requiring or allowing property owners to build a garage or a pole barn to house equipment that would otherwise be left out.

Mr. Hicks said he saw the Township attorney's (Mike Summers) one word response, "No," and he was hoping for something more, a full written explanation, like they have seen in previous cases. (A copy of the email dated Oct. 11, 2006 was in the packet).

Ms. Wietek asked Mr. Hicks if his issue with the one word response would it keep him from making a decision tonight? Mr. Hicks stated that he felt he could still make a decision.

Ms. Wietek asked Mr. Yelle if he talked to Carl and Dan Besola at all regarding the conditions.

Mr. Yelle, yes, I did go through the conditions with Dan Besola last Monday.

Dan Besola, present at the meeting, said he talked to Mr. Yelle the other day, and did look at the conditions and they are "pretty much" acceptable.

Mr. Yelle said Carl Besola is willing to put in a test well as long as he can put in a point well to get ground water.

Ms. Wietek asked about the well casing. Dan Besola said it would be similar to his house's well, 2 inch, galvanized, sticking up with a cap.

Ms. Wietek said they would have to make sure the auger is clean without any oil on it, to prevent contamination. She said they would also have to make the well open to sampling which costs several hundred of dollars.

Dan Besola asked if the testing would be required annually.

Mr. Yelle said he would expect it would be done yearly.

Ms. Wietek said she didn't think that more than once a year would be necessary.

Mr. Denton said, with all the restrictions and conditions the site would be an improvement, over what it is now, but that the Township would have to check up and visit the property regularly.

Ms. Wietek asked if Carl Besola would be able to meet condition #4, "No outside storage of fuel, oil, batteries, or non-licensed and/or non-road ready vehicle/s, trailer/s, machinery, or equipment."

Dan Besola said he didn't think they could fit all of what they have at this point in the proposed storage garage.

Ms. Wietek asked if he plans on keeping all the vehicles that they currently have.

Dan Besola said they plan on getting rid of a few, but not all. He said he didn't see adding any more in the future.

Ms. Wietek went through the proposed conditions with Dan Besola. She asked if 60 x 40 is in line with what he was thinking in dimensions. Dan Besola stated it is.

Dan Besola also agreed that a 100-foot pine buffer would be OK and they would plant trees if necessary. He stated condition #3 will be fine, will not have a problem complying with ordinances, and #5 will be fine also, there will not be any increase in traffic. He stated that the proposed building will be storage and repair structure, so they won't have to do repairs outside, like they do now.

Ms. Verlinden asked if the non-licensed and/or non-road ready vehicles referred to in condition #4 were subject to the judgment that was issued by the district court previously on this property.

Ms. Wietek said she believed that the judgment found the property was grandfathered in.

Mr. Yelle said he would have to look at the court order to find out what vehicles were directly involved.

Mr. Yelle went over the contractor equipment and vehicles that were there during the judgement and what is there now.

Mr. Hicks asked if some are antique or on the verge of being antiques. Dan Besola stated they have 1934 model A with historical plates, a 1954 school bus, and a 1954 F600 truck. He stated that they also have at least 4

vehicles on the property that are unlicensed, one car is being worked on, and also some septic piping.

Dan Besola said a few vehicles are visible from the highway now, and if they moved them in the back where they are out of site, it's a problem, with vandalism, including windows getting broken.

Mr. Yelle explained Ordinance #55 in reference to condition #6. He said a person is allowed to have something for sale for 30 days in one spot and then it has to be moved. He said 1 unlicensed hobby vehicle is allowed, 1 plow vehicle is allowed, but they have to be out of site during the non-season. He said a stock car could be parked out front only during the racing season.

Mr. Yelle said that whatever vehicles they have on the property that are non-fixable should be removed, and he said he talked to them about that already, with the understanding from Carl that they would be removed from the property.

Dan Besola said there will not be any issues removing waste (condition #7) and condition #8 is fine also, but Ms. Wietek said she would like "Federal regulations" to be added to it.

In reference to condition #9, Dan Besola said he doesn't foresee a problem cleaning up the property, but it can't be done overnight.

In reference to condition #10, Ms. Wietek said that they should add that the sifter should be moved, as far away from neighboring dwellings as possible, and that they will operate in a manner to minimize disturbance.

Dan Besola said condition #11 wouldn't be a problem; the Township officials can come by any time.

In reference to the previous court case / judgement, Ms. Verlinden said she had mostly looked at what was complained of in the trial brief and with regard to the conditions; she would possibly have an issue with condition #4.

Ms. Verlinden asked Dan Besola if he stored fuel outside.

Dan Besola said, yes, a 500 gal tank and a 100 gal movable tank on a truck.

Ms. Verlinden asked, is there oil being stored outside?

Dan Besola said that they have some inside, not outside.

Ms. Verlinden asked if they had batteries outside?

Dan Besola said they have 1 left, that they just got rid of some.

Ms. Wietek said that last meeting (September 2006) there were 8 batteries on the property, a 500-gallon fuel tank and 1 pick-up fuel tank

Dan Besola said that they buy fuel in bulk and then hang on to it because it is cheaper that way.

Ms. Verlinden said, it is her opinion, said that she would be hard pressed to require #4 because it was contested before and lost in court. She also wondered if we were going to give a time frame on these conditions particularly with regard to the time of year the water testing would be

performed and how long Carl Besola would have to bring the property into compliance.

Mr. Denton said he thought they would have to give the Besola's at least 1 year to meet the conditions. He asked if Oct. 31, 2007 would be acceptable? Dan Besola said "yes."

Ms. Wietek asked if condition #4 should be changed to say, "not increase in non-licensed and/or non-road ready vehicles."

Dan Besola asked if they could just keep the non-licensed vehicles out of site? He said he has some of them run fine but they just don't use them. He said they switch them out, license it and run it for a while, and then license a different one.

Ms. Wietek asked how many licensed vehicles are currently on the site.

Dan Besola said that there are 12-15 at the moment.

Ms. Wietek asked how many unlicensed vehicles are there.

Dan Besola said, "10-15, or maybe 20." He said he isn't really sure they are all scattered. It was asked if that number included trailers. He said yes.

It was reiterated that there are four Besola brothers that all have stuff on the property.

Mr. Hicks said he had questions regarding condition #1 and the size of the proposed building. He said this is zoned R1, and this will be a detached accessory building, which will be bigger than the house.

Mr. Yelle said the requested structure would need zoning board of appeals action, our attorney agrees, that it may be in the best interest for the Township to allow this, because it should help clean up the property.

Dan Maki said, the residential property doesn't come into play in this situation, because the business is grandfathered in as a contractor's yard.

Mr. Hicks said he just doesn't want to set precedence for someone else to come in the future and want to build a garage building larger than their house.

Mr. Denton said all the neighbors support this, which is good.

Mr. Yelle said that under the grandfather cause, Carl Besola can replace and/or upgrade the contractor equipment, but may not add to the numbers.

Mr. Denton said they would like them to do what they want as long as they don't create a junkyard or harm quality of life or decrease property values.

Dan Maki said he though condition #4 was unrealistic.

Ms. Wietek said they would have to alter #4 or divide it into two parts.

Mr. Hicks asked if this is conducted as a business, he sees nothing that addresses signage.

Mr. Yelle said there was one sign posted, it has been taken down. Mr. Yelle said any sign requested under the Class A Classification, would come to the board.

Mr. Hicks suggested adding right now about the signage.

Dan Besola said he doesn't have a problem with no signs, it is his brother's business and he would not speak for him.

Ms. Wietek said that she thought that maybe his brother, Carl Besola, should be present to go through the conditions.

Ms. Verlinden asked if Dan Besola is a partner, shareholder, or allowed to make decisions for the business. Dan Besola said "No." He also said that the business doesn't lease the property; the business just takes place there. He can't bind business decisions, but he can bind the property decisions.

Mr. Yelle said that Carl Besola is aware of all the conditions. He said they went through them together.

Dan Maki said, they can approve the conditions without Carl Besola being present, and if Carl doesn't agree with them, he just can't build the building.

Ms. Verlinden asked if the brothers are in the area.

Dan Besola said Carl is here, one is in New Mexico, and one is in Bark River.

Mr. Hicks said, we can make the decision and Carl can come in and sign a document saying that he agrees with it.

Ms. Verlinden said she agrees with Dan Maki, that if Carl doesn't agree, he just doesn't build.

Mr. Yelle said they could always pull the Class A Classification, using the same procurer that it was granted under.

Dan Maki suggested putting the proposed height of the building (24 feet) into condition #1.

Dan Besola asked if his brother's (Carl) truck with the movable storage tank would be a problem. Ms Wietek stated for the record, that it was not the boards' intent to require the small mobile tank be stored indoors. She asked the board if they had any concerns, there was none.

Ms. Wietek asked Mr. Yelle to do inventory of what is there now so they what to compare any changes to. Mr. Yelle said he would.

Motion by Joy Verlinden, Seconded by Al Denton.

To grant a Class A Classification Request #06-04, located at 6262 US 41 South, parcel #52-02-117-035-00, known as Besola Contracting, with the following conditions:

- 1) Construct one (1) 60 foot deep by 40 foot wide by 24 foot high structure for the purpose of servicing and storage of Besola contracting equipment and supplies, as located within the Site Plan.
- 2) No less than a 100 ft natural pine tree buffer, surrounding said property, some additional planting may be required; and
- 3) Must comply with all Township, County, State, and Federal laws and ordinances, including but not limited to the noise ordinance; and
- 4) No outside storage of fuel (not including one (1) 100 gallon mobile unit), oil, or batteries; and

- 5) No additional vehicle/s, trailer/s, machinery equipment, and
- 6) No noticeable increase in traffic, truck, car, equipment, etc; and
- 7) No outside display of items or material for lease, rent or sale, other than allowed by the Chocolay Township Ordinance #55; and
- 8) Any and all waste shall be disposed of immediately and properly; and
- 9) Any and all above and/or underground storage tanks shall comply with all Township, County, State, and Federal regulations
- 10) Appearance shall be neat, clean and organized in a manner that will not negatively effect the property values of the surrounding properties; and
- 11) No less than one (1) dedicated ground water testing well shall be installed by the property owner at a location upon said property agreed to by the property owner and the Township. It will be made of 2-inch galvanized material, with a locking cap and be tested annually. Water samples will be drawn with the property owner and a representative of the Township with required testing performed yearly, at the owners expense, with a copy of the results forwarded to the Township; and
- 12) Relocate or remove from site the sifter and operate so as not to cause a nuisance and or annoyance to the surrounding neighbors, and sifter operation, must comply with the Townships Noise Ordinance; and
- 13) No non-residential signage allowed; and
- 14) All conditions shall be met by October 31, 2007; and
- 15) With a 24-hour notice, the Chocolay Township Zoning Administrator and/or Ordinance Enforcement Officer may inspect site for compliance.

Aye 5; Nay 0. Motion approved.

Ms. Wietek asked Mr. Yelle if he would provide the Besola's with something in writing, so that they would be aware of the issues. Mr. Yelle said, "yes."

The date of entry form was signed.

B. Appoint ZBA Chair for 2007

Motion by Al Denton, Seconded by Dan Maki.

To re-appoint Michelle Wietek as Zoning Board of Appeals chair for the upcoming 2007 year.

Aye 5, Nay 0. Motion approved.

VII. NEW BUSINESS

A. Appoint ZBA Alternate Chair for 2007

Motion by Al Denton, Seconded by Michelle Wietek.

To appoint Joy Verlinden as Zoning Board of Appeals alternate chair for the upcoming year of 2007.

Aye 5, Nay 0. Motion approved.

Joy Verlinden departed the meeting early for personal reasons.

B. 2007 Meeting dates.

Ms. Wietek said they look good.

Motion by, Dan Maki Seconded by, Al Denton.

4 Aye, Nay 0 Motion approved.

VIII. PUBLIC COMMENT

No public present.

IX. TOWNSHIP BOARD MEMBERS' COMMENT

Dan Maki said that at their Oct. 16 meeting they approved the final plans for the Bayou Court Subdivision Plans, and that the Elderwood/ Ewing Subdivision plans were granted a 30-day extension.

PLANNING COMMISSIONER MEMBERS' COMMENT.

Mr. Denton said they are trying to deal with the English property on Kawbawgam Road. He said it was a full meeting last month and expects the same at the next meeting on November 6. He stated that everyone in attendance was against the development because of the water issues.

X. ADJOURNMENT

Ms. Wietek adjourned meeting at 8:45 pm.

Carol Hicks, Secretary

Laurie Eagle, Recording Secretary

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS
Thursday, March 22, 2007 @ 7:30 PM

I. MEETING CALLED TO ORDER

Meeting called to order by Joy Verlinden at 7:40 PM

II. ROLL CALL

Present: Albert Denton, Dan Maki, Joy Verlinden, Carol Hicks,

Absent: Michelle Wietek, Lois Sherbinow

Staff Present: Randy Yelle (Zoning Administrator) and Laurie Vashaw-Eagle
(Recording Secretary)

III. APPROVAL OF MINUTES OF THE OCTOBER 26, 2006 MEETING

Dan Maki motioned to approve the minutes from 10-26-06 Al Denton seconded.
Ayes 4, Nays 0. Motion approved.

IV. APPROVAL OF AGENDA

Dan Maki motioned to approve the agenda; Al Denton seconded.
Ayes 4 Nays 0

V. OPEN PUBLIC HEARING

1. Chair of Zoning Administrator Comments

Variance Request #07-01

Mr. Eric Keough, 111 Autumn Trail, on Parcel #52-02-251-027-00, Lot #27 Zoned R-3, with a pre-existing lot size of 50 feet by 150 feet deep, fronted on Terrace Street, Village of Harvey, Township of Chocolay, County of Marquette, Michigan.

Requesting 5 foot side setback variances on each side of proposed structure, as Section 300 of Chocolay Township Zoning Ordinance requires a 10 foot setback on each side of said dwelling. (If the proposed change to the ordinance, as related to the Village of Harvey, is adopted, the required side setback within the R-2 district will be 5 feet. Although, I will not recommend granting a variance on the grounds that it may be legal in the future.) The proposed dwelling size is 40 feet by 52 feet deep, granted this is a nice size dwelling, although we do have many

dwellings within our township of a lesser size. Mr. Keough could keep the depth of 52 feet and bring the width to 30 feet, therefore not requiring a variance to develop said parcel. I do not see the practical difficulties as addressed within Section 604 (7) and (8) of Act 110 of 2006. (Michigan Zoning Enabling Act)

Mr. Yelle reported that Mr. Keough had not provided him with additional information regarding the variance so it could be posted 15 days prior to the meeting for public review. Mr. Yelle asked if this should be tabled until the next meeting so the additional information could be posted for public review and revisited at the next meeting. The committee members in attendance felt this was not necessary.

Mr. Yelle also asked Mr. Keough if he wanted to pull his variance request and be reimbursed the money already paid except for the advertisement costs for the variance request. Mr. Keough declined.

Mr. Yelle informed Mr. Keough that he could appeal his decision, but Mr. Keough did not ask to appeal.

Public Input “Support”

There were no public comments

Public Input “Opposed”

There were no public comments.

Public comment closed.

Variance 07-02 (Moyle Development LLC, signage on proposed mall)

McDonalds is requesting a variance from the Chocolay Township Zoning Ordinance, Sections 800 through 805, to allow for multiple signage as indicated within the site plan.

1. One large pole sign (McDonald’s Restaurant) with a changeable reader board sign under, (width is 14 feet 2 inches with the total height not indicated), and;
2. Three enter/exit large signs; one off of US 41, M-28 and within the parking area, (5+/- feet by 2 +/- feet, each) and;
3. Two changeable reader signs; one off of US 41 in front of the Holiday Service Station and one off of M-28, (13 feet by 15 feet each), and;
4. One large sign on each unit of the mall. (3 feet 6 inches by 19 feet 2 inches, and/or 3 feet 7 inches by 15 feet), and;

5. One large sign located about in the center of said mall (Harvey Retail Center) 23 feet by 2 feet 5 inches, and;
6. Not all of the requested located within the property, therefore, would be considered off-premises signs and some signs are within and/or too close to the right-of-way/lot lines.

Section 804 states, as in a shopping center, an additional two square feet of sign area for each ten feet or fraction of street frontage, with a maximum to 200, is permitted only for signs advertising the premises. On-premise signs shall be located so that no portion of the sign area is within five (5) feet of the front lot line. Sign as shall be subject to the other height and set-back rules applicable to building in the zoning district where located. (C-2)

I feel that the requested sizes of all signs are excessive; for example the ingress/egress McDonald's signs that I have seen elsewhere are no larger than 1 by 2 feet and about 30 inches high. (Wisconsin, south Marinette off US 41 and in Marquette across from Burger King)

The requester gives a total project signage requested of 983 sq. ft. (I don't believe this includes the three ingress/egress signs)

I don't believe we should be granting any variances without written approval from the property owners and right-of-way/easement holders without written approval in the Townships department files.

- a. Enter/exit (B3 signs (3) two are requested within the right-of-way and not on the property owner's parcel, the requested size is 3 feet wide by 5 feet high. Note the amended request received February 26, 2007 gives three welcome signs.
 - 1) Arches on top, 3 feet wide by 5 feet 1 ½ inches high
 - 2) Arches within sign, 3 feet wide by 3 feet 3 inches high
 - 3) No arches, 3 feet wide by 3 feet 3 inches.

The enter/exit signs within the photo from the Marquette McDonalds, the sign to the east is about 30 inches high, with the sign itself being about a foot high and about 2 feet wide, as are the ones I saw in Wisconsin on my way to Green Bay. I will not give a proposed motion regarding this request.

Brian Salvolainen, Moyle Development, explained the site plan pertaining to the signage. Mr. Salvolainen reported that Moyle Development is working with the State of Michigan to get variance approval for the ingress/egress signs that are in the right-of-way. Mr. Salvolainen also reported that Togo's has agreed to an easement of 30 feet

so Moyle Development can put through a frontage road, but Holiday Station has not agreed to the frontage road. The State of Michigan is working with them regarding this. For the time being the existing drive will be used.

Togo's also agreed to take down the signs they presently have and their name put at the top of the locator sign. Mr. Salvolainen also said that McDonalds has agreed to the height requirements for the pole sign to comply with the zoning ordinance in Chocolay Township. Carol Hicks questioned the footage request as his figures came to 600 square feet rather than 983 feet requested. Brian Salvolainen from Moyle Development explained that the 983 feet request includes the Togo's Building, as the Togo's sign will be taken down and incorporated into the main sign.

Zoning Board of Appeals, Zoning Administrator and Mr. Salvolainen discussed the lighting of the signage, with everyone understanding and agreeing that there shall be no flashing, rotating, scrolling, or strobe type lighting within the project, all lighting shall be internally illuminated.

Public Input "Support"

Mr. Eric Keough expressed his support for the McDonald's project.

Public Input "Opposed"

There were no public comments.

Public hearing closed.

VI. BOARD ACTION ON VARIANCES

a) Variance #07-01

The following is my recommendation in the form of a motion:

Motion by Dan Maki, Seconded by Al Denton

Finding no existing practical difficulties and
Whereas, a 30 foot wide single-family dwelling may be constructed without any Variance(s) required, and
Whereas, the request is for a single-family dwelling, and
Whereas, there are a reasonable number of nice 24 foot wide single-family two and three bedroom dwellings in the area.
Whereas 2 houses cannot be put on 1 lot, parcel number 52-02-251-027-00 the Variance request number 07-01 is denied.

Yeas 4, Nays 0. Motion carried.

b) Variance #07-02

The following is a recommendation made in the form of a motion:

Motion by Al Denton, Seconded by Carol Hicks

Approve variance request number 07-02 as per the site plan addressing signs with the following conditions:

1. No signs can have flashing lights, rotating lights, or blinking lights, and
2. Any and all signage not located within the lot lines of said property shall have approved documentation from the surrounding property and right-of-way/easement owner/s with copies located in Chocolay Township's zoning and planning files, and
3. The approved exit, entrance and directional signs (three in total) shall be the #70-5M and presented by Moyle Development, and
4. The existing outside signs addressing business located within the existing building, housing Togo's will be removed, and shall become included within the approved 983 square footage of variance 07-02, and
5. The race track, viewing stand and fence shall be removed and disposed of, and
6. Any and all lighting and unaddressed items/activities shall be in compliance with the Chocolay Township Zoning Ordinance.

Ayes 4, Nays 0. Motion passed.

VII. PUBLIC COMMENT

There was no public comment.

VIII. UNFINISHED BUSINESS

There was no unfinished business to address.

IX. NEW BUSINESS

There was no new business to address.

X. PUBLIC COMMENT

There was no public comment.

**XI. TOWNSHIP BOARD MEMBERS' COMMENT (Dan Maki)
PLANNING COMMISSIONER MEMBERS' COMMENT (Albert Denton)**

Dan Maki reported that he had no comments at this time.

Al Denton reported that the Planning Commission continues to address the Dr. English Housing Project located on M-28 by Kawbawgam Road.

Carol Hicks reported that he, Joy Velinden, and Randy Yelle attended a Zoning Board Administrative Training Session to define side yard variance Request and use variance.

XII. ADJOURNMENT

As there was no further business to discuss, Al Denton motioned, Carol Hicks seconded to adjourn the meeting. The meeting adjourned at 9:00 PM.

Approved June 28, 2007
R.L. Yelle

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS
Thursday, June 28, 2007 @ 7:30 PM
Meeting Minutes

DRAFT

I. MEETING CALLED TO ORDER

Meeting called to order by Michelle Wietek at 7:35 PM

II. ROLL CALL

Present: Michelle Wietek, Chairperson, Albert Denton, Dan Maki,
Carol Hicks, Lois Sherbinow

Absent: Joy Verlinden

Staff Present: Randy Yelle (Zoning Administrator) and Laurie Vashaw-Eagle
(Recording Secretary)

III. APPROVAL OF MINUTES OF THE MARCH 22, 2007 MEETING

Michelle Wietek noted there is no indication within the minutes that there was any Discussion, regarding lighting, that discussion should be included in the meeting minutes.

Albert Denton motioned to approve the minutes from 3-22-07 with the lighting Discussion, included in the March meeting minutes. Dan Maki supported.
Ayes 5, Nays 0. Motion approved.

IV. APPROVAL OF AGENDA

Dan Maki motioned to approve the agenda; Al Denton seconded.
Ayes 5 Nays 0

V. OPEN PUBLIC HEARING

Variance Request #07-03

Randy Yelle reported that Mr. Denis Kallery, 101 County Road BX, on Parcel #52-02-122-025-10, Zoned RR2, Township of Chocolay, County of Marquette, Michigan, is requesting a 25 foot setback variance from Section 300 of the Chocolay Township Zoning Ordinance, which requires a 30 foot setback on all sides of said dwelling.

The parcel is zoned RR-2, 9+/-acres, although there are 9 acres, the building site is very small. To the north-north/east of the home, the property drops off rather quickly, to the east of the home. To the north of the requested building site are the drain field and the back-up field area. To the west of the home is the well, therefore, the addressed areas are considered unreasonable building terrain.

The requested 25 foot variance is from the right-of-way of County Road BX, as the property line is south of BX, (County Road BX's right-of-way lies within Mr. Kallery's parcel), as you all know. I do not believe that a garage in the Upper Peninsula is a luxury, but a necessity. County Road BX is a seasonal road, therefore, requires a signed seasonal road agreement, removing any and all responsibility from Chocolay Township and Marquette County regarding services.

Randy Yelle reported that he met with Marquette County Road Commissioner (Mr. Kurt Taavola) in regards to the easement of BX regarding the long time existing fence. (The McNitt Act of 1932) as being the measuring point and not the easement. Mr. Taavola agreed and pulled up the driveway permit issued by Marquette County in April of 1999 using the fence as the right-of-way point. Mr. Taavola also stated that there is no long-term plan of the County to every upgrade this seasonal road, and in 1999 issued Mr. Kallery approval to remove the hill and upgrade said seasonal road, with Mr. Kallery accepting all costs, plowing, upkeep, grading, etc.

Mr. Taavola agrees that the setback should be from the fence line. In this case, the Marquette County issued a Zoning Compliance Permit (June of 1999) on a height variance, using the fence as the line.

If this accessory structure was to be located within the Townships R-1, 2, 3, or 4 zoned districts, it may be located 6 foot from the lot line.

Randy Yelle believes there is a practical difficulty as addressed within Section 604 (7) and (8) of Act 110 of 2006. (Michigan Zoning Enabling Act).

Carol Hicks made a motion and seconded by Dan Maki to approve Mr. Denis Kallery's variance request by finding the existence of practical difficulties, not caused by Mr. Kallery, and in lieu of the placement of the easement passing through said property and taking away some 30 feet of the only feasible building site, and the lay of the property including a steep drop and wet lands, and the main dwelling was approved on this area, and using the existing fence line as the setback point in 1999 by the Township of Chocolay and County Road Commission of Marquette Michigan, and with the septic system and drain field to the east of said dwelling and just north of the request structure, therefore, the requested building site would be the only feasible building site, therefore, Variance Request #07-03 is hereby granted, with the condition that said structure shall be located a minimum of six (6) feet from the fence/property line. Ayes 5, Nay 0. Motion passed.

VI. PUBLIC COMMENT

There was no public comment.

VII. UNFINISHED BUSINESS

There was no unfinished business to address at this time.

VIII. NEW BUSINESS

There was no new business to address at this time.

IX. PUBLIC COMMENT

There was no public comment.

**X. TOWNSHIP BOARD MEMBERS' COMMENT (Dan Maki)
PLANNING COMMISSIONER MEMBERS' COMMENT (Albert Denton)**

Dan Maki reported that the Township Board approved at their June 18, 2007 meeting a Public Hearing for the Superior Pines Condominium Project to be held on Monday, July 16th at 7:00 PM to consider rezoning request #139. Mr. Maki encouraged everyone to attend this meeting.

Albert Denton reported that the Planning Commission held a special meeting on Monday, June 25, 2007 to work on revisions to the Zoning Ordinance. It is the hope of the Planning Commission to present the Final Draft of the Zoning Ordinance to the Board in July or August and then schedule a Public Hearing following the Township Board approval.

XI. ADJOURNMENT

As there was no further business to discuss, Al Denton motioned, Dan Maki Seconded to adjourn the meeting. The meeting adjourned at 8:10 PM.

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS

Thursday, August 23, 2007 @ 7:30 PM

I. MEETING CALLED TO ORDER

Meeting called to order by Michelle Wietek, Chairperson at 7:30 PM

II. ROLL CALL

Present: Michelle Wietek, Albert Denton, Dan Maki, Lois Sherbinow

Absent: Joy Verlinden, Carol Hicks

Staff Present: Randy Yelle (Zoning Administrator) and Laurie Vashaw-Eagle (Recording Secretary)

III. APPROVAL OF MINUTES OF THE JUNE 28, 2007 MEETING

Al Denton motioned to approve the minutes from 6-28-07 and Lois Sherbinow, seconded.

Ayes 4. Nays 0. Motion approved.

IV. APPROVAL OF AGENDA

Michelle Wietek motioned to approve the agenda for the 8-23-07 meeting, and Dan Maki, seconded.

Ayes 4. Nays 0. Motion approved.

V. OPEN PUBLIC HEARING

1. Chair of Zoning Administrator Comments

Variance Request #70-04

Variance Request #07-04 from Mr. Gerald H. O'Jibway, 161 Lakewood Lane on Parcel #52-02-204-025-00, Zoned R-1, Township of Chocolay, County of Marquette, Michigan, Section 6-T47N-R24W.

Requesting 2-foot setback variance from Section 300 of the Chocolay Township Zoning Ordinance, which requires a 6-foot setback on all sides of said dwelling. (14-foot Peak, 320 square foot). (Section 300 footnotes B-A detached accessory building not exceeding 14 feet in height and not exceeding 720 square feet may be located within six (6) feet of the side lot line and 20 feet from the rear lot line).

This parcel is zoned R-1, the location chosen would appear to be the most logical location for said storage structure, whereas, it cannot be constructed between the house and the lake, the proposed structure cannot be moved forward because of the location of the drain field. The northeast corner of the proposed structure is located four (4) feet from the lot line, and because of the angle of said lot, the distance from the lot line increases quickly to the point that the southeast corner of the proposed structure is ten feet six inches (10' 6") from the lot line.

Options were discussion with the O'Jibways such as:

1. Downsizing the width from sixteen (16) to fourteen (14 foot),
 - a. They wanted a larger structure, but have already downsized to this size, and really did not want to go any smaller.
2. Moving the proposed structure closer to the main structure,
 - a. They would like not to reduce the requested area between said structures for access to the lakeside of the parcel.

Whereas, said parcel is angled and the existing location of the drain field, house, and drive, you may consider this to be a practical difficulty.

Some examples of practical difficulty may be:

1. Unique circumstances applying to the property;
2. Need for variance was not self-created;
3. Not general or recurrent in nature.

Common incorrect reasons to grant a variance:

1. No one came to object;
2. The ordinance is too strict;
3. We gave this variance before;
4. We have to give it to them or they may leave;
5. It is only a small variance.

I'm not in favor of granting a variance for convenience, and in this request there are options that would allow for a reasonable size storage structure, without requiring a variance. In my opinion, the most reasonable option would be to build a storage structure being a 20' x 14' = 280 sq. ft. as opposed to a 20' x 16' = 320 sq. ft. The difference being 40 sq. ft.; (the area of a 4' x 8' sheet of plywood is 32 sq. ft.), therefore, we are looking at an area in this request 2 foot by 20 foot.

Mr. and Mrs. Gerald O'Jibway, 161 Lakewood Lane – Thanked Al Denton and Randy Yelle for taking the time to come and view their property. Mr. and Mrs. O'Jibway presented their reasoning for #07-04 Variance Request for a 2 foot setback from the Township Ordinance requirement of 6 foot, to construct a storage structure 4 foot from said property line, Parcel #52-02-204-025-00. Ms. O'Jibway explained that said property is located on the lake and some of the lot lines are on an angle, which, in her opinion, is creating a problem for them in regards to building said structure. Mr. and Mrs. Gerald O'Jibway explained that they have looked at various options for placement of this storage structure on the property with Carol Hicks and a contractor. They would like to build the structure closer to their house so they could store their snow blower, lawn mower and possibly a vehicle in closer proximity to the house. The location of the drain field and the gas lines are also making this more difficult. Mr. and Mrs. O'Jibway feel that the area of the property that they would like to build the structure on is the most practical and are requesting a 2-foot variance.

Al Denton suggested reducing the size of the structure by 2 feet. He also stated that he sees no practical difficulty.

Michelle Wietek said that she doesn't see a practical difficulty either as there are other options on the property for this size structure to be built.

Dan Maki disagreed stating that the this property has a unique property line, the current neighbor having no problems with the structure being located there, and the distance averaging there appears to be a practical difficulty in his opinion.

Several possible options where discussed:

The presentation and discussion concluded and the following recommendation was made in the form of a motion:

Al Denton motioned, seconded by Michelle Wietek that finding no non-self created practical difficulty and finding reasonable options that would not require a variance from the Chocolay Township Zoning Ordinance, including building a 20' x 14' as opposed to a 20' x 16' structure, or repositioning the proposed structure. Therefore Variance Request #07-04 is denied.

Ayes 3. Nays 1. Motioned approved.

Public Input "Support"

There was no public present.

Public Input "Opposed"

There was no public present.

Public Hearing closed. 8:00 PM

VI. PUBLIC COMMENT
There was no public present.

VII. UNFINISHED BUSINESS
There was no unfinished business to address.

VIII. NEW BUSINESS
There was no new business to address.

IX. PUBLIC COMMENT
There was no public comment.

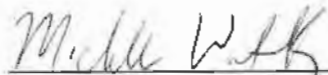
**X. TOWNSHIP BOARD MEMBERS' COMMENT (Dan Maki)
PLANNING COMMISSIONER MEMBERS' COMMENT (Albert Denton)**

Dan Maki reported that on 7/16/07 the Township Board held a Public Hearing for Dr. English's Superior Pines Condominium Project request. The Township Board agreed with the Planning Commission's decision and denied the request as presented largely due to the density issues.

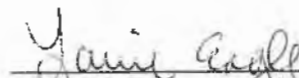
Al Denton reported that the Planning Commission continues to work on the final draft of the Zoning Ordinance. Many typographical errors were found and are being corrected. Mr. Denton also reported that there are some significant changes to the Zoning Ordinance such as a fence ordinance, non-seasonal dwellings will need a 66-foot easement, access roads and the elimination of private roads, etc.

XI. ADJOURNMENT
As there was no further business to discuss, Dan Maki motioned, Michelle Wietek seconded to adjourn the meeting.

The meeting adjourned at 8:10 PM.



Michele Wietek, Chair



Laurie Eagle, Recording Secretary

**CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS
SPECIAL MEETING
Thursday, October 4, 2007 @ 7:30 PM**

I. MEETING CALLED TO ORDER

Meeting called to order by Michelle Wietek, Chairperson at 7:30 PM

II. ROLL CALL

Present: Michelle Wietek, Albert Denton, Lois Sherbinow, Karen Alholm

Absent: Dan Maki

Staff Present: Randy Yelle (Zoning Administrator), Michael Summers, (Township Attorney), Laurie Washaw-Eagle (Recording Secretary)

III. APPROVAL OF MINUTES OF THE AUGUST 23, 2007 MEETING

Lois Sherbinow motioned to approve the minutes with no changes from 8-23-07, Albert Denton, seconded.

Ayes 4. Nays 0. Motion approved.

IV. APPROVAL OF AGENDA

Albert Denton motioned to approve the agenda for the 10-4-07 special meeting, Karen Alholm, seconded the motion.

Ayes 4. Nays 0. Motion approved.

V. OPEN PUBLIC HEARING

1. Chair of Zoning Administrator Comments

Special Meeting Appeal #70-01

This special meeting is being requested by Mr. and Mrs. Nelson Gencheff to review and make an interpretation on Randy Yelle's determination as to the natural grade prior to construction at the building site located at 601 Lakewood Lane (Deanna & Robert Pozega). (Zoning Compliance Permit #2006-99).

When Randy Yelle, Zoning Administrator, was informed of the construction, and was on site, the actual peak height was 38 +/- feet, with an average height of 29 +/- feet, therefore give an average of well over the required 30 foot average peak height. Mr. Yelle took on-site measurements September 7, 2007 with the following results; peak height of 32 feet 4 inches and an eve height of 27 feet 6 inches, giving an average peak height of 30 feet. No other measurements were taken, even though there are other lower peaks attached to the roof.

The permit was approved in November of 2006 and construction started sometime in the Spring of 2007. Mr. Yelle was not notified prior to ground breaking. After visiting the parcel and looking over the provided photos, and considering the information available at that time, Mr. Yelle determined the measuring point of the natural grade prior to the start of construction. Mr. Yelle states that it is his opinion that his determination of the measuring point for the determining of said height of the structure, is fair and correct.

Requestor's Presentation

Mr. Steve Adamini, Attorney, Law, with Kendricks, Bordeau, Adamini, Chilman, and Greenlee, PC, 128 West Spring Street, Marquette, Michigan, representing Mr. and Mrs. Nelson Gencheff, 597 Lakewood Lane, Chocolay Township. Mr. Adamini apologized for Mr. and Mrs. Nelson Gencheff's absence from the Appeal #70-01 Special Meeting.

Michelle Wietek informed Mr. Adamini that she is waiving the 5 minute time limit.

Mr. Adamini explained that Mr. and Mrs. Nelson Gencheff's complaint is in regards to the height requirement in Chocolay Township and are appealing the measurements made by Mr. Randy Yelle, Zoning Administrator for Chocolay Township in regards to his measurement from the ground to the peak height of the existing structure. When construction began, the structure appeared to be higher than the 30 ft. zoning ordinance in Chocolay Township. Mr. and Mrs. Nelson Gencheff hired Gary Van Neste to survey the property in question. Mr. Van Neste conducted a survey and found that the structure was approximately 35 feet, which is higher than the 30 ft. zoning ordinance. Mr. and Mrs. Gencheff being the affected property owners decided to not wait for the Chocolay Township Board to take action, filed suit seeking injunctive relief and the court did grant a temporary restraining order. A hearing was held and the court continued the temporary restraining order. A second court hearing was held and it appeared that that Mr. and Mrs. Pozega's were going to take out the original 6/12 pitch and replace them with trusses that had a 3/12 pitch. On that basis the building would comply with the 30 foot height requirement. The Zoning Administrator, Randy Yelle made a determination that the point where the measurement was taken from at the bottom level was 16 inches or 2 blocks from the footings of the structure. The Chocolay Township Zoning Ordinance states that the vertical distance between the average ground level of the grade within 10 feet of where the structure elements intersect the ground. Mr. Adamini stated that the building with the new trusses has been reduced 4.7 feet from the original site plan, but is still not in compliance with the ordinance and can only be in compliance if you measure 16 inches above the footings. Mr. Yelle testified in court that he believes that this point of measurement should be made at 16 inches above the footings. Judge Weber stated that if Mr. and Mrs. Gencheff disagree with Mr. Yelle, the Township Administrator that they will need to take this issue should be brought to the Chocolay Township Board of Appeals to see if they agree with Mr. Yelle's measurements. Mr. Adamini stated that he has many pictures and materials available to help answer any questions. Mr. Van Neste also is available to answer questions. Mr. Adamini is asking the Board of Appeals to determine if the measurements should be made as stated in the ordinance that states that the vertical distance between the average ground level of the grade within 10 feet of where the structure elements intersect the ground and this would measure out at 3-4 feet above the 30 ft. height requirement. Mr. Adamini is asking the Board to determine if Mr. Yelle's bottom measuring point of 16 inches above the footings is an accurate point of measurement.

Public Input "Support"

No public input

Public Input "Opposed"

Ivan Fende, 600 Lakewood Lane, stated that he was part of the Chocolay Township Board who created the most recent zoning ordinance. Mr. Fende cautioned the Zoning Appeals Board members about deviating from the ordinance as this may cause substantial problems with enforcement of the height requirement in the future. The zoning ordinance was created to be enforced as stated.

Ms. Deanna Pozega stated that she provided notes that are enclosed in the meeting packet with photos of the property in question located at 601 Lakewood Lane. Ms. Pozega provided a brief history in regards to picking out their house plans and hiring an architect (Carol Hicks) to redo the plans so the house would be in compliance with the Chocolay Township zoning ordinance. Ms. Pozega worked with Carol Hicks, the architect on this project, to redo the site plans to bring the structure into compliance with the Chocolay Township zoning ordinance. Ms. Pozega explained that she wasn't aware there was a problem until she was notified of the July, 2007 court date in regards to height noncompliance of said structure. Mr. and Mrs. Pozega met with the Township to modify their plans to be in compliance with the Township of Chocolay. Ms. Pozega stated that these changes have resulted in increased fees due to construction being stopped for approximately 1 ½ months and structural changes that had to be made. Ms. Pozega provided many pictures for the Board members to review from many different angles. She also stated that Mr. and Mrs. Gencheff's house is lower at 27 feet, which was their wish.

Ms. Pozega reiterated that they worked with Chocolay Township every step of the way to fully comply with the zoning ordinance. Ms. Pozega believes the structure is now in compliance and requested the Chocolay Township Appeals Board to deny Appeal #70-01 filed by Mr. and Mrs. Nelson Gencheff.

Public comment closed.

VI. PUBLIC COMMENT

Glen Van Neste, Van Neste Surveying, 1402 West Fair Avenue, Marquette, Michigan, passed out copies of the survey he conducted on the property in question, located at 601 Lakewood Lane. Mr. Van Neste stated that he is available and will be happy to answer any questions related to his survey.

Tom Maravi, 589 Lakewood Lane, stated that he has no problems with Mr. and Mrs. Pozega's home nor the height of the home.

Fred Weiland, 585 Lakewood Lane, stated that he also has no problems with the Pozega's height of their home.

Sue Menhennick, 605 Lakewood Lane, asked that whatever the Zoning Board of Appeals decides that it is made clear and concise so that other potential residents of the Township of Chocolay are not put in this type of situation.

James Walker, 591 Lakewood Lane, stated that he has had problems with Mr. and Mrs. Nelson Gencheff in the past when he regarded his driveway and again when he built a garage.

Steve Adamini, 128 West Spring Street, Marquette, MI commented on a letter dated 7/10/07 that Randy Yelle sent to Carol Hicks. Mr. Adamini also provided a set of site plans and photos of the property in question. Mr. Adamini pointed out a discrepancy on the site plans drawn up by Carol Hicks which state the grade begins at the cement slab. He again asked the Board to enforce the ordinance as written.

Eva Kipper, 115 S. Lakeshore Boulevard, Marquette, MI stated that she represented the Pozega's in circuit court. Ms. Kipper stated that July was the first time the Pozega's knew there was a problem when they were notified to appear in court. On July 18th a hearing was held, which Mr. Yelle and Mr. Summers, Township Attorney, attended and that was when the house was found to be noncompliant with the zoning ordinance in regards to the height.

Deanna Pozega, 601 Lakewood Lane explained that the site plans that Mr. Adamini was referring to are not the complete plans due to the time constraints of the architect to complete them. The plans also do not include the landscaping. Ms. Pozega was unable to provide the completed site plans, but referred to the life size structure that is available on the property.

Randy Yelle, Chocolay Township Zoning Administrator, explained that the average natural grade was first determined and a permit approved in 2006, but construction did not begin until 2007. Unfortunately, when he was notified of the construction and went to the site, the house was in place and ready to have the trusses put up. At that time, Mr. Yelle informed the contractor that the structure was not in compliance in regards to height. Mr. Yelle used photos that he took when he initially went to the property, prior to construction, spoke to neighbors, both contractors, Carol Hicks, Architect, and the Township Planner for their input so he could make the most accurate determination possible. Mr. Yelle instructed the contractor to go from 16 inches or the 2nd block up to determine the redo for the height of the house. Mr. Yelle stated that he is comfortable with his determination. He also stated that the property has many high and low areas, which also makes such determinations more difficult.

VII. UNFINISHED BUSINESS

There was no unfinished business to address at this time.

VIII. NEW BUSINESS

There was no new business to discuss at this time.

IX. PUBLIC COMMENT

No public comment made.

X. BOARD ACTION ON APPEAL

The Zoning Board of Appeals committee members asked Randy Yelle many questions in regards to his determination of the measurements and the average grade of the property in question (refer to the tape recording of the 10/4/07 meeting for detailed questioning from Board Members of the methods Randy Yelle used to make his determination). The Board members also extensively reviewed the photos that Mr. Yelle took prior to construction that assisted him in making his determination. Mr. Yelle also stated that he and the Township Planner visited the property again, and Mr. Yelle stated that he will stand by his determination.

Karen Alholm questioned Randy Yelle in regards to the construction grade being the natural grade? Randy Yelle explained that he felt the construction grade was lower than the natural grade.

Al Denton commented that he has visited the construction site and feels the Zoning Administrator made a reasonable determination in his measurements of the property located at 601 Lakewood Lane. Mr. Denton stated that it is the responsibility of the Zoning Board of Appeals to be able to depend on their Zoning Administrator's and their determinations in these types of situations. Mr. Denton stated that Randy Yelle made his determination and the property is in compliance and he sees no reason to approve the appeal.

Al Denton made a motion, seconded by Karen Alholm to deny Appeal #70-01.

4 Ayes. 0 Nays

**XI. TOWNSHIP BOARD MEMBERS' COMMENT (Dan Maki)
PLANNING COMMISSIONER MEMBERS' COMMENT (Albert Denton)**

No Township Board Member comments or Planning Commission comments.

XII. ADJOURNMENT

As there was no further business to discuss, Michelle Wietek motioned, Karen Alholm, seconded to adjourn the meeting.

The meeting adjourned at 8:40 PM.

Michelle Wietek, Chair

Laurie Eagle, Recording Secretary

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS
Thursday, October 25, 2007 @ 7:30 PM

I. MEETING CALLED TO ORDER

Meeting called to order by Michelle Wietek-Stephens, Chairperson at 7:33 PM

II. ROLL CALL

Present: Michelle Wietek-Stephens, Albert Denton, Karen Alholm, Dan Maki, Wayne Dees

Absent:

Staff Present: Randy Yelle (Zoning Administrator), Laurie Vashaw-Eagle (Recording Secretary)

III. APPROVAL OF MINUTES OF THE OCTOBER 4, 2007 SPECIAL MEETING

Michelle Wietek-Stephens motioned to reject the minutes as written Karen Alholm, seconded. Motion approved. The minutes need to be revised to reflect a correction on page 2 under "Requestor's Presentation" in the 3rd paragraph that begins with "Board to take action" the word "conjunctive" needs to be changed to "injunctive". Also, Michelle Wietek-Stephens and Karen Alholm questioned if more details of the extensive questioning by the Board Members of Randy Yelle and the methods that he used to make his determination should be incorporated in Section X. of the minutes. It was determined that the phrase "refer to the tape recording of the 10/4/07 meeting for detailed questioning from Board Members of the methods Randy Yelle used to make his determination" be added under Section X.) "Board Action of Appeal" after the 1st sentence. Once these changes are made, the revised minutes will be resubmitted to the Board members for approval.

Ayes 5. Nays 0. Motion to reject the minutes was approved.

IV. APPROVAL OF AGENDA

Dan Maki motioned to approve the agenda for the 10-25-07 meeting, Albert Denton, seconded the motion.

Ayes 5. Nays 0. Motion approved.

V. PUBLIC COMMENT

Stephanie Gencheff, 597 Lakewood Lane, commented that at the 10/15/07 Township Meeting, Mr. Mark Maki was escorted out by the police for asking questions during public comment in a belligerent manner. Public discourse should not be allowed to turn into a shouting match although I do not condone Mr. Maki's method, I understand his frustration. There have been many apparent violations of the zoning ordinance. In regards to the Bayou Court Condominiums it does not validate the 25% coverage minus the garages, footnote in Section 300 of the Zoning Ordinance, please show us the map. The residents of Chocolay Township can decide if perhaps the ordinance needs to be amended to better reflect the majority's desire for low density development. If on the other hand, the ordinance is not being enforced then you are not fulfilling your obligation to the people and we have the right to demand that you do. This is outlined in the Zoning Ordinance, Section 1725. Ms. Gencheff stated that she and her husband intend to appeal to Judge Weber to review Appeal #07-01 of the ZBA. The ZBA's obligation is outlined in Section 15 of the Zoning Ordinance. Mr. Denton stated in the 10/4/07 Zoning Board Appeals meeting minutes that "it is the responsibility of the Zoning Board of Appeals to be able to depend on the Zoning Administrator's determination in these types of situations". Ms. Gencheff stated that in browsing through the minutes of previous meetings she found a couple of instances where the Zoning Board of Appeals rejected the determination of the Zoning Administrator. Hence this is neither the policy nor the procedure of the Board to give the Zoning Administrator cart

blanche in decisions when they are asked to review them. Please remember that you serve all the residents of Chocolay Township, not only the people making the determinations, but also the people that the proposed structure will affect. Ms. Gencheff stated she feels there will be future implications for these decisions and she has obtained a copy of the Final Draft of the proposed changes to the Zoning Ordinance and she feels the changes are good and are a step in the right direction, but they still don't address some of the ambiguities and subjectivity regarding to height requirements.

VI. UNFINISHED BUSINESS

No unfinished business to address at this time

VII. NEW BUSINESS

Zoning Administrator, Randy Yelle addressed the Board; This meeting will encompass the appointing of the 2008 officers, reviewing and approving the 2008 meeting dates and time. Also the Zoning Board of Appeals members will be reviewing the 2008 Date of Entry form, Rules of Procedure, and Meeting Rules for Public Hearings and Public Comment. MCL 125.3601 (3) requires that a member of the Township Planning Commission serve as a regular member of the Township Zoning Board of Appeals. MCL 125.3601 (5) one member of the Township Board may serve as a regular member of the Zoning Board of Appeals, but cannot serve as the Chair of the Zoning Board of Appeals. The following are recommendations in the form of motions:

A. Appointment 2008 Chairperson

Motion by Dan Maki, seconded by Karen Alholm, to appoint Michelle Wietek-Stephens as the 2008 Zoning Board of Appeals Chair.
Ayes 5. Nays 0. Motion approved.

B. Appointment of 2008 Vice Chair

Motion by Michelle Wietek-Stephens, seconded by Karen Alholm, to appoint Albert Denton as the 2008 Zoning Board of Appeals Vice-Chair.
Ayes 5. Nays 0. Motion approved.

C. Appointment of 2008 Secretary

Motion by Wayne Dees, seconded by Albert Denton, to appoint Karen Alholm as the 2008 Zoning Board of Appeals Secretary.
Ayes 5. Nays 0. Motion approved.

D. Approval of 2008 Meeting Dates

Motion by Dan Maki, seconded by Wayne Dees, to approve the following meeting dates and starting time for the Zoning Board of Appeals. March 27, April 24, May 22, June 26, July 24, August 28, September 25 and October 23, 2008. The starting time will be 7:30 PM.
Ayes 5. Nays 0. Motion approved.

E. Review:

Wayne Dees stated that the next three items, due to a technicality and not being familiar with any of these items should he just abstain? Randy Yelle said "you can".

1. 2008 Date of Entry Form

Motion by Michelle Wietek-Stephens, seconded by Karen Alholm, after review of the Zoning Board of Appeals "2008 Decision Order and Date of Entry Forms" are approved as presented.
Ayes 4. Nays 0. Abstain 1. Motion approved.
Michelle stated, "note Wayne Dees abstained"

2. Rules of Procedure

Motion by Michelle Wietek-Stephens, seconded by Albert Denton, after review of the Zoning Board of Appeals “Rules of Procedure” are approved as presented. Ayes 4. Nays 0. Abstain 1. Motion approved.

3. Meeting Rules

Motion by Albert Denton, seconded by Dan Maki, after review of the Zoning Board of Appeals “Meeting Rules” are approved as presented. Ayes 4. Nays 0. Abstain 1. Motion approved.

VIII. PUBLIC COMMENT

No public comment made.

**IX. TOWNSHIP BOARD MEMBERS’ COMMENT (Dan Maki)
PLANNING COMMISSIONER MEMBERS’ COMMENT (Albert Denton)**

Dan Maki stated that he’d like to thank Carol Hicks for his years of service on the Chocolay Township Zoning Board of Appeals. Randy Yelle asked the Zoning Board of Appeals members for support to give him authorization to send a thank you letter to Mr. Hicks expressing the Township’s gratitude for his years of service. All Board members unanimously granted this request.

Albert Denton informed everyone that work continues on the Draft of the Zoning Ordinance. A Public Hearing will be held on Monday, October 29, 2007, at 7:00 PM in the Chocolay Township Meeting Hall to review and receive Public Comment pertaining to the Final Draft of the Zoning Ordinance. Michelle Wietek-Stephens inquired how the public can get access to a copy of the Draft Zoning Ordinance? Mr. Yelle stated that they just need to come to the office and request a copy and the office will provide them a copy, there is a fee of \$10.00.

X. ADJOURNMENT

As there was no further business to discuss, Michelle Wietek-Stephens motioned, Karen Alholm, seconded to adjourn the meeting.

The meeting adjourned at 8:05 PM.

Karen Alholm, Secretary

Larue Eagle, Recording Secretary

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS

Thursday, March 27, 2008 @ 7:30 PM

I. MEETING CALLED TO ORDER

Meeting called to order by Michelle Wietek-Stephens, Chairperson at 7:30 PM

II. ROLL CALL

Present: Michelle Wietek-Stephens, Albert Denton, Karen Alholm, Dan Maki, Wayne Dees

Absent:

Staff Present: Randy Yelle (Zoning Administrator), Laurie Vashaw-Eagle (Recording Secretary)

III. APPROVAL OF MINUTES FROM OCTOBER 25, 2007 MEETING

Albert Denton motioned to approve the minutes as written Michelle Wietek-Stephens seconded.

Ayes 5. Nays 0. Motion approved.

IV. APPROVAL OF AGENDA

Albert Denton reported that Variance Request #08-01 requested by Mr. Jacob Johnson has been withdrawn. Albert Denton motioned to approve the agenda after removing Variance Request #08-01 from the 3-27-08 meeting agenda, Dan Maki seconded the motion.

Ayes 5. Nays 0. Motion approved.

V. OPEN PUBLIC HEARING VARIANCE #08-01

Chair or Zoning Administrator's Comments:

Randy Yelle, Zoning Administrator, reported that there will be no public hearing held as Variance Request #08-01 has been removed from the 3-27-08 agenda. Mr. Yelle reported that Mr. Johnson dropped off a written request that stated "I Jacob W. Johnson withdraw my variance request. I shall removed existing well house structure after snow has melted no later than May 15, 2008." Mr. Yelle reported that Variance Request #08-01 was requesting a side setback variance from Section 300 of the Chocolay Township Zoning Ordinance. Parcel #52-02-008-001 which is zoned RR-2 with a minimum setback of 30 feet on said property located at 2300 M-28 East, Township of Chocolay, County of Marquette, Michigan.

Requestor's Presentation:

There will be no Requestor Presentation as Variance Request #08-01 has been removed from the 3-27-08 agenda.

Public Input "support":

No public input "support" due to withdrawal of Variance Request #08-01.

Public Input "opposed":

No public input "opposed" due to withdrawal of Variance Request #08-01.

VI. VARIANCE #08-01

No action required as Variance Request #08-01 was withdrawn.

VII. PUBLIC COMMENT

No public comment.

VIII. UNFINISHED BUSINESS

No unfinished business to address at this time

IX. NEW BUSINESS

No new business to address at this time.

X. PUBLIC COMMENT

No public comment.

ZONING ADMINISTRATOR'S COMMENT

Randy Yelle, Zoning Administrator, presented and explained the proposed new Zoning maps for the Township of Chocolay. Mr. Yelle also explained some of the revisions that were put into the Final Draft of the Zoning Ordinance pertaining to height restrictions, private roads will need to be built up to County standards and will need to include the addition of a maintenance agreement, and fencing restrictions. Mr. Yelle reported that the final revisions will be reviewed at the April Township Board meeting for final approval. If the Zoning Ordinance is approved, it will be posted in 6 areas of the Township of Chocolay for the public to view, on the Township website, and in the Mining Journal. If adopted, the Zoning Ordinance will go into affect 8 days after the Mining journal posting.

**XII. TOWNSHIP BOARD MEMBERS' COMMENT (Dan Maki)
PLANNING COMMISSIONER MEMBERS' COMMENT (Albert Denton)**

Dan Maki reported that the Township Board has been working on the Final Draft of the Zoning Ordinance. Mr. Maki stated that the Township Board passed the 2008 budget. Mr. Maki stated that the Township building renovations are near completion and that the Township Board is awaiting the 2007 Fiscal Audit results.

Albert Denton reported that the Planning Commission is waiting to see if the Township Board approves the Final Draft of the Zoning Ordinance. He feels it is a good document and a lot of time and hard work was put into it.

Michelle Wietek-Stephens asked if the Township of Chocolay's website is being kept up to date and current?

Mr. Yelle reported that to the best of his knowledge this is being done.

XIII. ADJOURNMENT

As there was no further business to discuss, Albert Denton motioned, Dan Maki, seconded to adjourn the meeting. The meeting adjourned at 7:55 PM.

Michelle Wietek, Stephens, Chairperson

Recording Secretary

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS

Thursday, June 26, 2008 @ 7:30 PM

I. MEETING CALLED TO ORDER

Meeting called to order by Albert Denton, Vice-Chairperson at 7:30 PM

II. ROLL CALL

Present: Albert Denton, Dan Maki, Wayne Dees, Lois Sherbinow, Michelle Wietek-Stephens, arrived at 7:40 PM and took her place as chairperson.

Absent: Karen Alholm

Staff Present: Randy Yelle (Zoning Administrator), Laurie Vashaw-Eagle (Recording Secretary)

III. APPROVAL OF MINUTES FROM MARCH 27, 2008 MEETING

Dan Maki motioned to approve the minutes as written Wayne Dees seconded.
Ayes 5. Nays 0. Motion approved.

IV. APPROVAL OF AGENDA

Dan Maki motioned to approve the agenda as written, Lois Sherbinow seconded.
Ayes 5. Nays 0. Motion approved.

V. OPEN PUBLIC HEARING VARIANCE #08-02

Mr. and Mrs. Terrance Tripp of 180 Edgewood Drive, Township of Chocolay, County of Marquette, Michigan, is requesting a front setback variance from Section 6.1 (A) of the Chocolay Township Zoning Ordinance. Parcel #52-02-430-019-00 is zoned R-1 requiring a minimum setback of 30 feet from the front property line or right-of-way.

Mr. and Mrs. Tripp is requesting a 16 foot front yard setback from the Zoning Ordinance required 30 feet per Section 6.1 (A) Page 47, if approved said structure would be located 47 feet from the center line of Edgewood Drive as opposed to 63 feet, noting that the setback is measured to the drip line of the structure (Section 6.1(A)).

Mr. and Mrs. Tripp are suggesting that the existing practical difficulty is the well, located in the front-side-yard, and there is no other location suitable for the placement of the proposed garage.

If Variance #08-02 is granted, as requested, said well would be located about 4 feet from the proposed garage. (Note: A well shall be no closer than 50 feet from any septic tank and/or drain field, and 5 foot from the overhang of any structure. (Per Marquette County Environmental Department).

The requested garage is 30 feet deep, the same depth as the existing home, therefore, attaching the requested garage to the existing home, would be adding 24 feet to the said home giving a side setback of 25 feet, with no variance required, giving Mr. Tripp the size structure requested.

Randy Yelle also stated that the letter dated June 2, 2008 that was included in the meeting packet was also mailed to Mr. and Mrs. Tripp.

Requestor's Presentation:

Sarah Tripp, 180 Edgewood Drive, explained that she and her husband are seeking a variance to build an additional garage on their property as the current garage only allows for 2 cars with no room to get around the vehicles without opening the garage door. Ms. Tripp stated that they would like to be able to put up a temporary fence that would be attached to the garage to create a safe play area for her children, enable them to expand on the landscaping, and make the property

more functional, as well as add to the aesthetics and value of their property.

Public Input "support":

No public present.

Public Input "opposed":

No public present.

VI. VARIANCE #08-02

Wayne Dees asked why they don't expand the garage outward?

Mr. and Mrs. Tripp stated that the depth of the garage is not the problem it's the width and feel this would be problematic and the aesthetics would also be a problem.

Al Denton stated that he went by the site and the well does appear to be close to the road, but doesn't feel this could be considered a practical difficulty. He also stated that there is a nice yard where the kids play on the west side of the garage. Mr. Denton stated that he does have a problem justifying the approval of the variance request as there is nothing prohibiting them from building onto the existing garage.

Dan Maki asked if they built onto the existing garage would there still be a problem with the well?

Mr. and Mrs. Tripp stated "no", but feel this would be costly and the property would lack curb appeal.

Dan Maki stated that the Board cannot use finance to constitute a hardship and he also feels this could set an unwanted precedence.

Michelle Wietek-Stephens stated that she is sympathetic to the difficulty trying to get small children in and out of vehicles in the elements in a small space and, but the Board cannot use that or aesthetics as a reason to approve the request especially since there are other options that can be explored.

Motioned by Al Denton, supported by Dan Maki, that after conducting the required Public Hearing, receiving public comment and reviewing staff input, and documentation and input from the requester, it is the determination of this Board that no practical difficulty as described by statute exists, and identifying a suitable alternate location on said property that does not require a variance from the Chocoday Township Zoning Ordinance, therefore, Variance #08-02 is denied.

Ayes 5, Nays 0, Motion granted.

VII. PUBLIC COMMENT

No public present.

VIII. UNFINISHED BUSINESS

No unfinished business to address at this time.

IX. NEW BUSINESS

Wayne Dees would like to submit for the next meeting agenda a handout containing 4 motions to consider for policy and procedural changes that may help the ZBA better assist new members and the public as well as reduce the workload of the recording secretary.

This will be added to the next meeting agenda.

X. PUBLIC COMMENT

No public present.

XI. ZONING ADMINISTRATOR'S COMMENT

Randy Yelle asked the Board members to review the draft of the Rules and Regulations proposed additions/revisions. Please contact Mr. Yelle with any suggestions or comments pertaining to the draft. Mr. Yelle did clarify that #1 is the document that is already in effect, numbers 2 and 3 are for review and board consideration.

Mr. Yelle also stated that he feels the Conflict of Interest addition should be adopted into the Rules and Regulations.

Mr. Yelle reported that the Data Entry Form that the Zoning Board of Appeals has adopted and is now utilizing worked well in a recent legal case, with Judge Weber.

**XII. TOWNSHIP BOARD MEMBERS' COMMENT (Dan Maki)
PLANNING COMMISSIONER MEMBERS' COMMENT (Albert Denton)**

Dan Maki reported that he missed the June meeting, but at the May Township Board meeting, discussion ensued pertaining to a wage and compensation study that was conducted for the Township employees, which showed the Township was within 2% of the market.

Mr. Maki reported that the Township audit went well and that the Zoning Ordinance was adopted.

Al Denton reported that at the July meeting development east of Togos will be discussed.

The original proposed development for this property was approved last spring and an extension to this approval was granted. The developers are now seeking approval for 6 or 7 more unite on the east end of the property. Mr. Deuton also reported that Chocolay Downs is seeking approval to extend the residential area to the west, but the Planning Commission doesn't want to approve it as there is no exit on the west side. Chocolay Downs is discussing with the DNR for a possible easement to put through an exit on the west side. Mr. Denton also reported that in July or August both golf courses will be requesting approval for liquor licenses.

XIII. INFORMATIONAL ITEMS

1. Township Candidates Filing Petitions

XIV. ADJOURNMENT

As there was no further business to discuss, Michelle Wietek-Stephens motioned, Al Denton, seconded to adjourn the meeting. The meeting adjourned at 8:20 PM.

Michelle Wietek Stephens
Michelle Wietek, Stephens, Chairperson

Jeanne Gagle
Recording Secretary

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS
Thursday, October 23, 2008 @ 7:30 PM

I. MEETING CALLED TO ORDER

Meeting called to order by Michelle Wietek-Stephens, Chairperson at 7:30 PM.

II. ROLL CALL

Present: Michelle Wietek-Stephens, Albert Denton, Wayne Dees,
Lois Sherbinow, Karen Alholm

Absent: Dan Maki

Staff Present: Randy Yelle (Zoning Administrator), Laurie Vashaw-Eagle
(Recording Secretary)

III. APPROVAL OF OCTOBER 4, 2007 CORRECTED MINUTES AND JUNE 26, 2008 MEETING MINUTES

Lois Sherbinow motioned, seconded by Al Denton, to approve the June 26, 2008, minutes for the Zoning Board of Appeals meeting, said minutes are approved with a correction on page 2 section VI) second sentence, change the word “depth” to the word “width” and the word “width” to the word “depth”.

Ayes 5. Nays 0. Motion approved.

Karen Alholm motioned, seconded by Michelle Wietek-Stephens, to approve the October 4, 2007, corrected minutes for the Zoning Board of Appeals special meeting as written.

Ayes 4. Nays 0. Motion approved. Wayne Dees abstained.

IV. APPROVAL OF AGENDA

Al Denton, motioned, seconded by Karen Alholm, to approve the agenda for the October 23, 2008, Zoning Board of Appeals meeting as written.

Ayes 5. Nays 0. Motion approved.

V. OPEN PUBLIC HEARING ON A NONCONFORMING ENLARGEMENT (2008-03)

Chair or Zoning Administrator Comments:

Randy Yelle, Zoning Administrator, reported that Mr. and Mrs. John Bruggink are requesting a public hearing pertaining to a nonconforming enlargement (2008-03) request to construct a second floor on the existing structure located at 673 Lakewood Lane, Township of Chocolay, County of Marquette, Michigan, parcel number 52-02-110-040-00. Mr. Yelle also explained that he sent out 21 letters to the neighbors and received one positive response back.

Requestor’s Presentation:

Mrs. Bruggink explained that the current structure was constructed by the previous owner. The proposed 2nd story addition is behind the neighbor’s houses and would not obstruct their views of the lake; the lot is only 50’ feet wide and they don’t want to increase the building footprint on the narrow lot. The current one story portion of the house is a converted garage that may not be strong enough to support a second story and cannot be adequately heated as it stands. Mrs. Bruggink also explained that they have 2 daughters and the bedrooms the girls are currently in on the north side of the house are very small and they would like to convert the room over the garage portion (middle portion) of the existing structure into a bigger bedroom and a hallway with the lower level being a sunroom. Mrs. Bruggink stated they are working with a contractor who is evaluating the existing foundation to make sure it will be able to support a second story and if not, this will be addressed.

Michelle Wietek-Stephens asked if the width of the structure will be changed?

Mrs. Bruggink stated the width will not be altered at all.

Wayne Dees asked how the roof will be tied in with the other two roofs and will it need to be higher?

Mrs. Bruggink stated she is working with the contractor on this and the roof will not be an issue in regards to height.

Public Input “support”:

No public present.

Public Input “opposed”:

No public present.

1) ENLARGEMENT NONCONFORMING 2008-03 PUBLIC INPUT

Jenell and Bob Mckee, 653 Lakewood Lane, Township of Chocolay returned the notification letter that was sent to them on October 1, 2008, with a note stating “Best of Luck on your New Addition to your Home”.

b) BOARD ACTION ON NONCONFORMING 2008-03

This parcel is zoned Waterfront Residential (WFR) with a minimum lot width of 125 feet and minimum size of 25,000 square feet with the front and rear setbacks 30 feet and the side setbacks are 10 feet, (Setbacks are measured from the structures drip-line) with a maximum peak height of 30 feet. (Section 5.2 of the zoning ordinance, Lake Superior Shoreline/Dune protection overlay District, requires that along Lake Superior in a width from the erosion hazard line to encompass the entire fore dune, or to a maximum of 100 feet landward, whichever is less.

Wayne Dees asked a procedural question pertaining to the discrepancy of the date of September 28, 2008 on the “Application for Zoning Compliance Permit”, which is less than the 30 day requirement for submission of said request.

Randy Yelle explained that Mrs. Bruggink did bring the application to him 30 days prior to the meeting, but it was the wrong form. Mr. Yelle stated he gave Mrs. Bruggink the correct form and she completed and returned it within a few days. Technically the form was handed in 30 days prior to the meeting.

Karen Alholm, motioned, seconded by Al Denton, to grant approval to construct a second story on the existing structure located at 673 Lakewood Lane, parcel number 52-02-110-040-00 as requested within request 2008-03, finding that said request meets all the requirements addressed in Section 14.2 C) & (D) of the Chocolay Township Zoning Ordinance. Residents are required to have an approved Zoning Compliance Permit, Marquette County Building Permit, and Marquette County Health Department approval.

Ayes 5. Nay 0. Motion carried.

VI. PUBLIC COMMENT

Randy Yelle informed the Committee members that his wife just had back surgery and he is caring for her himself and if he gets contacted by her, he will need to leave the meeting.

Mr. Yelle has made arrangements for Al Denton to bring him any business he might miss.

VII. UNFINISHED BUSINESS

1. MDOT, Dealing with Right-of-Way Encroachment at 2801 US-41 South

Randy Yelle reported that he has contacted the MDOT to assess the right-of-way encroachment by a portable carport that is now a structure located at 2801 US-41 South. The MDOT has determined that there is an encroachment and will follow-up on this with the property owner.

VIII. NEW BUSINESS

A. 2009 Meeting Dates

The 2009 proposed meeting dates for the Zoning Board of Appeals to be held at the Chocolay Township Hall, 5010 US 41 South, Marquette, Michigan, was reviewed.

Michelle Wietek-Stephens, motioned, seconded by Lois Sherbinow, to approve the 2009 Zoning Board of Appeals meeting dates of February 26, April 23, May 28, June 25, July 23, September 24, and October 22, 2009.

Aye 4. Nays 1. Motion Carried.

B. Rules of Procedure

The Draft Revised Rules of Procedure, for the Zoning Board of Appeals for the Township of Chocolay was provided for review. The first revision includes the addition of Conflict of Interest #10, which states, “when a member declares a conflict of interest the remaining members shall determine if there is a conflict of interest, and if so, the member will be excused for that item and replaced by a Zoning Board of Appeals alternate. The member must leave the meeting room, and will return when the conflict of interest item has been completed, resuming his/her place on said board”. The second addition to the Rules of Procedure is #12, which states “Cancelled and/or special meeting will be approved by the chair or any two other Zoning Board of Appeals members”.

A second suggested revision of the Draft Revised Rules of Procedure was submitted by Michelle Wietek-Stephens with #11 reworded for review. Much discussion ensued pertaining to the suggested revisions. The Draft Revised “Rules of Procedure” will be re-revised to include the suggested revisions from Draft #2 adding #10 and #12 and from Draft #3 adding the reworded #11. These revisions will be made to the Draft Revised Rules of Procedure and revisited at the next meeting.

C. 2009 Chair, Vice Chair, and Secretary

Al Denton, motioned, seconded by Lois Sherbinow, to approve the appointment of Michelle Wietek-Stephens, as Chair, for the Zoning Board of Appeals for 2009.

Aye 5. Nays 0. Motion Carried.

Karen Alholm, motioned, seconded by Lois Sherbinow, to approve the appointment of Albert Denton, as Vice-Chair, for the Zoning Board of Appeals for 2009.

Aye 5. Nays 0. Motion Carried.

Al Denton, motioned, seconded by Michelle Wietek-Stephens, to approve the appointment of Karen Alholm, as Secretary for the Zoning Board of Appeals for 2009.

Aye 5. Nays 0. Motion Carried.

D. Presentation From Member Wayne Dees

In order to expedite the meeting, if there are not two others who would agree with making any changes then let my motion die for the lack of a second. Mr. Dees is presenting these motions for policy and procedural changes, as the newest member, because he believes the Zoning Board of Appeals can better help the public and new members as well as reduce the workload of the recording secretary. The four proposed motions are as follows:

1. Recording of the minutes - Mr. Dees moves that there be electronic audio tape and digital video recording of each meeting.
No motion made. Motion failed.
2. At least five copies of the agenda for the public are available at each meeting and that one copy be posted on the back wall in the event that there are more than five copies needed. (The agenda would include guidelines for presenting comments and the order in which people can give comments).

Wayne Dees, motioned, seconded by Karen Alholm, to approve #2 as listed above.

Aye 5. Nays 0. Motion Carried.

3. There be a review of the Application Form for a Variance to determine if we can add or change anything that would help the applicant to present their position, and that would enable us to understand it better, e.g., using graph paper to make a sketch according to scale as best they can do; advising that attachments could be made such as a written statement summarizing their oral comments, photos, sketches, surveys, or anything else that they might consider relevant. I would also seek to include a copy of the “zoning variance process” and the “criteria for granting a variance”.

Wayne Dees, motioned, seconded by Karen Alholm, to approve #3 as listed above. The “Application Form for a Variance” will be added to the next meeting agenda.

Aye 5. Nays 0. Motion Carried.

4. The board work with the zoning administrator to compile introductory material for new members in a packet format so that the person has something that will enable the understanding of the procedural and statutory obligations.

Wayne Dees motioned, seconded by Michelle Wietek-Stephens, to approve #4 as listed above.

Aye 5. Nays 0. Motion Carried.

IX. PUBLIC COMMENT

No public comment.

X. ZONING ADMINISTRATOR'S COMMENT(S)

Randy Yelle reported that he was directed by the Township Board to hold a special Zoning Board of Appeals meeting in December to address a request for a variance to install an outdoor wood burner. Mr. Yelle asked the Committee members to discuss and agree on a December date for this special meeting to be held.

The Zoning Board of Appeals committee members agreed to hold the Special Zoning Board of Appeals meeting on Thursday, December 4, 2008 at 7:30 PM.

**XI. TOWNSHIP BOARD MEMBERS' COMMENT (Dan Maki)
PLANNING COMMISSIONER MEMBERS' COMMENT (Albert Denton)**

No Board member in attendance to provide a report.

Al Denton reported that the Planning Commission is working with Moyle Development who is the company constructing the new Gateway Plaza on the corner of M-28 and US-41. Mr. Denton also reported that the Chocoy Downs Development is exploring possibilities for a second entrance/exit for this development.

XII. ADJOURNMENT

As there was no further business to discuss, Karen Alholm, motioned, Michelle Wietek-Stephens, seconded to adjourn the meeting. The meeting adjourned at 8:35 PM.

Michelle Wietek, Stephens, Chairperson

Recording Secretary

**CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS
SPECIAL MEETING**

Thursday, December 4, 2008 @ 7:30 PM

I. MEETING CALLED TO ORDER

Meeting called to order by Michelle Wietek-Stephens, Chairperson at 7:35 PM.

II. ROLL CALL

Present: Michelle Wietek-Stephens, Albert Denton, Wayne Dees,
Lois Sherbinow, Karen Alholm

Absent: Randy Yelle, (Zoning Administrator)

Staff Present: Tom Murray, Community Development Coordinator,
Jennifer Thum, Director of Planning and Community
Development, Laurie Vashaw-Eagle, Recording Secretary

III. APPROVAL OF OCTOBER 23, 2008 MEETING MINUTES

Al Denton motioned, seconded by Wayne Dees, to approve the October 23, 2008, minutes for the Zoning Board of Appeals meeting. Karen Alholm inquired about the formatting of the minutes. The reason for the formatting problem is due to the computer program the recording secretary uses and the computer program the Township uses not being the same. Township staff agreed that they can easily fix the minutes before distributing and will inform staff who were absent.

Ayes 5 Nays 0 Motion approved

IV. APPROVAL OF AGENDA

Wayne Dees, motioned, seconded by Karen Alholm, to approve the agenda with the addition of item VII) Unfinished Business #2, Application for Appeal to the December 4, 2008, Zoning Board of Appeals Agenda.

Ayes 5 Nays 0 Motion approved.

V. OPEN PUBLIC HEARING ON VARIANCE REQUEST #08-04

Chair or Zoning Administrator Comments:

Tom Murray, provided information to the members regarding the contents of the packet explaining that this public hearing is in regards to Variance Request #08-04 from Ms. Kenlyn Hubbard to install and operate an outside wood burning boiler at 121 Wintergreen Trail, Township of Chocolay, County of Marquette, Michigan, parcel #52-02-108-006-52, Section 8 & 9, T47N-R24W, and that the parcel is zoned Residential-1 (R1) with a lot size of 8.8 acres. (Section 6.2 (b) of the Zoning Ordinance requires that an outside wood burning boiler have a chimney height of 15 feet from grade to top of its chimney, or 2 feet higher than any structure within 1000 feet, whichever is higher. Ms. Hubbard is requesting a variance from this requirement to allow the installation and operation of an

outside wood burning boiler on her property to be located 373 feet from parcel #52-02-500-003-00, 453 feet from parcel #52-02-500-002-00, 657 feet from parcel #52-02-108-006-53, and 816 feet from parcel #52-02-109-082-00.

Staff reported that Conditional Use Request #83 went to the Planning Commission in October as directed by Ordinance Section 4.1(C.5). During this meeting, Ms. Hubbard indicated that she would need a chimney height of about 50 feet to meet the ordinance, stating that she did not realize that her neighbors were within 1000 feet of the proposed location. Randy Yelle at that meeting stated that in his opinion the location requested by Ms. Hubbard is the best location for the boiler within the 8.8 acre parcel.

Requestor's Presentation:

Ms. Kenlyn Hubbard stated that her residence is located two feet above the flood plain and that all of her surrounding neighbors are located on a lot higher ground. She stated that she had burned brush this past summer and the smoke only went so high and then it settled into the flood plain. Ms. Hubbard stated that her neighbors didn't even realize she was burning brush and feels that smoke from her wood burner will not be an issue with her neighbors. Ms. Hubbard also explained that her main purpose for the wood burning boiler was to help ease the cost of propane gas for heating her home as well as her water. She stated that natural gas is not available on Wintergreen Trail.

Public Input "support":

No public was present to provide input. One letter of support was received from one of Ms. Hubbard's neighbors (Mr. and Mrs. Karl Shunk) in support of her installing the wood burning boiler.

Public Input “opposed”:

No public present to provide input.

Variance #08-04 Public Input

No public present to provide input.

Board Action on Variance #08-04

Wayne Dees provided a handout titled “Comments for the Record” (see attachment), which outlines his concerns pertaining to this variance request. There was discussion as to why this variance request is before the ZBA. Jennifer Thum explained that at the time Ms. Hubbard appeared at the Planning Commission meeting in October, it was her understanding (at that time) that this needed to be forwarded to the Zoning Board of Appeals to request a variance and then back to the Planning Commission for a conditional use request. Ms. Thum also explained that the Planning Commission doesn’t have the authority to grant a variance request and that is why it was forwarded to the Zoning Board of Appeals. Michelle Wietek-Stephens and Wayne Dees stated that they were concerned about making a decision that could set precedence, which could precipitate a series of these types of requests. Karen Alholm stated that decisions of the ZBA are non precedent setting, and that each request should be reviewed on a case by case or situation by situation basis. There was also discussion pertaining to the Zoning Ordinance’s 1,000 foot requirement being a bit excessive.

Karen Alholm asked Ms. Hubbard if she would have a problem if a condition was added that she would only be able to utilize her wood burning boiler from October 1st through April 30th and if this would be a problem.

Ms. Hubbard stated she would be willing to follow this condition and only utilize the wood burning boiler from October 1st through April 30th.

Motion by Karen Alholm, supported by Al Denton, to approve the variance request for Kenlynn Hubbard with the following conditions:

1. Outside boiler will only operate from October 1st through April 30th and
2. Receive an approved Conditional Use Approval from the Chocolay Township Planning Commission, and
3. Receive an Approved Zoning Compliance Permit from the Chocolay Township Zoning Administrator.
4. Chimney height will be at least 15 feet from the grade of the property per the zoning ordinance.

Once these conditions are met, it is the decision of the Chocolay Zoning Board of Appeals to grant Variance Request #08-04, allowing an outside wood burning boiler to be installed and operated within the conditions on parcel #52-02-108-006-52 .

Ayes 3 Nays 2 Motion Carried.

VI. PUBLIC COMMENT

No public present to comment.

VII. UNFINISHED BUSINESS

1. Rules of Procedure

After much discussion and additional suggested revisions such as removing from Draft #3 amended on December 4, 2008 the sentence in #11 that states “Because it is usually signed before the minutes have been rendered and approved, the date of the decision order, shall normally serve as the date of the decision, rather than the date that the meeting minutes are approved”. There was also discussion pertaining to #13 being changed to state “A copy of the agenda shall be posted outside of the Township Hall at least 5 days prior to the meeting and posted on the bulletin board in the back of the meeting hall”. It was decided by the Committee to amend Draft #3 again to incorporate these changes and to revisit the amended Draft #3 at the next meeting for possible additional revisions.

Motioned by Michelle Wietek-Stephens, supported by Lois Sherbinow, to table this until the next meeting to allow for additional revisions, review, discussion, and comments.

Ayes 5 Nays 0 Motion approved to table this until the next meeting.

2. Application for Appeal

The Committee reviewed Wayne Dees draft version (see attached) of the “Zoning Board of Appeals Process and Application for Appeal Rezoning Compliance”. There was much discussion by the Committee. The Committee agreed to table this until the next meeting to allow for additional review, discussion, review by the Zoning Administrator, additional comments and possible legal review/input.

Motioned made by Michelle Wietek-Stephens, supported by Lois Sherbinow,

to table this until the next meeting to allow for additional review, discussion, Review by the Zoning Administrator, additional comments, and possible attorney review/input.

Ayes 5 Nays 0 Motion approved to table this until the next meeting.

VIII. NEW BUSINESS

No new business to discuss at this time.

IX. PUBLIC COMMENT

No public present to comment.

X. BOARD MEMBER COMMENT (Position is currently vacant)
PLANNING COMMISSIONER MEMBERS' COMMENT (Albert Denton)

No board member was present to provide comment.

Al Denton reported that there is nothing new to report as the November Planning Commission meeting was cancelled.

XI. INFORMATIONAL

Staff reported that there was a previous request pertaining to a home occupation that was denied by the Planning Commission earlier this year. This case went to Circuit Court and Judge Kangas granted the applicant's request due to his feeling that the language in the ordinance was vague. The Township of Chocolay appealed the decision and Judge Solka overturned the decision. The Township is waiting to see if the applicant is going to file an additional appeal.

Michelle Wietek-Stephens reported that she is due to have a baby in May of 2009 and wanted to let the Co-Chair (Al Denton) know that he may have to Chair a couple of meetings in the Spring of 2009.

XII. ADJOURNMENT

As there was no further business to discuss, Michelle Wietek-Stephens, motioned, Al Denton, seconded to adjourn the meeting. The meeting adjourned at 8:57 PM.

Michelle Wietek, Stephens, Chairperson

Recording Secretary

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS
MEETING MINUTES
Thursday, February 26, 2009

I. MEETING CALLED TO ORDER

The meeting was called to order by Michelle Wietek-Stephens, Chairperson at 7:35 PM.

II. ROLL CALL

Present: Michelle Wietek-Stephens, Albert Denton, Wayne Dees, Karen Alholm, John Trudeau, and alternate, Dan Maki.

Absent:

Staff: Randy Yelle, Zoning Administrator, Jennifer Thum, Planning and Community Development, Laurie Vashaw-Eagle, Recording Secretary

III. APPROVAL OF THE DECEMBER 4, 2009 MEETING MINUTES

Al Denton motioned, seconded by Karen Alholm, to approve the December 4, 2008, minutes for the Zoning Board of Appeals meeting with an addition under V) Board Action on Variance #08-04 below the motion. The addition should read “There was also discussion that said motion would require a chimney that would elevate the smoke from the wood burner closer to the neighbors. The decision was made to keep the motion as stated and the motion was passed”.

Ayes 5 Nays 0. Motion approved

IV. APPROVAL OF AGENDA

Wayne Dees, motioned, seconded by John Trudeau, to approve the agenda with an addition under VII) B) 1. “Forms”.

Ayes 5. Nays 0. Motion approved.

V. OPEN PUBLIC HEARING

Chair of Zoning Administrator Comments:

This public hearing is held for variance request #09-01 to construct a closed in entrance on the existing structure located at 174 Riverside Road, Township of Chocolay, County of Marquette, Michigan, parcel number 52-02-305-033-00. This parcel is zoned Residential-1 (R1) with a minimum lot width of 125 feet and minimum size of 25,000 sq. ft., the front setback is 30 feet, rear is 35 feet and the side setbacks are 10 feet, (setbacks are measured from the structures drip-line) with a maximum peak height of 30 feet.

The requester is requesting a 14 foot variance (09-01) from the required 30 foot front yard setback, within Section 6.1 of the Chocolay Township Zoning Ordinance. Granting this request would allow the existing screen wall to be removed, and construct a 7+- by 18+/ foot entry addition to the north end of the existing structure, 16 feet from the front property line which is considered the main access entrance into said structure.

The depth of the existing wooden porch/screen wall is about 8 foot, the requested addition is about the same depth, therefore, the length running along the north wall is the main change, and the encroachment of the front yard setback would be about the same as it is today. The requested addition would give more room and protection from the U.P.’s north winter winds, this request is quite understandable, although, does said request meet the practical difficulty requirements for granting a variance?

52-02-305-033-00 is a nonconforming lot; (65 foot by 65 foot) the required lot size within the R1 zoned district is 125 foot in width and 25,000 sq. ft., 18,750 sq. ft. if served by public sewer. The structure as is does not meet the required setbacks of 30 foot front, 35 foot rear, 10 foot each side and 100 foot minimum setback from the edge of the river, there is also an encroachment of a storage structure located over the rear lot line, by about 50%. Existing structure was built in 1976.

VI. OPEN PUBLIC HEARING (cont'd)

Requester's Presentation:

Paul Uimari, Architect, Marquette – reported that Kerstin Kuhn is requesting to replace the existing entrance way of his home. The house was built in 1976 and Mr. Kuhn the 3rd owner. The proposed new entrance way would be built to allow for a pine tree to remain and provide more protection from the north wind. The way the entrance is built now does not provide protection from the north wind, which then blows through the middle of the house. The lot is very small and there is no room to build a garage or put up a shelter to protect the house from the north wind. Also, when you enter the house through the current entry way there is no room to greet anyone as you open the door, you're immediately inside the house.

Karen Alholm asked if this would interfere with the current parking.

Mr. Kuhn said they will still park in basically the same place they always have.

Public Input "Support"

No public present.

Public Input "Opposed"

No public present.

a) Variance Request - #9-01 Board Review and Action

Motion by John Trudeau, supported by Karen Alholm, that after conducting the required public hearing, reviewing enclosed documentation, staff review, requester's presentation, public input, and finding no practical difficulty caused by the property owner, the Chocolay Township Zoning Board of Appeals, is granting approval to construct a closed-in entrance on the north end of the existing structure located at 174 Riverside Drive, parcel number 52-02-305-033-00 as requested within Variance Request #09-01. Residents are also required to have an approved Zoning Compliance Permit and a Marquette County Building Permit.

Ayes 5. Nays 0. Motion carried.

VII. PUBLIC COMMENT

No public present.

VIII. UNFINISHED BUSINESS

A. RULES OF PROCEDURE DRAFT #3

Draft #3 of the Rules of Procedure revisions was reviewed. There was much discussion pertaining to #10, the last sentence pertaining to a board member having to leave the

room when there is a conflict of interest. The ZBA members agreed to have Randy Yelle, Zoning Administrator, and research better language for this rule and e-mail some suggested language to the members to look over and supply comments/ suggestions. Michelle Wietek also asked Mr. Yelle to remove from #11 the sentence that begins with “Because it is . . .”. The committee members also discussed adding #14. This would say “A Planning Commission member or Township Board member, who voted on the same matter before it was forwarded to the Zoning Board of Appeals, must abstain from voting as a Zoning Board of Appeals member”. Suggested revisions will be made and Draft #4 will be presented for review at the next meeting.

B. ZBA MEMBER DEES REQUEST

1. Mr. Wayne Dees presented a handout at the last meeting consisting of possible revisions to the Variance Application and Affidavit. There was a lengthy discussion pertaining to proposed revisions to the current Variance Application Form and Affidavit. In summary, the members agreed to the following:
 - a) Keep the majority of the current Variance Application as it is.
 - b) Combine #6 from Mr. Dees’ proposed draft into the existing version of the Variance Application Form under #4.
 - c) Add a statement to the Variance Application to say something such as “the information contained in said Variance Application and presented to the Zoning Board of Appeals is accurate to the best of my knowledge”.
 - d) Assemble the majority of Mr. Dees’ revisions into an informational hand-out to be given to an applicant when provided a variance application to assist them with completing the Variance Application Form.

The Committee had no suggested revisions to the Affidavit Form.

The suggested revisions will be made to the Variance Application Form and Informational Hand-Out. These will be presented for review/discussion at the next meeting.

2. OPINION LETTER TOWNSHIP ATTORNEY

1. Variance #08-04

Randy Yelle reported that after receiving the Township Attorney’s opinion letter pertaining to Variance #08-04 for an outdoor wood burning boiler, it is the Township Attorney’s recommendation that the motion for approval be rescinded.

Al Denton abstained from participating with this item as he voted on this through the Planning Commission. ZBA alternate Dan Maki stepped in for Mr. Denton.

Based on the finding of fact as detailed within the attached Township Attorney’s opinion, I Karen Alholm, move that the Chocolay Township Board of Appeals rescind the motion of December 4, 2008, granting variance request #08-04, from Ms. Kenlyn Hubbard, 121 Wintergreen Trail, Township of Chocolay, County of Marquette. Location and chimney height of outside wood-burning boiler. I Michelle Wietek, support the above motion. Ayes 5. Nays 0. Motion carried. (D. Maki-YES, K. Alholm-YES, M. Wietek-YES, W. Dees-YES, J. Trudeau-YES.)

VIII. NEW BUSINESS

No new business to discuss at this time.

IX. PUBLIC COMMENT

No public in attendance.

X. TOWNSHIP BOARD MEMBERS' COMMENT (John Trudeau)

Due to John Trudeau being new to the Zoning Board of Appeals, he had nothing to report on at this time.

PLANNING COMMISSIONER MEMBERS' COMMENTS (Albert Denton)

Al Denton reported that the Planning Commission will be looking at several possible zoning ordinance changes, updates, and modernizations at their next meeting.

XI. ADJOURNMENT

As there was no further business to discuss, Al Denton, motioned, Karen Alholm, seconded to adjourn the meeting. The meeting adjourned at 9:25 P.M.

Michelle Wietek-Stephens, Chairperson

Recording Secretary

**CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS
MEETING MINUTES
THURSDAY, OCTOBER 22, 2009**

I. MEETING CALLED TO ORDER

The meeting was called to order by Michelle Wietek-Stephens, Chairperson at 7:30 PM.

II. ROLL CALL

Present: Michelle Wietek-Stephens, Wayne Dees, Karen Alholm, John Trudeau, Kendell Milton

Absent:

Staff: Randy Yelle, Zoning Administrator, Laurie Vashaw-Eagle, Recording Secretary

III. APPROVAL OF AGENDA

Michelle Wietek-Stephens, motioned, John Trudeau, seconded to approve the October 22, 2009, agenda after changing the order of the agenda as follows: IV (Approval of the Agenda) to be moved to III- (Approval of the Minutes) and III to be switched to IV; switch VI – (Public Comment) to V – and V - (Open Public Hearing) to VI. (These minutes will follow the adjusted agenda order).

Ayes 5. Nays 0. Motion approved.

IV. APPROVAL OF THE FEBRUARY 26, 2009 MEETING MINUTES

Karen Alholm, motioned, John Trudeau, seconded to approve the February 26, 2009, minutes after a correction on page 4 (typo) of the Zoning Board of Appeals meeting minutes.

Ayes 5. Nays 0. Motion approved

V. PUBLIC COMMENT

No public comment provided.

VI. OPEN PUBLIC HEARING

Chair of Zoning Administrator Comments:

a) Variance Request #09-02 Board Review and Action

Randy Yelle, Zoning Administrator, reported that a public hearing on variance #09-02 request to construct a “deck/patio/porch” (here on referred to as a porch), this lot is a legal non-conforming lot of record, (Section 6.4) with an existing non-conforming structure. Therefore, per Article XIV of the Chocolay Township Zoning Ordinance, Section 14.2 (C) “No lawful nonconforming structure shall be expanded, extended, or enlarged without first securing the approval of the Zoning Board of Appeals”.

Parcel #52-02-109-130-00, Section 9-T47N-R24W, (.56 acres), is zoned (AF) Agricultural/Forestry, (20 acre minimum lot size), (Section 4.7) lying well short of the required 100 foot minimum setback from the water’s edge. (62’ 6”) (Section 6.8) (Chocolay River) said parcel has a 20 foot access easement through the property of Jim and Wendy Negri. (Zoning Ordinance required easement is 66 foot) (Section 6.7).

July of 2009, Mr. Keough requested a zoning compliance approval to re-side, re-roof and install new windows. (2009-48) This in itself would not be a problem as there was no request to expand, extend or enlarge said existing structure. The existing structure had an existing porch of two or three steps and about three (3) foot wide. July 9, 2009, Mr. Keough was informed by letter that the existing porch was removed and enlarged from about three (3) or four (4) feet to ten foot three inches (10’ 3”) by thirty foot six inches (30’ 6”) therefore requiring Zoning Board of Appeals approval.

July 21, 2009, Mr. Yelle replied to Mr. Keough’s question regarding his porch as being exempted from the zoning ordinance.

September 17, 2009, performed a joint onsite visit. At this meeting, Mr. Keough

Was informed of his right to appeal the zoning administrator's determination, or request a variance allowing the expansion of the existing porch. Mr. Keough chose to request approval from the Chocolay Township Zoning Board of Appeals to keep this expanded porch. Therefore, if granted, Mr. Keough would be allowed to keep the expanded porch and satisfying the violation.

Requestor's Presentation:

Mr. Keough provided additional photographs of the "porch" in question to the Zoning Board of Appeals members. Mr. Keough explained that he purchased the cabin in the Summer of 2009 and began work on the structure, i.e., replacing the roof, windows, etc. He had every intention of purchasing the adjacent 10 acres, but found out that if he did, purchase that 10 acres and combined it with the current .56 parcel the revised zoning Ordinance changes would make this a nonconforming non-buildable parcel. Once learning this Mr. Keough didn't purchase the adjacent 10 acres. Mr. Keough stated he believed he didn't need to obtain a permit to build what he states is a patio.

After speaking with Mr. Yelle, he was informed that his patio is considered a "deck", which requires a permit. Mr. Keough stated that his understanding of the zoning Ordinance was that he was constructing a patio, which doesn't require a permit. He referred to page 7 of the zoning ordinance that states patio/porch needs to be less than 6 inches off the ground, which the structure is according to Mr. Keough. Mr. Keough also stated there are no definitions for "deck" or "patio" in the zoning ordinance and referred to page 14 that only states a definition for "structure" that includes patios. Mr. Keough stated that Mr. Yelle suggested that he could apply for a variance request, but he feels he's in compliance of the zoning ordinance.

Karen Alholm asked Mr. Keough if he is before the Zoning Board of Appeals to request a variance for the structure?

Mr. Keough stated that he is here to request approval of a variance from the Zoning Board of Appeals and hopes that it gets approved.

Public Input "Support"

No public support stated.

Public Input "Opposed"

Jim Negri, 545 North Big Creek Road, stated that he had to grant Mr. Keough an easement to cross over his driveway to access the .56 acres of property Mr. Keough purchased. He stated that Mr. Keough has been a source of frustration since that time. Mr. Negri also stated that he noticed in early July that Mr. Keough began hauling in building materials and never seen a permit or heard that he had a permit to build anything.

Scott Thum, 240 Timberlane, stated that he is here to speak toward an incident he had last summer involving Mr. Keough when he looked in his backyard to see orange flags outlining a possible future development. Mr. Thum spoke with Mr. Keough who stated he was going to purchase the property behind Mr. Thum's house for development. Mr. Thum did not want a development in his backyard and figured the best way to avoid this was to purchase the property adjacent to his backyard. Mr. Thum stated that he then discovered that Mr. Keough had not purchase the land that he said would be used to build a development on the adjacent property. Mr. Thum stated that Mr. Keough is a real estate agent and developer and sometime abuses the duality to do things that are not right and does what he wants without regards to ethics. Mr. Thum stated that he feels this was a pressure sale, and he stated that he wouldn't want someone like Mr. Keough living in his neighborhood.

Wendy Negri, 545 North Big Creek Road, stated that she believes Mr. Keough was not fixing the property up for his own personal use, but to make it more appealing to sell for a profit. Mrs. Negri stated that Mr. Keough has cut down vegetation and left it laying on their property that he has easement through, has left broken glass on their property and garbage on their property, and has invited people to cross over their property to

obtain wood from his parcel. Ms. Negri stated that the adjacent 10 acres that Mr. Keough looked at purchasing is landlocked and he is advertising another small piece of property for sale adjacent to the 10 acres stating that a license can be obtained to use this property on his website. Ms. Negri stated that Mr. Keough doesn't even own the 10 acres.

Anita Martin, 475 North Big Creek Road, stated that she lives across the street from the 10 acres that is landlocked and she also owns the road frontage. Ms. Martin stated that North Big Creek Road is a dead end road and a very quiet area. Since Mr. Keough purchased land in the area there has been increased traffic posing safety concerns for her and her dog.

Mr. Keough reiterated that he didn't purchase the 10 acres due to the changes in the zoning ordinance making the purchase of the 10 acres a nonconforming, non-buildable parcel.

Wayne Dees asked Mr. Keough why he is advertising anything to do with the 10 acres if he doesn't own it.

Mr. Keough stated that his name is on the tax roll for the 10 acres because of an agreement he has with Mrs. Varvil. Mr. Keough is not aware that the Varvil's have sent a letter to the Township asking to remove his name from the property/tax roll.

Wayne Dees stated that he has seen the structure and it looks nice. The structure is flush to the building in the front and doesn't appear to be attached, but Mr. Dees stated he wasn't sure about the back. Mr. Dees also asked Mr. Keough how much fill was brought in to even out the land.

Mr. Keough stated 2-3 dump trucks loads of fill/top soil was brought in.

Mr. Dees asked how much gravel was brought in for the driveway and how close is the river? Mr. Dees' is concerned that Mr. Keough may have violated the waterfront setback.

Mr. Keough stated that the waterfront area is exactly how it was when he purchased it. He referred to Section 6.8 of the Zoning Ordinance pertaining to the definition of natural grade.

Mr. Dees asked if Mr. Keough obtained a fill permit since the property is located in a flood plain.

Mr. Keough stated he did not obtain a fill permit, but he did obtain a soil erosion permit.

Michelle Wietek Stephens stated that she is a little confused by the variance request. Ms. Wietek-Stephens stated that Mr. Keough had the opportunity to appeal Mr. Yelle's decision, but didn't do so and he is now asking the Zoning Board of Appeals to grant a request for a variance. Ms. Wietek-Stephens stated that Mr. Keough could have argued "deck" vs. "patio", but instead is requesting a variance.

Karen Alholm asked Mr. Keough, why he believes this variance should be granted as the request for a variance is unclear?

Mr. Keough explained that he felt a variance request would be the easiest, less expensive, and least drawn out way to go. He also stated that he feels the structure enhances the building and the property value. He also stated that the placement of the structure is the most practical place for this structure on this piece of property. He stated that for the reasons he has stated to the Zoning Board of Appeals that they will consider approving his variance request.

VII. CLOSE PUBLIC HEARING

a) Variance 09-02 Board Review and Action:

Michelle Wietek-Stephens, Motioned, Wayne Dees, Seconded that after conducting the required public hearing, reviewing enclosed documentation, staff, requesters and public input, and finding that the existing porch of about 3 foot by 4 foot was adequate in allowing ingress/egress and reasonable use of the existing nonconforming structure, therefore finding no reason for enlargement other than convenience and/or cosmetic reasons, bringing fill into a flood plain without a permit, and noting that said structure does not meeting the zoning ordinance required setbacks regarding waterfront property, the Zoning Board of Appeals denies variance request number #09-02.

Aye 5. Nays 0. Motion carried.

Wayne Dees stated that the fill being brought into his property which is located in a flood plain and the absence of the fill permit is the main reason they can't approve the variance request.

VIII. UNFINISHED BUSINESS

A. RULES OF PROCEDURE DRAFT #6

Draft #6 of the Rules of Procedure revisions was reviewed. There were no additional revisions provided.

Wayne Dees, Motioned, Karen Alholm, Seconded, to approve Draft #6 of the Rules of procedure as written on October 22, 2009.

Ayes 5. Nays 0. Motion approved.

B. FORM/S

1. ZONING BOARD OF APPEALS, VARIANCE APPLICATION AND INFORMATION FORM

Wayne Dees explained that the informational sheet will be attached to the Variance Application but is not part of the application form. John Trudeau requested that the Variance Application also be numbered as ZBA-100 (2009).

Karen Alholm, Motioned, Michelle Wietek-Stephens, Seconded, to approve the revised Variance Application as presented.

Ayes 5. Nays 0. Motion approved.

2. INFORMATION FORM

Wayne Dees explained that the "Rules and Guidelines for Public Comment Sessions and for Public Hearings" and the "Standards Applied by the ZBA to make a decision" included in the meeting packet will be copied on to the back of the Zoning Board of Appeals meeting agenda as a resource.

There was unanimous agreement by the Zoning Board of Appeals members present.

Ayes 5. Nays 0.

3. ORDER OF AGENDA REVISIONS

Revisions to the order of the agenda were discussed. The Zoning Board of Appeals Board members agreed to revise the agenda order as follows: I) Meeting Called to Order, II) Roll Call, III) Approval of Agenda, IV) Approval of Minutes, V) Public Comment, VI) Open Public Hearing, VII) Unfinished Business, VIII) New Business, IX) Public Comment, X) Township Board Members Comment/Planning Commissioner Members Comment, XI) Informational, XII) Adjournment.

Ayes 5. Nays 0.

VIII. NEW BUSINESS

A. APPOINTMENT OF 2010 OFFICERS

1. Election of Chair

Karen Alholm, Motioned, John Trudeau, Seconded, to elect Michelle Wietek-Stephens as Chair for the Zoning Board of Appeals for 2010.

Ayes 5. Nays 0. Motion approved.

2. Election of Vice Chair

Michelle Wietek-Stephens, Motioned, Wayne Dees, Seconded, to elect Karen Alholm as Vice Chair for the Zoning Board of Appeals for 2010.

Ayes 5. Nays 0. Motion approved.

3. Election of Secretary

John Trudeau, Motioned, Karen Alholm, Seconded, to elect Kendell Milton as Secretary for the Zoning Board of Appeals for 2010.

Ayes 5. Nays 0. Motion approved.

B. MEETING DATES AND STARTING TIME FOR 2010

1. 2010 Meeting Dates

The ZBA Board members reviewed the meeting dates for 2010. Wayne Dees stated he felt that there should be a meeting scheduled every month in 2010 and does appreciate the budget constraints. John Trudeau stated that the meeting dates should include a meeting in August and November. All members agreed that there will be scheduled meetings as follows: January – no meeting, February 25, March – no meeting, April 22nd, May 27th, June 24th, July 22nd, August 26th, September 23rd, October 28th, November 18th, and December 16, 2010.

2. Starting Time

The Starting Time will be changed in 2010 from 7:30 pm to 7:00 PM.

Ayes 5. Nays 0.

IX. PUBLIC COMMENT

No public comment provided.

X. TOWNSHIP BOARD MEMBERS' COMMENT (John Trudeau)

John Trudeau expressed his concerns about the increase of nonconforming parcels in the Township since the revision of the zoning ordinance.

Mr. Yelle explained this has been researched and actually there are less nonconforming parcels in the Township with the changes to the zoning ordinance.

PLANNING COMMISSIONER MEMBERS' COMMENTS (Kendell Milton)

Kendell Milton had no comments.

XI. INFORMATIONAL

1. Terms of Office
2. Notice of Retirement
3. Add Copy
4. Resident Copy
5. 300 Foot Mailing Map

XII. ADJOURNMENT

As there was no further business to discuss, Michelle Wietek-Stephens, Motioned, Karen Alholm, Seconded, to adjourn the meeting. The meeting adjourned at 9:30 P.M.

Michelle Wietek-Stephens, Chairperson

Recording Secretary

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS

MEETING MINUTES

THURSDAY, FEBRUARY, 25, 2010

I. Meeting Called to Order

The meeting was called to order by Ms. Karen Alholm, Vice Chairperson at 7:34PM.

II. Roll Call

Present: Wayne Dees, Karen Alholm, John Trudeau, and Kendell Milton

Absent: Michelle Wietek-Stephens

Staff: Jennifer Thum, Planner/Zoning Administrator

III. Approval of Agenda

John Trudeau, motion, Wayne Dees, seconded to approve the February 25, 2010 agenda.

Ayes 4 Nays 0 Absent 1 Motion Approved

IV. Approval of the October 22, 2009 Meeting Minutes

Wayne Dees, motioned, Karen Alholm, seconded to approve the October 22, 2009 minutes as presented.

Ayes 4 Nays 0 Absent 1 Motion Approved

V. Public Comment

No public comment was provided.

VI. Public Hearing

No public hearing scheduled.

VII. Unfinished Business

None.

VIII. New Business

A. Zoning and planning update from staff.

Jennifer Thum, Zoning Administrator, stated that she was requested by the Township Board, to create a list of the outgoing projects and issues that have been ongoing for a couple of years. Ms. Thum went over each item and the Board members gave comments.

	Background Information and staff comments.	Planning Commission	ZBA
Issue			
Mini-Warehouses	There was some concern raised about how Ace Hardware was allowed to construct storage units. After research they divided the lot so the store is on one lot and storage units are on another.	No comment on Ace.	At their 2-25-10 meeting, the board did not have any objections to storage units being placed in the General Commercial District. There was a question concerning Ace Storage and if it was located on a different lot. Ace hardware and the storage units are on two different lots.
	The Township has not received any complaints/concerns about storage units being allowed in the General Commercial District.	At their 2-1-10 meeting the commissioners felt that they had discussed this issue enough when they were updating the Zoning Ordinance in 2008. They don't feel that we need to revisit this issue.	
Lakeland	Sent a letter on 1-31-10 stating the need for a CUP and that the Township was revoking the Zoning Compliance Permit.	They understand why we were asking for a Conditional Use Permit.	At their 2-15-10 meeting the board inquired what permit they needed and some more background on this issue. Staff will continue to keep them posted.
	On 2-2-10 received a letter back from Tom stating that he should be grandfathered in under the old ordinance. Will send a follow up letter on 2-4-10.	Will keep them posted. No comment was received.	
Holiday Gas Station	Found a violation letter that was sent by Randy to Holiday Signs stating that everything was in compliance.		The Board wanted information on the permit for the sign to be placed in the right-of-way.
	Sent a follow up letter to Holiday stating that their sign was in violation of the Township Ordinance.	Will keep them posted.	Will keep them posted.
	Received a phone call from their sign company wanting to know what was going on.	Will keep them posted.	Will keep them posted.

	Discovered that this issue of sign illumination was brought to the ZBA in 2001. The ZBA ruled that the Ordinance does not allow for electronic message signs.	No comment	No comment
	Writing a new sign ordinance that could be separate from the Zoning Ordinance.	The Planning Commission made updating the Township Sign Ordinance a top priority for this year.	At their 2-25-10 meeting the Board inquired about the new ordinance. Staff stated that the Planning Commission wanted to work on a whole new document. The board spoke about electronic signs and that some of them were not opposed to them.
McDonalds -signage	This was answered in a letter to you dated 12-2-09	They will look at off-premise and directional signs when they review the new sign ordinance draft.	No comment
Waselesky	I believe that Trustee Maki wanted to know the status of the Waselesky Junk yard. There was an agreement between Mr. Yelle and Mr. Waselesky last year to shut down the junk yard over a period of three years. According to the agreement, 75% of the vehicles were to be crushed. However, he spoke with Randy and asked for an extension on that percentage due to fall in scrap metal prices.	Just want Mr. Waselesky to follow the agreement and to make sure everything is behind the fence.	The Board would like a copy of the agreement provided to them. John Trudeau stated that Mr. Waselesky junk yard was in existence before the zoning ordinance came into effect, so the Township should not force him to shut down.
	Plan on contacting him to conduct a site visit and see what his plans are for closing the site.	Want to be informed.	Wants to be kept informed.
Spodeck	From what I could retrieve from Randy's files, an issue was raised by Dick Arnold. Mr. Arnold made a complaint that Mr. Spodeck was operating a mining operation at 6884 US 41S.	The Planning Commission will look into this with staff in the Spring.	Board member Dees stated that Trustee's Maki concerns were that Mr. Spodeck removed too much soil, and there was concern that he has a commercial operation in a barn that he may or may not own.

Illegal Signs	Sent violation notices to the Insurance company on US 41S, Holiday Gas Station and Northern Meats.	At their 2-1-10 meeting the Planning Commission made updating the Township Sign Ordinance a top priority for this year.	No comment, would just like to review the sign ordinance.
Keough	Spoke with Sheila Meire from the MDEQ, she stated that she did approve a permit for 525 N. Big Creek for a patio area. She informed that she thought he was working on a garage. I went to the house and did not see anything. Will keep on an eye on this property.	No input, just wanted to remain informed.	The Board just wanted to make sure we keep in contact with the MDEQ and let them know of our rules and regulations. Also that the Township is opposed to any permit being issued for any structures within a 100ft of the river.
Sommers	There was a court stipulation that the front half of 208 Timber Lane was to be cleaned up by January 31, 2010. I inspected the site on February 1, 2010 and the front half was in the same condition as in 2009. Wrote a letter to our attorney and copied Mr. Sommers attorney.	The Planning Commission just asked to be kept informed.	The Board asked about the injunction and when the Township can send somebody in there to clean up the lots.
Home Occupation	Upon reviewing our records, the home occupations were supposed to be renewed every three years. As a result, I mailed out a registration form to everyone we had on file that listed a home occupation. We are getting a better response than I anticipated.	No comment	No comment
Lighting	I believe that the Township has gone over this topic in detail last year, when we did a zoning amendment.	At their 2-1-10 meeting, the Planning Commission felt that we had discussed this topic enough last year.	The Board inquired about residential neighborhoods.

Private Roads	There were some concerns about the difference in what the Comp plan states and what our Zoning Ordinance allows. I believe that some people want to see no private roads permitted in our Township.	The Planning Commission felt that we had discussed this enough in 2008, when we updated the Zoning Ordinance.	At their 2-25-10 meeting the Board discussed the 66ft ROW and maintenance agreement. Member Trudeau brought up that we discussed this a while ago and feels that for small development, private roads are good options and they are affordable.
Nonconforming Uses	It was brought up that we should include Class A and B designations for non-conforming uses. I have not taken any action.	The Planning Commission felt that they had discussed this enough in 2008, when we updated the Zoning Ordinance.	At their 2-25-10 meeting, the Board discussed the Class A and Class B designations.
Planned Unit Devel.	There were some concerns about the Township's PUD language in our Ordinance. Once we get the Sign Ordinance through, I will start working on some new language.	The Planning Commission felt that we did need to address the PUD section in our Ordinance. They made this a priority for 2010.	At their 2-25-10 meeting the Board discussed the possible acreage requirement changes to the Zoning Ordinance.
Contractors Yards	There was a concern about allowing contractors yards as a Conditional Use in the Commercial district. I have not taken any action.	The Planning Commission felt that that we had discussed this enough in 2008, when we updated the Zoning Ordinance.	At their 2-25-10 meeting, the Board did discuss contractor's yard. No conclusion was reached concerning their placement in our Zoning Ordinance.

IX. Public Comment

No Public Comment

X. Township Board Members' Comment (John Trudeau)

No Board Member comment

Planning Commission Member's Comment (Kendell Milton)

No Commissioners Comment

XI. Informational

A. ZBA Sign Illumination decision 2001

Wayne Dees inquired about what this now means for the Holiday Sign. Jennifer Thum, Zoning Administrator, stated that she is in the process of sending them another violation letter citing the ZBA decision. She still has to get with the Township Supervisor and attorney to see what would be acceptable for compliance.

B. Proposed Zoning Amendment 34-10-02

Jennifer Thum, Zoning Administrator, stated that this proposed Zoning Ordinance Amendment would be brought before the Planning Commission at their March, 1, 2010 meeting. The Board discussed that square feet and parking lot should be considered when deciding if Nursing Homes should be added as a Conditional Use in the R-2 District. Also, that General Office, if approved, should be looked at on a case by case basis.

II. Adjournment

As there was no further business to discuss, Kendell Milton, Motioned; John Trudeau, Seconded to adjourn the meeting. The meeting was adjourned at 7:50pm.

Ms. Karen Alholm
Vice Chairperson

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS

MEETING MINUTES

THURSDAY, JULY 8, 2010

I. Meeting Called to Order

The meeting was called to order by Ms. Michelle Wietek-Stephens Chairperson at 7:34PM.

II. Roll Call

Present: Michelle Wietek-Stephens, Lee Snooks (ALT), Karen Alholm, John Trudeau, and Kendell Milton
Absent: None
Staff: Jennifer Thum, Planner/Zoning Administrator

III. Approval of Agenda

John Trudeau, motioned, Kendell Milton, seconded to approve the February 25, 2010 agenda.

Ayes 5 Nays 0 Absent Motion Approved

IV. Approval of the October 22, 2009 Meeting Minutes

Karen Alholm, motioned, Lee Snooks, seconded to approve the February 25, 2010 minutes as presented.

Ayes 5 Nays 0 Absent Motion Approved

V. Public Comment

Mr. Santii asked to speak under the public hearing portion of the meeting to talk about his appeal.

VI. Public Hearing

ZBA 2010-01 (Santii)

190 Riverside Road, Mr. and Mrs. Santii are petitioning the Chocolay ZBA to grant a variance to construct a 16' x 20' addition to an existing home with a setback distance from the river of 66ft.

Mr. Jeff Santii 190 Riverside Road. Mr. Santii handed out an informational sheet to the Board members explaining his son's conditions and the hardship that they have. The board members read the material.

Ms. Alholm questioned the setback and the proposed addition. Were they going to build the structure 66ft from the river's edge? Did they amend the distance from the river? Mr. Santii stated that when Ms. Thum visited the site she thought that he could move the building up closer the front of the house. The problem though is that the door to the proposed addition building would be in their daughter's room. They did not want to interrupt her life, so they would like to keep the location as is, but if needed they would be willing to move the proposed addition up 8ft. If it would be moved 8ft, the proposed addition would then be 74ft from the river.

Ms. Wietek-Stephens question what room they were going to use to access the proposed addition.

Mr. Snooks asked if they could install a jet tub, or if their son had to have one of those like endless pools. Mr. Santii responded that his son could not get the exercise that he required in a tub and did need a pool.

Mr. Trudeau asked if the rest of the homes in the neighborhood and on the river side are set back the same distance.

There was a question about the erosion and Mr. Santii stated that if needed they would be willing to install retaining wall to stop the erosion.

Ms. Alholm asked what type of problem there would be if we required them to remove the addition if they were to move. Mr. Santii stated that they would not be in financial means to remove the addition.

Ms. Wietek asked are there any other locations where the house does not meet the setback. Mr. Santii responded that no, the house does meet the other required setbacks, except the waterfront front. The house was built prior to that part of the ordinance going into effect.

Ms. Alholm asked if we received any negative response from any property owners. Mr. Santii stated that Mr. Eric Keough did write a negative letter, but was willing to retract the letter once he found out the circumstances. Ms. Thum stated that was the only letter we received for ZBA 2010-01.

Ms. Wietek reiterated that the proposed addition would be at the same setback from the river that their home is now.

The board questioned if his house was in compliance before the Waterfront setback when into effect. Mr. Santii thought that it was, but he was not sure.

Ms. Thum stated that there used to be wording in the old ordinance that stated, "The parcel was exempt from the 100ft setback under the 1977 Ordinance, Section 403 Waterfront Setback: {excerpt}..... These provisions (i.e. the 100ft setback) do not apply to any nonconforming parcel of land or use on a recorded plat, or described in a deed or land contract executed and delivered prior to the effective date of this The Ordinance."

The Findings of Fact:

1. All fees, notifications and publication requirements of the ordinance have been met. The Township did receive a response from Eric Keough against the request.
2. Owners of record are Jeff and Jill Santii, Parcel #305-028-00
3. Subject property is located in an R-1 Zoning District and is approximately .9 acres.
4. The applicant is requesting a variance from the 100ft Waterfront setback, Section 6.8.
5. The applicants will construct a retaining wall if erosion problems start to occur due to the new addition on the home.
6. Special conditions and circumstances exist that are peculiar to 190 Riverside Dr, structure, which is not applicable to other lands, structures or buildings in the same district.

- a. Such as the family illness and the necessity of the pool,
- b. The neighboring residential dwellings are set approximately the same distance from the Chocolay River.
- c. The locations of the home in relationship to the river, in that the home is set up from the Chocolay River.

Karen Alholm moved Michelle Wietek seconded, for Zoning Appeal 2010-01 that the request for variance of the Townships Zoning Ordinance 100ft waterfront setback, Section 6.8 **be approved**, citing staff report and documents provided from applicant with the following condition.

- 1. The applicant will construct a retaining wall if erosion problems start to occur due to the new addition onto the home.

AYES: 5 NAYS: 0 Motion Carried
 Roll Call: All in favor

VII. Unfinished Business

A. None.

VIII. New Business

B. Concluded

IX. Public Comment

No Public Comment

X. Township Board Members' Comment (John Trudeau)

Asked how the Township verifies setbacks and that the Township should have some type of policy in place for confirming setbacks. The residents fill out the form and basically can state that they meet the setback requirements, but does anybody verify them. Mr. Trudeau asked if we should require a survey from the property owners before or after the construction.

Ms. Thum stated that she does visit sites, if on the plan they show the proposed structure within 3ft of the required setback distance.

There was further discussion on the waterfront setback and how the language in the previous ordinance dealing with existing homes closer to the water's edge than 100ft was omitted from the existing ordinance. Ms. Thum was not sure.

The reason that this appeal was before them was because that language was omitted. Should the township look at putting that language back into the ordinance? How did this get omitted, staff should check into this.

Planning Commission Member's Comment (Kendell Milton)

No Commissioners Comment

XI. Informational

Staff talked about the Comprehensive Plan update

XII. Adjournment

Meeting was adjourned at 7:40pm

Michelle Wietek-Stephens
 Chairperson

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS**

**Thursday, August 26, 2010
7:00 P.M.**

I. Meeting Called to Order

The meeting was called to order by Ms. Michelle Wietek-Stephens, Chairperson at 7:04pm.

II. Roll Call

Present: Michelle Wietek-Stephens, Chairperson, John Trudeau, Kendell Milton, and Lee Snooks.

Absent: Karen Alholm

Staff: Jennifer Thum, Planner/Zoning Administrator

III. Approval of Agenda

John Trudeau, motioned, Kendell Milton, seconded to approve the August 26, 2010 agenda as presented.

Ayes: 4 Nays: 0 Motion Approved

IV. Approval of July 8, 2010 Minutes

Michelle Wietek-Stephens had one comment, there was a typo on Page 4, Section 10, second paragraph, "shall" be inserted. No additional comments.

Michelle Wietek-Stephens motioned, John Trudeau, seconded to accept the minutes for the July 8, 2010 meeting.

Ayes: 4 Nays: 0 Motion Approved

V. Public Comment

No public comment concerning general township issues

VI. Public Hearing and New Business

A. 2010-02

Mrs. Thum explained that the applicant is proposing a 19.5 front yard setback and the reason for the variance is that the location of the septic tank and drainfield are located in the front yard setback. Ms. Thum explained that the house potentially could be pushed back, but the house would be too close to the drainfield. Also the applicant most likely would have to drive over the drainfield to access their home.

Ms. Thum also explained that she researched the neighboring homes who received building permits during the 1970's and those homes were located about 20ft from their property line. Dr. Gerrish's house was built in 1969, which was prior to the Township keeping building records and the Township Zoning Ordinance. The neighboring lots are comparable with what the Gerrish's are proposing for a front yard setback.

Ms. Thum stated that the foundation walls need to be 5ft from the septic tank and the applicant explained that the foundation walls will be 5ft from the septic tank and 10ft from the drainfield.

Ms. Thum also mentioned that the setbacks are measured from the dripline, so the plan would have to be amended to that in order to receive a zoning compliance permit if their variance is approved.

There was discussion of the neighboring lots and what the setbacks were for their original home that was destroyed in a fire. Ms. Thum explained that the front yard setback for the original home was about 20ft from the edge of Riverside Drive. Ms. Thum stated that the neighboring lots are about the same distance from the edge of \ Riverside.

Chairperson, Wietek-Stephens asked what the purpose of setbacks are. Mr. Milton explained that the purpose of setbacks is to ensure that the use of a property does not infringe on the rights of neighbors, and to allow each neighbor their privacy. There was further discussion about when the house was torn down after the fire. The builder, Mr. Seppanen, explained that the hole would have to be filled in, if the variance was not approved, and the house would have to be located further back on the lot. Mr. Seppanen explained that they would have to fill the hole and extra fill would be required to ensure that their lot is level. As it's currently laid out, the back of the lot sits up higher than the front yard. Dr. Gerrish stated that the back of the lot is also reserved for the drainage and pushing the house that far back would have an impact on the overall drainage of their lot as well.

Further discussion commenced about the proposed house and the neighboring lots and the location of the house. Ms. Thum explained that there is one house further down the street that is pushed back. Ms. Thum stated that she did not get any positive or negative feedback from residents or neighbors. Dr. Gerrish stated that he has spoken with his neighbor and stated that they did not have any problems with having the house closer than the front yard setback allows.

Chairperson, Michelle Wietek-Stephens discussed that the impact of the reduced setback would not impact the overall character of the neighborhood, if the ZBA does allow them to build closer to the edge of Riverside Drive than the current zoning ordinance regulates.

Chairperson Michelle Wietek-Stephens read the following finding of fact:

1. All fees, notifications and publication requirements of the ordinance have been met.
2. The Township did not receive any responses against or for the request.
3. Owners of record are Dr. Paul Gerrish, Parcel #335-027-00
4. Subject property is located in an R-1 Zoning District and is approximately .69 acres.
5. The applicant is requesting a variance from the front yard setback. The applicant is requesting a front yard setback of 19.5.
6. Special conditions and circumstances exist that are peculiar to the 307 Riverside Dr, structure, which is not applicable to other lands, structures or buildings in the same district.
 - a. Such as the location of the septic tank and drain field,
 - b. The neighboring residential dwellings are set approximately the same distance from the front yard setback. (The ZBA discussed this in detail once more)
 - c. The original home was built prior in 1970 which was prior to the Township's Zoning Ordinance going into effect. That house burnt down in July of 2009 and was a total loss.

RECOMMENDED MOTION

John Trudeau, moved Kendell Milton, seconded, After conducting a public hearing and review of the STAFF FILE REVIEW/ANALYSIS for Variance request #10-02, the Zoning Board of Appeals (**find/does not find**) that the request (**demonstrates/does not demonstrate**) the standards found in Section XIV and XV of the Township Zoning Ordinance and hereby grants a 9.5ft front yard setback variance to permit the structure to be located 19.5ft from the front property line where 30ft is required.

VII. Unfinished Business

- A. None

VIII. New Business

- A. Discussed and voted on under Public Hearings.

IX. Public Comment

- A. None

X. Township Board Comment/Planning Commissioners Members Comment

- A. None

XI. Informational

Ms. Thum discussed the upcoming vision session to be held at Cherry Creek School to assist with the update of the Township's Comprehensive Plan. Ms. Thum stated that once the date is confirmed that she will post flyers and put the information on the Township website.

Ms. Thum also encouraged everyone to complete the Township survey that is available on our Township's website.

XII. Adjournment

Meeting was adjourned at 7:35pm

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS**

**Thursday, October 28, 2010
7:00 P.M.**

I. Meeting Called to Order

Ms. Wietek-Stephens called the meeting to order at 7:00pm

II. Roll Call

Present: Chairperson, Michelle Wietek-Stephen; Vice Chairperson, Karen Alholm; Lee Snooks; John Trudeau; Kendell Milton; and Sandra Page (alternate)

Absent:

Staff: Jennifer Thum, Planner/Zoning Administrator

III. Approval of Agenda

Karen Alholm, moved, John Trudeau seconded to approve the October 28, 2010 agenda.

Ayes 5 Nays 0 Absent Motion Approved

IV. Approval of August 26, 2010 Minutes

Michelle Wietek-Stephens, moved, John Trudeau seconded to approve the August 26, 2010 minutes with the recommended changes.

Ayes 5 Nays 0 Absent Motion Approved

V. Public Comment

Mr. Gischia, Northern Michigan University

Mr. Gischia stated that he is present at tonight's meeting to represent Northern Michigan University along with Mr. Jim Thams and to answer any questions that the Board might have with regards to ZBA variance request #2010-03

Mr. George Voce, 192 Dana Lane

Mr. Voce spoke against the NMU Golf Course sign and had concerns with the current and proposed location and that it's located in the clear vision triangle and that it would obstruct the views of cars leaving the golf course and turning onto M-28E. He also did not understand why the golf course sign had to be lit at night when the course is not open at night.

Mr. Brain Pesola

Stated that he is present at the meeting on behalf of the Manosky's. His company Pesola builders will be demolishing the current home and constructing the proposed new one.

VI. Public Hearing

A. 2010-03 – Northern Michigan Foundation

Northern Michigan Foundation, 1401 Presque Isle Road, Marquette MI, for parcel 52-05-110-097-00, M-28 East, the lot fronts Eagle Pass and M-28. Northern Michigan Foundation is requesting Zoning Board of Appeals (10-03) approval to erect a sign located within the Michigan Department of Transportation Right-of-Way and 20ft from the edge of the front property line. The applicant is seeking a variance from Section 18.2 of the Chocolay Township Zoning Ordinance, which requires golf course signs to be located 5 feet from the front line.

B. 2010-04 – Mr. and Mrs. George Manosky

Mr. and Mrs. George Manosky, 2003 M-28E, parcel #52-02-007-027, is requesting the Zoning Board of Appeals (10-04) approval to construct a single-family dwelling with a 2ft side setback on the East side, whereas the Township Zoning District, in Section 18.6 for the WFR District, requires a 10ft side setback.

VII. Unfinished Business

A. None

VIII. New Business

A. 2010-03

Mrs. Thum stated that throughout this year she has been in contact with both Mr. Gischia and Mr. Thams concerning their current and proposed sign. Mrs. Thum has hoped that the Township Planning Commission would have been through the proposed new sign ordinance but they are still working on it. Mrs. Thum indicated that the reason that NMU has to go before the Zoning Board of Appeals is because when the original sign was put up there were no restrictions on where golf course signs could be located and the size that they could be. Now, the Zoning Ordinance states that golf course signs in residential districts have to be set 5ft from the property line and their current sign is located in the right-of-way with a maximum of 60 square feet. The current sign is 39.2 square feet and the proposed sign is approximately 60 square feet.

Mr. Jim Thams from NMU stated that the sign will be backlit and rectangle in shape so that the sign is getting a more uniform size. That is part of the reason for the size increase. The increase in square footage is being requested because NMU would like the sign to be more noticeable and it has been recommended by their sign consultant. MDOT approved the sign at its current location and they do look if the sign is in the clear vision triangle and if the sign was in the clear triangle, it would have not been approved by MDOT.

Michelle Wietek-Stephens stated that she does not have an issue with the lighting nor the location. Her concern is the increase in square footage. Also, that Mr. Voce has a valid concern with regards to the sight-triangle.

There was further discussion with regards to sight-triangle distance and MDOT's approval process.

Mrs. Alholm asked NMU if MDOT had the drawings that were part of the ZBA packet which indicated that the sign was going to be increased.

Mr. Jim Thams stated that MDOT has the plans, so they did see that NMU was proposing to increase the sign.

Mrs. Alholm moved, John Trudeau seconded, that following staff review of variance request #10-03 the Zoning Board of Appeals **finds** that the request with the dimensions that were provided as part of the application, and based on staff's review and all fees have been meeting, does **demonstrate** the standards found in Section Fourteen and Fifteen of the Township Zoning Ordinance.

Findings of Fact for 10-03

1. All fees, notifications and publication requirements of the ordinance have been met.
2. The Township did receive responses against the request. Mr. Voce from 192 Dana Lane. The Board felt that MDOT reviewed the sign and the clear distance triangle is their jurisdiction. The sign was approved by them so there were confident that the sign would not be hazardous to traffic entering and leaving the golf course.
3. Owners of record are Northern Michigan Foundation, Parcel #110-097-00
4. Subject property is located in an R-1 Zoning District and is approximately 219.2 acres.
5. The applicant is requesting a variance from Section 18.2 Signs in Residential Districts. The applicant has requested that their proposed sign be located 20ft from the edge of their property line and located in the MDOT right-of-way.
6. Special conditions and circumstances exist that are peculiar to the Northern Michigan Golf Course Sign and the lot which the current and proposed sign is placed on, which is not applicable to other lands, structures or buildings in the same district.
 - a. The original sign was located in its current location, prior to any regulations for golf course signage in a residential district.
 - b. The other golf course in our Township has a sign with similar size and is located in the county right-of-way.

Ayes: 4 Nays: 1 (Wietek-Stephens)

B. 2010-04

Mrs. Thum stated that she has held numerous conversations with Mr. and Mrs. George Manosky about the current house and their plans to build a new single family residential unit. The current house was used as a rental unit and after the last tenants; the Manosky's noticed that there was black mold in the foundation of the house. As a result, they wanted to build a new home that would be used for a family member and would not be rented out. The Manosky's had a survey done of their property and they discovered that their well is not on their property, but on their neighbors to the East. The Manosky's have been trying to purchase about 20ft from their neighbor on that East side. If the applicant is able to purchase the 20ft then they will not need to request a side setback variance. The applicant is requesting a reduction to the East side setback requirement, whereas the setback required in the Waterfront Residential Zoning District is 10ft and the applicant is requesting a 2ft side setback. The reasoning behind requesting the 2ft side setback is to avoid having to cut into the dune on the west side and discovering that the easterly property line is not where the applicant thought it was.

If the Manosky's wanted to build the exact home and in the same location, the applicant would meet the 10ft on the east side, but they would like to build a larger home and avoid cutting into the dune.

Mrs. Alholm, if the issue is to avoid cutting down the dune, there are dunes on both sides so that is a moot point. She did speak with the neighbor on the east side and she showed her that she did have sales agreement for the Manosky's to purchase 25ft, so a variance would not be needed.

Mrs. Manosky said nothing has been agreed to yet; they are waiting to see if her ex-husband would agree to the purchase price. She has not seen the signed sale agreement of the 25ft. Mrs. Manosky did sign the agreement, but they are waiting to hear if her ex-husband has to agree to the sale because there is some clause in their divorce proceedings that any sale of the house has to be looked at by the ex-husband, as he is entitled to 25% of the sale. Mr. Brian Pesola stated that they are working with Mrs. Han realtor to Mr. Huffman and working with their own attorney to hammer out the details, but at this point they have not received a signed sales agreement.

Mrs. Alholm, we have a possible sales agreement and that the building won't take place until spring, so I am not sure we need to be here.

Mr. Pesola stated that he spoke to Jennifer about zoning before we tried to purchase property from the neighbors, and if we get the variance, great. If we are able to purchase the 25ft, then we won't need the variance. We paid the filling fee, and don't want to lose that, and we are still not sure about what will happen with the pending sales agreement.

Mrs. Alholm – not wise to look at a variance when it might not be needed. We need to wait and see if you are able to purchase the property and if Mr. Adamini is able to obtain an easement.

Ms. Wietek-Stephens, when is our next meeting? The meetings are scheduled, but we usually cancel them if we have no items to discuss. Can we table a motion until the issue is resolved?

Ms. Thum stated that you can table an item if it's to be brought to the next meeting, otherwise you have to postpone the issue if you are not sure when the item is going to be brought up again. Ms. Thum also stated that she would not create a non-conforming lot if she gave the Manosky's the 25 ft.

Mr. Snooks, is the timeline out of your hands?

Mr. Pesola, we are waiting for a phone call to write a check. So, yes, the timeline is out of our hands.

Mrs. Alholm moved and Weitek-Stephens seconded that for request 10-04, pending the understanding that there is a signed sales agreement, but its awaiting to get approved by an additional family member, ZBA Variance Request #10-04 is postponed to wait and see if a variance is needed.

Ayes: 5 Nays: 0

IX. Public Comment
None

X. Township Board Comment/Planning Commissioners Members Comment
None

XI. Informational
Mrs. Thum introduced Mrs. Sandra Page as the alternate to the Zoning Board of Appeals. Mrs. Thum also stated that the other one is Geno Anglei.
Mrs. Thum also checked to make sure the time and dates are ok with the Board. The dates tend to run into the Holidays at the end of the year.

XII. Adjournment

Mrs. Wietek -Stephens –adjourned the meeting.

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS**

**Thursday, November 18, 2010
7:00 P.M.**

I. Meeting Called to Order

Ms. Wietek-Stephens called the meeting to order at 7:00pm

II. Roll Call

Present: Chairperson, Michelle Wietek-Stephen; Vice Chairperson, Karen Alholm; Lee Snooks; John Trudeau; and Kendell Milton

Absent:

Staff: Jennifer Thum, Planner/Zoning Administrator

III. Approval of Agenda

Karen Alholm, moved, Michelle Wietek-Stephens seconded to approve the November 18, 2010 agenda.

Ayes	5	Nays	0	Absent	Motion
Approved					

IV. Approval of October 28, 2010 Minutes

Michelle Wietek-Stephens, moved, Karen Alholm seconded to approve the October 28, 2010 with the recommended changes.

Ayes	5	Nays	0
Motion Approved			

V. Public Comment

None

VI. Public Hearing

A. None

VII. Unfinished Business

A. 2010-04 – Mr. and Mrs. George Manosky

Mr. and Mrs. George Manosky, 2003 M-28E, parcel #52-02-007-027, is requesting the Zoning Board of Appeals (10-04) approval to construct a single-family dwelling with a 2ft side setback on the East side, whereas the Township Zoning District, in Section 18.6 for the WFR District, requires a 10ft side

Mr. Brain Pesola- Stated that he is present at the meeting on behalf of the Manosky's. His company Pesola builders will be demolishing the current home and constructing the proposed new one.

Mrs. Thum stated that the purchase agreement that was signed by the neighbor had been taken back, so there is no purchase agreement. As a result, they have to move forward with the variance request. Mrs. Thum provided the background information once more.

Mrs. Thum stated that she has held numerous conversations with Mr. and Mrs. George Manosky about the current house and their plans to build a new single family residential unit. The current house was used as a rental unit and after the last tenants; the Manosky's noticed that there

was black mold in the foundation of the house. As a result, they wanted to build a new home that would be used for a family member and would not be rented out. The Manosky's had a survey done of their property and they discovered that their well is not on their property, but on their neighbors to the East. The Manosky's have been trying to purchase about 20ft from their neighbor on that East side. If the applicant is able to purchase the 20ft then they will not need to request a side setback variance. The applicant is requesting a reduction to the East side setback requirement, whereas the setback required in the Waterfront Residential Zoning District is 10ft and the applicant is requesting a 2ft side setback. The reasoning behind requesting the 2ft side setback is to avoid having to cut into the dune on the west side and discovering that the easterly property line is not where the applicant thought it was.

If the Manosky's wanted to build the exact home and in the same location, the applicant would meet the 10ft on the east side, but they would like to build a larger home and avoid cutting into the dune.

Mrs. Alholm asked about cutting into the dune on the west side and if a retaining wall would have to be built.

Mr. Pesola commented that they would have to cut into the dune about a foot and a retaining wall would be utilized.

The Board members discussed if a two-story house would fit better on the lot. Mr. Pesola commented that the Manosky's are building the house for their daughter, who is scheduled to have back surgery and a two story house is not really an option for them.

Mr. John Trudeau questioned why we are here tonight, we have setbacks in place for a reason and the 2ft side setback over the 10ft setback is not reasonable at all. There are fire codes that are in place as well, and I don't believe that 2ft will meet that, nor is that enough room for a ladder to be placed. Maybe if the applicant would have requested something more reasonable we could look at reducing the setback.

The Board commented that the existing house met the setback so they are not sure why a new one cannot meet the setback requirements. There was further comment about the setback variance and that the dune is really not a reason to request such a small side setback.

Mrs. Thum explained that the applicant wanted to build a larger family home and they did not want to cut into the dune for environmental reasons, so they felt that a reduced setback on the East side might be their answer.

John Trudeau stated that the lot does meet the required setbacks and therefore is a buildable lot, and that Brain can do something to make sure a house of the size they want will fit on the lot.

The Board went on to say that there are environmental concerns like wind erosion when a dune is cut down, but still not sure that is a hardship. Also, the 2ft is just too small of a side setback. While the neighbor does have a large lot, you cannot predict the future and another owner might want to place a structure right at the 10ft setback or a less than that depending on the size of the structure.

Mrs. Thum went over the Township Zoning Ordinance and the Lake Superior Dune Overlay and how that would play a part into this application.

John Trudeau moved and Karen Alholm seconded, that after conducting a public hearing and review of the staff file review/analysis for variance request #10-03, of the Zoning Board of Appeals **does not** find that the request **demonstrates** the standards found in Section XIV and XV of the Township Zoning Ordinance for the following reasons:

1. The owner can still build a home on the lot and meet the Township setback requirements.
2. Cutting into the dune is not a hardship.

Ayes: 5 Nays: 0

Members Lee Snooks and Michelle Wietek-Stephens asked that Mrs. Thum notify them when the Manosky's will go before the Planning Commission for their Conditional Use Permit to cut into the dunes. They would like to show their support for this item.

VIII. New Business

None

IX. Public Comment

None

X. Township Board Comment/Planning Commissioners Members Comment

None

XI. Informational – Mrs. Thum stated that part of their packet is the 2011 meeting calendar.

XII. Adjournment

Mrs. Wietek -Stephens –adjourned the meeting.

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS

Thursday, December 16, 2010

7:00 PM

- I. Meeting Called to Order
Ms. Alholm called the meeting to order at 7:00 pm
- II. Roll Call
Present: Vice Chairperson, Karen Alholm; Geno Angeli; Kendal Milton;
and Sandra Page (Alternate)
- Absent: Michele Wietek-Stephen, John Trudeau, Lee Snooks
- Staff: Jennifer Thum, Planner/Zoning Administrator
- III. **Approval of Agenda**
Kendal Milton moved, Sandra Page second, to approve the December 16,
2010 Agenda.
- Ayes 5 Nays 0 Absent Motion Approved
- IV. **Approval of November 18, 2010 Minutes**
Mrs. Alholm moved and Mr. Angeli seconded to approve the November 18,
2010 minutes of with the suggested changes from the Board.
- Ayes 5 Nays 0 Absent Motion Approved
- V. **Public Comment**
Mr. Zarkowski 1982 Orchard Street, wanted to reserve sometime to speak
under Item #VI.
- VI. **Public Hearing**
- A. **2010-05**
Z and P Properties, 1982 Orchard St., Marquette 49855, County of
Marquette, Michigan, for parcel number 52-02-253-107-00, Section 6,

47N-R24W, VILLAGE OF HARVEY VANNIER & HAGER'S RE-PLAT LOTS 1-6 AND 23-27, BLK 13 (commonly known as 425 Corning St) is requesting Zoning Board of Appeals (10-05) approval for a variance from the 5 acre requirement to authorize a Planned Unit Development (PUD) on an existing 2 acre site. The variance would allow for the development of a multiple use within an existing structure for the creation of a five- unit handicap accessible apartment with storage in the existing basement for Bell Medical patient records.

Mrs. Thum read a letter from a resident who was in favor of the proposed development.

Ms. Rachel Johnson – legal counsel for Bell Hospital – stated that the rezoning would be good for the Township as the property would be placed back on tax roll. Ms. Johnson stated that Bell Hospital is only intending to keep their records in the basement and will only need to get to the records about once a week. They are hoping that this can be a quick process.

Mrs. Alholm – asked if there were any further questions or comments from the public. Then hearing none, the public hearing was closed.

Mrs. Alholm wanted to state that she does not believe that she has a conflict with the proposed use. However she wanted to state that she volunteers to serve on the ALS Board, she has nothing to gain financially speaking if the proposed dimensional variance is approved.

The ZBA members did not feel that she had a conflict of interest.

Mrs. Alholm – wanted to know what state licensing if any did the applicant have to obtain and is this apartment focusing specifically on handicapped individuals? What percentage of the purchase is covered by Bell Hospital?

Mr. Cambsney the engineer for the project discussed the layout of the apartments and stated that the entire top floor will be barrier free. The current layout shows four apartments, but the owner would like to have five bedroom apartments. He also explained why they have to go through the PUD process.

Steven Zarkowski – the applicant stated that they are going to have to start from scratch on the top floor and explained that the money that he will obtain for Bell Hospital will be used as the down payment for the

project. He explained that he cannot do this project and keep the rent low without the money from Bell Hospital. That is why he needs the PUD status so he can keep the records in the basement and keep renting the space to the Hospital.

Mrs. Alhom asked if the proposed development will operate as an assisted living operates.

Mr. Zarkowski – explained that no, and he went over the plan again and the parking layout.

Mrs. Alholm reviewed the staffs report and that they applicant could apply for a Multi-Family Zoning District if we feel that the 1.7 acres is too far from the require 5 acres. Mrs. Alholm wanted to know why the applicant did not go that route.

Mr.Zarkowski – explained why that they need to keep the records in the basement to float the project and the top floor will be residential. That was the process that he was told he had to follow.

Mrs. Alholm – Explained that the staff's report stated that a variance request cannot be granted if the only reason has to do with financial reasons. It appears that the applicant is asking for a variance to develop a PUD only to keep the records in the basement. Not sure if it's agreeable to ask for a variance reason.

Mr. Milton stated that he did not believe that the money would make a difference if this project happened or not.

The board and staff had further discussion on the project and the financial feasible. The applicant stated that he needs the money from Bell Hospital to keep the rents low.

Mr. Angeli moved and Mr. Milton seconded that after conducting a public hearing and review of the STAFF FILE REVIEW/ANALYSIS for Variance request #10-05, the Zoning Board of Appeals **finds** that the request **demonstrates** that the standards found in Section XIV and XV of the Township Zoning Ordinance and hereby:

1. All fees, notifications and publication requirements of the ordinance have been met.
2. The Township did receive one responses for the request.

3. Owners of record are Bell Hospital, but they have stated that are permitting Z and P Properties to move forward with the rezoning request. The address is 425 Corning Avenue.
4. Subject property is located in an R-2 Zoning District and is approximately 1.7 acres.
5. The applicant is requesting a variance from Section 6.1 General Provisions, PUD minimum lot size. The applicant has requested to develop a PUD on a 1.7 acres, whereas a 5 acre site is the minimum requirement.
6. Special conditions and circumstances exist that are peculiar to the proposed lot for which a PUD is planned to be development one, which is not applicable to other lands, structures or buildings in the same district.
 - a. This is an infill development and will put the building back on the tax roll.
 - b. It will be a positive development for Chocolay Township

Ayes: 5 Nays: 0
All in favor, motion approved

VII. Unfinished Business

None.

VII. New Business

None.

IX. Public Comment

X. Township Board /Planning Commissioners Comment

XI. Informational-Zoning Administrator Comments

XII. Adjournment

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Tuesday, May 3, 2011
7:00 PM**

I. Meeting Called to Order

Mrs. Wietek-Stephen called the meeting to order at 7:00 pm

II. Roll Call

Present: Chairperson: Michele Wietek-Stephens, Vice Chairperson: Karen Alholm, Kendal Milton, John Trudeau and Lee Snooks.

Staff: Jennifer Thum, Planner/Zoning Administrator

III. Approval of Agenda

Mrs. Karen Alholm moved, Mrs. Wietek-Stephens seconded, to approve the May 3, 2011 Agenda.

Ayes 5 Nays 0 Motion Approved

IV. Approval of December 16, 2010 Minutes

Mrs. Alholm moved and Mr. Milton seconded to approve the December 16, 2010 minutes with the suggested changes from the Board.

Ayes 5 Nays 0 Motion Approved

V. Public Comment

None

VI. Public Hearing

A. 2011-01

Mr. and Mrs. Dan Maki, 312 Kawbawgum Rd., Marquette MI, parcel 52-02-018-007-00, are requesting a dimensional variance from the Chocolay Township Zoning Board of Appeals to construct an addition to an existing single family resident. The existing residence is 40 feet from the water's edge and the proposed addition would be a minimum 64 feet from the water's edge. The applicants are seeking a variance from Section 6.8 Waterfront Setback of the Chocolay Township Zoning Ordinance, which requires any structure to be a minimum of 100ft from the water's edge.

Mrs. Thum went over the request and explained the current Township Zoning Ordinance regulation with regards to the township's water bodies, lakes and river, and residential and commercial structures, whereas the old ordinance exempted existing structures. She also explained that the neighboring structures are also approximately the same location as the applicant's camp.

Mrs. Wietek-Stephens asked if this was a full time or seasonal camp and what the status is of the neighboring homes. The applicant, Mr. Maki explained that pretty much the surrounding homes are seasonal with the exception of the Lynch's to the East.

The applicant's explained why they are looking to add onto the camp and the proposed addition is proposed to be built to the North of the

existing camp. Also as part of the proposal the rear porches will be removed and therefore reducing the impact on the water's edge. The roof line would be the same and the siding would be log and blend in with the neighboring homes.

Public hearing closed

B. 2011-02

Mr. and Mrs. Randell Gentz, 353 Gentz Road, Marquette, MI, parcel #52-02-120-014, are requesting a dimensional variance from the Zoning Board of Appeals to have their existing house on a 5 acre parcel in the Agricultural/Forestry (AF), zoning district where the zoning ordinance requires a 20 acre minimum. The applicants are seeking a variance from Section 6.1 General Provisions, minimum lot size.

Mrs. Thum explained the history of the Township Comprehensive Plan and that the residents wanted the Township to remain rural. Also that it recommended that the various Zoning District that represent the rural areas of our Township be condensed into one District and have a larger acreage requirement, the Township settled on the 20 acre lot requirement.

Mrs. Thum also talked about there is a proposal from the Comprehensive Sub-committee to create an AF2 District that would set the lot requirements around 10 acres. It was pointed out that the Gentz's property would not be part of this, but that is subject to change as the map is only in Draft form. The map has to be approved by the Planning Commission and then the Township Board.

Mrs. Thum stated that the Gentz's have a unique situation in that they have a commercial operation on the same lots as their home, whereas they are not trying to make a profit. They are seeking a request because they would like to have only a home mortgage for their home instead of the commercial one. Their bank has recommended that a 5 acre parcel would work best.

The applicants stated that they would like to separate their home from the golf course in order to get a better home mortgage rate, and they are not planning on selling the home. They stated that they were unaware of the zoning ordinance change, until the surveyor told them.

Public hearing closed

VII. Unfinished Business

None.

VII. New Business

A. 2011-01 (312 Kawbawgam Road)

There was further discussion on the proposed variance request and the current ordinance language and previous variances granted.

Mr. Snooks asked about an alternative to adding onto the existing structure, the applicant stated that the existing home would be torn down and moved.

Mr. Trudeau stated that he did not have any problems with the proposed addition encroaching on the 100ft water's edge setback because it's an existing structure. He would not be in favor of a reduction of the waterfront setback if it was a new home.

Mr. Trudeau, moved, Mr. Milton, seconded, that after conducting a public hearing and review of the STAFF FILE REVIEW/ANALYSIS for Variance request #11-01 the Zoning Board of Appeals **finds** that the request **demonstrates** the standards found in Section XIV and XV of the Township Zoning Ordinance and hereby approves variance request #11-01 with the following findings of fact:

The Findings of Fact:

1. All fees, notifications and publication requirements of the ordinance have been met. The Township did receive two written responses from neighboring residents who are in support of the proposed project. These letters were read at the meeting under public comments.
2. Subject property is located in the Waterfront Residential District, (WFR) Zoning District and is approximately .56 acres.
3. The applicant is requesting a dimensional variance from the 100ft Waterfront setback, Section 6.8. of the Chocoday Township Zoning Ordinance.
4. The applicants will seek assistance from the Superior Watershed Partnership if they experience any erosion problems.
5. Special conditions and circumstances exist that are peculiar to 312 Kawbawgam Road, a single-family dwelling which is not applicable to other lands, structures or buildings in the same district.
 - a. The dwelling was built prior to the Township Zoning Ordinance
 - b. The neighboring residential dwellings are set approximately the same distance from Kawbawgam Lake.
 - c. The proposed addition is proposed to be in front of the house and not behind the house, therefore is not increasing its proximity to the water's edge, but reducing it.

Ayes 5 Nays 0 Motion Approved

B. 2011-02

The applicants went over the reasons why they are seeking the dimension variance request. They stated that the bank recommended that they seek a lot size reduction in order to qualify for a better rate on their mortgage. They are trying to separate their home from their business.

Mrs. Thum stated that there was a letter of support from a neighboring parcel and she had two phone calls in support of the proposed variance.

Mrs. Wietek-Stephens asked why they could not get a home mortgage for a 20 acre parcel since the proposed 5 acre parcel would include part of the golf course, as would the 20 acres.

Mr. Trudeau felt that since the Gentz's golf course existed before the zoning ordinance change the lot size requirement affected a lot of parcels that he did not have any problems with the variance request.

There was a comment about the potential of spot zoning in and that variances are not supposed to be granted if the reason has to do with financial.

The applicant stated that there are neighboring parcels in the vicinity that have less than 5 acres and a couple of them were split from their parcel prior to his parents selling it to them.

Mr. Milton expressed his concern about the proposed variance and that they were operating as a commercial operation on the same lot as their home, the problem is with the bank not wanting to give them the right loan and not with the Zoning Board of Appeals.

There was further discussion on whether zoning variances should be granted because of financial reasons.

The applicants stated that they were here before them because the bank suggested it and it would allow them to get a better interest rate.

Mrs. Wietek-Stephens, moved, and Mr. Milton seconded, that After conducting a public hearing and review of the STAFF FILE REVIEW/ANALYSIS for Variance request #11-02 the Zoning Board of Appeals **does not find** that the request **demonstrates** the standards found in Section XIV and XV of the Township Zoning Ordinance and hereby denies variance request 11-02 for the reasons stated above.

Ayes 3 Nays 2 (Snooks, Trudeau) Motion Approved

IX. Public Comment

None

X. Township Board /Planning Commissioners Comment

There was some further discussion on the 2008 Zoning Ordinance.

XI. Informational-Zoning Administrator Comments

None

XII. Adjournment

Mrs. Wietek-Stephens adjourned the meeting at 8:00pm.

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS

Thursday, May 26, 2011

7:00 PM

I. Meeting Called to Order

Mrs. Wietek-Stephen called the meeting to order at 7:00 pm

II. Roll Call

Present: Chairperson: Michele Wietek-Stephens, Vice Chairperson: Karen Alholm, Kendal Milton, John Trudeau and Lee Snooks.

Staff: Jennifer Thum, Planner/Zoning Administrator

III. Approval of Agenda

Mr. John Trudeau moved, Mrs. Alholm seconded, to approve the May 26, 2011 Agenda.

Ayes 5 Nays 0 Motion Approved

IV. Approval of May 3, 2011 Minutes

Mrs. Wietek-Stephen moved, and Mr. Milton seconded, to approve the May 3, 2011 minutes with the suggested changes from Mrs. Wietek-Stephen.

Ayes 5 Nays 0 Motion Approved

V. Public Comment

None

VI. Public Hearing

A. 2011-03

Ms. Erin Gutzman, 284 Little Lake Road, Marquette MI, parcel 52-02-126-006-00, are requesting a variance from the Chocolay Township Zoning Board of Appeals (11-03). The applicant is seeking a variance from Section 6.1 General Provision, Footnote #6, "no detached structures shall exceed the exterior perimeter dimensions of the principal structure on the lot. The applicant would like to construct a detached garage that would be 1,024 square feet and the existing single-family residence is 880 square feet.

The applicant, Ms. Gutzman stated that she would like to construct a garage larger than her home. She lives in the AF District and has 5 acres. She feels that the proposed garage would not look out of place in her area because there are a number of large garages and pole barns. She stated that she is requesting the large garage to put her snow blower, two personal vehicles, and a boat plus other equipment a building, out of the site of her neighbors.

Marilyn Gentz, 284 Little Lake Road, stated that she is in favor of this request and read a letter that she had written to the ZBA. She stated that this area in our Township is rural and is not sure why the

ordinance does not allow large outbuildings especially in the Agricultural areas.

Public hearing closed

VII. Unfinished Business

None.

VII. New Business

2011-03 (Gutzman, 284 Little Lake Road)

Mrs. Thum went over the request and explained the current Township Zoning Ordinance regulation with regards to the Township's policy on detached accessory structures and that it's been part of our Township ordinance for some time. Mrs. Thum went over the neighboring structures including the square footage of the neighboring garages and pole barns. She also went over what the standard garage size is for residential homes.

Mr. Snooks asked about the construction of the garage and what would happen to the existing shed that was on the property.

Mrs. Alholm inquired why a normal size garage would not work for the applicant.

The applicant stated why she is requesting a larger garage than most, she explained that her home is smaller than most as well. Ms. Gutzman also stated that the home was moved to its current location before the zoning ordinance was in effect. The garage would allow her to locate her boat, winter toys, two personal vehicles and her snow blower into a building and out of the sight.

There was further discussion on the size of her home and that it's smaller than most and that the proposed garage would help improve the overall aesthetics of that area.

Mrs. Alholm, moved, Mrs. Wietek-Stephens, seconded, that after conducting a public hearing and review of the STAFF FILE REVIEW/ANALYSIS for Variance request #11-01 the Zoning Board of Appeals **finds** that the request **demonstrates** the standards found in Section XIV and XV of the Township Zoning Ordinance and hereby approves variance request #11-03 with the following findings of fact:

The Findings of Fact:

1. All fees, notifications and publication requirements of the ordinance have been met. The Township has not received any letter(s) in support or opposed to this variance request.
2. Subject property is located on approximately 5.37 acres and is a legal non-conforming lot.
3. The applicant is requesting a variance from Section 6.1 General Provision, Footnote #6, "no detached structures shall exceed the exterior perimeter dimensions of the principal structure on the lot. The applicant would like to construct a detached garage that would be 1,024 square feet and the existing single-family residence is 880 square feet

4. Special conditions and circumstances exist that are peculiar to 284 Little Lake Road, a single-family dwelling which is not applicable to other lands, structures or buildings in the same district.
 - a. The dwelling was built prior to the Township Zoning Ordinance.
 - b. The home is unusually small for a single family residence
 - c. The proposed detached garage would improve the aesthetics of the lot and the overall area, as the current equipment and vehicles that are stored outside will now be stored inside.
 - d. The Township has issued other ZBA variances dealing with the same issue.

Conditions of Approval

- a. The proposed garage is required to meet the setback distance that are set forth for the AF District and will contact the Zoning Administrator to verify the footing holes are at the correct location.
- b. The applicant is required to remove the temporary garage and shed as the Township does not have a permit for it.
- c. The applicant is required to obtain all necessary county building permits that may be required.

Ayes 5 Nays 0 Motion Approved

IX. Public Comment

None

X. Township Board /Planning Commissioners Comment

There was some further discussion on having different requirements for the size of outbuildings. The zoning board members asked Mr. Milton to talk to the Planning Commission to look into this issue.

XI. Informational-Zoning Administrator Comments

Mrs. Thum stated that the Township Board appointed Mr. Max Engle to the Planning Commission, he replaced Mrs. Estelle DeVooght who has decided not to have another term on the Commission.

XII. Adjournment

Mrs. Wietek-Stephens adjourned the meeting at 7:40pm.

Michele Wietek-Stephens

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS

Thursday, September 22, 2011

7:00 PM

I. Meeting Called to Order

Mrs. Wietek-Stephen called the meeting to order at 7:00 pm

II. Roll Call

Present: Chairperson: Michele Wietek-Stephens, Lee Snooks and Geno Angeli

Staff: Jennifer Thum, Planner/Zoning Administrator

III. Approval of Agenda

Mrs. Wietek-Stephens moved, and Mr. Geno Angeli seconded, to approve the September 22, 2011 Agenda.

Ayes 3 Nays 0 Motion Approved

IV. Approval of May 26, 2011 Minutes

Mrs. Wietek-Stephen moved, and Mr. Snooks seconded, to approve the May 26, 2011 minutes as written.

Ayes 3 Nays 0 Motion Approved

V. Public Comment

None

VI. Public Hearing

VII. New Business

A. 2011-04

Mr. and Mrs. Leo Goodwin, 6409 US 41S, Marquette, Marquette MI, parcel 52-02-121-009-00, are requesting a dimensional variance from the Chocolay Township Zoning Board of Appeals (11-04). The applicants are seeking a variance from Section 6.1 General Provisions, Section 6.1: Height and Placement Regulations of the R-1 Zoning District. According to the Ordinance their residence at 6409 US 41S is considered a corner lot and must meet the front yard setback regulations on both streets. Their home does not meet the front yard setback on Basil Road. They would like to build an addition onto their existing single family residence. The existing residence

is 22 feet from the front property line along Basil Road and the proposed addition would also be 22 feet from the front property line.

The applicant, Mr. Leo Goodwin, discussed his project and need for the additional room.

Mrs. Thum discussed the application and the setback requirements for corner lots. The proposed addition would not change the character of the neighborhood as majority of the homes in that area are about the same distance from the US 41S and Basil Road.

The ZBA members looked at the pictures of the current home and discussed the location of the proposed addition in relationship to the lot lines and neighboring lots. Mrs. Weitek-Stephens asked about the location of the proposed addition and if it would encroach further into the road than the home does.

Mrs. Thum stated that the proposed addition would not encroach into the setback further than what the current home does.

The ZBA members had further discussion about the overall location of the homes in that area and felt there were a couple of homes that were setback further than the Goodwin's home. Some of the homes are setback at the same distance, but majority if the homes were setback off of Basil Road.

Item was tabled until, September 29, 2011 for a special ZBA meeting to review # 2011-04 variance requests and hold a public hearing.

VIII. Unfinished Business

None.

IX. Public Comment

None

X. Township Board /Planning Commissioners Comment

None

XI. Informational-Zoning Administrator Comments

None

XII. Adjournment

Mrs. Wietek-Stephens adjourned the meeting at 7:40pm.

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS**

**Thursday, September 29, 2011
7:00 P.M.**

I. Meeting Called to Order

Mrs. Wietek-Stephen called the meeting to order at 7:00pm

II. Roll Call

Present: Chairperson: Michelle Wietek-Stephens, Vice Chairperson, Mrs. Karen Alholm, John Trudeau, Geno Angeli, and Kendell Milton.

III. Approval of Agenda

Mrs. Alholm moved, and Mr. Trudeau seconded, to approve the agenda as written for the September 29, 2011 meeting.

Ayes: 5 Nays: 0

IV. Approval of September 22, 2011 Minutes

Mrs. Wietek-Stephens moved, and Mr. Angeli seconded, to approve the minutes with one change.

Ayes: 4 Nays: 0 Abstained: 1 (Alholm absent from 9-22-11 meeting)

V. Public Hearing

2011-04

Mr. and Mrs. Leo Goodwin, 6409 US 41S, Marquette, Marquette MI, parcel 52-02-121-009-00, are requesting a dimensional variance from the Chocolay Township Zoning Board of Appeals (11-04). The applicants are seeking a variance from Section 6.1 General Provisions, Section 6.1: Height and Placement Regulations of the R-1 Zoning District. According to the Ordinance their residence at 6409 US 41S is considered a corner lot and must meet the front yard setback regulations on both streets. Their home does not meet the front yard setback on Basil Road. They would like to build an addition onto their existing single family residence. The existing residence is 22 feet from the front property line along Basil Road and the proposed addition would be 22 feet from the front property line.

Mr. Goodwin stated why they were requesting a variance and informed the ZBA that they purchased the home after it was constructed, and that was before the zoning ordinance was in place.

Mrs. Thum discussed the ordinance, the Goodwin's lot size, and the location of the proposed addition.

Mrs. Wietek-Stephens stated that this is a continuation from last week's ZBA meeting and that a motion can be made tonight. Then she explained the location of the proposed addition and that it would not increase the non-conformity of the property.

Mrs. Alholm stated that this is a reasonable request due to the size of the lot and the setback requirements.

VI. New Business

A. None.

VII. Unfinished Business

A. Dimensional Variance Request 2011-04

Mr. Trudeau moved, and Mrs. Alholm seconded, that after conducting a public hearing and review of the STAFF FILE REVIEW/ANALYSIS for Variance request #11-04, the Zoning Board of Appeals **finds** that the request **demonstrates** the standards found in Section XIV and XV of the Township Zoning Ordinance and hereby approves variance request #11-04 with the following findings of fact:

The reasons for the approval were:

- 1 All fees, notifications and publication requirements of the ordinance have been met. The Township has not received any letter(s) in support or opposed to this variance request.
- 2 Subject property is located in the Single Family Residential (R-1) Zoning District and is approximately .33 acres and is a legal non-conforming lot. (due to location of home along US 41S)
- 3 The applicant is requesting a variance from Section 6.1 General Provision, Front Yard Setback for the R-1 Zoning District. The applicant's request is to construct a proposed addition onto their home, approximately 210 square feet. It would be 52 feet from the Center Line of Basil Road, whereas the proposed addition would have to be 63 feet from the Center Line of Basil Road.
- 4 Special conditions and circumstances exist that are peculiar to 6409 US 41S, a single-family dwelling which is not applicable to other lands, structures or buildings in the same district.
 - a. The dwelling was built prior to the Township Zoning Ordinance.
 - b. The applicant did not design or build her home.
 - c. The applicant lives on a small corner lot, abutting a major highway and arterial street.
 - d. The Township has issued other ZBA variances dealing with the reduced front yard setbacks.

VIII. Public Comment

None

IX. Township Board Comment/Planning Commissioners Members Comment

None

X. Informational- Zoning Administrator Comments

None

XI. Adjournment

Mrs. Wietek-Stephens adjourned that meeting at 7:15pm.

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS**

**Thursday, February 23, 2012
7:00 P.M.**

I. Meeting Called to Order

Mrs. Wietek-Stephens called the meeting to order at 7:00pm

II. Roll Call

Present: Chairperson- Michelle Wietek-Stephens; Vice Chairperson- Karen Alholm; Secretary- Kendell Milton; Members- Geno Angeli; Alternate- Sandra Page
Absent: Lee Snooks

III. Approval of Agenda

Moved by Michelle Wietek-Stephens, and seconded by Karen Alholm, to approve the agenda as written for the February 23, 2012 meeting.

*Vote: All Ayes
Motion Carried*

IV. Approval of September 29, 2011 Minutes

Moved by Kendell Milton, and seconded by Michelle Wietek-Stephens, to approve the minutes as written for the September 29, 2011 meeting.

*Vote: All Ayes
Motion Carried*

V. Public Comment

Written statement submitted by Melody Beres, 6263 US 41 S, opposing the variance request.

VI. Public Hearing

A. 2012-01

Mr. Eric Keough and Ms. Theresa Johnson agents, for Inger Eward, 6279 US 41S, Marquette MI, parcel #52-02-117-029-00, are requesting a dimensional variance from the Chocolay Township Zoning Board of Appeals (12-01) to construct a detached garage with a total square footage of 380. The applicants are seeking a variance from Section 6.1: Height and Placement Regulations, side setback for the Agricultural/Forestry District. The proposed detached garage would be

24 ft from the east property line, whereas the minimum side setback is 30 ft.

VII. New Business

A. Dimensional Variance Request 2012-01

The attached staff memorandum submitted by Jennifer Thum

Applicant Eric Keough, 112 Vista Hills Drive, Stated the intent was to repair the home to meet building codes to include:

- Repairing brick foundation
- New floor
- New drywall
- New siding
- Build new garage

They would set a date to have the project completed in less than six (6) months. There is a verbal agreement to purchase the property and the applicants are acting as agents for the current owner. The purchase would depend if the variance would be approved and a garage could be built

ZBA Member had some concern with the fact the applicants had no legal interest in the property and if the variance was granted would the sale go through and would the house be repaired to a level in which it could be occupied.

Mr. Keough would have the home inspected and estimated it would take a month to gut the house and have it repaired.

Assessor Tina Fuller spoke about the condition of the house and if it could be repaired. ZBA members had additional concerns about the location of the existing well and septic and if the driveway would be running over the lines. They asked about the home meeting current fire codes. The question was asked by Mr. Milton if it was known if the septic needed to be replaced or just pumped.

The applicants do intend on constructing a garage but do not have a land contract. The commission would like to see a firm agreement for purchase and would need more information about the septic and well locations. They also need information about the fire code regulations before any variance approval.

It was also requested to have the Planning Commission consider rolling this lot and the non-conforming lots in between into the "R1 District" to make them conforming lots.

Moved by Michelle Wietek-Stephen, and seconded by Kendall Milton, to postpone the decision for the variance request until the April 26 meeting. The applicants will need to provide the following information:

- Land contract/ purchase agreement
- PC consider it for “R1 District”
- Building must meet fire codes
- Work on the house needs to be completed before garage is constructed
- Show on maps the location of the current well and septic.

*Vote- All Ayes
Motion Carried*

VIII. Unfinished Business

NONE

IX. Public Comment

NONE

X. Township Board Comment/Planning Commissioners Members Comment

NONE

XI. Informational- Zoning Administrator Comments

NONE

XII. Adjournment

Moved by Michelle Wietek-Stephens, and seconded by Kendell Milton, to adjourn the meeting.

*Vote: All Ayes
Motion Carried*

Respectfully Submitted By:

Kendall Milton
Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS**

**Thursday, April 26, 2012
7:00 P.M.**

I. Meeting Called to Order

Mrs. Wietek-Stephens called the meeting to order at 7:00pm

II. Roll Call

Present: Chairperson- Michelle Wietek-Stephens; Vice Chairperson- Karen Alholm; Secretary- Kendell Milton; Members- John Trudeau; Alternate- Geno Angeli; Alternate- Sandra Page

Absent: Lee Snooks (in-person, verbal resignation April 20, 2012)

III. Approval of Agenda

Moved by John Trudeau, and seconded by Karen Alholm, to approve the agenda as written for the April 26, 2012 meeting.

Vote: All Ayes

Motion Carried

IV. Approval of February 23, 2012 Minutes

Moved by Kendell Milton, and seconded by Sandra Page, to approve the minutes as corrected for the February 23, 2012 meeting.

Vote: All Ayes

Motion Carried

V. Public Hearing

NONE

Following this item, the ZBA Chair opened the meeting for Public Comment, which would customarily have taken place before the Public Hearing, but was not included on the agenda.

Resident of 6287 US-41 S (next door) commented that he has no objection to the Keough variance. He sees this as a neighborhood improvement.

Mr. Besola, resident of 6262 US-41 S (across the highway) said he supports anything Eric (Keough) is doing because he is making a big difference. He also suggested we revisit the regulations on smaller lots that make it difficult and slow down projects to fix up old houses.

VI. New Business

NONE

VII. Unfinished Business

A. Dimensional Variance Request 2012-01

Consideration

The Zoning Administrator summarized the new materials which addressed Board questions from the previous meeting. There was a question about the legal interest in the property since the applicant name and name on the land contract did not match (Eric J. Keough & Theresa L. Johnson vs MM Vending of Marquette, Inc., signed by President, Eric Keough). This was determined not to be of further concern.

The next question was whether the Planning Commission would consider the property for rezoning to the R-1 District, in which case a variance would not be needed. However, Kendell Milton, Planning Commission representative, reported that the Planning Commission did not support the rezoning because they felt it would qualify as spot zoning.

The applicant has obtained a zoning compliance permit and building permit for the work on the residence, and has already effected extensive improvements to the interior and exterior of the home, greatly improving its appearance in readiness for future occupancy. The applicant submitted many photos documenting the improvements, and staff visited the home and verified the improvements on April 18, 2012.

Based on records from the Marquette County Health Department, and staff inspection of the property on April 26, 2012, it was determined that the location of the proposed garage would most likely not create an issue with the current septic tank and absorption field.

Alholm stated that in some cases, strict compliance would prevent owners from using the property as permitted for a residential purpose with the expected accessory structures. She noted that the setbacks are a problem caused by government regulations. There were no pertinent objections, and she noted it's a great improvement.

Decision

Karen Alholm moved, and Michelle Wietek-Stephens seconded, that after conducting a public hearing and review of the STAFF FILE REVIEW/ANALYSIS for Variance request #12-01, the Zoning Board of Appeals **finds** that the request **is consistent with** the standards applicable to granting non-use variances found in the Chocolay Township Zoning Ordinance, and hereby **approves** variance request #12-01 with the following findings of fact and conditions:

Findings of Fact

1. Strict enforcement of the Zoning Ordinance would cause practical difficulty for the following reasons:
 - a. Strict compliance with setbacks would unreasonably prevent the owner from using the property for a permitted purpose.
 - b. The difficulty in meeting side setback requirements while seeking to construct a customary accessory structure within a residential district is a result of government action that increased the minimum side setback standards above those that existed when the house was built.
 - c. The construction of the garage is not contrary with the intent of the zoning ordinance to allow customary accessory structures in residential districts.
 - d. The construction of the garage will not cause a substantially adverse effect upon adjacent properties, and will not essentially alter the character of the surrounding area.
 - e. The variance is the minimum necessary to permit reasonable use of the land and buildings for activities permitted in the zoning district.
2. Granting the variance is not contrary to the public interest.
3. There are circumstances unique to the individual property on which the variance is granted.
4. The variance request is not due to actions of the applicant.

Conditions of Approval

1. The applicant Mr. Eric Keough and Mrs. Theresa Johnson, along with Ms. Inger Emard, shall remove the existing shed that overlaps the west property line within one month of the completion of the garage.
2. All applicable permits shall be obtained before the construction of the garage and the demolition of the shed.

Vote: All Ayes

Motion Carried

VIII. Public Comment

NONE

IX. Township Board Comment/Planning Commissioners Members Comment

Trudeau and Wietek-Stephens requested a pdf version of the most updated zoning ordinance. Alholm requested a copy of the corrected February 23, 2012 minutes.

X. Informational- Zoning Administrator Comments

General introduction and greeting at the first meeting with the new Zoning Administrator.

XI. Adjournment

Moved by Michelle Wietek-Stephen, and seconded by Kendell Milton, to adjourn the meeting.

Vote: All Ayes

Motion Carried

Respectfully Submitted By:

Kendall Milton
Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS**

**Thursday, May 24, 2012
7:00 PM**

I. Meeting Called to Order

Mrs. Wietek-Stephens called the meeting to order at 7:01 P.M.

II. Roll Call

Present: Chairperson – Michelle Wietek-Stephens; Vice Chairperson-Karen Alholm;
Secretary-Kendell Milton; Members-John Trudeau;

III. Approval of Agenda

Moved by Wietek-Stephens, and seconded by John Trudeau, to approve the agenda as written for the May 24, 2012 Meeting.

Vote: All Ayes

Motion Carried

IV. Approval of April 26, 2012 Minutes

Karen Alholm referred to Page 2, VII A, under “Decision” of April 26, 2012 Minutes, that she made motion and not Sandra Page.

Moved by Karen Alholm, and seconded by Kendell Milton to approve the April 26th, 2012 Minutes as corrected.

Vote: All Ayes

Motion Carried

V. Public Comment

None.

VI. Public Hearing

ZB12-02 Paulette Perttunen, 106 Ewing Pines Drive, Marquette MI, parcel #52-02-520-023-00, requests a variance from Article II and Section 3.1 to split lots 23/24 (104/106 Ewing Pines Drive) and merge lots 24/25 (102/104 Ewing Pines Drive) of the Ewing Pines Subdivision, allowing the existing detached garage on lot 24 to be merged with vacant lot 25 where a home will be built in the next 5 years. This is request for variance to allow an accessory structure to be located on a lot without being incidental and subordinate to a principal use on that same lot as defined in the Chocolay Township Zoning Ordinance.

ZB 12-02 – Kelly Drake Woodward stated she received correspondence from Mr. and Mrs. Lamonte Blashall who live at 103 Ewing Pines Drive. They have no objection to request.

Applicant Paula Perttunen of 106 Ewing Pines Drive, Marquette, was present and spoke regarding variance request. She wants to sell the house on lot 23 for economic reasons to keep things moving along in the development of the subdivision, bringing more tax base to the Township. Timothy Prisk, partner in Ewing Pines Subdivision development, was present and spoke regarding the variance request. He said he currently uses the detached garage for a woodshop, and stores lawn mowers and other tools to manage the subdivision, but he does have a separate office in town. He can address the outdoor storage of equipment and trailers by moving things to his office. The plan is for Tim to build his house on lot 25, thereby retaining the existing detached garage.

VII. New Business

The Board discussed variance request #ZB12-02. It was clarified that the home on lot 23 already has an attached garage, and that lot 23 is currently merged with lot 24 which contains the detached garage. Board concerns include the size of the existing permitted detached garage, use of the garage, outdoor storage of contractor equipment leading to a commercial appearance/activity in a residential area, parking of a commercial trailer in a residential area.

The point was made that financial reasons are not a justification for granting variances. If the split/merger is approved, the detached garage could not be used as a home occupation because there would then be no home on the lot.

The point was made that the Ordinance provisions are not very clear on permitting accessory structures that are not incidental to a principal use, but in the past these requests have been handled through the variance process. When these structures were permitted before the residence, there was usually a condition that no outdoor storage be allowed. In some cases, the residence was never constructed, leaving just the accessory structure on the lot.

Trudeau moved, Milton seconded that, after conducting public hearing and review of STAFF REVIEW/ANALYSIS for Variance request #ZB12-02, the Zoning Board of Appeals finds that the request demonstrates the standards found in Section 3.1 and Article II “Definitions” Section of the Township Zoning Ordinance, and hereby approves Variance request #ZB12-02 with the following findings of fact:

1. Strict enforcement of the Zoning Ordinance would cause practical difficulty;
2. Granting the variance would not be contrary to the public interest;

3. There are circumstances unique to the individual property on which the variance is granted;
4. The Variance request is not due to actions of the applicant.

Suggested Conditions of Approval:

1. There shall not be any outdoor storage of materials prior to the construction of the home.
2. The applicant shall provide the Zoning Administrator with a copy of a Deed merging Lot 24 and Lot 25.

Vote: AYES: Trudeau/Milton
NAYS: Alholm/Wietek-Stephens

Board discussed tie vote results and proper procedure.

Mr. Prisk stated in a Marquette Zoning Board case one Member was missing. There was a deadlock vote, and the applicant was given a choice of rehearing the case when all five members were present.

Wietek-Stephens stated that in a previous instance on the Chocolay Township Board of Appeals, where tie vote was possible, they gave the applicant the choice of hearing the case at that meeting or the next meeting (choice was made before Board voted).

The Board agreed to refer to Township Attorney for interpretation of tie vote. The Variance Request #12-02 was temporarily concluded.

VIII. Unfinished Business

None.

IX. Public Comment

Mr. Prisk asked if the lot split/merger would be allowed if he started construction on a home for Lot 25. Ms. Woodward stated that Tina Fuller, Township Assessor, would approve the split/merger in that case since the accessory structure would then be incidental to a principal structure.

X. ZBA Member Comment

Alholm noted that "Planning Commissioners Member Comment" section not indicated on Agenda. Milton states no other comments.

XI. Zoning Administrator Comment

Woodward spoke regarding how to handle this matter in the future. She suggested that the Planning Commission could address text amendments clarifying the permitting of

accessory structures. It is possible to permit accessory structures differently per district, such as being permitted by right without being incidental to principal uses, or permitted with conditions, or permitted through the conditional use process. Ms. Woodward stated that in the past, Mr. Maki recommended this be handled as Conditional Use in certain districts. This is something to discuss and clarify when moving forward.

Alholm stated that would not resolve problems regarding accessory buildings being built before the principal building, and occasions when principal building was never built. Milton stated that this has a lot to do with the character of different districts. There should be more latitude in larger areas like in the Agriculture/Forestry district.

Woodward stated that in the past, seasonal residents have built accessory structures without a principal structure to store recreational equipment like campers. Milton stated that at least the recreational equipment was not stored outside, which is a major concern.

Woodward stated she was not making a recommendation one way or another, but suggesting that this issue could be handled more clearly through a zoning ordinance revision which would go through a public process.

XII. Adjournment

Moved by Michelle Wietek-Stephens to adjourn at 7:40 p.m.

Respectfully Submitted By:

Kendell Milton
Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS**

**Thursday, June 28, 2012
7:00 PM**

I. Meeting Called to Order

Vice-Chair Karen Alholm called the meeting to order at 7:02 P.M.

II. Roll Call

Members Present: Vice Chairperson-Karen Alholm; Secretary-Kendell Milton;
Member-John Trudeau; Member-Sandra Page; Alternate-Geno Angeli

Members Absent: Chairperson-Michelle Wietek-Stephens

Staff Present: Kelly Drake Woodward, Planning Director/Zoning Administrator

III. Approval of Agenda

Moved by Trudeau, and seconded by Page, to approve the agenda as written for the June 28, 2012 meeting.

Vote: All Ayes

Motion Carried

IV. Approval of May 24, 2012 Minutes

Moved by Trudeau, and seconded by Angeli, to approve the May 24th, 2012 minutes as written.

Vote: All Ayes

Motion Carried

V. Public Comment

None

VI. Public Hearing

Application #ZB12-03

Sue and Pete Kitson, 6287 US-41 South, Marquette MI, parcel #52-02-117-028-00, request a dimensional variance to divide their existing nonconforming 10 acre parcel to provide separate parcels for the two homes that have historically been located on the property, with access to remain the same for both homes from the existing driveway. This is a variance from Section 6.1 Height and Placement Regulations, minimum lot size requirement for the AF District, which is 20 acres.

Mr. Kitson said that he has read the master plan and all the ordinances, and there are no provisions dealing directly with properties that have two existing homes. The

second home on the property (not the principal residence) was moved to its current location in the 1960's with or without the Township's approval. He feels this request would support affordable housing. He said that since there are two homes on the property in violation of the Zoning Ordinance, it is almost impossible to get a mortgage on the property. It has to be an in-house mortgage at a high interest rate because the lenders can't sell the mortgage to the secondary market. A VA mortgage is not possible on a property with two homes. The appraisers won't value the second home. Therefore these homes cannot contribute to affordable housing in Chocolay Township.

The applicant stated he doesn't want to sell the property at this time. He wants to make the split so that it is a more reasonable property for someone to eventually sell, buy, or live in for affordable housing. Both homes are in good shape, but financially the applicant would be in better shape if he tore down the second home because currently he can only count 78 percent of the property toward the homestead credit because of the existence of the second home. The second home is located off the highway close to Marquette, and it is Kitson's opinion that it would be a nice, secure home for someone with children. The proposed split is configured to keep the existing barn with the principal residence and the adjacent 40 acres attached to the back corner of the lot near the principal residence. Those parcels (40 acres and 8 acres) if joined would then meet the minimum lot size requirement of the Ordinance. If Kitson split the 10 acre property equally into 5 acres each, the homes would not meet the setback requirements due to the existing placement. He said that the proposed split would not impact existing traffic patterns.

The applicant wanted to address this issue before, however the previous zoning requirements wouldn't allow the split because the properties wouldn't meet minimum lot width requirements. An alley was originally supposed to be located behind the small parcels fronting US-41, but this didn't happen. He thinks the Township created the problem when it allowed the second home to be moved and then created Ordinance provisions that didn't allow the split.

Alholm clarified that financial reasons aren't a valid reason to grant a variance. The public hearing was closed on variance request #ZB12-03.

Application #ZB12-04

Marcie Jones, 727 Cherry Creek Road, Marquette MI, parcel #52-02-119-014-00, requests a dimensional variance to replace an existing sun porch with an enclosed addition that is equal in depth, but longer in width than the current structure. This is a variance from Section 14.2 Regulations Pertaining to Lawful Nonconforming Structure, which states that "no lawful nonconforming structure shall be extended, expanded, or enlarged without first securing the approval of the Zoning Board of Appeals". The entire residence is nonconforming with Section 6.8 Waterfront Setback.

Ms. Jones and her contractor, Lars Larson were present. Jones stated that she wants to extend her porch. Larson (198 Eagles Nest Road in Marquette) brought some

elevation drawings for reference, including existing and proposed side views. There is no basement on the proposed addition. The existing structure is a 10' x 10' sunroom. The whole home is contained within the waterfront setback area. Jones proposes to tear down the sunroom and replace it with a 10' x 30' structure that doesn't encroach any nearer on the waterfront setback. The existing sunroom is 53 feet from the river. There is 19 feet of elevation between existing grade and the river bed. There is 43' between the crest of slope and the river. Larson proposes to dig down 42" and put in a full foundation. The septic tank is on the other side of the home. There is 10' of flat grade between the edge of the proposed structure and the edge of the slope. The proposed addition would be a total of 289 square feet of roof area, which means it would create an additional 189 square feet of surface drainage than existing. Larson indicated this is not a great potential for erosion. The slope is vegetated. No trees would be removed. There is an existing rain garden along the drip edge. He has proposed a crushed rock bed along the drip line (basically replace the existing rain garden). His opinion is that the difficulty was created by the Ordinance after the home was built and the applicant purchased the home.

The public hearing was closed on variance request #ZB12-04.

VII. Unfinished Business

Reconvene variance request #ZB12-02 to resolve tie vote

Paulette Perttunen, 106 Ewing Pines Drive, Marquette MI, parcel #52-02-520-023-00, requests a variance from Article II and Section 3.1 to split lots 23/24 (104/106 Ewing Pines Drive) and merge lots 24/25 (102/104 Ewing Pines Drive) of the Ewing Pines Subdivision, allowing the detached garage built on lot 24 to be merged with vacant lot 25 where a home will be built in the next 5 years. This is a variance to allow an accessory structure to be located on a lot without being incidental and subordinate to a principal use on that same lot as defined in the Chocolate Township Zoning Ordinance.

Alholm noted that after the May meeting she was informed that her ZBA term had expired on May 9, which was before the May 24 meeting where she participated in a vote on this matter. Also, Michelle Wietek-Stephens participated in the previous vote on this matter, but is absent for this meeting. This variance request is reconvened for a decision following the completion of the duly noticed public hearing on May 24.

Moved by Trudeau, and seconded by Page, to reopen public comment on this matter so the applicant could restate her case for those not in attendance at the last meeting.

Vote: All Ayes

Motion Carried

Paulette Perttunen wants to split the detached garage on parcel 24 from parcel 23 which has a home with an attached garage, and merge it with parcel 25 which is currently vacant, but planned for the construction of a home when funds become available. She wants to sell her home on lot 23 and keep the detached garage on lot 24.

Pertunnen said she had considered comments from the last meeting and made sure that equipment was stored either in the garage or behind it to help with aesthetics. Public comment was then closed on variance request #ZB12-02.

The Zoning Administrator, Woodward, presented a summary from the staff review/analysis. This application involves an existing detached garage located in a residential subdivision. There are no existing nonconformities. A historical analysis of the Zoning Orders book detailed 20 similar cases involving the construction of an accessory structure before a home in the past. Of these 20 cases, three were denied and one was tabled and later approved. Most were approved with the condition of no outdoor storage allowed. Of the 17 that were approved, 10 homes were built and seven were never built (on one property, nothing was built at all). Of the 10 homes that were built, seven were built right away and the rest were delayed 7-8 years. One such request was denied because of a finding of no practical difficulty.

Woodward noted that she had included the standards for granting variances on the agenda for reference. She noted that it could be argued that the Zoning Ordinance creates a practical difficulty because it lacks a specific provision addressing (allowing or prohibiting) the construction of an accessory structure prior to the construction of a principal structure. Even the definition of Accessory Building is not definite in stating that accessory structures *must be* incidental and subordinate to the principal use (says *customarily* incidental and subordinate). Regarding public interest, the neighbor sent written comment that he had no objection to the proposed variance. This situation is unique from past requests in that this garage is located in a planned residential subdivision. Woodward asked Board members to support their decision with specific reasons or findings of fact in meeting the variance standards.

Alholm asked for a clarification on the granting of variances based on financial reasons. Woodward said that you don't have to discount financial reasons (can go to public interest), but financial reasons are not a statutory basis to grant a variance.

Trudeau restated his concerns regarding the outdoor storage of equipment around the garage. Specifically, if he was a resident in the neighborhood, he would not want the storage of junk under the canopies without screening. He noted the wing walls look unfinished because it appears they are only partially finished with siding. Alholm noted that the 2008 garage permit said the structure was to be used for personal

storage and garage only, but the outdoor storage indicates it's being used to store contractor equipment. She is also concerned that 5 years is too long a time period before the home will be built on the vacant property. Milton pointed out that there will be no difference in the appearance or character of the existing neighborhood whether the garage is paired with the existing home or the vacant lot. Page was concerned with the commercial appearance of the existing garage and the outdoor storage of large vehicles. She believes that it would take a very specific buyer to purchase the vacant lot for development with this type of garage already on it. Trudeau reminded the Board that Perttunen's partner, Tim, had purchased another business and said he could move the equipment that is stored outdoors to the other business. He also said that the use of the building for commercial purposes is an enforcement matter, and this issue can be taken care of with appropriate conditions on the variance. Woodward clarified that the existing garage is a conforming structure, and if it is combined with the vacant lot, the new home built on that lot must have a larger perimeter measurement than the existing detached garage.

Trudeau moved, Milton seconded, that after conducting a public hearing and review of STAFF ANALYSIS for Variance request #ZB12-02, the Zoning Board of Appeals finds that the request demonstrates the standards found in Section 3.1 and Article II "Definitions" Section of the Township Zoning Ordinance, and hereby approves Variance request #ZB12-02 with the following findings of fact:

1. Strict enforcement of the Zoning Ordinance would cause practical difficulty; and
2. Granting the variance would not be contrary to the public interest;
3. There are circumstances unique to the individual property on which the variance is granted, which are that the applicant owns all the lots in question and should have customary property rights to divide/combine the properties as she wishes; and
4. The variance request is due to actions of the applicant.

Conditions of Approval:

1. There shall be no outdoor storage of materials prior to the construction of the home.
2. All areas under roof must have permanent or screened walls if they are to be used for storage, and the garage shall be finished.
3. The applicant shall provide the Zoning Administrator with a copy of a Deed merging Lot 24 and Lot 25.
4. A home shall be developed on lot #25 within five years.

Vote: AYES: Trudeau, Milton, Page, Angeli

NAYS: Alholm

Motion Carried

VIII. New Business

Application #ZB12-03, Kitson, parcel #52-02-117-028-00

Woodward gave highlights from the staff report as outlined in the following paragraphs. This is a variance from Section Section 6.1 Height and Placement Regulations, minimum lot size requirement for the AF District. This property is approximately 10 acres and as such is a nonconforming lot in the AF district. It is an irregular shape with 225 feet of frontage. Both residences comply with all current setback requirements on the existing lot; and would also comply with all current setback requirements per the proposed split. There would be no other nonconformities other than minimum lot size. A previous property owner moved the second home to its current location in the early sixties. Subsequent land owners conducted further splits and mergers which resulted in both houses being located on one parcel which was purchased by the applicant in about 1988. Prior to the 2008 zoning ordinance revision, the property was zoned RR-2 with a minimum lot size of 5 acres and a minimum lot width of 300 feet. The split could not be done because the minimum lot width requirement could not be met. After the 2008 ordinance revision, the property was zoned AF with a minimum lot size of 20 acres and no minimum lot width. The split could not be done because the minimum lot size requirement could not be met. However, adjacent parcels along the highway were split into even smaller parcels than those proposed because they were classified before 2008 as R-1 with a minimum lot size of 25,000 square feet and minimum lot width of 125 feet. Now they are also nonconforming because they were rezoned to the AF district.

The future land use map in the 2005 Comprehensive Plan shows the parcel in the Agriculture-Forestry land use but surrounded on two sides by single-family residential land use. The plan indicates the agriculture-forestry land use was determined by combining all lands that in early 2005 were zoned RP, OS, and RR-2 into one land use category without looking at the nature of specific properties. The RP and OS zoning districts in 2005 had a minimum lot size of 20 acres and no minimum lot width. However, the RR-2 district had a minimum lot size of only 5 acres and a minimum lot width of 300 feet. These standards for the RR-2 district had been in place since the original ordinance was adopted in 1977, therefore this designation in the future land use map resulted in rendering years of development as potentially nonconforming when it was implemented as a zoning change. The 2005 Comprehensive Plan indicated that this parcel was already in the *urban and built up* existing land use category and therefore not likely to match the descriptions of the Agriculture Forestry land use category in portions along the highway corridor. However, the visual effect of this proposed split is similar in character to a conservation development as discussed in the master plan for the Agriculture-Forestry land use area, with the homes located close to the highway and surrounded by open space (2.5 acre minimum lot size or smaller as required by the Health Department).

In Chapter 8 of the Comprehensive Plan, there is a housing/residential goal that says, “Encourage the upgrading and improvement of residential dwelling units showing signs of deterioration.” There is no incentive for the applicant to maintain and upgrade the second home when it is undervalued based on zoning restrictions. Goal 17 of the same section says, “encourage the preservation and retention of older homes to maintain community character and history”. Again, the applicant would not have a reason to preserve and retain this older home while it is undervalued.

The Township has not received any letter(s) in support of or in opposition to this variance request at this time.

Strict compliance with the minimum lot size requirement would prevent the second single family home from being valued and fully utilized for a permitted purpose. Conformity with the minimum lot size requirement is not possible as the entire existing parcel is already nonconforming. Maintaining the lot as it is makes the parcel also nonconforming with *Section 3.1* that says, “In all districts, no more than one (1) principal use or main building shall be placed on a lot”. The proposed split would resolve that nonconformity, and does not create a parcel that is smaller than those adjoining this parcel (the smallest proposed parcel is about 2 acres, while the adjacent parcels are only 1.16 acres, 0.57 acres, 0.73 acres, and 0.33 acres). Both homes would be able to meet the zoning requirement that “any lot of record may be used for permitted uses even though the lot area and/or dimensions are less than those required for the District in which the lot is located, provided that yard dimensions and other requirements of the District, not involving lot area and width are met”. Both homes would have sufficient land area to satisfy health department requirements. The split would have no changed impact on highway access. There are no other residential properties with two grandfathered homes on one parcel. This parcel is not in violation of any previous zoning ordinance as it was grandfathered in. The difficulties on this parcel were created by government regulation and former property owners.

Trudeau asked for clarification of the shared driveway/easement proposed. He said both deeds would need to reference the proposed access easement. He pointed out that an adjacent parcel was recently granted a dimensional variance to permit a garage to be developed on a small, nonconforming lot.

Alholm moved, Milton seconded, that after conducting a public hearing and review of STAFF REVIEW/ANALYSIS for Variance request #ZB12-03, the Zoning Board of Appeals finds that the request demonstrates the standards pertaining to the granting of nonuse variances, and hereby approves Variance request #ZB12-03 with the following findings of fact:

1. Strict enforcement of the Zoning Ordinance would cause practical difficulty because the property was not large enough for the district in which it was subsequently placed; and
2. Granting the variance would not be contrary to the public interest because it is in the public interest to maintain well kept affordable housing and make it more practical to sell in the future; and
3. There are circumstances unique to the individual property on which the variance is granted, and these circumstances are existing two homes on one parcel; and
4. The variance request is not due to actions of the applicant, but was created by the Zoning Ordinance.

Conditions of Approval:

1. The applicant shall present deeds showing the access easement for both properties.
2. There shall be a statement in the deeds that says that both parties shall share equally in maintaining the existing driveway.

Vote: All Ayes

Motion Carried

Application #ZB12-04, Jones, parcel #52-02-119-014-00

Woodward gave highlights from the staff report as presented in the following paragraphs. The entire home is nonconforming with the required waterfront setback provision. This home was built in 1969, well before the adoption of the 1977 zoning ordinance which contained the *Waterfront Setback* provision. The standards regarding nonconforming structures (Section 14.2) were discussed, including conditions for allowing enlargement of these structures.

All fees, notifications, and publication requirements of the Ordinance have been met. The Township has not received any letter(s) in support of or in opposition to this variance request at this time.

There is no case in which an addition to any portion of this home could be in conformity with the ordinance because the entire structure is nearer than 100 feet to the creek. Without a variance, the applicant will be denied the customary ability to add to her grandfathered home. This is a situation which is unnecessarily burdensome. The addition planned by the applicant will not increase the existing nonconformity (setback distance from the river).

It is in the public interest that a waterfront development setback is maintained to minimize the chance of negative impacts on environmental quality, scenic value, or water quality. The potential for negative impact varies based on the use, and there is

little potential for negative impact with this single-family home. The proposed addition will be built on an existing level upland area, so is unlikely to change existing drainage or erosion patterns unless the configuration of the proposed roof directs runoff toward the steep slope. Staff suggests runoff should be controlled through a gutter directing water to a bioretention area which would filter the runoff and add to scenic quality. This addition would not have a negative impact on any other conforming structure or any adjoining properties. This home is unique in that the entire home is located in the prescribed waterfront setback area. This home was built before the implementation of a waterfront setback requirement, and thus the difficulties for this structure and this applicant were created by government regulation.

Trudeau mentioned that he is familiar with this secluded residence, and he feels that this addition would not be visible and would not cause problems with adjacent property owners. He is comfortable with the runoff control methods discussed.

Milton moved, Trudeau seconded, that after conducting a public hearing and review of STAFF REVIEW/ANALYSIS for Variance request #ZB12-04, the Zoning Board of Appeals finds that the request demonstrates the standards pertaining to the granting of nonuse variances, and hereby approves Variance request #ZB12-04 with the following findings of fact:

1. Strict enforcement of the Zoning Ordinance would cause practical difficulty because the entire home is nonconforming; and
2. Granting the variance to increase the footprint would not be contrary to the public interest; and
3. There are circumstances unique to the individual property on which the variance is granted, which is the home was built before the waterfront setback requirement was implemented; and
4. The variance request is not due to actions of the applicant, but was created by government action.

Conditions of Approval:

1. The applicant shall submit a site plan and elevation drawing detailing the foundation and roof configuration of the structure and the methods for controlling water runoff.
2. Runoff shall be directed to an approved rock detention area with vegetation located along the drip line (like a dry well) to absorb and disperse the runoff.
3. No open porch, deck, patio, or other hard surface shall be constructed between the new addition and the creek.

Vote: All Ayes

Motion Carried

IX. Public Comment

None

X. Township Board Member/Planning Commission Member Comment

None

XI. Informational

Angeli announced the dates for the International Food Fest at the Lower Harbor and encouraged all to attend.

XII. Adjournment

Moved by Alholm to adjourn at 8:35 p.m.

Respectfully Submitted By:

Kendell Milton
Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS**

**Thursday, July 26, 2012
7:00 PM**

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:02 P.M.

II. Roll Call

Members Present: Chairperson-Michelle Wietek-Stephens; Vice Chairperson-Karen Alholm; Secretary-Kendell Milton; Member-Sandra Page; Alternate-Geno Angeli

Members Absent: Member-John Trudeau

Staff Present: Kelly Drake Woodward, Planning Director/Zoning Administrator

III. Approval of Agenda

Moved by Alholm, and seconded by Page, to approve the agenda as written for the July 26, 2012 meeting.

Vote: All Ayes Motion Carried

IV. Approval of June 28, 2012 Minutes

Alholm said that the minutes were very well done. Moved by Alholm, and seconded by Milton, to approve the June 28th, 2012 minutes as written.

Vote: All Ayes Motion Carried

V. Public Comment

None

VI. Public Hearing

Application #ZB12-05

Robert and Joni Taylor, 204 Jean Street, Marquette MI, request a dimensional variance to construct a residence on lot 57 of the Ewing Park Subdivision, parcel #52-02-455-057-00, with a 20 foot front setback due to practical difficulties involving a 50 foot rear drainage easement and an odd shaped parcel. This is a variance from Section 6.1 Height and Placement Regulations, front setback requirement for the R-1 district, which is 30 feet.

William Kiple of 213 Judy Street (directly across the street from lot 57, on lot 43) had prepared a statement with reasons of opposition for the variance request. He asked to

submit the letter, but agreed to read it for all present. He stated that he is adamantly opposed to the variance request for the following reasons:

- 1) Zoning regulations were developed after careful planning, presumably to prevent building that is out of character for the neighborhood. Those regulations are relied upon by people like us who purchase property in Chocolay Township. Absent the Zoning Ordinance, we may have elected to purchase elsewhere. One of the appealing aspects of Chocolay Township is the fact that it is a zoned community. If zoning regulations are disregarded, the value of our community is diminished.
- 2) The requested variance will result in placement of a structure that is out of character for the neighborhood. No such other variance exists in the neighborhood. In fact most homes are setback much further than the required 30 feet.
- 3) The property owner has built in the neighborhood before, and was aware of the regulations. This is not new information. The property owner has owned the subject lot for many years, and did not recently purchase the lot unaware that it may not be suitable to build upon.
- 4) The requested variance is not a minor deviation from the setback requirements. The request to cut the setback requirements by one-third is nearly equivalent to basically disregarding the setback requirements entirely. The requested 20 foot setback is scarcely the length of a pickup truck.

Mr. Kiple stated that before he came to the meeting, he didn't understand there is a 13 foot public easement from the curb, and had envisioned the house being 20 feet from the curb. This makes it approximately a 33 to 38 foot setback from the curb with the variance. This is more acceptable. He just wants to maintain the integrity of the neighborhood. He would ask if the applicant would stake out the corners of the house on the lot for approval of the neighbors.

Brian Miller, 217 Judy Street, agrees with Mr. Kiple. He thinks 20 feet is too close, but if the right-of-way makes it over 30 feet from the curb then it is probably ok. He would like to see the property staked so he could get an appreciation for the aesthetics of it.

Robert Taylor, 204 Jean Street, applicant, said he has never constructed a building in the subdivision. He purchased the second spec home built in the subdivision, and bought 3 additional lots in that subdivision 20 years ago. His younger brother built on the lot behind lot 57, which was the biggest lot in the subdivision. He was aware of the encroachment of the drainage easement when he purchased the property, and he can use the drainage easement for green space. But to change the drainage easement, the drain commissioner said the whole subdivision would have to be replatted and the drainage recalculated. There is no guarantee that would work. The

Zoning Ordinance does allow for special cases. They plan to build a mid-size house. The subdivision covenants contain a provision for a minimum home size of 1,200 square feet with no maximum. This home is 1,500 square feet, so it is in character with the neighborhood. He tried to get a footprint which was aesthetically pleasing with extra jogs and that fits the lot. After getting a surveyor involved, and reducing the size of the house already, they are about 6 foot over on one corner. The 20 foot setback is from the right-of-way, not from the curb, so the home would be placed about 33-34 feet from the curb. They want to keep the house as far back as possible, so this makes it really about 25 feet setback. Without totally redoing the plan, he doesn't see how else they can make it work.

The public hearing was closed on variance request #ZB12-05.

VII. Unfinished Business

None

VIII. New Business

Application #ZB12-05, Taylor, parcel #52-02-455-057-00

Woodward gave highlights from the staff report as outlined in the following paragraphs. The lot size is 0.46 acres or 20,038 square feet. The lot width is almost 158 feet. The proposed side setbacks are 10 feet on the north and over 80 feet on the south. The proposed rear setback is 50 feet, which is the entire width of the drainage easement. The 50 ft drainage easement runs the entire rear width of this parcel and effectively restricts 9,217 sq ft (46%) of the parcel, leaving about 10,820 square feet buildable (does not include what needs to be subtracted for the required setbacks).

A parcel comparison of all developed parcels containing the drainage easement follows. These parcels include homes that are one story, split entry, 2 story, and even tri-level. Homes range in size from 1,200 square feet to over 1,900 square feet. Lot sizes range between 1/3 acre to 1.7 acres. The estimated percentage of each of these parcels contained within the drainage easement is between 20 and 65 percent. The approximate buildable area (does not include the subtraction of the required setbacks) ranges from an estimated 9,900 square feet to almost 45,000 square feet. This parcel is one of the smallest, and has one of the largest percent of total area contained within the easement. It is also the only triangularly-shaped parcel, which renders conformity more difficult with a conventionally-shaped square or rectangular home.

Woodward noted that the applicant could be asked to alter the home design to a two story home, thereby accommodating a smaller footprint. However, she noted that the Township should consider that the mean population age is increasing due to the aging of the babyboomer generation, and many of these citizens will require homes that accommodate wheelchairs and other devices to assist limited mobility. So it is not

only in the interest of the applicant to grant a personal choice, but in the interest of potential future owners of this home that the design accommodates people with disabilities. In the Chocoday Township Master Plan, Housing Goal #1 says “encourage a variety of residential dwelling types in a wide range of prices which are consistent with the needs of a changing population and compatible with the character of existing residences in the vicinity”. Also, two story homes may be more expensive to build. The Chocoday Township Master Plan, Housing Goal #1 Policy 13, says “explore alternative measures to reduce housing costs and make home ownership more affordable, . . . provided the exercise of these measures still preserves the character of the area in which the housing is to be built”. This is not an excessively large home for the neighborhood.

The unique circumstances of this property have been previously noted. The drainage easement is not due to the action of the applicant. All fees, notifications, and publication requirements of the Ordinance were met. The Township had not received any letter(s) in support of or in opposition to this variance request at this time.

Wietek-Stephens asked about the purpose of the 13 foot public easement. It was clarified that the 66’ wide right-of-way is reserved for the placement of the road and underground utilities. The front setback is measured from the platted right-of-way line. Wietek-Stephens had concerns that the road could be expanded or moved later and create a different situation.

Alholm asked Woodward about the arguments against issuing this variance request. Woodward said the most subjective elements of the decision involve public interest arguments as illustrated during the public hearing. Angeli stated his biggest concern was the neighbors and whether it’s acceptable to them.

Alholm said she had a question of Mr. Kiple. In his memo he noted that this variance would be “out of character” with the neighborhood. Mr. Kiple reiterated that when he first got the letter, he envisioned the home built 20 feet from the curb, leaving no front yard. Most of the existing homes are 40-60 feet from the curb. That is why he wants to have the property staked so they can see that there is no problem with it being out of character.

Milton clarified that if the road is in the middle of the 66 foot right-of-way (which it may not be), you would count 11 feet from the center line of the road for the one lane of roadway, then 22 feet for the remainder of the right-of-way, then 20 feet for the proposed setback. In that case, the home would be about 38 to 42 feet from the curb. He noted you wouldn’t want to measure the correct setback distance from the road, but from the found markers. The applicant clarified that only a small portion of the

garage would encroach on the 30 foot front setback requirement. Most of the home would be behind that setback.

Wietek-Stephens asked if they considered a 2-story home. The applicant doesn't think a 2-story home would fit aesthetically because it's a low lot and needs a lot of fill. Wietek-Stephens questioned the design. She thinks the difficulty may be created by the applicant because they do have other options for building without encroaching on the setback. Milton thinks there has been every reasonable attempt to fit a desirable home on an encumbered lot and to accommodate the easement. He does not think this is an unreasonable request.

Wietek-Stephens pointed out that they may not grant variances for more than is needed. She wondered if the variance could be reduced from 10 feet to 6 feet reduction of the front setback requirement. The applicant would like the flexibility, but will put the home as far back on the lot as possible. Page said maybe the applicant should test the site and put in stakes so that we all know how much variance is necessary. The applicant asked to take a 30 minute recess so interested parties could visit the site and he could stake out the proposed home location for all interested parties to view. The applicant didn't want to waste the 30 most buildable days of the year to postpone the decision to August.

Wietek-Stephens motioned, Angeli seconded, to take a 30 minute recess for all interested parties to visit the site and observe the actual conditions.

Vote: All Ayes Motion Carried

Meeting was temporarily recessed at 7:41 p.m.

Meeting was reconvened at 7:58 p.m.

Alholm asked for clarification of the changes that were made to the house plan to accommodate the lot. Wietek-Stephens again stated they don't usually grant variances for more than is necessary, and asked if a 7 foot variance would be sufficient. Milton noted that to build the home exactly right would require a surveyor, so the applicant probably needs some flexibility. The applicant said he will use a surveyor to put the home back as far as possible.

Public comment was re-opened at 8:01 p.m. Mr. Kiple said he is a little more comfortable since it's almost twice the setback he had expected. He asked that the variance be kept to the minimum needed. Brian Miller said he is fine with the variance request. Public comment was then closed.

Milton moved, Alholm seconded, after conducting a public hearing and review of STAFF REVIEW/ANALYSIS for Variance request #ZB12-05, the Zoning Board of Appeals finds that the request demonstrates the standards pertaining to the granting of nonuse variances, and hereby approves Variance request #ZB12-05 with the following findings of fact:

1. Strict enforcement of the Zoning Ordinance would cause practical difficulty because every reasonable attempt to fit the lot was presented; and
2. Granting the variance would not be contrary to the public interest because it would increase the tax base; and
3. There are circumstances unique to the individual property on which the variance is granted, which are the large drainage easement; and
4. The variance request is not due to actions of the applicant, but is due to government action.

Conditions of Approval:

The back corner of the home is to be built on the boundary of the drainage easement.

Vote: All Ayes Motion Carried

IX. Public Comment

Citizens thanked the Board for being so accommodating.

X. Township Board Member/Planning Commission Member Comment

None

XI. Informational

A ZBA meeting is expected for August 23. It was noted that we need to change the date of the November meeting if one is needed because it falls on Thanksgiving. Wietek-Stephens noted that she expects to be on maternity leave in January through March of 2013, so an alternate will need to sit in her place, and Alholm will need to Chair the meetings.

XII. Adjournment

Wietek-Stephens adjourned the meeting at 8:09 p.m.

Respectfully Submitted By:

Kendell Milton
Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS**

**Thursday, September 27, 2012
7:00 PM**

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:00 P.M.

II. Roll Call

Members Present: Chairperson-Michelle Wietek-Stephens; Vice Chairperson-Karen Alholm; Secretary-Kendell Milton; Member-John Trudeau; Member-Sandra Page; Alternate-Geno Angeli (observer only)

Staff Present: Kelly Drake Woodward, Planning Director/Zoning Administrator

III. Approval of Agenda

Moved by Wietek-Stephens, and seconded by Milton, to approve the agenda as written for the September 27, 2012 meeting.

Vote: All Ayes Motion Carried

IV. Approval of July 26, 2012 Minutes

Moved by Alholm, and seconded by Wietek-Stephens, to approve the July 26th, 2012 minutes as written.

Vote: All Ayes Motion Carried

V. Public Comment

Mr. Raymond Gregory, newly appointed alternate, had not yet arrived, so introduction was postponed until after New Business - Variance Request #ZB12-07.

Woodward then noted she had forgotten to ask for a change to the agenda to reverse the order of the items considered because Mr. Clark, representing Mr. DeMarinis, has another commitment later in the evening.

Moved by Wietek-Stephens, and seconded by Trudeau, to reopen the approval of the agenda for the September 27, 2012 meeting.

Vote: All Ayes Motion Carried

Moved by Wietek-Stephens, and seconded by Trudeau, to approve the agenda as amended, switching the order of new business, for the September 27, 2012 meeting.

Vote: All Ayes Motion Carried

VI. Public Hearing

A. Application #ZB12-07

James DeMarinis, 104 Timberlane, Marquette MI, parcel #52-02-109-082-10, requests a dimensional variance from Section 6.8 Waterfront Setback provisions to allow enclosure of an existing deck with the same depth and width as previous, and to allow an addition of an open deck no closer to the waterfront than existing improvements. The home was built in 1954, and the entire residence is nonconforming to the required 100' waterfront setback.

Attorney Tom Clark, 102 West Washington, Suite 112, Marquette, spoke for his client, Mr. DeMarinis. The home was built in 1954 before Timberlane became a subdivision. It was built by the Wursters who owned Timbercrest Nursery. They are the parties who constructed the 6" x 6" timber retaining walls. The entire structure is located well within the waterfront setback area. The original structure was 30' x 30'. The terraces to the river were added in the early 1980's. It is a large lot consisting of two parcels. The yard and house take up less than half the total area. There is a greenbelt by the Lakenen's and Timberlane. They ask for approval for enclosure of the existing deck, which was built of 6" x 6" beams. Mr. DeMarinis also added an open treated wood deck to the side of the existing deck.

Trudeau noted that from the date of the Ordinance on, people are required to get building permits. He noted they have denied decks previously in the waterfront setback area. He asked about the date of construction for the open deck. Woodward noted that previous Zoning Administrators had not always required permits for decks, and there has not been consistent handling of these permits. Trudeau noted a deck they had denied on the Choclay River for Mr. Keough previously.

Woodward said that a case might have come before the ZBA if the deck was to be an enlargement to a nonconforming structure. But she noted that the definition of "structure" in the ordinance exempts open, uncovered porches not to exceed four feet above grade, and therefore she had determined that the new treated wood deck did not count as a "new structure" that must maintain a minimum setback of 100 feet from the river. But if the ZBA considered the new treated wood deck to be an enlargement of a nonconforming structure, then it would require a variance under provision 14.2.A of the Ordinance that states that "No lawful nonconforming structure shall be extended, expanded, or enlarged without first securing the approval of the Zoning

Board of Appeals.” Further discussion was tabled until new business, and the public hearing was opened for Application #ZB12-06.

B. Application #ZB12-06

Glen J. Kassel (Kassel’s Korner, Inc.), 6400 US-41 South, Marquette MI, parcel #52-02-121-053-00, requests a dimensional variance from Section 6.8 Waterfront Setback provisions to build a 32’ by 56’ building with canopy for ice making and storage at less than the required 100’ waterfront setback (approximately 60’ setback from Big Creek).

Mr. Kassel said the Iceman business is part of the Kassel’s Korner business, and his son is in charge of the ice business. They make the ice at Kassel’s and his son delivers it all around the area. Mr. Kassel handed out photos of the store that show the area where they currently make ice. They are out of space and unable to keep up with demand with current facilities. When they can’t make enough ice, they have to purchase the ice elsewhere, then they don’t make money on it. They have plenty of water to make the ice, but need a better facility.

He said that two-thirds of the new building will be storage for 24 pallets of ice. His son wants to work here in Marquette County. They have an artesian well on the property. The current outdoor storage will go into the current building when they move the ice machines out. Mr. Kassel is concerned about his employees loading ice up a ramp. He wants a cleaner, safer operation with a dock for loading the ice directly on the truck. They have been selling ice year round for 7 years now. The planned building site is on high ground, and water doesn’t reach the height of that area. He noted that the DNR will still have to give approval, and that his contractor, Phil Cleary, is present for questions. They do not plan to store the trucks in the new building.

Wietek-Stephens stated that in the future, she would like the applicant presentations to take place along with the “New Business” item, because it is difficult to remember everything when you have to return to the item later. Trudeau said that the public hearing was conducted according to the usual Township procedure. Wietek-Stephens clarified that public comment could take place during the public hearing on the item, but she doesn’t want the applicant presentations to take place during the public hearing. Trudeau said that during public comment, people can reserve time to speak to agenda items. He said that public comment can be on any topic, but the public hearing relates to the agenda items, and he’s just noting a need to follow consistent protocol.

Eric Keough, 112 Vista Hills Trails, owns some property in Chocolay Township and said he wanted to offer support for Kassel’s project. Small businesses are essential to

the economy, and he hopes the Board will support this local business that employs 16 people.

VII. Unfinished Business

None

VIII. New Business

A. Variance Request #ZB12-07 DeMarinis

Wietek-Stephens asked for clarification that if the deck is determined to be an addition to a nonconforming structure, then a variance is needed. Woodward affirmed. She then asked if the ZBA is being asked to permit something that is already built (enclosure of the other deck). Woodward affirmed that the applicant is asking for a variance after construction. The addition was discovered during field inspections for re-assessments, and a violation notice was sent by former Zoning Administrator Jennifer Thum. She told the applicant they needed to go through the variance procedure.

Alholm asked for clarification of what was enclosed. The original deck was built of timbers with sand and concrete pavers on top. The Zoning Administrator told the applicant he would need to get a variance because it was an expansion of a nonconforming structure.

Trudeau noted the importance of the waterfront setback provision. Clark noted every part of the house is built within the waterfront setback because it was built before the Ordinance, including the enclosed deck. He noted that the existing terraced retaining wall system prevents erosion or runoff from impacting the river. He noted that any improvement to the property would require a variance from the waterfront setback provision, because the only thing not within the 100' setback is the drainfield.

Page asked if this case relates to the Jones case where they previously granted a variance for expansion and enclosure of an existing deck for a sun porch on a home that was built before the waterfront setback. This was affirmed. Page asked about the penalty for building before obtaining a variance or a permit. Woodward said that currently there is no penalty imposed, other than it is a violation of the Ordinance. Woodward said that the choices are to approve the variance, or deny it and require removal. Clark noted that even if the variance was granted, the applicant would still have to get the building permit, and the structure would be inspected, but that the building permit could not be obtained without the variance and approved Zoning Compliance Permit. Woodward noted that she considers the enclosure an expansion of a nonconforming structure because it adds square footage to the living space. Wietek-Stephens noted it impacts aesthetics along the waterfront.

Trudeau cautioned against approval of structures that were illegally constructed and do not meet Ordinance requirements. He asked if the assessor card showed an existing deck before it was enclosed. This was affirmed. Woodward clarified that there are two separate issues. 1) The original deck that was enclosed in 2001. 2) The newly constructed deck, less than 4 feet above grade, that was built in 2002 alongside the original deck and does not extend any closer to the river. Wietek-Stephens clarified that issue #1 involves an expansion of a nonconforming structure, whereas issue #2 involves a new open deck. The question is whether this new deck constitutes an extension, expansion, or enlargement of a nonconforming structure, because the zoning ordinance does not define what constitutes an extension, expansion, or enlargement. Alholm asked if this lack of definition was to be addressed? Woodward noted it would require a text amendment by the Planning Commission, and approval by the Township Board. Alholm asked if the ZBA can make a request of the Planning Commission. Woodward affirmed, but also noted that the ZBA could handle the issue by making an interpretation which would set precedent, but would not change the Ordinance language.

The Board addressed issue #1 first. Trudeau asked if the original deck was removed before enclosure. It was not. The original 6" x 12" timbers still remain. The sand and concrete pavers were removed. The enclosure is a rear round living space.

Wietek-Stephens asked if the Board would have approved this enclosure had the applicant done a timely and correct application process prior to construction. Milton said he thinks they would have approved the expansion because it wouldn't impact the river and there was no fill or grading. Wietek-Stephens noted it appears to be the closest structure to the river in that immediate area, and that it does have an aesthetic impact. She also noted the issue of a non-standard foundation for the structure.

Trudeau asked about recourse for structures built 11 years ago without a permit. He said he would not have originally approved it because of the waterfront setback provision. Woodward noted the Jones case, which was an expansion and enclosure of an existing deck, was approved just a couple months earlier by this Board. Trudeau noted there are many decks that were constructed without permits, but this was the first case he knew of where someone enclosed one of those decks without a permit.

Clark asked the Board to consider the role of the extensive retaining walls that prevent erosion. Wietek-Stephens said that erosion and runoff are usually considered in matters of the waterfront setback, but it's not an issue in this case. What is an issue is that permits are required to ensure proper construction of structures, and what differs is that in the Jones case, the permit was applied for before construction so the construction could be properly planned. Alholm noted that the structure will have to be made to meet code when the building permit is obtained. Clark noted that if the

Board wants to condition the variance approval upon obtaining the building permit, it would give extra assurance to the Board. He is trying to avoid having to tear the enclosure off and then return again to request a variance. Wietek-Stephens asked if the enlargement would likely be approved if the applicant is required to remove the improvements and then comes back to ask for approval? She thinks they would discuss the runoff/drainage/erosion issue, and the aesthetics issue. She asked if the Board would have any other issues for discussion in that case? There were none. She then asked if they would deny the variance request due to runoff or erosion issues. This was determined not to be an issue. She then asked about aesthetics and the increased encroachment of the structure on the waterfront area. Milton noted there was no new encroachment, but Wietek-Stephens noted the increased height of the enclosure. Milton asked if there are a lot of canoes, or if this part of the river was navigable. This was affirmed.

Addressing only the enclosure of the existing deck, Alholm moved, and Milton seconded, that after conducting a public hearing and review of staff review/analysis for Variance request #ZB12-07, the Zoning Board of Appeals finds the request demonstrates the standards pertaining to the granting of nonuse variances, and hereby approves Variance request #ZB12-07 with the following findings of fact:

1. Strict enforcement of the Zoning Ordinance would cause practical difficulty because it would require extensive demolition of a potentially sound structure; and
2. Granting the variance would not be contrary to the public interest because the structure does not cause an environmental erosion problem; and
3. There are circumstances unique to the individual property on which the variance is granted, and these circumstances are that the entire structure was built before the Ordinance in the waterfront setback area.

Suggested Conditions of Approval:

1. The granting of the variance is conditioned upon obtaining a building permit, and is otherwise null.

Vote: All Ayes Motion Carried

Wietek-Stephens directed return to the issue of the new deck, and asked Staff for analysis of whether the deck constitutes an extension, expansion, or enlargement. Woodward noted that it does enlarge the footprint of the structure. Milton asked if the Planning Commission needed to address the definition issue before this decision. Wietek-Stephens noted that would be helpful for future cases, but wouldn't help tonight. Wietek-Stephens noted it does enlarge the outdoor living space which is of value but this is not clearly defined. Page suggested delay of this issue until a definition is obtained. Woodward noted that if the ZBA makes an interpretation, the language of the Ordinance stays the same, but it sets precedent for future issues. If

they want the language amended, then it must go before the Planning Commission. Wietek-Stephens feels that they have considered decks to be an enlargement in the past, and noted the Keough case. Milton noted in that case there were issues of fill. Wietek-Stephens noted that the fill was to bring the structure under the definition of deck. It was clarified that the Keough deck was a new structure that created a new encroachment on the waterfront setback. There were many other issues involved. Woodward noted that if they consider this new deck in the DeMarinis case to be an enlargement, it does not increase the existing nonconformity because it does not encroach further on the waterfront setback than the original deck.

Moved by Wietek-Stephens, seconded by Alholm, to consider this deck an enlargement of a nonconforming structure.

Vote: All Ayes Motion Carried

Since this motion carried, a variance is necessary. Moving through the standards regarding nonconforming structures, Wietek-Stephens noted the deck does not further encroach, and it does not create new erosion issues. After asking for disagreement, there was none. She said it does occupy green space in the vicinity of the river. She brought up aesthetic issues – there were no comments. She asked about whether the deck was contrary to the public health, safety, and welfare or the spirit of the Ordinance or Master Plan and received no comment. She noted no deleterious effect on a conforming structure, and no increase in nonconformity due to encroachment on the waterfront setback. In discussion it was noted that if you deem the deck is a structure, then it may add to the nonconformity by increasing the size of the nonconforming structure.

Addressing the construction of the new deck, Alholm moved, and Milton seconded, that after conducting a public hearing and review of staff review/analysis for Variance request #ZB12-07, the Zoning Board of Appeals finds the request demonstrates the standards pertaining to the granting of nonuse variances, and hereby approves Variance request #ZB12-07 with the following findings of fact:

1. Strict enforcement of the Zoning Ordinance would cause practical difficulty because it would require extensive demolition of a potentially sound structure; and
2. Granting the variance would not be contrary to the public interest because the structure does not cause an environmental erosion problem; and
3. There are circumstances unique to the individual property on which the variance is granted, and these circumstances are that the entire structure was built before the Ordinance in the waterfront setback area.

Suggested Conditions of Approval:

1. The granting of the variance is conditioned upon obtaining a building permit, and is otherwise null.

Vote: All Ayes Motion Carried

A one minute break was called. Following the break, Mr. Gregory introduced himself and summarized his experience.

B. Variance Request #ZB12-06 Kassel

Wietek-Stephens asked if Mr. Kassel had considered an addition to the current building. He said they had, but found two difficulties. 1) They still need access to the drainfield for maintenance. 2) There would be added expense with bringing the back of the present building up to code with an attachment. Alholm clarified that the apartment residents have egress on the rear of the building. The building is proposed to be 14' tall to allow for entrance of the trucks. Alholm asked about emergency vehicle access if there was a fire in an apartment, and Mr. Kassel said the proposed building would be 25' from the existing structure. Milton said 15' is required for emergency vehicles.

Trudeau said it is important to maintain the intent of the waterfront setback provision. He knows they have permitted some continuation of existing structures, but doesn't think there is anything that would allow the setback variance for a new building. He doesn't think practical difficulty applies. He said the ZBA can't change the Ordinance or rule for convenience of the owner. He is concerned about precedent.

Milton mentioned this is a navigable waterway and this structure could make an impact by detracting from the shoreline. Wietek-Stephens mentioned water quality and habitat issues, which increase with a commercial use. She was concerned that the slope would require some fill (applicant says minimal).

Trudeau said there is not enough information to determine slope or fill issues, and that the application should include a site plan with elevations before the decision can be made. He said there is a goal in the Master Plan that supports the waterfront setback, and a variance would be inconsistent with this goal and detract from the river view.

Wietek-Stephens was concerned that it is possible to overcome this without such a significant variance by attaching the structure. She said the drainfield access could be placed on the site of the proposed building. She thought the Board would be more likely to grant an enlargement to an existing structure than a 40 foot variance.

The applicant said he doesn't feel the Township is being unfair, and proposed redesign. His son felt the obstacles are overwhelming and costs would be doubled. They mentioned the clear vision area has forced them to expand to the rear, plus they have to maintain distance from the residential use. Wietek-Stephens said it is an argument in favor of the variance that the property has more restrictions than the typical commercial site. There was a question of whether a breezeway between the current and proposed building would be considered an attachment of the structures and also eliminate the roof issues. Milton said that an architect has to be involved in the case of attachment of structures to deal with the upper story windows.

Trudeau said that the building codes would also pose further restrictions, and the Planning Commission would also have to address a commercial addition and would need a site plan. The Board discussed accessing the drainfield by driving in the grass area, and emergency vehicles access all around the building. They questioned whether you can have a driveway within the 100' waterfront setback. These are issues the Planning Commission would address. Trudeau noted engineered plans are needed before you can make those decisions.

Trudeau moved, and Alholm seconded, that after conducting a public hearing and review of staff review/analysis for Variance request #ZB12-06, the Zoning Board of Appeals does not find that the request demonstrates the standards pertaining to the granting of nonuse variances, and hereby does not approve Variance request #ZB12-06 with the following findings of fact:

1. Strict enforcement of the Zoning Ordinance would not cause practical difficulty; and
2. Granting the variance would be contrary to the public interest because it is in the public interest to maintain the intent of the waterfront setback because it sets a precedent; and
3. There are not circumstances unique to the individual property on which the variance is granted; and
4. The variance request is due to actions of the applicant.

Vote: 4 Ayes, 1 Nay Motion Carried. Variance request is denied.

IX. Public Comment

None.

X. Township Board Member/Planning Commission Member Comment

Trudeau mentioned that if there is no meeting next month, this is his last meeting serving on this Board. He acknowledges that service on this Board is very difficult because you know the people, and it's difficult without a legal background. Milton mentioned the possibility of the Planning Commission addressing the definition of extension, expansion, enlargement. Trudeau wanted more clarity on when it is

appropriate to encroach on the waterfront setback. Alholm said there should be a penalty for not having obtained a permit. Woodward noted the Board had discussed a penalty for not having obtained a deck permit (\$30 vs \$15), but did not address an after-the-fact permit fee for other structures. The Manager had asked her to research this issue as applied consistently for all development, such as a doubling of the cost. Several members did not feel a \$30 penalty fee would provide a significant deterrent.

XI. Informational

Woodward noted that she appreciates the methodical way that Wietek-Stephens leads the group through rational discussions and keeps everything on track and moving forward. She noted that John will be missed and that he's been a very valuable member of the group even though he feels it is painful at times. She said the Planning Commission is getting close to the end of discussion on the sign and home occupation amendments, and can move forward with the junk/blight discussion as well as some other beneficial amendments that could help the ZBA in their decisions.

XII. Adjournment

Wietek-Stephens adjourned the meeting at 8:50 p.m.

Respectfully Submitted By:

Kendell Milton
Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, November 29, 2012
7:00 PM**

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:03 P.M.

II. Roll Call

Members Present: Chairperson-Michelle Wietek-Stephens; Vice Chairperson-Karen Alholm; Secretary-Kendell Milton; Member-Sandra Page; Alternate-Raymond Gregory.
Staff Present: Kelly Drake Woodward, Planning Director/Zoning Administrator

III. Approval of Agenda

Wietek-Stephens suggested an addition to discuss the agenda format after item IX-Public Comment. Alholm suggested moving the approval of previous minutes to the same time to allow members a chance to review them.

Moved by Wietek-Stephens, and seconded by Milton, to approve the agenda for November 29 as corrected to add a discussion of the ZBA format and move approval of the minutes to follow agenda item IX.

Vote: All Ayes Motion Carried

IV. Public Comment

None

V. Public Hearing

A. Application #ZB12-08

Nicholas and Jennifer Cammarata, 669 Lakewood Lane, Marquette MI, parcel #52-02-110-041-50, request to allow a proposed 1-story addition to the front porch and 1 1/2 story addition with walk-out basement to the center rear of the home. This nonconforming home was built with a 5' side setback in 1967 before the zoning ordinance, and the additions will not increase the nonconformity.

Applicant Jennifer Cammarata of 669 Lakewood Lane said she thinks the application is self-explanatory and she has no added comments unless there are questions.

VI. Unfinished Business

None

VII. New Business

A. Application #ZB12-08

Staff Woodward provided comments. This is a straight-forward request to allow the expansion of a lawful nonconforming structure that was built in 1967 in accord with Section 14.2 Regulations Pertaining to Lawful Nonconforming Structure, which states that “no lawful nonconforming structure shall be extended, expanded, or enlarged without first securing the approval of the Zoning Board of Appeals”.

John Larson, architect, is present for questions. The existing home is on a nonconforming lot (100 feet wide lot where 125 feet is required), and it meets all setbacks except one side which is five feet setback where 10 feet is now required. However, the proposed addition meets all required setbacks. Per Woodward’s research, there are many previous cases where expansions of homes with nonconforming side setbacks have been permitted. Many of these additions were also nonconforming.

Board members were asked to consider their decision in light of standards regarding the extension, expansion, or enlargement of nonconforming structures per Section 14.2 of the zoning ordinance. The proposed addition does not need a variance. ZBA approval is required to proceed with an expansion of a nonconforming structure. Staff found no evidence the proposed addition would be contrary to public health, safety or welfare, or to any plan or ordinance. No negative impact is anticipated on adjacent properties, as all are setback nearer to the lake while this home is closer to the road, and the property is surrounded by a buffer of large trees. Gail Ruffus of 665 Lakewood Lane (home located behind this structure on the lake) called the office to express her approval for the addition. Staff found the request would not increase an existing nonconformity or create a new one.

Gregory asked for clarification on setbacks in relation to the addition. Wietek-Stephens noted it is nice to see a proposed addition that is considerate of required setbacks. Milton asked for clarification on the impact of the nonconforming lot size. No impact is noted when required setbacks are met per Section 6.4 of the Zoning Ordinance.

Weitek-Stephens moved, and Alholm seconded, that after conducting a public hearing and review of STAFF REVIEW/ANALYSIS for request #ZB12-08, the Zoning Board of Appeals finds the request demonstrates the standards pertaining to approval of the expansion of a nonconforming structure, and hereby approves request #ZB12-08 with the following findings of fact:

1. The proposed expansion is not contrary to public health, safety, or welfare; or to the spirit of the Chocolay Township Zoning Ordinance or Comprehensive Plan, or any other adopted plans or ordinances; and

2. Would not displace, inhibit, or have any type of deleterious effect upon a permitted or conforming structure, either on the subject premises or upon any nearby premises;
3. Will not increase any existing nonconformity; and
4. Will not result in any new nonconformity.

Vote: All Ayes Motion Carried

VIII. Public Comment

None

IX. Approval of September 27, 2012 Minutes

Moved by Wietek-Stephens, and seconded by Alholm, to approve the September 27, 2012, minutes as corrected.

Vote: All Ayes Motion Carried. Gregory abstain.

X. Future ZBA Agenda Format

Woodward suggested that each item of business include the potential for four sub-items, including 1) Planning Director comments, 2) Public Hearing & Applicant comments, 3) Board/Applicant discussion, 4) Board decision. These items of business would be repeated for each case in order of application date (unless time conflicts must be negotiated and order modified).

Moved by Wietek-Stephens, and seconded by Milton, to remove the open public hearing as a stand-alone item and include it in the appropriate agenda item so the Board can move through one entire case from start to finish before considering another.

Vote: All Ayes Motion Carried.

XI. Township Board Member/Planning Commission Member Comment

None

XII. Informational

It is unlikely a December meeting will be necessary. We need to determine when new officers are elected. Is a special meeting warranted? Wietek-Stephens would probably be available for a February meeting following maternity leave. The status and content of the pending Home Occupation and Sign amendments were discussed.

XIII. Adjournment

Wietek-Stephens adjourned the meeting at 7:43 p.m.

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, June 27, 2013
7:00 PM**

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:02 P.M.

II. Roll Call

Members Present: Chairperson-Michelle Wietek-Stephens; Vice Chairperson-Karen Alholm; Secretary-Kendell Milton; Member-Mark Maki; Alternate-Raymond Gregory.

*Note, Raymond Gregory joined the meeting at 7:04 P.M.

Member Sandra Page was excused.

Staff Present: Kelly Drake Woodward, Planning Director/Zoning Administrator

III. Approval of Agenda

Moved by Maki, and seconded by Alholm, to approve the agenda for June 27 as written.

Vote: All Ayes Motion Carried

IV. Approval of November 29, 2012 Minutes

Moved by Alholm, and seconded by Milton, to approve the minutes for November 29, 2012 as written.

Vote: All Ayes Motion Carried

V. Public Comment

None

VI. Unfinished Business

A. Election of Officers

Moved by Milton, seconded by Alholm, to nominate Wietek-Stephens as Chairperson. Nomination accepted.

Vote: All Ayes Motion Carried

Michelle Wietek-Stephens will remain ZBA Chairperson.

Moved by Wietek-Stephens, seconded by Milton, to nominate Karen Alholm as Vice Chairperson. Nomination accepted.

Vote: All Ayes Motion Carried

Karen Alholm will remain ZBA Vice Chairperson.

Moved by Wietek-Stephens, seconded by Alholm, to nominate Kendell Milton as Secretary. Nomination accepted.

Vote: All Ayes Motion Carried

Kendell Milton will remain ZBA Secretary.

VII. New Business

A. Variance Request #ZB13-01 Keough

Planning Director Comments

Woodward said this is a request for a dimensional variance from Section 6.1 to build a 1,040 square feet (26' x 40') one-story home at less than the required 30' front and side setbacks, with the intent to preserve as much of the required waterfront setback as possible (by minimizing the front setback that is adjacent to the easement). The proposed minimal front setback would result in the home being located between 23 and 37 feet from the actual access road. This nonconforming lot of 0.285 acres was created before the zoning ordinance and previously contained a 700 square foot year-round residence from 1955 to 1995 when it was destroyed by fire. Well and septic remain on the property. The property appears to be entirely within the 100-year floodplain and a scrub-shrub wetland area. Woodward said that Sheila Meiers from DEQ said it was likely that a State permit would be needed to build in the floodplain in the absence of an elevation survey showing the structure was not in the floodplain. The County may also enforce structural requirements relating to the floodplain.

Woodward said it is impossible for any structure to meet all setback requirements on this property; hence a variance is needed for any structure. Woodward stated the Zoning Ordinance standards for granting variances.

Public Hearing & Applicant Comments

Eric Keough noted his former success in redeveloping nonconforming legal parcels in the Township. The lot is attractive to him because it already has a well and septic system, and he provided documentation of this in the application. In the original plan he tried to maintain the entire 100 foot waterfront setback. He has an alternate plan that would center the home on the lot, meeting both side setbacks, but requiring a 65 foot waterfront setback (35 foot variance) to avoid the septic system.

He has built in the floodplain before and it requires a special engineered septic permit and flood insurance. He said there are no cattails on the lot, and there are cedar and birch trees. He will remove the existing dilapidated shed.

Board/Applicant Discussion

Wietek-Stephens asked if the access road is public or private. The applicant said it's a private road to which he has a legal easement. Wietek-Stephens asked who is in charge of the road. Keough said who knows – he took care of plowing last year for a neighbor.

Alholm asked who provided the measurements. They were done by a surveyor and the applicant. Gregory confirmed the relationship of the proposed structure to the front property line and the easement. The home is basically proposed to be on the front property line a distance from the access road.

Alholm asked about provisions for parking and whether there was room for parking between the house and the septic system. Keough said there are two driveways into

the property, and there is access and room for parking in the back yard without driving over the drain field. He said people have been using the easement for parking in front. Keough confirmed there is no standing water on the property.

Alholm asked if there are other nearby structures built on lots less than 20 acres. The answer was yes.

There were questions about the health department drawing of the well/septic and whether it matches with the location of the parcel. Maki asked for confirmation of the address of the property.

Maki questioned whether the health department will accept the existing septic system in a floodplain for a new house, saying an engineered system might be required and this could impact where the applicant could build.

Maki confirmed the setback calculations. Keough has calculated the setback allowing 5' separation between the foundation and the septic tank. Maki said Keough should have something showing the off-street parking on the lot.

Wietek-Stephens asked if Keough knows the location of the septic. Keough said the septic was dug up and marked, but the dimensions of the drain field are not known. Wietek-Stephens also asked about the potential for the current private road to become a County road. It was agreed there is no potential for it to become a County road.

Alholm asked about identification of the Snooks parcel and whether they had submitted input. Woodward said their verbally stated concerns had to do with the flooding of the parcel, and conditions for the well and septic. Keough was asked if he would be willing to address any health department requirements and this was affirmed by Keough.

Wietek-Stephens had two concerns, 1) whether a nonconforming parcel in a floodplain should ever be buildable, or whether this question should be left to the County; 2) does it make sense to locate a house 30 inches from the property line and take down a bunch of trees, or place it closer to the rear where there could be increased flooding concerns. She asked, "Is the Township better served by having this parcel built upon and occupied contributing to tax base or is it better served having this parcel not occupied?"

Milton said it used to be occupied, and if there was a house there now it would probably still be occupied. Wietek-Stephens said the whole point of the zoning ordinance is to try to reduce nonconformities over time and not try to recreate them.

Gregory asked to what extent the floodplain issue is before this Board. Woodward said her job is to identify the property as being in the floodplain and then the County enforces the applicable structural requirements. Woodward had talked with the County and DEQ regarding their requirements. Keough noted there are many structures located in the floodplain in Chocolay Township. Flood insurance may be

required with a mortgage. Maki said the applicant either has to build above the floodplain in accordance with an elevation certificate, or build according to requirements for the floodplain. Gregory asked about granting a variance conditional upon getting all other required permits. Woodward confirmed this has been done before.

Alholm asked if it is appropriate to use the easement for parking. Maki said no, the applicant is required to have two parking spaces on-site and show them on the plan.

Maki asked about Section 6.4 of the Zoning Ordinance that states that nonconforming lots of records that are contiguous and in the same ownership are required to be combined to reduce dimensional nonconformities. It was determined that this parcel is not in the same ownership with the adjacent parcel.

Maki would rather reduce the waterfront setback to allow for parking, porches, etc. Keough presented his alternate plan for consideration, with the house about 66 feet from the river's edge. The adjacent house is about 30 feet from the water's edge. Maki said it makes sense to preserve as much waterfront setback as possible, but makes more sense not to put the front of the house on the property line without provisions for parking or porches.

Wietek-Stephens is interested in knowing where the septic is so she can locate the house optimally. Keough said the 30' front setback would allow the home to stay clear of the septic system and be centered on the property. Maki said he would be surprised if the health department would accept an existing septic, and if it would meet requirements in the floodplain. Keough said he would have to do a septic evaluation as part of the County permit process.

Wietek-Stephens said she didn't know if she has all the information she needs to make a decision. She would like to see the home centered, but as far to the front as possible to allow a little space for parking. But it's hard to make this determination not knowing if the septic requires changes. Parking was discussed. Wietek-Stephens asked what would happen if the health department doesn't approve the septic. Keough said if the health department doesn't approve the use of the existing septic system, he will put in an engineered system, but he's confident that it's good.

Gregory and Alholm like the alternate plan better. Wietek-Stephens wants to know where the ultimate location of the septic will be so she can be assured there is minimal encroachment on the waterfront setback. If the septic can't be reused, it changes everything and opens up other possibilities. She would rather vary both the front and waterfront setbacks. A former case was discussed for consideration. A potential motion was discussed.

Board Decision

Wietek-Stephens moved, Gregory seconded, after conducting a public hearing and review of STAFF REVIEW/ANALYSIS for Variance request #ZB13-01, the Zoning Board of Appeals finds that the request demonstrates the standards pertaining to the granting of nonuse variances, and hereby approves Variance request #ZB13-01 with the following findings of fact:

1. Strict enforcement of the Zoning Ordinance would cause practical difficulty because strict compliance would unreasonably prevent the owner from using the property for a permitted purpose; and
2. Granting the variance would not be contrary to the public interest because the proposal preserves as much of the waterfront setback as possible; and
3. There are circumstances unique to the individual property on which the variance is granted, and these circumstances are inadequate depth in relation to the waterfront setback requirement; and
4. The variance request is not due to actions of the applicant, but is due to a lot of record that was created before the zoning ordinance which has subsequently never been in conformance with regulations.

Modifications and conditions of approval:

1. The variance is contingent on the Health Department approving the continued use of the existing septic system; and
2. The house is required to be built as far to the front (south) lot line as the septic will allow, meeting side setback requirements on both sides, and leaving no less than 66 feet of waterfront setback and 12 feet of front setback while retaining the structure dimensions as stated in the application; and
3. The variance is contingent upon acquisition of all applicable DEQ and County permits relating to construction in the floodplain.

Vote: All Ayes Motion Carried

B. Variance Request #ZB13-02 Moore

Planning Director Comments

Walter Moore, 148 Riverland Drive, requests a dimensional variance from Section 6.1 to build a 1,440 square feet (30' by 48') one-story detached storage building at less than the required 35' rear setback (20' proposed). This is a conforming 0.79 acre lot. All setbacks are currently conforming. There is an existing residence with an attached garage and detached shed. Previously a variance was granted for a detached garage to be placed at nearer than the required setback along the M-28 property line provided a wooded buffer was maintained. The proposed building size is permissible as it does not exceed the perimeter dimensions of the principal structure. Two resident comments were submitted to the Board at this time in favor of the request.

Maki asked for clarification regarding the designation of “front” lot line and “side” lot line in relation to this parcel. It was determined that the property line in question is best interpreted as a rear lot line rather than a side lot line because MDOT would probably not allow access off the property line adjacent to M-28 since reasonable access has already been provided off Riverland Drive. (See definition of Front Lot Line – “a line dividing a lot from any public highway except a limited or controlled access highway **to which the lot has no access.**”) The plat map also designates only Riverland Drive as a front. So the rear variance is needed in this case.

Public Hearing & Applicant Comments

Robert Hainstock, 153 Riverland Drive, lives across the street from the property in question. He is a big fan of Walter’s, but Walter has a different toy collection than he does, some with very big wheels. He spoke of the many vehicles, some under renovation, that are on the property, and that he would like these vehicles to be under cover.

Andrea Wrubel, 1388 M-28 E, was in full support of the proposal because she understands the desire to put things under cover.

Sylvia Hainstock, 153 Riverland Drive, was in support of the proposal.

Board/Applicant Discussion

Walter Moore presented a site plan and said he would really like to have a ten foot setback. He has made many improvements to the house and property. He believes the required 30 foot setback creates a wasted area. He would like to have a fenced area for his coming up child and dogs in the middle of the yard. He is asking for the 20 foot setback. He said that at a 20 foot setback, however, one corner would be within 9.5 feet of the side line, although his measurements could be off. He is not putting in heat. It’s simply a cold storage pole barn with translucent top, a man door, and one garage door. There will be no driveway to the building. The power line location was discussed. The building height is 10’ at eaves and 16’ at peak.

Maki pointed out that the neighbor could build a structure 10’ from this same property line because for them it’s a side yard.

Moore said one other important consideration for him was his neighbor’s dogs. He had to put up a temporary 6’ fence because they bark.

Gregory questioned the rationale for the variance since there is room for the building to be built at the required setback. Alholm also asked for clarification, and Moore said he doesn’t want the pole barn to look like it’s in his front yard.

Milton asked if the applicant found the corner markers. The answer was yes.

Wietek-Stephens acknowledged the applicant’s concerns but said she doesn’t think there is a basis for practical difficulty, since this size building could still be built and meet all required setbacks. Alholm said it can be done practically even if it may not be exactly where the applicant wants it.

Maki said what is unique is two things, 1) in theory the neighbor could build 10 feet from the same line and yet Moore has to build 35 feet from that line. He thinks this is unreasonable. He also appreciates that Moore is trying to place the building less prominently on the parcel. Maki said he would propose a motion to allow a 20 foot setback for those two reasons.

Alholm mentioned the prominence of the existing accessory buildings in front of the house. Wietek-Stephens said that if they let the applicant build ten feet from the rear property line just because the neighbor can, we end up with buildings too close together. Maki said if Moore was proposing 10 feet, he probably wouldn't go along, but it's 20 feet.

Moore asked what he would do with the 35 by 40 feet area since he can't drive over it because that would mean driving over his septic system. Wietek-Stephens said you don't have to drive on a property to use it. Moore saw it as a waste of land.

Maki said it's an odd lot because essentially it's on two road frontages unlike most lots. Maki said the designation of "front" on a plat is meant to specify where the driveway needs to be. They started doing that so people wouldn't have driveways on two roads. He thinks this means this is a rear lot line by definition and a variance is needed.

Gregory said he thought that building closer to Riverland Drive would make the property look more balanced.

Sylvia Hainstock said that part of Walter's request is for their benefit. The building will screen the sound of the other neighbor's dogs. Alholm said a fence would do it – but there is an existing fence. Maki said the dogs have nothing to do with it.

Moore said he can utilize the property in front better than he can utilize the rear. Milton clarified that the State won't allow any more access to M-28 than they have to, so access directly to M-28 probably would not be allowed

Board Decision

Maki moved, Milton seconded, to allow the applicant to build 20 feet from the rear property line instead of 35 feet because 1) it's a unique parcel because the lot line is considered a side lot line for the neighbor, and could be considered a side lot line under our ordinance, and 2) the applicant is trying to place the building less prominently in relation to the home.

Vote: 2 Ayes: Milton, Maki 2 Nays: Wietek-Stephens, Alholm

Gregory did not vote. He chose to abstain, however, Woodward said he must vote unless he had a conflict of interests. It was found he did not have a conflict of interest and therefore Gregory voted naye, saying he would be more in favor of a 30 foot minimum setback than 20 foot.

Motion Denied

Maki moved, Milton seconded, to allow the applicant to build 25 feet from the rear property line instead of 35 feet because 1) it's a unique parcel because the lot line is considered a side lot line for the neighbor, and could be considered a side lot line under our ordinance, and 2) the applicant is trying to place the building less prominently in relation to the home.

Vote: 3 Ayes: Milton, Maki, Gregory 2 nays: Wietek-Stephens, Alholm

Motion Carried

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comment

Maki thanked the Zoning Board. He reads their decisions and thinks they put a lot of thought into it. It's good to have a Planning Commissioner and two attorneys involved. It is appreciated. He knows it's a tough job because he worked with the zoning ordinance for years and years. He wanted the ZBA to know the Board adopted extensive changes to the sign standards. He thinks some are good and some are bad, including changes to the size of residential signs. Milton no comment.

X. Informational

Woodward said the Township Board has adopted regulations pertaining to Conditional Uses and Outside Lighting. The ZBA was provided with the updated zoning ordinance.

XI. Adjournment

Wietek-Stephens adjourned the meeting at 9:15 p.m.

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, November 21, 2013
7:00 PM**

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:00 P.M.

II. Roll Call

Members Present: Chairperson-Michelle Wietek-Stephens; Vice Chairperson-Karen Alholm; Secretary-Kendell Milton; Board Member-Mark Maki; Member-Sandra Page; Alternate-Geno Angeli; Alternate-Raymond Gregory.

Staff Present: Kelly Drake Woodward, Planning Director/Zoning Administrator

III. Approval of Agenda

Alholm asked about the expired terms of members. Woodward said the Township would like to get the terms of all board and commission members changed to begin on January 1 and terminate on December 31 so that all can be approved at one Board meeting in December. Page and Angeli have both agreed to continue to serve and so their terms will be extended until they are re-appointed by the Board in December.

Woodward asked Maki if he wanted a change in the agenda related to the ZBA Rules of Procedure based on his fax inquiry. He said he would discuss the procedures during his presentation, but would not necessarily go through the document. He just wanted everyone to have a copy (which Woodward supplied per request).

Moved by Maki, and seconded by Alholm, to approve the agenda for November 21 as written.

Vote Ayes: 7 Nays: 0 Motion Carried

IV. Approval of June 27, 2013 Minutes

Maki asked for an update of events related to Variance ZB13-01, property owner Keough, to build a home at 400 Green Garden Road in a floodplain. Woodward said Keough was able to get permits from the Health Department to use the existing septic system, and obtained all necessary DEQ permits, so that development was permitted according to the altered site plan per the ZBA decision.

Moved by Wietek-Stephens, and seconded by Maki, to approve the minutes for June 27, 2013 as written.

Vote Ayes: 7 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Election of Officers for 2014

Moved by Alholm, seconded by Milton, to nominate Wietek-Stephens as Chairperson. Nomination accepted.

Vote Ayes: 7 Nays: 0 Motion Carried
Michelle Wietek-Stephens will remain ZBA Chairperson.

Moved by Milton, seconded by Wietek-Stephens, to nominate Karen Alholm as Vice Chairperson. Nomination accepted.

Vote Ayes: 7 Nays: 0 Motion Carried
Karen Alholm will remain ZBA Vice Chairperson.

Moved by Maki, seconded by Alholm, to nominate Kendell Milton as Secretary. Nomination accepted.

Vote Ayes: 7 Nays: 0 Motion Carried
Kendell Milton will remain ZBA Secretary.

B. “Lessons Learned” by Mark Maki, who attended ZBA training on November 7

Maki attended the Zoning Board of Appeals training presented by MSU Extension in Chatham, MI. He brought an outline of important topics covered, a sample decision letter, and a variance checklist to share.

Maki discussed rules of procedure and duties within the context of the Michigan Zoning Enabling Act, P.A. 110 of 2006. Such duties include considering variances, reviewing appeals, and making map interpretations. He said map interpretations are less frequently needed with the adoption of new GIS technology. Appeals can be brought by aggrieved parties, but defining “aggrieved party” can be difficult.

He said one member shall be a Planning Commission member, and the meetings must be open to the public.

There was much discussion on “conflict of interest”. Maki said obviously a decision involving a direct relative would be a conflict, but what about cousins, for example? Alholm asked if the question was resolved? Maki said the presenters indicated that the policy should be made clear in the Ordinance and Rules of Procedure. Angeli asked about the Chocoy policy. Wietek-Stephens said our document describes procedures to follow in case of a conflict of interest, but does not define what constitutes a conflict of interest. Alholm said she thinks it’s defined in State law. Wietek-Stephens and Alholm said a conflict of interest mostly involves a financial benefit associated with a decision. Maki said that the alternates can serve instead of a regular member if there is a conflict of interest. He addressed the question of Member rights, and whether Members are allowed to speak to an issue after being excused because of a conflict of interest. Maki said the trainers indicated that if you are a Board member, you are serving as the government, and therefore one of the rights you give up is the right to participate if you have a conflict of interest. Milton clarified that Members wouldn’t be able to participate in a discussion regarding their own variance request. Wietek-Stephens said that

members are allowed to have someone represent them in a discussion regarding a case for which they have a conflict of interest. Angeli asked what happens if your best friend comes to ask for a variance and for personal reasons you don't want to participate? Alholm said she was in that situation previously, and her research led her to conclude that she couldn't get out of it. Maki asked if alternately a regular member could just say they couldn't attend the meeting and call an alternate instead? The concept of "duty" was discussed. Angeli said he is willing to follow a written policy on the matter. Wietek-Stephens said it helps to make decisions logically based on facts that are spelled out in the decision so that it's less personal. Gregory said he thinks members should be able to step aside in favor of an alternate if they are uncomfortable with making a decision. Maki wasn't sure he'd go that far, using the word "uncomfortable" – if a friendship is involved, people may think there's bias, but he'd like to discuss it more. Wietek-Stephens said she didn't think members should avoid making decisions because of discomfort, because there are many decisions that make people uncomfortable as people are negatively impacted and will sometimes be unhappy. Maki said he'd look for more guidance on the issue.

Maki reviewed Township requirements and practices for notification. He indicated that motions should include findings and reasons to protect in case of appeal to the Courts. He indicated that the Township Board can improperly in effect negate a ZBA decision by not defending it in Court and settling a case for financial reasons.

Maki suggested members keep the Variance Checklist with them to help in making decisions. Decision letters were discussed. He suggested letters be signed by the Zoning Administrator to facilitate timely issuing of permits after the decision (not delay until after minutes are approved).

Maki said the presenters suggested that alternates should attend meetings, observe practices, and familiarize themselves with issues in case they need to serve. This issue was discussed, including making a choice between alternates. Woodward said she sends the packets to all members, but expects that the alternates will not attend unless they are called. But then she is never sure which alternate she should call. Time of appointment was mentioned as a criteria. Woodward said she tried to alternate so both get experience. She thinks there is room in the budget to compensate some extra attendees at meetings. Wietek-Stephens suggested that if each alternate attends 2 meetings per year, in most years this would ensure that there is an alternate present at the majority of meetings and it wouldn't impact the budget too badly.

Maki moved to have both alternates attend the next two ZBA meetings. Wietek-Stephens said she would still prefer they alternate in attendance so it's not as much drain on their time. Maki amended the motion to say that one alternate shall attend each meeting next year (alternating attendance). Wietek-Stephens suggested adding a statement "provided there is enough money in the budget". Maki agreed to this amendment. Before offering support, Wietek-Stephens asked alternates if that time commitment would make them quit? Both said "No".

Restated, Maki moved, Wietek-Stephens seconded, that the alternates alternately attend every meeting next year, provided there are sufficient funds in the budget.

Vote Ayes: 7 Nays: 0 Motion Carried

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comment

Angeli asked for an update on the Wahlstrom property. Maki said the property was auctioned and purchased by Jim and Andrea Beckman, the owners of the adjacent motel, and plans are uncertain. All equipment was removed from the building by the Township in compensation for delinquent taxes. The property was sold at auction and proceeds will be distributed to all pertinent taxing jurisdictions, including the Township, although the proceeds will not cover all delinquent taxes and fees. No comments by Milton.

X. Informational

Woodward discussed the proposed 2014 meeting dates on the fourth Thursday of the month except when holidays interfere. A meeting will be scheduled every month, and will be cancelled if there is no case to be heard.

Wietek-Stephens requested that the Planning Director send an e-mail to notify members of the meeting cancellation after the submission deadline has passed. Woodward agreed.

Woodward also said she budgeted for on-demand webcast training for each member at a cost of \$90 per member. The training is through the Michigan Township Association. Wietek-Stephens said she loves the idea and will do it. Other members will let Woodward know if they are interested. Woodward will contact members after she gets more information on registration.

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:51 p.m.

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, April 24, 2014
7:00 PM**

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:05 P.M.

II. Roll Call

Members Present: Chairperson-Michelle Wietek-Stephens; Vice Chairperson-Karen Alholm; Secretary-Kendell Milton; Board Member-Mark Maki; Member-Sandra Page
Staff Present: Kelly Drake Woodward, Planning Director/Zoning Administrator; Suzanne Sundell, Administrative Assistant

III. Approval of Agenda

Moved by Maki, and seconded by Alholm, to approve the agenda for April 24 as written.
Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of November 21, 2013 Minutes

Maki had a recommendation for Page 3 of 4, second paragraph, "...He indicated that the Township Board can in effect negate a ZBA decision by not defending it in Court and settling a case for financial reasons."

Maki explained that there was a negative implication that the Township Board could become a "Super Zoning Board" and could render the ZBA essentially useless. Appeals of ZBA decisions are not to the Township Board, but to the Circuit Court.

Maki asked whether they ever resolved the issue of alternates attendance – Woodward indicated that she had called Angeli and he could not attend. Wietek-Stephens said that it was decided previously they were going to alternate meetings.

Moved by Wietek-Stephens, seconded by Milton, to approve the November 21, 2013 minutes as corrected (addition in **bold**) on Page 3 of 4, 2nd paragraph, last sentence "He indicated that the Township Board can *improperly* in effect negate a ZBA decision"

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

Wietek-Stephens asked for public comment on something other than the Variance Request. Maki stated he had a comment on the Agenda – ZBA Rules for Public Hearings and Public Comment - #3, which states "Zoning Board of Appeals members are not required nor expected to respond to comments, opinions, and/or questions from the floor." Maki stated that the Township Board policy says, "Upon written request, a response will be given within 14 days". He said some questions require further investigation but he thinks it's frustrating for the public not to get an answer.

Wietek-Stephens moved, Alholm seconded, to add an item to New Business to discuss ZBA Rules for Public Hearings and Public Comment, Item #3.

Vote Ayes: 5 Nays: 0 Motion Carried

VI. Unfinished Business

None

VII. New Business

A. Variance Request #ZB14-01 Keough

Planning Director Comments

Woodward indicated the ZBA and applicant received additional information at the meeting regarding a previous zoning case involving land now in this parcel.

Woodward described two decisions to be made – an appeal of the Zoning Administrator’s decision to deny the permit, and a variance request to build a single family residence on a non-conforming lot. The permit was denied because the existing 11-acre lot doesn’t meet the minimum lot size of 20 acres that is required by all new parcels that were not lots of record or described in a deed or land contract prior to the effective date of the Zoning Ordinance.

Woodward said that the proposed setbacks of the house are conforming to the requirements of the AF district. The entire lot is in the AF district, and it appears to be entirely within the floodway according to current FEMA maps. Woodward showed a portion of an undated survey from a previous ZBA case relating to this parcel. The undated survey is similar to another survey dated 5/31/1988, except the undated survey has an extra contour line marking a 614’ flood plain contour. Maki believes the revised survey was submitted after 5/31/1988 to clarify whether the entire lot was in the floodplain. Woodward showed a current FEMA floodplain map indicating a base flood elevation line of 615’ through the property.

Woodward explained this was originally a 27-acre parcel owned by Dana Varvil which was indicated as “back acreage” without public access. The record card indicates that the 27 acres was composed of an 11 acre lot and 16 acre lot that were not contiguous. In 1999, the 27-acre parcel was split. Woodward was not able to determine the manner by which this was done. The 16 acres relates to this parcel. The portion north of the Chocoy River was zoned R-1 with a minimum lot size of 25,000 sq. ft; the portion south of the river was zoned RP, Resource Production, with a minimum lot size of 20 acres. When the lot was split to less than 20 acres, it became non-conforming. That was before Keough owned the property.

Keough purchased the 16-acre nonconforming parcel from the Varvils in June of 2008. At that time, it was zoned R-1 north of the river and AF south of the river (with the same minimum lot size requirements previously mentioned). Keough transferred the portion north of the river to an adjacent property owner (Jennifer Thum, then Township Planner). Keough is asking for a variance to build on the remaining 11 acres. Keough gained access to this parcel by purchasing the parcel to the south, creating an easement on it and deeding the easement to himself, then reselling that parcel.

Woodward indicated that no Zoning Compliance permit can be issued without resolving the floodplain issues with the DEQ. The ZBA can take the floodplain issues into consideration in relation to public interest when discussing the variance.

Woodward stated that per Section 6.1(B) of the Zoning Ordinance, minimum lot size requirements do not apply to any nonconforming parcel of land as shown in the deed or land contract executed prior to the date of the Ordinance. This parcel was created after the effective date of the Ordinance, so those provisions are not applicable. Section 6.4 says that nonconforming lots of record may be used for permitted uses even though the lot area is less than required if yard dimensions and other requirements are met. However, this lot does not meet the definition of “Lot of Record”, which means “a

parcel of land, the dimensions of which are shown on a document or map on file with the Register of Deeds prior to the effective date of the Ordinance”. The variance is necessary because of the property transfer that occurred after Keough purchased the property.

Woodward provided the ZBA with a confidential opinion from the Township Attorney as related from a phone conversation.

Woodward indicated the ZBA should first decide the appeal of the Zoning Administrator permit denial. The ZBA can grant the appeal fully, or partly, which would in effect negate the Zoning Administrator’s decision; or grant the appeal with conditions; or deny the appeal. She asked the ZBA to provide stated reasons for the decision.

Next the ZBA should evaluate the variance request. The ZBA can grant the variance, grant the variance with conditions, or deny the variance. There are standards for granting variances that must be met.

Woodward stated that when evaluating the appeal, the ZBA can only assume the power of the Zoning Administrator – the Zoning Administrator can’t change the ordinance, but can only administer the ordinance. Wietek-Stephens restated that the ZBA has to determine if the Zoning Administrator correctly interpreted the ordinance. Wietek-Stephens asked if Keough would still need a variance if, for some reason, they decided that the Zoning Administrator decision was not correct. Maki indicated that if the Board overturned the Zoning Administrator decision, they would essentially be saying that it is a buildable parcel, and a variance would not be needed. This was discussed further.

Public Comment

Jim Negri, 545 North Big Creek Road – Negri said Keough had purchased another parcel that butted up to the parcel in question, and could have combined the parcels to have a conforming 30 acre parcel but he chose not to. Instead he gave himself an easement to the parcel he knowingly bought without access and resold the other one. The lot in question is barely half the size that it’s supposed to be for where it’s zoned. What’s the purpose of having a zoning ordinance if you are going to let everyone break it? Negri discussed a perceived inaccuracy in Keough’s application materials involving Negri and access to an adjacent parcel. Negri discussed a case where Keough allegedly failed to comply with a previous ZBA decision. Wietek-Stephens and Maki talked with Negri regarding details of his comments.

Nita Martin – 475 North Big Creek Road – Martin lives across the street from the parcel in question. Martin lives on a floodplain. She has lived there for 18 years, and said that the water goes right through Keough’s parcel. There were two residences on the small adjacent parcel – when one home burnt, the DEQ would not let them rebuild because of the floodplain. Martin’s concern is that Keough will build a house and sell to someone who doesn’t know about the flooding. Former owners experienced flooding. Wietek-Stephens asked Martin to indicate her location on the map and the location of the two houses that she referred to. One was improved by Keough – the homes were 100 year old logging camps.

Wendy Negri - 475 North Big Creek Road – W. Negri indicated that she is also opposed to the development because ignorance of the law is no excuse and the property is not big enough.

Eric Keough – Keough reminded the Board of a variance he obtained previously to build a home on a non-conforming lot on Green Garden Road which was entirely 5 feet below the floodplain. He had to raise the first floor of the home above the flood line. Keough referenced the stamped survey indicating that 1.1 acres is above the floodplain. He said he would be able to meet all the setbacks. He thinks that his other parcel that Martin referenced has a different flood contour line since it's only about 50 feet from the river.

Keough discussed the former variance that was granted on a larger parcel of which this parcel was a part with Woodward and Maki. The former owner, Varvil, had obtained a variance to build but was never able to build because the parcel had no access. At that time, portions of that parcel were in two different zoning districts.

Keough indicated he often offers to sell land to adjacent property owners when he purchases property. When he bought this parcel, the river divided it in half, creating unusable space north of the river. Keough sold the northern portion to Jennifer Thum who was the Township Planner. He said that is considered a boundary shift according to Ordinance 52 – the Land Division Ordinance. Keough said that Tina Fuller, previous Chocoy Township Assessor, had determined it to be lot split but he did not agree. Keough stated that if he did create an unbuildable parcel, Section 8 of Ordinance 52 says he should have been given written notice of the illegal nonconformity at the time. Then he could have rescinded the transaction so it wouldn't create that situation.

Maki asked about the adjacent parcel #116-003-10 that Keough purchased to give himself a 66' wide easement which he then resold.

Keough said that the property transfer did not result in additional residences because the property north of the river was unbuildable anyway, so the spirit of the Ordinance was preserved.

He said the ZBA could grant a variance on the condition that he receives a DEQ permit. The Board discussed the FEMA flood insurance rate map for the property. Woodward indicated the identified base flood elevation across this parcel of 615', meaning it would be flooded when the base flood (100-year flood) reaches the 615' elevation.

Woodward stated that there are different DEQ regulations for development in floodways and floodplains, and she was told that they 100 percent deny development in floodways. If you can meet certain conditions, you might be allowed to build in a floodplain.

Keough said he got a health department permit for a septic system and well. The septic was installed in November 2013. Page asked if the septic system was in the floodplain. Keough said it was hard to say – not according to the Health Department. Alholm asked what information they based their decision on in granting the permit – where did they get their information from? Keough responded that he wasn't sure – it was a standard application to build a septic. Alholm questioned the applicant regarding the details of the health department permit. Woodward stated that she had talked to the Health Department representative who had visited the site. Keough said that the Health Department dug a 6 or 7 foot hole and found the high water mark. Maki indicated that they usually do a PERC test - dig a hole, if it's wet it doesn't meet the PERC test. Maki said if it fails the PERC test, and you have to fill, then you would need DNR or DEQ permits for fill within a floodplain.

Keough showed the proposed new home plan including 3 bedrooms and 2 baths, and the location. There would be no garage.

Maki asked if Keough had a copy of the deed that he gave to Jennifer Thum. Maki said Randy Yelle was the Zoning Administrator at that time.

Keough stated that Ordinance 52 Chocolate Township Land Division Ordinance, Section 7E, "Standards for approval" says "All parcels created and remaining shall have existing adequate accessibility ..." So Thum should not have been able to create a separate parcel ID for her portion which was not accessible. It shouldn't have gone through if it was a red flag. It also requires that "... when the assessing officer suspects such a violation or potential non-conformity, he shall refer the same to the county prosecuting attorney and give written notice to the person suspected of the violation or potential non-conformity." Keough states he was never informed about the potential non-conformity or he wouldn't have done anything. Wietek-Stephens questioned whether the Assessor may have thought it was an existing nonconformity, so it would just be more nonconforming. Keough stated it was a legal non-conforming – this made it an illegal non-conforming. Woodward stated that she thinks the referenced clause refers to a non-conformity related to a land division, but she interpreted this as a property transfer. Keough agreed but said that Fuller always called it a land division. Alholm stated that if this was a property transfer, then a written notice would not have been required.

Maki indicated that the deed should show whether it was a land division or if it was an add on. He said the other complication is that you cannot add platted land and unplatted land together – he thinks it should have been a land division issue because it involves combining platted and unplatted land. Wietek-Stephens clarified that Maki is talking about the land north of the river, but not the land involved in the variance request.

Maki said if Keough had not sold off the piece north of the river – if he had kept the 14.4 acres intact – and then created the easement, he could have gotten a permit. There was already a variance on that parcel.

Wietek-Stephens asked about the variance that was granted – does it transfer to a new owner since it was never acted on? Woodward said it runs with the land.

Page asked about getting a copy of the deed. Maki indicated there should be something on the deed saying that the land was being added to an adjoining parcel if it was a property transfer. Alholm said that Thum could own it, but could not join it to the platted property legally. Keough asked if that was technically a land division then since there were two separate parcel numbers. Maki said he would have thought so, and it would have been a violation because there was no access.

Alholm stated Mr. Keough was a willing seller, and made his 16 acres into 11 acres, whether it was proper or not.

Wietek-Stephens and Maki and others debated about whether this information was pertinent to the variance decision. Wietek-Stephens asked if they have to answer all those historical questions in order to make a decision on the variance. After further discussion, Wietek-Stephens asked if the point of all this discussion to say that when Keough purchased the property, and immediately sold the 5 acres, he should have been notified that it was buildable, and that he was making it not buildable. Maki said Varvil should have been able to inform Keough of the former ZBA decision making it a buildable lot even with the nonconformity.

Alholm asked questions related to the land division process and how it relates to sales of property. The Board debated the question of whether the lot was created through a land

division or a property transfer, and whether it would have met zoning ordinance standards, and whether this was pertinent to the variance decision.

Wietek-Stephens again acknowledged public comment. Negri said that when Keough purchased the property, he would not have known whether he could eventually get legal access. Keough bought it landlocked, knowing there was no access, and it seems like he already knew it wasn't buildable and was nonconforming.

Martin said it seems to me that Keough is buying and selling property all the time, and he (Keough) seems to do his homework when he comes here – he should know all this stuff.

Maki said the way the process is supposed to work is a property owner requests permission to divide land before they do it, not after, but people don't always do this or know what they should do. The question he has is did the township consider this a violation of the land division ordinance or not and did Keough receive notice that his actions were in violation of zoning ordinance requirements. Page said she thinks Keough should have known the rules, and that Keough had some responsibility when he was selling the property to be sure the variance wasn't going to be compromised – and Keough didn't do that.

Wietek-Stephens asked Keough if he knew there was a variance, and that the property was deemed buildable before he sold some of it? Keough said no, he assumed it was buildable.

Alholm questioned whether it is necessary to go back in history to determine what was done when we know the parcel was nonconforming when Keough purchased it. Then he divided it, and sold part of it, so there are now two nonconforming parcels, one of which Keough doesn't own anymore. We are concerned with the other parcel.

Wietek-Stephens said that if Keough bought the property assuming that it was buildable, or even knowing there was this variance that made it buildable, wouldn't he (Keough) have known that selling part of it made it non-buildable? He's in the business of buying, selling, and developing property, and is pretty aware of what buildable lots are.

Regarding the variance, per Maki's recollection, part of the issue was that it was in a floodplain, and part of Varvil's new evidence was the survey that showed that part of the land was not in the floodplain. Woodward said the other condition which existed at the time of the variance was the part north of the river was R-1 and the part south of the river was zoned RP. Now the entire parcel involved in the variance is zoned AF.

Maki made a motion to table this until they get a copy of the deed for parcel 109.128.21, and any and all information in the township files relative to whether or not this involved a land division.

Wietek-Stephens asked to amend the motion so the ZBA could resolve the appeal question tonight and table the variance. Maki accepted the revised motion, and also requested anything in the zoning files relevant to the division as it impacted zoning.

Alholm wondered what Mr. Keough's remedy would be if he did not receive notification like he should have. What remedy is available to him? The implications and the land division process/timeline/enforcement actions were discussed.

Wietek-Stephens seconded the first motion to table the variance portion until the next meeting.

Maki moved, Wietek-Stephens seconded to table the variance portion of this proceeding until a copy of the deed can be obtained, in what is referred to as parcel 109.128.21, and any and all information in the township files relative to whether or not this division was a land division.

Vote Ayes: 5 Nays: 0 Motion Carried

Maki moved, Page seconded, to deny the appeal, therefore upholding the Zoning Administrator’s decision to deny the zoning compliance permit based on the following findings regarding zoning ordinance standards:

1. Because this nonconforming parcel of land was not shown as a lot in a deed or land contract executed and delivered prior to the effective date of this Ordinance, the provision of Section 6.1 (B) allowing such parcels in the AF district to be exempt from the minimum lot size regulations does not apply; and
2. Because this nonconforming parcel of land does not meet the definition of a lot of record, the provision of Section 6.4 allowing nonconforming lots of record to be used for permitted uses even though the lot area is less than that required for the District, etc does not apply.

Vote Ayes: 5 Nays: 0 Motion Carried

Wietek-Stephens – recap – the appeal to overturn Woodward’s decision was denied and the variance still stands and will be addressed at the next meeting.

Wietek-Stephens moved, Maki seconded to move the date of the next meeting to May 15 to facilitate an answer to this question, as well as those of various board members and staff, unless we receive an application at the last moment that makes May 15 an unacceptable date.

Vote Ayes: 5 Nays: 0 Motion Carried

B. Request to Add Language to ZBA Rules for Public Hearings and Public Comment

Wietek-Stephens said the question is whether we should tack on additional language stating we would give additional information in a certain time period upon written request. Maki explained Township Board policy that says, “If a written request is made, the response will be sent in writing to the requestor within 14 days.”

Alholm wondered who specifically the letter would be addressed to – the Chair of the ZBA or the Zoning Administrator? Maki said probably the Zoning Administrator.

Wietek-Stephens was concerned that someone who has an unreasonable “beef” with government in general could burden the Zoning Administrator with a series of questions that we would be required to respond to.

Alholm suggested that if there was a question, at that time the Board could decide whether to invite the individual to submit a written request to which the Zoning Administrator would respond.

Wietek-Stephens said the ZBA isn’t really for the purpose of answering general questions – the ZBA is here to address things that are formally applied for – she doesn’t believe the ZBA has a general educational role.

Maki objects to the part that ZBA is “not expected” to respond. When you are appointed to a body, and somebody asks a question, it is pretty rude to not answer the question at some point in time.

Wietek-Stephens said that the ZBA may not have the answers, and the ZBA is not required to provide answers on all the questions if they are not relevant to an issue that is being addressed.

Maki moved, Milton seconded, that the ZBA review specific language regarding rules for public hearings at the May 15 meeting, and Maki will provide language, in coordination with Woodward, to accomplish that.

Vote Ayes: 5 Nays: 0 Motion Carried

VIII. Public Comment

Nita Martin – Rules are rules, and she doesn’t think the variance should be granted.

Wietek-Stephens said the ZBA has not granted any decision yet. They are considering historical impacts of past decisions and how they bear on the variance decision.

IX. Township Board Member/Planning Commission Member Comment

Maki said the Township is working on a Master Plan to be completed this year. When adopted, he hopes that the ZBA will get a copy, because it basically is part of the zoning ordinance and it will probably have recommendations to change the zoning ordinance. The Land Division Act was discussed.

Maki wondered about getting the Township Board minutes and the Planning Commission minutes to let ZBA members know what is going on – just add to email list. Woodward pointed out that all minutes are posted on the website. Maki suggested that the minutes just get emailed to everyone. At least then they have them, and they can choose whether to read them or not. Wietek-Stephens said that she is more likely to skim something in her email, than to go to the website to look it up.

No Planning Commission comment.

X. Informational

Woodward introduced Suzanne Sundell, and pointed out educational opportunities including MTA webcasts and Planning and Zoning Essentials workshop. Wietek-Stephens and Alholm are interested in taking the Zoning Essentials class. Maki will take both Planning and Zoning Essentials. Milton will check his schedule.

XI. Adjournment

Wietek-Stephens adjourned the meeting at 9:22 p.m.

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS**

Tuesday, May 27, 2014

7:00 PM

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:04 P.M.

II. Roll Call

Members Present: Chairperson-Michelle Wietek-Stephens; Vice Chairperson-Karen Alholm; Secretary-Kendell Milton; Board Member-Mark Maki; Member-Sandra Page
Staff Present: Kelly Drake Woodward, Planning Director/Zoning Administrator; Suzanne Sundell, Administrative Assistant

III. Approval of Agenda

Alholm suggested an addition to the agenda – this was prompted by the letter from the Zoning Administrator to Mr. Keough, in which Woodward recommended that Keough get a DEQ permit before filing a Zoning Variance request. Alholm wonders if the Board should look at protocol or policy in that regard – in the event the Zoning Administrator feels that there is something relevant such as this, can or should it be made a pre-condition for the Zoning Board of Appeals hearing?

Moved by Alholm, and seconded by Maki, to make an addition to New Business on protocol regarding pre-conditions to a variance request, and to approve the agenda for the May 27, 2014 meeting as amended.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of April 24, 2014 Minutes

Wietek-Stephens asked for comments on minutes. Wietek-Stephens asked about a statement on Page 2 of 8, 3rd paragraph from bottom, “(Jennifer Thum, then Township Planner)”. Wietek-Stephens wondered if Thum was actually the Township Planner at the time of the sale. Woodward indicated that Thum was the Township Planner, but not the Zoning Administrator. No correction.

Alholm stated on Page 5 of 8, 3rd paragraph from the bottom, “Alholm stated Mr. Keough was a willing seller, and made his **14** acres into 11 acres ...” She believes she said 14 acres, but it should actually say **16** acres. Correction noted.

Maki questioned Page 2 of 8, 3rd paragraph from bottom, “... and it became accessible through that parcel.” Maki is concerned with the language because it can mean certain things according to the Land Division Act, and technically, it wasn’t accessible without an easement for access. Maki thinks this is confusing and would like to strike that portion from the minutes. Correction noted.

Maki questioned Page 3 of 8, 2nd paragraph – “Woodward provided the ZBA with a confidential opinion from the Township Attorney as related from a phone conversation

...” He thinks an attorney opinion should be provided in writing with a signature. The term “confidential” bothers him because it is a public forum. Wietek-Stephens asked if that Attorney opinion was shared with anyone else at the last meeting. Woodward stated it was only shared with the Board. It was not a part of the public packet based on attorney-client privilege. No correction.

Page 4 of 8, paragraph 3 – Wietek-Stephens had a question about the line, “Keough indicated that he often offers to sell land to adjacent property owners when he purchases property ...” Her understanding during the discussion was that Keough stated this was the reason he acquired property adjacent to his projects, so that he could do this. Woodward indicated that Keough had said that that is often the first thing he does. Woodward confirmed this with Keough. No correction.

Page 5 of 8, paragraph 3 – “...Wietek-Stephens **clarified** that Maki is talking about the land north of the river ...” (change “**affirmed**” to “**clarified**”).

Page 7 of 8, last paragraph – Wietek-Stephens changed the last line to “... she doesn’t **believe** the ZBA **has a general** educational role.” (change “**know if**” to “**believe**”, and “**is in an**” to “**has a general**”)

Moved by Wietek-Stephens, seconded by Milton, to accept the April 24, 2014 minutes as corrected.

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

Wietek-Stephens asked for public comment. Jim Negri asked if the public comment still stood from the previous meeting. Wietek-Stephens indicated that the comments were recorded in the April minutes. There was no new public comment. Public comment was closed.

VI. Unfinished Business

A. Variance Request #ZB14-01 Keough

Woodward stated that she had received a new communication from the Health Department this evening, stating that at the time the permit was issued, flood plain determination was based on field inspections because GIS information was not available. DEQ assistance would be needed to determine floodplain boundaries and to determine whether the septic system is in a code compliant location. The GIS data does not show the building site as being in a wetland.

Woodward referred the Board to the extensive research contained in the staff memo and asked if there were questions.

Wietek-Stephens had a question on staff memo Item 17 – “Warranty deed between Horrocks and Affordable Neon Enterprises, parcel #109-130-00. Township records indicate the warranty deed is not valid. The transaction made it impossible to combine parcels #109-128-20 and #109-130-00 since they did not share common ownership.” The timing of events was clarified per the staff memo.

Wietek-Stephens asked if you can transfer a part of a parcel without splitting it. Woodward indicated no, the parcels #109-128-20 and #109-130-00 were administratively combined because they were both under the same ownership, and according to our Zoning Ordinance, contiguous parcels under the same ownership are

considered combined for purposes of reducing nonconformities. They were shown as a combination first in staff memo Item 13, and then when ownership was no longer common they were administratively split back into the original parcels (staff memo item 17 and 18). Wietek-Stephens asked if these were separate parcels owned by Varvil – Woodward stated no, she didn't believe that Varvil ever owned the #109-130-00 parcel. Wietek-Stephens clarified that 109-130-00 is not the parcel north of the river. Woodward stated the parcel north of the river is 109-128-21.

Alholm had a question about the transfer of property from Keough to the Thum's, and whether it should have been processed as an exempt split (per the definitions in the Land Division Act) since the lots were less than 40 acres. Wietek-Stephens clarified that it was processed as an exempt split, whether that was the proper way to process or not.

Wietek-Stephens asked if the applicant had additional information or comment.

Eric Keough showed pictures of his septic field with a view of the adjacent property (parcel 116-003-10, 20 acres, owner Kublin) where there are plans to construct a pole barn. He said his septic field and the future pole barn location appear to be the same elevation. Keough said that he hoped Kublin was required to get the proper DEQ permits before obtaining a zoning permit. Maki asked if there was a house on the Kublin parcel. Keough said none was existing, but he knows that Kublin plans to construct a pole barn and residence.

Returning to the photos, Keough indicated there are wet areas on the back of his property. He showed a picture of the location where the land drops off behind the floodplain contour line that was indicated on the 1988 survey (per DNR), and said there is standing water in that location in the spring when the river is really high. This same area is dry in some of the other photos.

Keough suggested that if the ZBA does grant the variance, they could make it conditional on obtaining the DEQ permit, which would require an elevation certificate. The Marquette County Health Department granted Keough permits to put in a septic system on the property – they dug a test hole seven feet deep. Page asked if the septic was under water right now. Keough stated no, and showed the pictures. Keough reiterated that in 1988 the surveyor certified that there was 1.1 acres outside the floodplain. Keough indicated that the Kublin's construction will be about 200 feet away from his site, and that there are no noticeable elevation changes or standing water in between.

Keough compared his situation to surrounding properties. Parcel 116-004-20 is only 9.8 acres with residence that was built in 2009; the parcel was split in 2007 before the zoning change. It's approximately 20% smaller than his parcel.

Nearby developed parcels include parcel #116-001-00, which is 13.7 acres located across the street; parcel #116-028-00, which is 5 acres; parcel #116-002-00, which is 3.5 acres; parcel #109-030-00, which is 0.6 acre located adjacent to his parcel; and parcel #116-004-10, which is 5 acres. Keough also stated that Ms. Martin's property (Nita Martin) is a 5 acre parcel and a 10 acre parcel with two tax ID numbers (parcel #116-001-10 and #116-001-20). Keough said it is Township policy to limit non-conformity and combine contiguous parcels owned by the same person, so these should be combined into one tax ID number – he asked what's to stop Ms. Martin from giving herself an easement and building a house behind her on the 10 acres she owns. Keough

summarized by saying he found eight parcels adjacent to or within the same block as his 11.3 acre parcel. Basically the whole street is non-conforming.

Page asked if those parcels were all created prior to the changes in the zoning. Keough indicated yes, the Township made the whole neighborhood nonconforming. Keough stated he wouldn't ask to build on an 11.6 acre parcel if everyone else had 20 acres. Keough also stated that the area is almost 100% residential with the exception of one person who has horses. Keough stated that alternative uses for his property would be to clear cut all the trees since it's zoned forestry. He could also, under the Right to Farm Act, bring in livestock, chickens, and swine as long as he follows the Generally Accepted Agricultural Management Practices (GAAMP). He said that clearly, a home is the best use for the property; raising chickens or pigs on it would be silly, and clear cutting it wouldn't do any good as it doesn't have marketable timber on it.

Keough indicated that Chocolay Township Land Division Ordinance 52, Section 8, states that the assessor shall give written notice of the creation of a nonconforming parcel in violation of the Land Division Ordinance, and he said that he never received any notices. Keough asks that he receive the variance that he seeks as a remedy.

Woodward explained that the other parcels that Keough mentioned were previously in the RR-2 zoning district (5 acre minimum lot size) and were changed to AF (20 acre minimum lot size). Keough's parcel was previously in the RP district (20 acre minimum lot size) and was changed to AF (20 acre minimum lot size).

Alholm commented that the Land Division Ordinance, Section V, indicates that "An applicant (such as Mr. Keough) shall file all of the following with the Township Assessor or other official designated by the governing body for review and approval of a proposed land division before making any division by deed, land contract, mortgage, lease for more than one year, or for building development." She noted that then the Township has 25 days to respond. By this statement, Alholm assumes that Mr. Keough had the obligation to make the first step by filing with the Assessor for this division. Alholm asked for other's interpretation.

Keough stated that he always treated the transaction as a boundary change, but then Township Assessor Tina Fuller insisted that it was a land division. Woodward stated that Fuller processed it as an exempt split. Maki said the problem with the boundary adjustment is that if you look at the definition of a parcel in the Land Division Act, it means a continuous area or acreage of land, and land divisions always refer to unplatted land. Maki indicated this wasn't a boundary shift, because you can't shift the boundary on a platted lot without replatting it. If the Thums had owned land under a legal description of meets and bounds, and not a platted lot, then it would have been a boundary shift. Woodward said she thought Maki was saying that the part of the parcel that was transferred to the Thums wasn't combined with their other parcel because it was a platted lot. Maki also indicated that he did not think it should have been an exempt split – it was a split of the property.

Maki said the confounding issue is the zoning issue – when Randy Yelle reviewed this transaction as a zoning issue, he claimed that it created a problem in 2009. Maki said it wasn't actually Keough who made the division, it was the Varvils, when Candace Varvil gave Keough the deed to the part north of the river. Keough had a land contract, as Maki understands it, for the whole piece. In order to sell off the piece that Keough did not have title to, Candace Varvil (daughter of Dana Varvil who probably inherited the

property), transferred Keough the part north of the river. She is the one who actually made the division, although Keough subsequently transferred it to the Thums, so it was a mutual thing. But Candace Varvil held title to the property as one piece.

Alholm asked Keough if, when he purchased the property from Candace Varvil on June 17, he purchased the portions both north and south of the river simultaneously. Keough indicated it was a simultaneous closing with two separate deeds. Alholm stated that Keough had a warranty deed dated June 17 from Candace Varvil for the property north of the river that was conveyed to the Thums on the same day that he received it from Candace Varvil. Alholm was trying to affirm if Keough's warranty deed included the parcel north of the river and south of the river, and if later that day he conveyed the land north of the river to the Thums. Maki's understanding is that Keough had a land contract for the whole piece, and then Candace Varvil gave him title only to the north piece, and then he transferred that.

Wietek-Stephens had two questions on notification: (1) If notification was due, would it have been due to Candace Varvil? and (2) Doesn't staff memo Item 14, the correspondence from Randy Yelle sent in February of 2009, constitute notification? Maki said that if, according to her files, Fuller called it an "Exempt Split", she would not have sent notice to anyone. Alholm asked about the definition of "exempt". Maki stated there are only two options for an exempt split – it's being added to an adjoining acreage or it was 40 acres or more. Alholm was looking at the Township Land Division Ordinance, Section III.C, where it says that an exempt split is one that does not result in parcels less than 40 acres. Woodward said the State Land Division Act also defines an exempt split as not resulting in parcels less than 40 acres. Alholm stated the parcel north of the river and the parcel south of the river all together was 16 acres – less than 40 acres to begin with. Wietek-Stephens clarified that the point being made is it did not seem appropriate to do it as an exempt split, yet it was done as an exempt split. Maki stated that this is all part of the issue, but the real issue goes back to Randy Yelle's letter of 2009, where he identifies that the splitting of that property created a problem because it didn't comply with the zoning requirements. Alholm questioned the problem this transaction made – Milton stated the transaction made the parcel more non-conforming.

Maki asked if Woodward's review leads her to believe that the Keough parcel is in the floodplain, or is part of it above the floodplain? Woodward stated that the cross section on the FEMA floodplain map (which is the current regulatory map) shows that the 100 year flood elevation is 615'. A property at an elevation of 614' elevation would be flooded in a 100 year flood, according to the FEMA map. She said that before DEQ will issue a permit for properties shown in a floodplain, they require the applicant to obtain an elevation certificate showing the elevation of the building site. Woodward was told that DEQ never issues permits for development in a floodway – if it's in a floodplain then they may issue a permit as long as the development meets construction standards. Maki wondered if the DNR and FEMA have different definitions for floodplains? Maki indicated that the 1988 survey shows the flood contour line per DNR was 614'. Woodward said the current FEMA floodplain level is 615'. Woodward stated that the maps are not 100% accurate, which is why you have to get an elevation certificate.

Wietek-Stephens said this is a very complicated parcel, with a very complicated history, and she proposes that they go through the "Standards Applied by the ZBA to Make a Decision" one at a time to make the decision, and discuss only the portion of the parcel history that applies to that determination.

1. *STANDARD: Whether strict compliance with the requirements for area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted use or would render conformity with such requirements as unnecessarily burdensome.* Wietek-Stephens indicated that if they deny the variance, it prevents Keough from building a house on this parcel. She said Keough would still have the option, as he said, to raise swine, to log, or to sell property to adjacent property owners. The question is would this be unnecessarily burdensome to prevent him from building a house on this parcel. Page stated it would not be unnecessarily burdensome because Keough does have other options. Wietek-Stephens said she would also agree because the parcel was non-buildable as soon as Keough made the initial sale (to the Thums), and appeared to be non-buildable if he was not made aware of the variance granted to the Varvils. Page indicated that as far back as 2009, Mr. Yelle had said that it was a non-buildable parcel, and nothing has changed since then. Keough indicated it was non-buildable back in 2009 because there was no access. Wietek-Stephens said records show that Mr. Yelle also indicated it was non-buildable because of the lot size. Wietek-Stephens indicated that the original variance that was granted to the Varvils disappeared when Keough subsequently split the lot, and no other variance was ever granted. Wietek-Stephens said that one of the things she thought was key about that variance is that one of the reasons it was granted was that the part of the parcel north of the river was in a different zoning district that had a smaller minimum lot size requirement, and therefore it might have appeared unreasonable to hold that entire lot to the 20 acre minimum since part of it had a smaller minimum lot size requirement. This also became irrelevant when the portion north of the river was sold.

Wietek-Stephens asked if anyone would argue for it being unnecessarily burdensome. Alholm stated she would only argue from the applicant's point of view, as it then becomes unbuildable. But Alholm clarified that it wasn't unnecessarily burdensome because of Keough's other options for use. Wietek-Stephens indicated his other options included adjusting the lot size with the various transactions he made with purchases of adjacent parcels. Alholm asked if Wietek-Stephens was referring to the 20 acres with which Keough granted himself an easement and which he then resold, rather than combining it, and she said yes.

Wietek-Stephens indicated there was also an issue with the 0.56 acre parcel – she asked Keough if that was the one with the small house that he remodeled. Keough indicated that his corporation, Affordable Neon Enterprises, owns that parcel. Wietek-Stephens asked if Keough owned that parcel prior to selling it to that corporation. Keough said he never owned that parcel, though he did control it as the President of that corporation. Wietek-Stephens indicated that on May 13, 2009, the Horrocks and Keough signed a notarized note informing Fuller and Yelle that the land contract signed with Eric Keough for the 0.56 acre parcel #109-130-00 was dissolved or cancelled, and they were selling the lot to Affordable Neon Enterprises. Wietek-Stephens said it appeared that it was sold so that it could not be combined with the 11-acre parcel.

Wietek-Stephens read from packet item VI.A.6 (from 2009 ZBA hard files for variance 09-02) regarding a letter signed by Frederick O Horrocks that says, "I, Fritz Horrocks, give Eric Keough full permission to develop my appx. 1 acre property on north big creek road, including applying for zoning permit, combining with the appx.

10-14 acre lot next door, and combining tax ID to create one large lot with deeded access. Eric Keough and Theresa Johnson are purchasing said property on land contract from me. Fritz Horrocks”. She said that when Keough was notified that this combined parcel would be a non-conforming parcel under the new ordinance, it was sold to the corporation to prevent them from being combined. Keough indicated that was true, and also that this was a perfect example where he was given notice by the Zoning officials that it would create a non-conforming parcel. He said he never got that kind of notice on the parcel in question tonight. Mr. Keough indicated that to say that Mr. Yelle wrote him a letter in 2009 is hardly timely, considering that the transfer had been in June 2008. Keough stated that over a year is too long; it seems like it should be 45 days or so. Wietek-Stephens indicated that it was 8 months. Wietek-Stephens said her question is that Keough started moving on this 0.56 acre parcel, and she wondered why he didn’t try to get a variance to combine that tiny parcel with the 11-acres. Keough stated that prior to doing any deal he always gets zoning permission so he can avoid snafus like this – he tries very, very hard; before he buys anything he has a zoning permit in his hand or he doesn’t buy it. He said it wouldn’t work. He only had a 12’ easement on the 0.56 acre parcel, and he needed a 66’ wide easement according to Mr. Yelle. Wietek-Stephens asked for any more comments on the issue of “unnecessarily burdensome”. There were none.

2. *STANDARD: Whether granting the variance requested or a lesser variance where feasible would do substantial justice to the applicant as well as to the property owners in the area without altering the essential character of the neighborhood.* Wietek-Stephens asked if it would alter the essential character of the neighborhood if the variance was granted. She said her feelings are less strong on this – there are a number of smaller parcels in the area, however, they are older, and it is just this sort of thing the ordinance was amended to prevent; the neighbors have come out to say it would adversely affect them. Alholm also pointed out that the rationale behind this land use with the 20 acre minimum lot size requirement was that additional dwellings on smaller lots were to be allowed only while preserving conservation areas. Woodward clarified that this parcel was previously in the Resource Production district and was rezoned to the AF district, which is pretty equivalent, as both districts have a 20 acre minimum lot size. She said this parcel was never in the district with the 5 acre minimum lot size. Alholm stated there were parcels in that general area that were subject to a 5 acre minimum lot size at one time, and now they are subject to a 20 acre minimum lot size. Woodward affirmed. Alholm further discussed the rationale for the 20 acre minimum lot size and the encouragement of conservation subdivisions. Woodward stated that the rural cluster development subdivision is when someone has a big parcel of land and they take at least half of it and dedicate that by conservation easement by deed to be preserved, so that it can’t be developed in the future. Then whatever you could have developed on the full size parcel, you are able to develop on half the size. Alholm pointed out the phrase from the staff memo, “Please keep in mind that the 20 acre minimum lot size adopted in 2008 was a result of a public process and is supported by the adopted 2005 Comprehensive Plan.” Woodward stated that some parcels formerly in the Resource Production, Open Space, Rural Residential 2 and Rural Residential 1 were added to the AF district. Wietek-Stephens stated that it seems that the zoning ordinance is seeking to achieve the essential character of the neighborhood as being larger lot sizes, and that there was a tendency to develop smaller lots in the RR-2 portion of the

neighborhood, but this (parcel) was never part of the RR-2 portion of the neighborhood, and even in that area the zoning ordinance is now encouraging building on larger lot sizes. Wietek-Stephens asked if the Board feels that this would alter the essential character of the neighborhood by granting this variance – is it heading in the wrong direction for the essential character of the neighborhood, or is it improving the essential character of the neighborhood? Alholm doesn't think it is improving, but granting the variance would be in contradiction to what the Township is trying to do now through the Ordinance. Milton stated that it is consistent with the area and the lot sizes adjacent. Alholm stated that there is a reason they changed it to the 20 acres.

Wietek-Stephens asked if any of those smaller parcels were in the Resource Production district. Maki indicated that he thought the railroad grade was the division, so most of North Big Creek Road up to the railroad grade, essentially everything in Section 16, was RR-2, five acres. Then when you hit the railroad grade or the section line, that's where the RP 20 was, and now the entire road is AF district with a 20 acre minimum. Woodward directed the Board to packet item VI.A.22, which is the old zoning map. Maki indicated that it looked like the section line was the division – everything in Section 16 was RR-2. Wietek-Stephens indicated that all the other parcels on the road were in the RR-2 district previously, so this parcel is significantly different in its history. Wietek-Stephens asked Milton if that changed his opinion on whether it was consistent with the area. Milton answered that the lot size of Keough's parcel is consistent with the other lot sizes in the area. Wietek-Stephens said it is a close question, however that seems to be one of the main reasons that the ordinance was changed and rural residential 5 acre buildable parcels were done away with and a larger 20 acre standard was adopted. Wietek-Stephens asked for any other comments on Standard 2. There were none.

3. *STANDARD 3: Whether the plight of the landowner is due to unique circumstances of the property.* Wietek-Stephens stated that the question about the floodplain would suggest against the variance, although it may be able to be mitigated. Milton mentioned that formerly the parcel contained areas that were divided by a river, and he stated that Keough made a non-conforming lot more non-conforming. Wietek-Stephens asked if Milton was finding that there was a unique circumstance on the property that suggested granting or not granting the variance. Milton stated that would be a reason to grant the variance, but that is also in conflict with one of the other standards not yet discussed. Wietek-Stephens restated what Milton had said to gain a better understanding – the unique circumstance is that the river went through the parcel originally. Milton stated there were two completely different zoning districts that were bisected by the river, and the plat made it not accessible (because the platted and unplatted areas could not be combined). Wietek-Stephens wondered why that would bear on this parcel, since that portion of the parcel is no longer attached. She said there was a unique circumstance back in the day, which is part of why a variance was granted to the Varvils, but that unique circumstance was done away with by the applicant, so she doesn't see that as being a good reason to grant the variance. Milton stated the Township created the hardship by rezoning to the 20 acre minimum lot size, but also tried to mitigate those special circumstances by allowing non-conforming lots in the AF district. Wietek-Stephens said it sounds like we're moving on to the next standard.

4. *STANDARD 4: Whether the problem is self-created.* Alholm stated that her biggest problem is that Keough had the 11 acres, then he purchased an adjacent 20 acres, and rather than combine that with the 11 acres, he gave himself an easement to the 11 and sold the 20 acres. To her, that is creating or continuing the problem. It allowed him access where he didn't have it before, and then he simply resold the parcel. It troubles Alholm that he had the opportunity to combine the 20 acre parcel with the 11 acre parcel and be in compliance with the zoning ordinance. Milton stated that if there had been an attempt to make the parcel the same size as it was before the split, then it would look more favorable. Wietek-Stephens stated that since it was all in the 20 acre minimum buildable, the only option Keough had was to combine to create a 31 acre parcel. If he would have tried to carve off some of the 20 acre parcel to plump up the 11 acre parcel, he would have created two non-conforming parcels. Wietek-Stephens said Keough could have combined it, and there were a couple of options available through the transactions undergone by Keough and his corporation, but Keough chose to keep it as a standalone parcel in an attempt to make it buildable.

Wietek-Stephens then posed the question of whether the issue of notification bears on whether this was a self-created problem. She does not see that the Township had any opportunity to notify Keough that he was making a non-conforming lot more non-conforming, or bring up the old variance, or anything like that, when Keough got a warranty deed and then on the same day, sold it immediately. She does not see that the Township had an opportunity to notify. Keough stated the Township would have received the deed from the county within a week or so of the sale. Maki indicated that the Assessor may not have been assigning new parcel numbers until December or January, when they are making up the legal descriptions for the new assessment roll. The County actually does it based on the deeds, but the Assessor has to approve all the divisions and splits. Alholm stated that when she was looking through all the ordinances, the applicant has to file for approval of the split, and she doesn't think that happened. Maki stated that Varvil and Keough should have come to the Township and told them what they proposed to do. He feels that the burden is on them because they were splitting the property. Page stated that when the 20 acre parcel was bought, before the easement was created and then the parcel was sold, that would have been another opportunity when Keough would have been able to see if he was creating a non-buildable or nonconforming parcel. She stated there were opportunities along the way that were not taken. Milton agreed. Keough stated that he has been continually improving the parcel in three ways (water, sewer, easement) and it's just a matter of time till power is on it. He tried to make it less non-conforming with the legal easement.

Wietek-Stephens said she'd like to make a motion for denial.

Moved by Wietek-Stephens that after conducting a public hearing and review of STAFF REVIEW/ANALYSIS for Variance request #ZB14-01, the Zoning Board of Appeals does not find that the request demonstrates the standards pertaining to the granting of nonuse variances, and hereby does not approve Variance request #ZB14-01 with the following findings of fact:

1. Strict enforcement of the Zoning Ordinance would not cause practical difficulty because the owner had two opportunities to build on this site without need of a variance. The first opportunity existed when he purchased the approximate 16 acre parcel which had been granted a variance to build provided access could be secured.

However, this opportunity was eliminated when Mr. Keough created a new nonconformity by further reducing the size of the property, thus creating a new parcel that was not exempt from the minimum lot size requirements of the zoning ordinance and did not include the same circumstances for which the existing variance was granted. Secondly, Mr. Keough had the opportunity to combine this parcel with another adjacent parcel which was subject to his control, therefore eliminating the nonconformity relating to lot size and rendering parcel #109-128-20 as part of a buildable lot, but he chose to pursue the creation of two building sites, one newly nonconforming, as opposed to one conforming building site. Furthermore, he retains other options for land use, including agriculture, forestry, and sale to adjacent property owners, which is one of his stated uses of purchased properties.

2. Granting the variance would be contrary to the public interest because it would undermine the intent of the 2005 Comprehensive Plan and Zoning Ordinance for Chocolay Township that were adopted through a public process, this intent being to maintain a 20 acre minimum lot size for all new parcels, and to allow additional dwellings at a higher density ONLY if clustered on a part of the property with at least 50 percent of the property maintained as a permanently protected open space by means of a conservation easement. These circumstances do not apply in this case. There are many smaller parcels in the neighborhood, but they were all created from the Rural Residential 2, 5-acre buildable parcel zone that previously existed in the neighborhood, and the Ordinance was specifically amended to prevent the endless creation of smaller lots and building on smaller lots. In addition, there has been significant public comment from people in the neighborhood that say they will be adversely affected if a lot of this size is developed. In addition, this is unlike some other variances that have been granted because it's a new development, not a reuse of a property that was previously developed.
3. There are no circumstances unique to the individual property on which the variance is granted, because this lot is deemed unbuildable as a result of nonconformance with administrative standards pertaining to lot size and not due to a specific natural condition of the lot. If anything, because of floodplain issues which may or may not be able to be controlled, the characteristics of the lot would suggest against granting the variance.
4. The variance request is due to actions of the applicant because Mr. Keough altered the nonconforming lot of record through further reduction in size after the effective date of the Ordinance, creating a parcel that did not meet the definition of a lot of record, and the parcel therefore doesn't qualify for exemptions from minimum lot size provisions as detailed in Section 6.1 and Section 6.4 of the Chocolay Township Zoning Ordinance. In addition, Township ability to deal with creation of a more nonconforming lot was hindered by a lack of notification of the parties involved in splitting the parcel and the immediate sale of part of the lot to another party.

Alholm asked for further clarification on #1 that reads, "Mr. Keough had the opportunity to combine his parcel with another adjacent parcel" – she wondered which parcel Wietek-Stephens referenced – the half acre parcel or the 20 acre parcel he purchased, created an access easement, and then resold. Wietek-Stephens stated he clearly had the opportunity with the 20 acres, but asked for clarification from Woodward about the new nonconforming parcel. Wietek-Stephens reworded the motion as follows – From #1 strike the following language: "~~therefore eliminating~~

~~the nonconformity relating to lot size and rendering parcel #109-128-20 as part of a buildable lot, but he chose to pursue the creation of two building sites, one newly nonconforming, as opposed to one conforming building site.”~~

Alholm asked if Weitek-Stephens intended, in terms of creating the problem himself, to refer to the fact that Keough could have combined the 20 acres he sold, creating a buildable lot? Wietek-Stephens made the following addition to the motion at the end of the text in #4, ***“In addition, Mr. Keough had the opportunity to combine the nonconforming parcel with the adjacent parcel that he purchased and granted himself an easement through.”***

After discussion, Alholm seconded the motion for denial of Variance request #ZB14-01. The amended motion reads as follows:

Moved by Wietek-Stephens, seconded by Alholm, that after conducting a public hearing and review of STAFF REVIEW/ANALYSIS for Variance request #ZB14-01, the Zoning Board of Appeals does not find that the request demonstrates the standards pertaining to the granting of nonuse variances, and hereby does not approve Variance request #ZB14-01 with the following findings of fact:

1. Strict enforcement of the Zoning Ordinance would not cause practical difficulty because the owner had two opportunities to build on this site without need of a variance. The first opportunity existed when he purchased the approximate 16 acre parcel which had been granted a variance to build provided access could be secured. However, this opportunity was eliminated when Mr. Keough created a new nonconformity by further reducing the size of the property, thus creating a new parcel that was not exempt from the minimum lot size requirements of the zoning ordinance and did not include the same circumstances for which the existing variance was granted. Secondly, Mr. Keough had the opportunity to combine this parcel with another adjacent parcel which was subject to his control. Furthermore, he retains other options for land use, including agriculture, forestry, and sale to adjacent property owners, which is one of his stated uses of purchased properties.
2. Granting the variance would be contrary to the public interest because it would undermine the intent of the 2005 Comprehensive Plan and Zoning Ordinance for Chocolay Township that were adopted through a public process, this intent being to maintain a 20 acre minimum lot size for all new parcels, and to allow additional dwellings at a higher density ONLY if clustered on a part of the property with at least 50 percent of the property maintained as a permanently protected open space by means of a conservation easement. These circumstances do not apply in this case. There are many smaller parcels in the neighborhood, but they were all created from the Rural Residential 2, 5-acre buildable parcel zone that previously existed in the neighborhood, and the Ordinance was specifically amended to prevent the endless creation of smaller lots and building on smaller lots. In addition, there has been significant public comment from people in the neighborhood that say they will be adversely affected if a lot of this size is developed. In addition, this is unlike some other variances that have been granted because it's a new development, not a reuse of a property that was previously developed.
3. There are no circumstances unique to the individual property on which the variance is granted, because this lot is deemed unbuildable as a result of nonconformance with administrative standards pertaining to lot size and not due to a specific natural

condition of the lot. If anything, because of floodplain issues which may or may not be able to be controlled, the characteristics of the lot would suggest against granting the variance.

4. The variance request is due to actions of the applicant because Mr. Keough altered the nonconforming lot of record through further reduction in size after the effective date of the Ordinance, creating a parcel that did not meet the definition of a lot of record, and the parcel therefore doesn't qualify for exemptions from minimum lot size provisions as detailed in Section 6.1 and Section 6.4 of the Chocolay Township Zoning Ordinance. In addition, Township ability to deal with creation of a more nonconforming lot was hindered by a lack of notification of the parties involved in splitting the parcel and the immediate sale of part of the lot to another party. In addition, Mr. Keough had the opportunity to combine the nonconforming parcel with the adjacent parcel that he purchased and granted himself an easement through.

Vote Ayes: 5 Nays: 0 Motion Carried

VII. New Business

A. Proposed changes to “ZBA Rules for Public Hearings and Public Comment”

Milton asked about the intent to have member terms expire at the same time, such as December 31. Woodward responded that as each term expires, it is being extended to December. The next terms to be thus extended will be those expiring in 2015.

Wietek-Stephens stated that this was an issue brought forth by Maki on changing the “ZBA Rules for Public Hearings and Public Comment” on the back of the agenda sheet. This would be specifically Item 6, “Zoning Board of Appeals members are not required nor expected to respond to comments, opinions, and/or questions from the floor.” She asked Maki to share any proposed language or re-discuss the issue.

Maki indicated that the suggested revision doesn't change the current process, because it states that “members **may not be able** to respond to comments, opinions, and/or questions from the floor”, but it adds the qualifier that “written requests seeking clarification can be submitted to the Zoning Administrator and will be responded to in writing within 14 days of receipt of the request”. He said the Township Board has this as a policy of their Board meetings, that if someone comes and asks questions, and the Board is not able to respond, or may want to respond only after further thought, this provides a process that allows them to put something in writing and then get a response. In the past, a person could come to many meetings and never get an answer. The suggested language provides that at least within 14 days there would be some type of an answer. Alholm stated that Maki is asking that the questions be directed to the Zoning Administrator, and there may be instances where the Zoning Administrator will say “that is a ZBA decision”. Maki felt that at least that would be an answer, and then they could come back to the ZBA. Maki just feels that it would at least get it to one person so they can seek clarification from somebody and get a written response.

Wietek-Stephens stated that she is uncomfortable with saying that if you write a request you will definitely always get an answer, because it can be abused and used to attack the Zoning Administrator and take up their time. Maki stated if they have that problem, they can change the policy. Page asked how often people ask for written responses. Maki doesn't know, but feels what takes a lot of time is if you don't answer someone's question, and then they start asking more questions, rather than resolving the question

with an answer. Wietek-Stephens recalled previous instances involving a series of requests in which Maki was involved that prompted her concern; Maki discussed his feelings regarding previous responses to those requests that prompted him to initiate this discussion.

Wietek-Stephens indicated that there may have been some issues that had not been addressed in the past, but she was still uncomfortable because some requests are unreasonable. Maki stated that the Township Board already has the policy, so if the ZBA is uncomfortable with it, they can direct their questions to the Board to get an answer. Wietek-Stephens that the Township Board is a more public body than the ZBA and deals with public issues, whereas the ZBA is more of a quasi-judicial branch. Milton said they are the elected officials. Wietek-Stephens suggestion is to take out the words “nor expected”, which could be interpreted as rude and she would expect they would answer to the best of their ability – so the policy would read, “*Zoning Board of Appeals members are not required to respond to comments, opinions, and/or questions from the floor*”, and add, “*,but may choose to request that the public floor questioner submit the comment in writing and may request that the Zoning Administrator provide a written response within 14 days.*” She feels this will give the ZBA some control in determining if it’s a valid question and if it should receive an answer, or determining that no answer is currently available but asking the person to submit the question in writing. Alholm suggested a change that the questioner “may be invited to submit a written request”. Milton was concerned about putting a time limit that might not be able to be met on the response. Wietek-Stephens indicated that she would be happy to polish this language up a bit and bring to next meeting. Maki said he thinks it’s good language, and it can wait till the next meeting.

Wietek-Stephens moved, Alholm seconded, that she will provide revised language for review at next meeting.

Vote Ayes: 5 Nays: 0 Motion Carried

B. Pre-Conditions of Variance Requests

Alholm stated that it bothered her that Keough didn’t follow Woodward’s recommendation to seek the DEQ permit before applying for the variance. She wondered if the ZBA can require applicants to fulfill recommendations of the Zoning Administrator before they file for a zoning variance. Milton doesn’t know how Keough was able to get his Health Department permits without a Zoning Compliance Permit. Maki agreed that where these other permits are part of the issue, (DEQ Permit, Health Department Permit, and possibly others) they should be required to get them before coming to the ZBA. Alholm stated it would give the ZBA more information. Wietek-Stephens indicated that she agrees that information could be applicable to their decision and is something that they should be able to consider when granting a variance. A previous case involving Keough was discussed. Milton indicated it would be helpful to the applicant also, because they may not want to proceed with a variance if they can’t get the other permits. Wietek-Stephens wondered if they are allowed to require that. Milton stated it could be suggested in the application. Alholm reminded the ZBA that Woodward recommended it to Keough and he ignored it. Maki wondered if this requirement could be in the bylaws or the zoning ordinance. Milton stated that if someone is applying for a variance, there is an application; it could be addressed in an asterisk for other documentation. Woodward stated that might be a question for the Michigan Township Association or the Land Use Institute. Woodward will do further

research and will talk with the DEQ and Health Department to see how they would like to coordinate. This will be further discussed at the next meeting.

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comment

Maki said there should be a process, similar to the Land Division process, that if someone creates a parcel that doesn't comply with the ordinance they should be notified. Since the tasks are split between the Assessor and the Zoning Administrator, the zoning person may need to look at the deeds on a periodic basis. Alholm stated that when you get the deed it is already a done deal, and then you are looking at rescinding the deed, and who is going to do that – you need to know it ahead of time. Maki said you could go to Court to have it nullified. Alholm stated that was expensive. Maki said if you ignore it, it could lead to further expense later. But at least you could notify both the buyer and seller of the potential future problem. Page wondered if the title company gets involved to inform people that it is nonconforming. Maki doesn't think they do. Alholm stated that they indicate exceptions to the policy. The Board discussed the responsibility of applicants to know the rules.

X. Informational

Woodward indicated that they will be working on a Future Land Use and Zoning Plan for the Joint Meeting between the Township Board and the Planning Commission. The Master Plan is almost done.

Alholm mentioned the Planning and Zoning Essentials Seminar – she thought it was worthwhile. The instructor stressed that a variance is “permission to break the law”.

XI. Adjournment

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, July 24, 2014
7:00 PM

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:05 P.M.

II. Roll Call

Members Present: Chairperson-Michelle Wietek-Stephens; Secretary-Kendell Milton; Member-Sandra Page; Alternate-Raymond Gregory; Alternate-Geno Angeli
Vice Chairperson Karen Alholm was excused; Member Mark Maki was excused.
Staff Present: Kelly Drake Woodward, Planning Director/Zoning Administrator; Suzanne Sundell, Administrative Assistant

III. Approval of Agenda

Moved by Wietek-Stephens, and seconded by Gregory, to approve the agenda for July 24, 2014 as written.

Vote: All Ayes Motion Carried

IV. Approval of May 27, 2014 Minutes

Moved by Milton, and seconded by Wietek-Stephens, to approve the minutes for May 27, 2014 as written.

Vote: All Ayes Motion Carried

V. Public Comment

None

VI. New Business

A. Variance Request #ZB14-02 Verbridge, PID #52-20-117-062-70, 164 Sandy Lane

Planning Director Comments

Woodward explained that this is a request to build an accessory garage/outbuilding at an average building height which exceeds the maximum average height allowance in our ordinance of 16 feet 6 inches by approximately three feet. The applicant's calculations on the proposed average height of 19 feet 4 inches resulted in a peak height of 23'10", where the calculation by Woodward was a peak height of 24'10". The stated reason is to have a door opening large enough to store a motor home in the garage.

Woodward started with a review of the standards for granting variances, beginning with practical difficulty. Woodward indicated that the Board needs to decide if strict interpretation of the zoning ordinance provisions would unreasonably prevent the owner from using the property for a permitted use, keeping in mind that the property is already in residential use regardless of this accessory building. The Board also needs to

determine if complying with height requirements is unnecessarily burdensome in this case, and whether granting the variance requested or a lesser variance would do substantial justice to the applicant, as well as to the property owners in the area, without altering the essential character of the neighborhood.

Woodward reviewed various possible scenarios where the building could accommodate the 13'10" eave height necessary for a garage door height to accommodate the motor home storage while still meeting the zoning ordinance height restriction. Using this eave height, the peak height could not exceed 19'2" to meet the 16'6" average height maximum. For a roof with 6:12 pitch, the building could only be 18' wide to meet the height maximum. If the applicant did a 4:12 pitch, the building could be about 28' wide. The applicant is asking for a 40' wide building.

Woodward indicated that by granting a lesser variance, while accommodating the 13'10" eave, 2' soffit, 6:12 pitch and a typical 2-car garage width of 28', this would result in an average height of 17'10", with a peak height of 21'10". This would be a variance of 1'5" rather than 3'.

Woodward said the Board must also decide if the problem was self-created – did it exist at the time of adoption of the regulation or is it the result of government action? Woodward's findings indicate that the problem did not exist at the time of adoption of the regulation, and was not a result of a government action. The Board will also need to determine if granting this variance is contrary to the public interest. The applicant has stated this is a 5-acre wooded parcel with significant buffers, so there may not be an impact on the neighbors, but the Board decision must also be balanced with the public interest of maintaining the integrity of the Ordinance and applying it fairly to everyone. The Board must also determine if there are circumstances unique to the individual property that would not allow compliance. Woodward is not aware of any such unique circumstances on this property. The last standard that must be proved is the variance request is not due to the actions of the applicant. Woodward stated the request is due to the actions of the applicant.

Public Hearing and Applicant Comments

Steve Verbridge, 164 Sandy Lane – applicant/owner and his potential contractor, Jeremy Smith were introduced for comment.

Verbridge stated that he is in the R-1 district, and has 290' feet of frontage, and his understanding is that if he had an additional 10' of frontage, his request would have met the height requirement. He said he is about 425 feet from the neighbors to the east and west, and the neighbor across the street is also buffered by woods. He stated his intent for building a garage is to house his motorhome, along with various other cars and boats, so they are not sitting outside causing blight in the neighborhood. The proposed garage

would be close to the house, and trees would be cleared only for the garage and would not be cleared between the garage and the house. Verbridge indicated that he had brought additional pictures of the property. Angeli asked if Verbridge could point out his property and the garage location on the aerial photo. Verbridge said that the garage will not alter the look of the neighborhood, since the house and garage would essentially be hidden from view from the road.

Milton indicated that by his understanding, the average height of the roof is half the distance from the eave to the peak, and by his calculations, the average height is 18'10" with a 6:12 pitch, and that exceeds the zoning requirements by 2'4". Smith (contractor) indicated that he thought the proposed peak height was 23'. Woodward stated that by her calculations the proposed peak height was 24'10".

Woodward asked about Verbridge's statement about if he had 10 more feet of frontage he would qualify for the height proposed. Verbridge stated he thought it would put him in a different district or zone. Woodward stated that it would not make any difference – any accessory structure in the R-1 zone is subject to the same maximum height requirement.

Wietek-Stephens asked about the need for a 40' wide building, and if any other roof options had been considered. Verbridge stated they ran through several scenarios, and in order to put a 12' door in, and maintain a 6:12 pitch (which would make it aesthetically pleasing with the house), and with the motorhome being 28' long, if he loses width in the garage, he has no way to pull the motorhome in. He also has other cars and a boat that he would like to store in there in the winter. He personally feels it is more aesthetically pleasing to store them in a building than to leave them sitting outside. It also protects them from the elements.

Angeli asked if there had been any comment from the neighbors. Woodward indicated that she had not received any comments. Verbridge stated he had talked with his neighbors and that there had been no complaints. He feels that they would not even be able to see this from their homes. Verbridge does not plan to clear any more trees than necessary.

Gregory asked about a second floor on a building – Woodward indicated that if the garage is attached to the house, then you can add a second floor because the height limit is 30 feet. There is a separate standard for height of accessory structures.

Verbridge indicated that they had considered attaching the garage to the house, but there was not enough room on the side of the house to attach it. Woodward asked about the setbacks from the house to the side property line. Smith indicated it's close to 60 feet. Verbridge stated there is a drainage ditch on the east side that he doesn't want to get too

close to, and the other side is useable yard that he prefers not to fill with a structure. Smith indicated that the structure is proposed to be located on the side with the drainage ditch. Verbridge said the current driveway would access the garage without altering the driveway. Gregory asked about the location of the ditch – Verbridge pointed out placement on the east side of the property. Milton asked about easement of the ditch – Verbridge stated he thinks he owns the drainage ditch but would not want to impede the flow. Verbridge stated that he does not own the access road on the west side of the property. Gregory stated there may be issues with required setback from the access road. Verbridge said that he doesn't want the garage in the backyard (accessed by the dirt road) and would like to maintain a buffer of trees there as people use ATVs on the road like a recreational trail. Gregory asked about the status of the road – Verbridge stated he thought it was a proposed road when the subdivision was built.

Wietek-Stephens stated that in order to approve the variance, the applicant would need to meet all four of the requirements, including *“There are circumstances unique to the individual property on which the variance is granted”* and *“The variance request is not due to actions of the applicant”* and she sees no way that the Board can find those in favor of the applicant whether or not the other two requirements are debatable.

Milton suggested that the tree buffer is unique to the property. Wietek-Stephens commented that one of the reasons for the variance request was so the applicant could maintain a peak height that was aesthetically consistent with the house, and yet another argument for the variance is that nobody would see the garage because of the trees so it wouldn't bother anybody – so if nobody will see it and it won't bother anybody, maybe another peak height would be functional.

Verbridge stated that the peak height of the existing house is 24', and the garage grade is a little lower, so the peak of either one would be within inches of each other. Wietek-Stephens clarified that she had meant to say “pitch”, not “peak height”. Verbridge stated that even though the neighbors wouldn't see the house, it would be aesthetically pleasing to people that were coming to the house.

Gregory asked, assuming the trees were a unique aspect of the property, how would standard four be addressed (the variance request is not due to actions of the applicant). Wietek-Stephens pointed out that it does seem to be the result of actions of the applicant because there are alternatives for placement and design. Verbridge stated that the unique shape of the property makes different options prohibitive because the property is fairly narrow. He thinks it is better that the garage is not visible from the trail. Wietek-Stephens indicated that she had seen people do all sorts of things to be able to put the structures on their property, including setting them in the ground and doing drastic things with the roof pitch. She stated she wasn't suggesting they do that, but many people in the Township have adjusted their plans to conform with the Zoning Ordinance.

Milton stated that the proposed structure is 40' x 46', and that is a significant structure in itself, and he doesn't feel a 2'4" roof height increase is significant. Wietek-Stephens pointed out that the Board cannot grant the variance if a lesser variance would do. Gregory pointed out that the variance cannot be granted without meeting standard four, since the variance request IS due to the actions of the applicant.

Wietek-Stephens asked Milton to do the calculation for a 4:12 pitch. Milton stated it would be 28' wide. Wietek-Stephens stated that in order to meet the Ordinance, the size would have to decrease significantly. Gregory asked if 28' width was workable. Verbridge stated there would be a problem getting the motor home in and out because it is 28' long. Gregory asked why the length of the motor home impacts the width of the garage, and suggested having doors on both sides. Various design options were discussed, including a 5:12 pitch that would yield a 17'11" average height at the 40' width according to Milton.

Wietek-Stephens stated that the existing ordinance has a limit, and many people want to exceed it. Gregory stated that he thought Criteria 1-3 were in favor of the applicant, but that there was a problem with Criteria 4 – both he and Wietek-Stephens agreed the applicant has other options.

Motion for Denial

Wietek-Stephens moved, Page seconded, that after conducting a public hearing and review of STAFF REVIEW/ANALYSIS for Variance request #ZB14-02, the Zoning Board of Appeals does not find that the request demonstrates the standards pertaining to the granting of nonuse variances, and hereby does not approve Variance request #ZB14-02 with the following findings of fact:

1. Strict enforcement of the Zoning Ordinance would not cause practical difficulty because it is already being used for residential use and a functional garage can be constructed within the limitations of the Zoning Ordinance;
2. Granting the variance would be contrary to the public interest because the applicant has other options, so granting a variance would be unfair to others with similar desires;
3. Although the drainage ditch and the slight narrowness of the lot are possible unique circumstances, they are not so severe as to limit the applicant's options for construction on the property; and
4. The variance request is due to actions of the applicant.

Vote: 3 Ayes, 2 Nays Motion carried – Variance request denied on close vote

After vote, the applicant asked if he would be able to present to ZBA again if he comes up with other options – Milton stated that if they stay under the 16'6", there would not

be a need for a variance. The garage could be 30' average height if it was connected to the house by some means. Wietek-Stephens pointed out that the issue of what constitutes an attachment between buildings has been discussed in previous ZBA cases perhaps 10 to 12 years ago.

VII. Unfinished Business

A. Proposed changes to “ZBA Rules for Public Hearings and Public Comment” as approved 10/22/09.

Wietek-Stephens stated that Mark Maki had suggested some language, and she adjusted it slightly to give the Board more control over what could be directed to the staff from the floor of the ZBA. The two alternate members had not been in on the initial discussion. Gregory asked if this was in response to some issue – Wietek-Stephens indicated Maki’s concern was that the original language is a bit abrupt, and it made it difficult to get a response sometimes, so he wanted to make a way to get an answer. Gregory asked if it could reasonably be expected that if an answer was not immediately available, an answer would be forthcoming. Wietek-Stephens said some things would require research before an answer is provided. She wanted to keep some control over what the ZBA directs to the Zoning Administrator because there have been instances in the past where someone gets a concern, feels an injustice, and can bring it to the level of harassment through constant requests. Gregory asked how the Zoning Administrator feels about the recommendation. Woodward responded that she has the same concerns as Wietek-Stephens that someone may put in so many requests and expect an answer within 14 days. She feels this language seems reasonable – the Board would filter the questions going to the Zoning Administrator.

Wietek-Stephens agreed that the original language is too abrupt. Gregory said he agrees, but he thinks it could even more accommodating. For example, when an answer is immediately available, the Board may provide the answer during the session. When it’s not immediately available, the question may be referred to the Zoning Administrator who would be given 14 days to respond. But he agrees the Board should not be required to respond. Wietek-Stephens said she doesn’t know if that statement is necessary, because they aren’t required to answer but they do – she doesn’t know if it needs to say that they do. Woodward clarified the context is public comment and public hearings.

Page asked what prompted this – have there been problems in the past? Wietek-Stephens responded that there have been several instances of long letters, vague grievances, rants, demands, and some very contentious Board meetings with name calling and such that they do not want to respond to. She does not want any burden on the Board or the Zoning Administrator to respond to every complaint that does not merit an answer. Gregory suggested specific language, which was accepted in concept.

Moved by Wietek-Stephens, seconded by Gregory, to modify the language of Item #6 of the “ZBA Rules for Public Hearings and Public Comment” as originally approved on October 22, 2009, to read “*Zoning Board of Appeals members are not required to respond to comments, opinions, and/or questions from the floor, which the Board may choose to address immediately, however, when an answer is not immediately available, may choose to invite the member of the public to submit the comment/questions in writing to the Zoning Administrator, who would then provide a written response after appropriate research, preferably within 14 days.*”

Vote: All Ayes Motion Carried

B. Pre-Conditions for a Variance Request.

Woodward explained that this topic came out of a discussion during the previous variance case where Woodward had suggested that the applicant contact the DEQ about building in a flood plain before coming before the Zoning Board of Appeals for a variance. However, the applicant did not contact the DEQ. The Zoning Board of Appeals thus did not have information on whether the DEQ might permit the development. Alholm posed a question regarding pre-conditions for variance hearings. Woodward obtained an attorney opinion of whether the Board could require applicants to go through these procedures even though it is not required by our Zoning Ordinance.

Gregory agrees with the Township attorney’s opinion. He appreciates requiring a sequence for permits in terms of efficiency. In some cases, it would make sense in terms of efficiency for the DEQ to issue a permit first before deciding on a variance. However, there is no such requirement, and therefore there is probably no authority to require that. Woodward noted that the Township attorney said a variance approval can certainly be granted upon the condition that the other permits are obtained, and otherwise the Township may be able to require the same types of information that the other permit agencies require, however, this might require a Zoning Ordinance amendment.

Wietek-Stephens stated this need does not often arise. Woodward stated that the information on other permits is not substantial to the decision, but the information can be related to public interest. Woodward does not think it would be in the best interest of the Township to add the enforcement of the flood plain ordinances and wetland ordinances into this Department. There is no way to cover all that, and there are already other agencies enforcing those regulations. Gregory stated that it would be redundant. He said it would be nice if the burden could be shifted to the DEQ and the Health Department.

Wietek-Stephens stated that in summary there will be no changes related to this topic – we can continue to request, but not require other information. Woodward will continue to work with the other agencies to get as much relevant information as possible.

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comment

None

X. Informational

Woodward informed the Board there will probably be a case for August. Angeli wanted clarification on the attendance of alternates. Woodward stated that the plan is to have one alternate attend every meeting even if not needed. They will alternate in attendance, and will be notified if they need to attend.

XI. Adjournment

Wietek-Stephens adjourned the meeting at 8:11 p.m.

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, August 28, 2014
7:00 PM**

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:04 P.M.

II. Roll Call

Members Present: Chairperson-Michelle Wietek-Stephens; Vice Chairperson-Karen Alholm; Secretary-Kendell Milton; Board Member-Mark Maki; Member-Sandra Page; Alternate Member (Observer) – Geno Angeli

Staff Present: Kelly Drake Woodward, Planning Director/Zoning Administrator; Suzanne Sundell, Administrative Assistant

III. Approval of Agenda

Moved by Milton, and seconded by Wietek-Stephens, to approve the agenda for August 28 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of July 24, 2014 Minutes

Moved by Milton, and seconded by Page, to approve the July 24, 2014 minutes as written.

Discussion – Maki wondered about the attorney’s opinion that is referenced in **VII.B Pre-Conditions for a Variance Request**, and whether it was in the packet, or if it had been a handout. Woodward stated that it was a written opinion and discussed a few remembered details. Woodward will provide a copy to Maki.

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Variance Request #ZB-14-03, Balconi, PID #52-02-009-028-00, 2375 M-28 E

Planning Director Comments

Woodward stated that this is a request for a dimensional variance from Section 6.1(A) footnote 6 to build a garage that exceeds the perimeter dimensions of the house. The house is 28’ x 28’, and the proposed garage is 30’ x 46’. The standard reads, “No detached building shall ...exceed the exterior perimeter dimensions of the principal structures on the lot”. The proposed garage would exceed the perimeter dimensions of the house by 40’ (linear feet). The lot size is a little over 1 acre, with conforming setback requirements.

Woodward provided a Staff Review/Analysis based on the standards for variances. She also provided information about the size of structures on adjacent properties, more specifically the perimeter of the principal structure and largest accessory structures of the three properties adjacent to this property on both sides which were also in the same

zoning district. These properties are in the Waterfront Residential district, but the properties across the highway are in the AF district, and the perimeter requirement does not apply to properties in the AF district.

Maki asked for frontage width on this parcel – the applicant confirmed it is 100’. Maki then asked for explanation of why you can have a bigger building in the AF district than the waterfront residential district. Woodward stated she did not know why the standard was originally adopted.

Public Comment

Paul Balconi, 1575 Aspen Drive, Ishpeming, MI. He is also a part-time seasonal resident of Chocolay Township at his cabin at 2375 M-28 East. They have had this cabin for approximately 12 years, and have done substantial remodeling to the cabin. They need a garage because the cabin is very small (28’ x 28’), without much room for storage – it has one small closet, no basement, no crawl space. The lot is 100 feet by approximately 800 to 900 feet deep. He was very surprised when the permit was denied, as he has seen many large garages along the lakeshore.

Balconi then passed around larger copies of VII.A.11 site plan. He prefaced discussion by saying that his plan is to retire to this property in Chocolay Township, while living elsewhere in the winter. A garage the same size as the principal structure would almost be too small for a garage. There is a storage shed associated with this property that is on the property line of the neighbor to the east, and she has requested that the shed be moved. The garage would take care of this problem. Also, when this becomes a permanent residence, they would like to have a two-car garage, and an extra stall for storage. The primary issue is that they are being “penalized” for having such a small cabin. The plans show that this is not a typical garage – it does not have a gabled end truss - it has a flat roof, which makes it low profile.

Balconi then passed out copies of the architectural drawing (VII.A.12). The drawing shows a low profile, three stall garage. Balconi stated he is looking for help to have a useful garage with a little bit of storage. He said that neither neighbor is opposed to the garage. He understands that he could build a two car garage plus a single car garage to meet zoning requirements, but he feels it would be aesthetically unappealing to have multiple structures on the property to accomplish the same end. He knows there are a lot of three car garages and pole barns in Chocolay Township, and they are very tall structures. This is not.

Balconi stated that he feels he is one of the rare ones – they have a small comfortable cabin, and they like it that way. He does not want to add on to the cabin just so they can have a bigger garage.

Balconi then introduced Matt Blondeau as the contractor for the proposed construction of the garage.

Maki asked Blondeau about required separation distance between buildings. Blondeau stated that they have to be at least 10 feet apart, and this would take up more of the property. Maki said he didn’t think there is a separation distance requirement in the Chocolay Township Zoning Ordinance. Woodward confirmed there is not.

Balconi then pointed out that the width and length of the proposed garage are not that much bigger than the house. Maki asked if the site plan VII.A.11 is to scale. Balconi stated it was. Maki agreed with Balconi’s statement.

Balconi wondered if the zoning requirements apply only to pole buildings, etc. Wietek-Stephens clarified that the rules apply to any accessory structure.

Balconi indicated that his house was located at a higher elevation, and that the roofline of the proposed garage would be at approximately ground level of the house.

Wietek-Stephens asked about the applicant's objection to attaching the garage to the house. Balconi indicated that the cabin is too close to the lakeshore at a grand-fathered location. To add a garage to the house would be obtrusive on the shoreline. The cabin is on the dune. To add a garage they would have to dig out the dune to be able to drive up to it, or put it on the hill, and then it would probably be subject to some other type of variance. Wietek-Stephens asked Woodward if this would entail an addition to a non-conforming structure in the waterfront setback. Woodward said she doesn't know the setback distance of the house from the lakeshore, but if the house is in the Dune Overlay Protection District, any earth changes would need a Conditional Use Permit.

Alholm asked where 100' setback would be – Balconi indicated the cabin is 28 feet from the dune. He said if this was a vacant lot, the cabin would have to be built behind the dune.

Balconi indicated that the garage will be storage only – no plumbing, no residential use, no living space.

Alholm asked if Woodward knew what the average size of a two car garage is. Woodward responded the minimum would probably be about 24 to 28 feet wide.

Wietek-Stephens then went through options, indicating that it would be difficult to attach the garage to the house, as it would infringe on the dune area. The applicant could build more than one structure without needing a variance, or could build a smaller structure, although to build a smaller structure that does not need a variance would not give them much storage.

Wietek-Stephens indicated that she did like that the design minimizes the visual impact. She questioned the fact that Balconi was stating the reason for three stalls was for additional storage for the house, but the fact that there are three doors makes it look like the extra stall is intended for another vehicle, and not storage of household items. Balconi stated that since it's a seasonal camp, the proposed garage would provide easy access for storage of a Jet Ski, kayak, or lawn equipment that is in the storage shed on the property line. Wietek-Stephens and Alholm reiterated that it doesn't appear the extra space is intended for household storage.

Maki indicated that the size of garages became an issue after people started to build very high 40 feet x 60 feet and larger garages. Then the Township had to develop restrictions.

Wietek-Stephens stated that she finds the plan to be fairly reasonable, but feels there other options that would not require a variance.

Alholm asked if the applicant had considered any other options. Balconi replied that he had not, since he was hopeful the variance would be granted after considering the circumstances.

Wietek-Stephens stated that after looking at the information provided by Woodward in her staff report regarding structures on adjacent properties, the proposed garage is not palatial by some standards, but is somewhat out of character and large for the

neighborhood. Maki stated that part of the reason for this is that the neighborhood is transitioning from seasonal to permanent residency. If you are seasonal, you probably don't need a garage.

Balconi suggested a comparison to Lakewood Lane, which used to be tar paper shacks on the beach. M-28 may be no comparison to Lakewood Lane, but the trend seems to be moving that way. He could put his cabin inside many of those garages.

Wietek-Stephens asked if Balconi would be satisfied with a lesser variance for a garage not quite this big, but a little bigger than the house. Balconi said he'd be happy with that. He indicated that when they drew up the plans, they were going for symmetry of design. If needed, he could make one of the doors smaller. Maki asked if a 10' garage door width is typical, and Blondeau indicated it was, especially if the garage is approached by a turn.

Maki questioned the rationale for having someone build two garages versus one garage, besides being in compliance. He thinks the proposed garage would be more objectionable if it was the same size but greater height. Balconi stated the garage was designed to be more proportional with the house – he feels it doesn't make any sense to build two garages and take up more of the footprint of the lot.

Wietek-Stephens indicated that she sees some public benefit to keeping the development on a property a little more concise and limiting the amount of area that is disturbed. She is also still hung up on the fact that Balconi could still build garages without needing a variance at all, and there are certain standards that have to be met in order to grant variances.

Balconi indicated that he could put an addition on the house and then build the proposed garage, but he doesn't want the home to be bigger – he likes it as it is. He's put a lot of time and money into the existing structure, and does not want to change it.

Milton feels that Balconi has a good solution to his problem, which will result in fewer items being stored outside. Alholm indicated that Balconi does have other options, but she feels that he is dealing with a small home that has no basement, which is very unusual. The thing that she can't get past is the standard that there must be something unique on the property in order to grant a variance, and the variance request cannot be due to actions of the applicant. Maki indicated that height and size variance requests for garages are always going to be that way, and will never meet those standards. With those standards, there would never be any variances granted. Maki feels there are a few things that are unique – garages are becoming bigger and he can see why the applicant wants a bigger garage for storage, and he has accommodated this by keeping it low to the ground. He could attach the proposed garage to the house but that isn't practical because of the dune.

Wietek-Stephens stated that her problem is that if the variance is granted so the applicant can build this somewhat large, nicely designed garage and avoid building multiple structures, there is nothing that prohibits him from later building other accessory buildings. This may not be Balconi's plan, but if the property is sold, there is nothing to stop the next owner.

Wietek-Stephens wondered if a lesser variance would allow Balconi to keep the low profile design. Balconi indicated he would still need the 10' doors – he questioned what Wietek-Stephens was looking for. Wietek-Stephens said that considering the small size

of the home, she would be willing to support something closer to the perimeter dimensions of the house, more in keeping with other neighborhood structures in that district, especially if it preserved the low-profile design. The applicant discussed the possibilities, considering the measurements of his truck.

Balconi asked if the decision was to be made by vote, or is up to one person. Maki indicated it was by vote. Balconi requested that before considering alternatives, a vote be taken on the existing proposed design.

Moved by Maki, and seconded by Milton, to approve Variance request #ZB14-03 as proposed.

Vote Ayes: 4 Nays: 1 Motion Carried

Woodward asked for clarification on the exact wording of the motion. Maki said his motion is based on the house being unusually small for typical properties; it has a dune making attaching of the garage problematic; the building is a low-profile design with a flat roof; it makes no sense to build multiple garages 24 feet by 28 feet when it can be condensed into the most suitable area. Milton said the building is in character with the area; the larger building is not a problem in the low density area.

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comment

Maki gave updates on the budget and Master Plan update processes in the Township.

Planning Commission Member had no comment.

Angeli asked about the proposed AT&T tower – Woodward indicated that the lease would be going before the Board, and the company is supposed to submit materials for site plan review by the end of the month.

X. Informational

Wietek-Stephens indicated she feels there is a need to fine tune the wording in the “ZBA Rules for Public Hearing and Public Comment”, Item #6. She asked that it be added to the agenda for the next meeting.

XI. Adjournment

Wietek-Stephens adjourned the meeting at 8:03 p.m.

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, December 18, 2014
7:00 PM**

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:20 P.M.

II. Roll Call

Members Present: Chairperson-Michelle Wietek-Stephens; Board Member-Mark Maki; Member-Sandra Page; Alternate Member – Geno Angeli; Alternate Member – Paul Charboneau

Members Absent: Vice Chairperson – Karen Alholm; Secretary – Kendell Milton

Staff Present: Kelly Drake Woodward, Planning Director/Zoning Administrator; Suzanne Sundell, Administrative Assistant

III. Approval of Agenda

Moved by Page, and seconded by Maki, to approve the agenda for December 18 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of August 18, 2014 Minutes

Moved by Maki, and seconded by Wietek-Stephens, to approve the August 18, 2014 minutes as written.

Vote Ayes: 4 Nays: 0 Abstained: 1 Motion Carried

V. Public Comment

John Conrad, 132 Little Lake Road, stated he was there with a setback variance request for a deck and ramp at 225 West Terrace Street.

VI. Unfinished Business

None

VII. New Business

A. Introduction to new alternate member, Paul Charboneau

B. Variance Request #ZB14-04, Conrad, PID #52-02-251-011-00, 225 W. Terrace Street

Planning Director Comments

Woodward stated that this is a request that relates to the building of a handicapped access to a business. The property was recommended for rezoning by the Planning Commission and County, and approved for rezoning by the Township Board. It has also been through the approval process for the two businesses, which involves a Conditional Use permit and Site Plan review. This is the last step for the applicant.

In going through the zoning standards, Woodward pointed out the one thing she thought may be of concern is that it will increase the existing front setback nonconformity, which is one of the standards in the regulation concerning nonconforming uses of structures. Woodward pointed out that this is just one of the considerations, and that she had provided a detailed analysis of the others.

Maki stated that the handicapped accessible requirement is actually a requirement of the building code. Woodward stated that she had called the County, and they stated that there would need to be handicapped access to the business.

Conrad stated that he had been to a salon in Munising that did not have handicapped accessibility. He felt that it would be very hard for an elderly person to be able to get to the business. His concern is primarily for safety and for the convenience of the business patrons. Woodward stated that Conrad was planning on the handicapped access before knowing of the County requirement.

Conrad stated that the only feasible way to get into the house was the front. If they had to go in through the back it would require reconstruction.

Maki asked Conrad about the problems on putting the ramp in the back. Conrad stated that the kitchen and bathroom are in the back part of the house by the parking area. They would have to redo the entire back wall, no matter what direction you came in from. Maki asked if it was still going to be a residence. Conrad stated no. Wietek-Stephens asked if the ramp would encroach on parking if it was put in the back or the side. Conrad stated yes. Wietek-Stephens clarified by stating that it would be a longer ramp in the back because of the height difference.

Maki indicated that Conrad had provided a schematic. Maki also asked about the existing 5' x 7' porch. Conrad stated that there is a 5' x 7' enclosed porch on the front, then 2 or 3 concrete steps, and a concrete pad – no sidewalk. Maki asked if all of that was being removed, and how much closer to the road would it be. Conrad stated the proposed structure would be 4 ½ feet from the property line which runs from the middle of the green space in the front of the house. Distance from the property line to the curb is 12 ½ feet. Conrad stated the deck would extend 8 feet from the existing enclosed porch. Woodward pointed out that Conrad was not planning to remove the existing enclosed porch. Maki asked if Conrad was just building over the 5' x 7' pad that was in front – Conrad stated that he was. Maki then asked about the width of the deck – Conrad stated it was 8' wide and 8' long. Maki then stated it was 3 feet closer to the road than the existing porch.

Woodward stated the existing house is setback 12 ½ feet from the property line, and if Conrad adds the 8 foot platform to the front of the house right next to the existing enclosed porch, then the setback for the proposed structure would be 4 ½ feet from the property line and about 17 ½ feet from the curb.

Wietek-Stephens asked if there was any consideration of removing the porch from the front. Conrad said it was not considered. Maki asked the handicapped access could be installed on the side of the existing enclosed porch – Conrad stated his concern would be whether there be enough room to turn an immediate left to go into the salon while sitting in a wheelchair. Maki agreed – also putting a door there would probably not meet code.

Angeli questioned if all that was needed was one handicapped parking space. Conrad stated yes.

Maki stated he had seen other ramps along US 41, but he didn't know if it was a requirement or not. Conrad stated that Healing Hands (along US 41) has one. Maki indicated that since that was a newer business, so it probably was a requirement that the business put one in.

Maki and Woodward discussed the definition of structure and the exceptions for front extensions.

Maki went over the options – patrons would not be able to come in from the side, coming in from the back defeats the purpose of the handicapped space. Wietek-Stephens also pointed out that even if the enclosed porch was taken off, a variance would still be required because it would extend out past the six feet exception for the definition of structure. Maki stated there are only a couple places in the Township where this would be an issue. Otherwise, the newly built businesses are setback enough.

Angeli asked about comments from neighbors. Woodward stated that the Township had not received any comments. Conrad stated that in talking with his neighbors, they are all in favor.

Maki asked why 8' x 8' had been chosen – Conrad indicated that coming up the ramp you need enough turning radius for a wheelchair. Conrad originally wanted 6 feet, but the contractor told him it needed to be 8 feet. Maki thought this was probably due to building code.

Angeli asked if automatic doors were required. Conrad stated not to his knowledge.

Maki asked about the easement for access to the parking lot. Conrad indicated that he is working with Walt and Sue Racine in order to use the driveway to the west of the house for parking in the back. The driveway to the east of the house will be abandoned and grass and new curb will be put in.

Maki asked about the handicapped parking in front – is it one or two spaces. Conrad indicated there is one. Maki questioned if the only vehicle parking there would be handicapped. Conrad indicated yes, there were no regular parking places there.

Maki indicated that there will be a lot less congestion than with the previous use.

Discussion on the former ice cream shop – the purchase agreement for this property provided that new owners are not able to sell ice cream for ten years.

Maki asked about the awning – would it be coming off or would it be used for a sign. Conrad stated that he needed to contact the sign company and see what can be done because of the design of it.

Maki asked about entry into the former ice cream shop – would it be through the breezeway, and the entry into the salon would be through the deck? Conrad indicated this was the case – he would like to make things as easy as possible for the customers. Maki asked what the other business was going to be – Conrad indicated it will be a computer repair shop called Iron Bay Computer. He will be moving from his location in Marquette.

Wietek-Stephens asked if Conrad was sure of the easement. Conrad indicated there will be no problem. It's just a matter of getting the paperwork done. Woodward indicated that even if there is no easement, the parking would still be in the rear, and Conrad would use the east driveway.

Wietek-Stephens questioned if the Master Plan addresses handicapped access – she knows there was discussion on encouraging ranch style dwellings. Woodward did not find anything that specifically addresses handicapped access, and the zoning ordinance does not address it either.

Maki asked about the Habitat homes and how close they are to the road. Woodward indicated that they are in an R-2 zoning district, where minimum setback is 25 feet. Maki said he did not think the houses were setback anywhere near 25 feet. Charboneau indicated that he had the same question – asked if the 25 feet was setback from the road or the property line. Woodward indicated it was from the property line.

Public Comment

None

Moved by Wietek-Stephens, and seconded by Maki, that after conducting a public hearing and review of STAFF REVIEW/ANALYSIS for Variance request #ZB14-04 for parcel #52-02-251-011-00 at 225 W. Terrace St, the Zoning Board of Appeals finds that the request satisfies all standards related to granting of an extension of a nonconforming structure, and also demonstrates the standards pertaining to the granting of nonuse variances, and hereby approves Variance request #ZB14-04 with the following findings of fact:

- 1. Strict enforcement of the Zoning Ordinance would cause practical difficulty because it would prevent commercial reuse which is consistent with the Master Plan.*
- 2. Granting the variance would not be contrary to the public interest because there are a number of commercial operations in the vicinity which either do, or will need to in the future, meet the same requirements. Granting the variance would accommodate persons of limited mobility, and would not negatively impact neighboring structures or the character of the neighborhood.*
- 3. There are circumstances unique to this property, including it has always been nonconforming, the road is not on the property line, there is a height difference between the front and the back of the structure, and reasonable modifications to the structure would still require a variance from the front setback.*
- 4. The variance request is not due to actions of the applicant, but is the result of the construction of the structure prior to zoning ordinance and the decision of previous owners.*

And with the following conditions:

- 1. The landing area should be the necessary minimum size that meets the building permit requirements so that the setback encroachment area is minimized as much as possible.*
- 2. It shall be a minimal structure, a wood deck and ramp, not enclosed, not covered, metal handrail acceptable.*

Vote Ayes: 5 Nays: 0 Motion Carried

C. Election of Officers for 2015

Moved by Maki, and seconded by Angeli to nominate Wietek-Stephens for another term as Chair.

Vote Ayes: 5 Nays: 0 Motion Carried

Moved by Maki, and seconded by Wietek-Stephens to nominate Alholm for another term as Vice-Chair.

Vote Ayes: 5 Nays: 0 Motion Carried

Moved by Maki, and seconded by Page to nominate Milton for another term as Secretary.

Vote Ayes: 5 Nays: 0 Motion Carried

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comment

Maki gave updates on Master Plan and it is nearing completion. He urged ZBA members to take a look at it. Some issues include multi-use zoning district.

Wietek-Stephens asked if mixed use would open it up for the big box stores. Woodward indicated there are different types of mixed-use districts planned, and it would be up to the Planning Commission which uses to allow in each.

No Planning Commission member comment.

Angeli wondered if there had ever been any talk about a bypass (such as 480).

Angeli wondered about development in Harvey – Maki indicated that we have limited sewer availabilities and no water capabilities.

Angeli asked about lighting the US 41 corridor.

Angeli asked about the cell tower.

X. Informational

None

XI. Adjournment

Wietek-Stephens adjourned the meeting at 8:20 p.m.

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, May 28, 2015
7:00 PM**

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:00 P.M.

II. Roll Call

Members Present: Chairperson-Michelle Wietek-Stephens; Vice Chairperson – Karen Alholm; Secretary – Kendell Milton; Board Member-Mark Maki; Member-Sandra Page; Alternate Member – Geno Angeli; Alternate Member – Paul Charboneau

Members Absent:

Staff Present: Kelly Drake Woodward, Planning Director/Zoning Administrator; Suzanne Sundell, Administrative Assistant

III. Approval of Agenda

Moved by Milton, and seconded by Alholm, to approve the agenda for May 28 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of December 18, 2014 Minutes

Moved by Maki, and seconded by Wietek-Stephens, to approve the December 18, 2014 minutes as written.

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Variance Request #ZB15-02, St. Onge, PID #52-02-204-007-00, 105 Lakewood Lane

Planning Director Comments

Woodward stated this is a request to extend or enlarge a home that is almost entirely contained in the waterfront setback. The three variances include waterfront setback, front setback, and a side setback. Proposed is a one story addition on the rear and on the side that is furthest from the river, as well as porches on the front and rear. In her memo, Woodward reviewed the proposal according to ordinance standards. The front and side variances would create new non-conformities. The additions would all have the effect of increasing the non-conformities in the waterfront setback.

Wietek-Stephens asked if the side setback is measured to the eave or to the wall. Woodward indicated it was to the drip line of the eave.

Maki asked for clarification on the porch encroaching on the front setback – he assumed it was an enclosed porch. Woodward indicated that it was an open deck. Maki pointed out an additional variance posed by the steps to the back deck, which encroach on the

required natural area within 30 feet of the water's edge. If he is reading the sketches right, the proposed deck is 30 feet from the water's edge, but the steps are within 30 feet of the water's edge. This was confirmed by John Larson, architect for St. Onge. Maki indicated "that part of the setback which lies within 30 feet of the water's edge shall be maintained in its natural condition" per the Zoning Ordinance. Woodward asked if he wants this processed as an additional variance. Maki indicated the applicant could revise the deck design so that there is no encroachment on the waterfront natural area requirement. Woodward indicated that could be made a condition of approval.

Maki also asked if there are different setback requirements for open decks, as opposed to a one-story addition. Woodward indicated the setback requirements are the same for any structure – but some things are exempt from the definition of structure. Maki asked what would happen if a future owner decided they didn't want the deck, but wanted a one-story addition to the house. Woodward indicated the owner would have to come back to the ZBA in order to extend or expand a non-conforming structure. Maki stated that he was just trying to clarify that if the deck is put there, if it becomes a new boundary line for any structure. Maki asked Woodward if there would be any distinction in terms of her review of a deck vs. a one-story addition. Woodward indicated that the one-story addition would impart a greater sense of mass near the waterfront, which is something the ZBA has considered in the past. Maki asked if enclosure of the deck accessing the porch would require additional approvals – Woodward indicated yes.

Wietek-Stephens asked if there are any other questions pertaining to the Planning Director's comments. Alholm asked what adjustment would have to be made so the front deck would not require a variance. Woodward indicated that she believes, but the architect could confirm, that 1 foot would need to be removed from the deck and the steps would have to be reconfigured so that the deck would not extend more than 6 feet into the front setback. Larson confirmed. Woodward explained that the definition of structure excludes open, unenclosed porches that don't extend more than 6 feet into the front setback, so if the porch did not extend more than 6 feet into the front setback, it wouldn't be defined as a structure, and therefore would not need a variance.

Maki explained the history of the zoning provision. People would get a permit for a building that met setback requirements, and later add steps or a deck in front of it, so the language was changed some years ago to allow the person to have an open porch without a variance.

Wietek-Stephens opened the meeting for public comments.

David & Kristine St. Onge – the structure at 105 Lakewood Lane has been in existence since 1935. This property was known as White's Circle – at one point in time the White family owned all the houses in that circle. This is the last residence that is still in the family. Kristine is a White, and grew up in that house. The house has been unoccupied for at least three years – his mother-in-law is at Snowberry. They have been trying to figure out what to do with her residence for quite some time. The structure is a story and a half, with 2 bedrooms and 1 bathroom. Much work is needed to comply with current building codes. With the help of Woodward and his architect, John Larson, they have worked out a plan that will not overbuild the property and not take away from the ambience of the Circle and the view of the river or lake. St. Onge feels they have put in a very modest request for the three variances which are necessary because of ordinance changes that occurred after it was built. To be able to meet building codes, they have to add on to the structure to accommodate the modified staircases. At this time, this is the

only residence on the Circle that does not have a garage. The neighbor to the South is a seasonal resident. The neighbor to the east has told him that she has no problem. He asks that all things be considered when looking at the request, he feels that it is straightforward, they are not over building, and they need to do something soon before it decays or falls apart. St. Onge stated that the drawings that he has brought to the ZBA are preliminary drawings, but they are the maximum request of what they would consider doing.

Maki commented on the garage design. He said the proposed garage is 24 feet wide and even if it was 20 feet wide, there would still be a little encroachment on the north side which he assumes is for storage. St. Onge said they brought in the width of the garage storage area, which makes the design most costly, but they were trying to be very cognizant of the design in relation to the nonconformity and odd lot shape. But the basement is not functional for storage.

Maki asked about the existing breezeway connecting the house to the proposed garage, and confirmed they are not extending the length (east-west), only the width (north-south). Larson confirmed.

St. Onge indicated that there used to be a storage building at the location of the proposed garage – there is still a concrete knee wall there.

Maki was ready to make motion, but Wietek-Stephens indicated there should be some further discussion on the decks.

St. Onge stated that if the steps are a problem on the north deck, he would rather just have steps on the north side of the deck anyway (they could be removed from the plan).

Maki indicated that it does appear that there are a couple of steps already going down to the north, and wondered if they could just eliminate the side steps. St. Onge indicated that would not be a problem. Wietek-Stephens clarified that would eliminate the problem meeting the 30 foot natural setback from the water.

Wietek-Stephens then asked about the feasibility of making the front deck smaller to eliminate the need for a variance. St. Onge indicated they are still playing around with the final design, and were now considering a small windbreak there. He also does not like the idea of putting the stairs right by the windows in order to get to the front door – it's more aesthetic to have the separation of a planted area. He doesn't think the current design will negatively impact the neighbor.

Wietek-Stephens stated that if St. Onge is planning on enclosing it, then it becomes moot because it is an addition to the structure. Woodward stated that if it is enclosed, it is considered a structure which would require a different size variance.

Wietek-Stephens indicated that it looks like there is an entry into a porch now. St. Onge indicated they hope to keep it as a 3-season porch. He feels that the front entry is the best ingress/egress into the house based on the floor plan. Currently, you walk into the kitchen through the breezeway, which he thinks is odd. There is currently also a door on the river side, but it's odd to have to walk all the way around the house to get in the front door. Wietek-Stephens asked if he stuck with the plan to enter into the existing porch, then would there be a need to enclose the new porch? St. Onge indicated that they had considered the possibility of enclosing it for an unheated windbreak – it wouldn't be substantial, just something to walk into to get out of the snow. Woodward indicated that the plans show there would be 3 feet of the open deck/porch that would be behind the

front setback line, which could possibly be enclosed. St. Onge indicated that they might do it just the way it is laid out on the plan – they may be back – it’s hard to figure all the details in advance.

Moved by Maki, and seconded by Milton, that after conducting a public hearing and review of STAFF REVIEW/ANALYSIS for Variance request #ZB15-02 for parcel #52-02-204-007-00 at 105 Lakewood Lane, Marquette, MI, the Zoning Board of Appeals finds that the request demonstrates the standards pertaining to the granting of nonuse variances, and hereby approves Variance request #ZB15-02 with the following findings of fact:

- 1. Strict enforcement of the Zoning Ordinance would cause practical difficulty;*
- 2. Granting the variance would not be contrary to the public interest because 1) the setback is measured from the drip line of the eave, but essentially the garage encroachment on the required setback, if measured from the garage wall, is only about 2 ½ feet in that one small section due to the relationship of the house to the lot line; 2) the encroachment of the front porch will not be apparent to others on the street because this house is the end of the line; 3) the addition is for modernization; they have done the best they can to be reasonable;*
- 3. There are circumstances unique to this property, being that the building lot is almost entirely within the waterfront setback area with only a tiny portion considered buildable.*

And with the following conditions:

- 1. The west steps on the rear deck that are within the 30 foot natural setback would not be developed.*

Vote Ayes: 5 Nays: 0 Motion Carried

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comment

Township Board Member – Maki indicated that the Planning Commission is working on the Master Plan – all are encouraged to read it. He is also concerned about the enforcement of the sign ordinance - he says there are some flashing signs in the Township that are not allowed.

Planning Commission Member – Milton had none.

X. Informational

Woodward indicated that the Planning Commission did adopt the Master Plan at their last meeting, so everyone will be getting a copy.

Wietek-Stephens asked for a date of the next meeting – Woodward indicated it would be June 25.

Maki asked if the application that they had received for an April meeting, which was cancelled, had ever rescheduled. Woodward indicated that the June meeting was the rescheduled meeting for that application. Maki asked if they had ever clarified the type of retail that is proposed – Woodward indicated that the applicant had stated they would

reveal that at the meeting on June 25. Maki asked Woodward if it would be an issue if someone would not reveal the type of store going in. Woodward indicated that confidentiality is honored, but she had advised the applicant that it is somewhat necessary information in order to consider a possible parking variance.

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:38 p.m.

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, June 25, 2015
7:00 PM

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:00 P.M.

II. Roll Call

Members Present: Chairperson-Michelle Wietek-Stephens; Vice Chairperson-Karen Alholm; Secretary-Kendell Milton; Board Member-Mark Maki; Member-Sandra Page; Alternate-Paul Charboneau.

Staff Present: Kelly Drake Woodward, Planning Director/Zoning Administrator; Suzanne Sundell, Administrative Assistant

III. Approval of Agenda

Moved by Alholm, and seconded by Page, to approve the agenda for June 25, 2015 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of May 28, 2015 Minutes

Wietek-Stephens questioned page 4 of the minutes – when the motion was made, was any rationale provided for Findings of Fact, No. 1, “Strict enforcement of the Zoning Ordinance would cause practical difficulty”? Woodward stated she had not heard any. Maki indicated he remembered having a discussion that the entire house was within the 100’ waterfront setback, which made any development impossible. Woodward and Wietek-Stephens indicated that this was covered in Findings of Fact, No. 3.

Wietek-Stephens indicated that there had been rationale, but it did not make it into the motion. Woodward stated that she did not think it could be added to the motion now. Wietek-Stephens agreed, since it wasn’t specifically called out in the motion. She did recall a discussion about modernization and bring the house up to code. Maki indicated that strict enforcement would not have allowed them to do anything, and they weren’t asking for a lot – a little front porch which encroached on the front setback; but the road ends quite a bit before, and if it would have been a few feet smaller, it would have been exempt; plus the addition to the house wasn’t pushing toward the water.

Moved by Maki, and seconded by Milton, to approve the minutes for May 28, 2015 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Variance Request #ZB15-01, Freeman / Halvorson, PID #52-02-106-044-00, 4067 US 41 South

Woodward indicated this was an application requesting a variance from Section 8.1 Off-Street Parking Requirements to include six fewer parking spaces than required for this proposed retail use. The new site plans are for a Dollar General store, and Woodward distributed a letter from them regarding their parking needs.

Woodward explained that this is a non-conforming residential structure in a commercial zone that cannot be reoccupied for residential use because the use has been discontinued for 12 months or more. It can only be used for commercial use under the current zoning ordinance. In her staff report, she had discussed the conformance to the setback requirements. Also included were examples of parking requirements for City of Marquette, Sands Township, and what is suggested in the publication, "Dimensions of Parking". Chocolay Township requirements come in at the low end of their recommendation. Woodward has also included a review and analysis regarding the standards for granting non-use variances.

Applicant Comments

Andrew Rossell with AR Engineering – he is representing both the seller and the buyer. Also present from Midwest V, LLC, buyer, are Peter Oleszczuk and Gregory Oleszczuk. Rossell stated that they propose to construct a Dollar General. It is a 9100 sq. ft. building, with 30 parking spaces. Rossell indicated that they had submitted this to the Corridor review committee and MDOT to come up with an acceptable plan. He referenced the preliminary civil engineering drawings showing the site layout. Some of the features, such as sidewalks and access point, have been pushed as far south as possible – they are further south than the existing drive. The drive was reduced from 36 ft. to 30 ft.– two lanes, one ingress, one egress, 15 ft. wide each.

Rossell indicated that the intersection was approximately 50 feet from their drive. MDOT requested that the left turn center turn arrow be moved south as far as possible to avoid any confusion with the northbound left turn lane. Rossell indicated that even in the busiest urban settings, Dollar General only requires 30 parking spaces. This works well for them in rural and urban communities as stated in the letter from Dollar General.

Milton asked if the Corridor committee discussed anything about a shared drive with Blondeau Trucking. Rossell stated they had – he indicated that they originally had the broker attempt to approach the adjacent landowner (Blondeau) to discuss a shared drive. In the broker's investigation, the restaurant next door indicated that they were having some issues with the shared drive with the trucking company ... Dollar General requires that they own their own access point so they can control it. In order to share the drive, Dollar General would need to purchase it, and then grant an easement back to Blondeau Trucking. Rossell indicated that the attempt was made, and then they went back to the Corridor committee with options, and at that time, MDOT approved this plan.

Wietek-Stephens indicated that there appears to be room for six parking spaces to the west and south – why not add 6 parking spaces? Rossell said they could cram some more spaces in there, but the retailer’s experience is that they would not be used. If needs change, the additional spaces could be created. Rossell indicated that Dollar General would be the first to construct needed spaces to satisfy their patrons, but they could show them as “banked” spaces for the future.

Wietek-Stephens asked Woodward if there was a change in ownership, would the new user have to come back to the Township for permission to use the site as is. Woodward stated it may be a moot point, as the access management standards say that there is no parking or display of vehicles within 50 ft. of the road right-of-way. Wietek-Stephens asked if that is what the dotted line was – Rossell indicated that was the building setback of 30 ft. It is a compact site, but they don’t want to create a sea of asphalt that won’t get used. They are trying to balance environmental concerns and needs of the tenants.

Wietek-Stephens asked what sort of data the letter was based on. Rossell indicated that it was based on Dollar General’s retail experience – they have over 12,000 stores, and have done market studies, and very rarely do they ever design for more than 30 spaces. He isn’t aware of any problems created by this. Oleszczuk indicated that they have constructed stores in multiple towns in Michigan, and have never had to come back to put in additional spaces. Dollar General has stores in Negaunee and Manistique, and this is the standard. Typically, all their developments have to go for a variance for reduced parking. It provides room for more landscaping, green space, and snow storage.

Wietek-Stephens asked how many parking spaces are at the Negaunee Dollar General. Oleszczuk stated he believed there were 30 parking spaces. Maki asked if the store in Negaunee was the same size as the one being proposed for the Township.

Maki wanted clarification on the 50 ft. corridor setback. Woodward stated that in Section 5.3(Q)3 of our Zoning Ordinance it says, “No parking or display of vehicles, goods, or other materials for sale, shall be located with 50 feet of the road right-of-way. This setback shall be planted in grass and landscaped ...” There was a question how this works with our 30 ft. building setback.

Maki wondered if the setback line on the site plan, which runs parallel to the roadway, was a building setback or the corridor setback. Rossell indicated the dotted line was the 30 foot building setback. Maki stated it seem unrealistic that you would not be able to have your parking within 50 ft. of the road right-of-way. Woodward indicated that there are provisions for waivers for access management standards that the Planning Commission will address when they approve the site plan.

Maki asked Woodward if she knew how big the Family Dollar store was and how many parking spaces they have. Woodward could not recall. Wietek-Stephens did not recall Family Dollar asking for a variance. Maki said their store is smaller.

Other Oleszczuk stated that in comparing Dollar General with Family Dollar – their format is the same, but Family Dollar prototypes have a wide spectrum of sizes, so it is

hard to compare to a Dollar General. Dollar General has built 150 stores in the state of Michigan, and most of the stores are 9100 sq. ft. Approximately 90% of the existing stores have been done with a parking variance because additional spaces are not needed for the operation of their store.

Wietek-Stephens asked if there is any method for requiring a future user to comply with the ordinance after allowing a commercial development with fewer spaces. Woodward stated this would depend on if it was a change in use – if it is another retail store that is the same size for parking calculation purposes - she doesn't think they would have to come back for a site plan review. Maki indicated that if you grant a variance for a particular retail store to have 30 parking spaces, and a different retailer comes in, you probably would not be able to tell them to add the six spaces. If a different use, such as a restaurant, would come in, they would have to meet their requirements. Maki stated that a condition could be put into the motion for banked spaces to be invoked at a later time, if needed.

Alholm stated that it would seem the business owner would want to have as many parking spaces as they could – you wouldn't want customers leaving because of parking – but she prefers the green space. Maki stated that 10% green space is required, and wondered if Rossell knew how much green space they would have. Rossell indicated that he didn't know for sure, but it was in excess of that – he would guess they were at 30%. Woodward indicated that the requirement within the front yard setback is 2.5% landscaped open space, with a minimum of 10% landscaped open space on the entire site. Woodward indicated the maximum floor area ratio is 80% and a maximum ground cover ratio is 40% in the commercial district.

Maki asked who would be the owner – does someone own it and lease it to Dollar General? Oleszczuk indicated they would be the owner leasing to Dollar General.

Maki asked when the house was built – Freeman indicated that their family moved in in 1953, and it was old then.

Wietek-Stephens asked if there was more public comment.

Lee Blondeau, North Traci Lane – he has the adjoining property to the driveway. He wanted the Board to know that he had not been approached by anyone regarding the driveway. Blondeau said he felt that it was a nice fit for Dollar General, although a little bit tight, and he is a little concerned about the intersection and the driveway.

Laurie Freeman – wondered if it would be possible to have people come in one way, and exit out by the light. Milton indicated that there would not be enough of a turn radius. Freeman wondered if it would take away, or put in more area for parking spaces. Rossell indicated that from an engineering prospective being that close to an intersection would not be ideal, because it would create another conflict close to an intersection.

Rossell clarified to Blondeau, that he had said that the attempt was made, but he does not know how it was made. He apologized that it came across that they contacted him.

Wietek-Stephens indicated that her main concern is that by allowing less than the required number of parking spaces, they would be setting up that same condition for future retail development which might need additional parking spaces, but would be unlikely to be able to acquire them.

Maki stated that his question is whether they have land available to do it – usually if someone is looking for a variance, they either have to move on parking or the building. In this case, they could create the parking on the west side, which is complicated by the corridor issue, but the Planning Commission would make that decision at site plan review. Maki feels that a condition could be put in the motion that if future parking becomes a problem, they would have to create parking spaces. Maki cited examples within the Township of under-utilized parking lots (Snyder, Ace, Family Dollar). He has never seen parking on the road due to excess demand. He felt it would be a concern if Dollar General did not have the land area to create the parking, if needed. Maki asked what the size of the parking spaces were – Rossell stated they were 10' x 20'. They had a former plan with 9' wide spaces, but the Ordinance requires 10' wide. Maki asked how many spaces they were able to provide at 9' width? Rossell said he thought they were able to have 3 more spaces.

Wietek-Stephens asked about the public comment from the owner of the former Wahlstrom property, Jim and Andrea Beckman, discussing parking issues with Dry Dock. Wietek-Stephens read aloud the comment submitted. Maki indicated that Beckman is not an adjacent property owner, that he is located on the other side of the Dry Dock Bar. Maki indicated that he is not sure where the property line is, or if Dry Dock customers are encroaching on Beckman's property, but that's not an issue here.

Maki indicated that there are some turning issues onto the highway. Cars coming from the north, turning left into the Dollar General will be competing with cars going north and turning left onto Silver Creek Road. This will be a Planning Commission issue in their site plan review. There are even problems with the driveway used by the Trucking Company, but they only use it at particular times of the day and it is further south. Rossell indicated the distance from Dollar General's proposed drive to the Blondeau driveway is approximately 80 ft. Woodward estimated from the white line (stop line) of the intersection to the edge of the Blondeau driveway is 225 ft.

Rossell indicated that as part of the site plan review, they will still have to secure a permit from MDOT.

Maki asked what type of trees are on the site – Freeman replied they were willows. Maki wondered if any of the trees will be retained – Rossell indicated that there were several on the north property line, and some in the front that were saved because they didn't put parking in. There are also some maples on the south that would remain.

Maki asked for visuals on what the store would look like. Oleszczuk indicated that since it is angled with a corner entry, it would be a nicer layout than the one in Negaunee, with a little more masonry.

Wietek-Stephens proceeded to go over the standards for variances. “To obtain a nonuse variance, the applicant must show practical difficulty by demonstrating that:

- Strict compliance would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome. *(Wietek-Stephens does not feel that this claim can be made, as they have the room for strict compliance)*
- A variance would do substantial justice to the applicant as well as to other property owners in the district, and that a lesser relaxation would not give substantial relief and be more consistent with justice to others. *(Wietek-Stephens indicated that this one is arguable, as no one needs excessive pavement)*
- The plight of the owner is due to unique circumstances of the property. *(Wietek-Stephens indicated that this was not true, as there is room for the parking spaces)*
- The problem was not self-created. *(Wietek-Stephens indicated that this was not true, as the problem is self-created)*

Wietek-Stephens indicated that she was torn, as she likes green space and does not like unused parking spaces, but is not sure the ZBA has grounds to grant the variance, and she is concerned about the future use of the property.

Alholm likes the idea of a condition that in the future the spaces might have to be added as suggested by Maki. Maki said a condition could invoke the six additional parking spaces if there was ever an issue with people having to park off-site. Maki feels the key is having the space available, but not building the spaces unless they are needed. If they build extra spaces on the west side, there will be reduced landscaping and fewer trees for no other purpose than to meet the requirement. He would prefer to see it stay green space. Maki wondered about the impact of design options. Oleszczuk indicated that the entry orientation comes from the parking and access orientation. This is their most desirable prototype, with the masonry and amount of glass that comes with it.

Maki asked about the crosshatch area on the plan – Rossell indicated that this is the loading area at the rear of the store. Maki asked about other crosshatches – Rossell indicated it was concrete loading pad and the dumpster area.

Wietek-Stephens asked where banked parking spaces would be put, if needed. Rossell indicated they might be able to bank 3 parking spaces on the south side and 4 on the west. Oleszczuk stated that they are willing to work with the Township to bank spaces.

Maki indicated that he would like to make a motion that the variance be granted from the 36 parking spaces to 30 parking spaces, with the idea that they bank 3 parking spaces on the south side in the event they would need them. Maki would like to keep the northern area the way it is planned without parking there. Maki indicated they should make some notation on the site plan that the 3 spaces were not required now but could be in the future. Site plan notation was discussed.

Maki moved, Alholm seconded, that after conducting a public hearing and review of STAFF REVIEW/ANALYSIS for Variance request #ZB15-01 for parcel #52-02-06-044-00 at 4067 US 41 South, the Zoning Board of Appeals hereby approves Variance request #ZB15-01 with the following findings of fact:

1. Strict enforcement of the Zoning Ordinance would cause practical difficulty because the parking spaces are not deemed to be necessary at this time, but are planned for the future.
2. Granting the variance would not be contrary to the public interest because this plan retains useable green area, while still providing future parking, if necessary.
3. There are circumstances unique to this property; their parking layout and building orientation is due to the property location near the intersection.
4. The variance request is not due to actions of the applicant, but is a result of trying to keep an aesthetic plan based on the property retaining green area, and not requiring large parking lots unnecessarily.

Vote Ayes: 5 Nays: 0 Motion Carried

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comment

None

X. Informational

None

XI. Adjournment

Wietek-Stephens adjourned the meeting at 8:00 p.m.

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS**

Thursday, July 23, 2015

7:00 PM

I. Meeting Called to Order

Vice-Chairperson Karen Alholm called the meeting to order at 7:05 P.M.

II. Roll Call

Members Present: Vice Chairperson - Karen Alholm; Secretary - Kendell Milton; Alternate - Geno Angeli; Alternate – Paul Charboneau; Chairperson - Michelle Wietek-Stephens (arrived at 7:07 PM and took over as Chair)

Members Absent: Board Member – Mark Maki (excused); Member – Sandra Page (excused)

Staff Present: Kelly Drake Woodward, Planning Director/Zoning Administrator; Suzanne Sundell, Administrative Assistant

III. Approval of Agenda

Moved by Milton and seconded by Charboneau, to approve the agenda for July 23 as written.

Vote Ayes: 4 Nays: 0 Motion Carried

IV. Approval of June 25, 2015 Minutes

Moved by Alholm, and seconded by Milton, to approve the minutes for June 25, 2015 as corrected. **(Page 6 of 7, second bullet point, last sentence to read “...as no one needs excessive payment pavement.”)**

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Variance Request #ZB15-03, Vashaw, PID #52-02-899-025-10, 268 Kawbawgam Road

Planning Director Comments

Woodward stated that Mr. Vashaw wishes to build a detached garage and also plans to expand his cottage. He wishes to construct the garage first, therefore being in temporary

non-compliance with Section 6.1, which states “no detached building shall ... exceed the exterior perimeter dimensions of the principal structures on the lot.” Washaw has filed for a Zoning Compliance permit for both structures, and the site plans would be valid for one year.

Wietek-Stephens asked if there is currently a garage on the site. There is not.

Public Hearing & Applicant Comments

There were no public comments.

Scott Washaw, 268 Kawbawgam Road – they have owned the cottage for 9 years. He and his wife are both retiring this year and plan to make this their primary residence. He currently rents a 10’ x 20’ storage building in Grand Rapids for \$110 / month and 10’ x 14’ storage building in Beaver Grove for \$65 / month. Both are filled with things that have been purchased in anticipation of adding a master bedroom to the cottage and building a garage (dining table, sofa, light fixtures, vanity, kitchen sink, garage doors). Last week, Washaw purchased the subfloor for the cottage addition. He currently has no place on-site to stage the building material for the contractor. When the project is complete, the cottage will be bigger than the garage. Washaw stated the reason he needs a 28’ x 36’ garage is to store his pontoon boat. The size of the garage doors he purchased (18’ and 9’ wide) influenced the size of the garage. The cottage currently has one 8’ x 10’ bedroom with no closet. Washaw said this shortage of closet space is evidence that he will carry through with the cottage addition.

Board/Applicant Discussion

Alholm asked about the planned size of the addition. Washaw said he would like to extend the existing structure to the east to cover and insulate the well. He and his neighbor share a well, and they just had it improved with 52” of gravel and 4” of Styrofoam, but near the house it is subject to freezing. The addition will be 20’ x 24’ with a bedroom, bath, and closet. Carol Hicks has already completed the draft plans.

Wietek-Stephens asked about Washaw’s time frame for completion. Washaw indicated his Grand Rapids house is for sale – he retired at the end of June and his wife is retiring at the end of December. He would like to have the garage done and house framed in before the snow. Alholm asked if he was planning on doing the construction simultaneously. Wietek-Stephens asked about the fee for the Zoning Compliance permit and whether the permit could include both structures. Woodward indicated that Washaw applied for a permit covering both structures. Wietek-Stephens asked Woodward what would happen if Washaw gets the permit but doesn’t complete the project. Woodward indicated that would involve either applying to the ZBA for a variance, or possibly legal action. Wietek-Stephens stated that there could be a condition on the house being completed within a time frame, but the Township has a long history of granting these types of requests and people not following through. For example, there have been a number of garages that have been built before the principal structure and then the principal structure was never built – leaving a noncompliant accessory structure, and there was not much that could be done to remedy the situation. Wietek-Stephens

indicated that this one is slightly different, as there is already a house there, and a garage in the U.P. is not unusual. Alholm asked Vashaw if he anticipates constructing the foundation for the house addition and the garage at the same time. Vashaw said he would have to ask the cement guy if it would make sense to do all the work at once. Milton said that given the neighbor support as indicated from the signatures, and given the location of the building, he would be in favor of granting the variance for the garage without any conditions. Vashaw discussed the proposed location of the detached garage between two driveways, one of which leads to common facilities and the other which leads to Vashaw's cabin. The site is unusable for any other purpose, and is high and sandy. Vashaw discussed photos he provided of the open area with a few small pines. He would be running electricity to the garage, but no water. Woodward wanted clarification that the building site is on Vashaw's property – Vashaw indicated that there are issues with surveying this property as the entire property used to be in shared use. However, now everyone owns their own lot along with 1/8 of each of the other lots. This is the reason that he obtained the signatures on the petition. Wietek-Stephens asked about the two signatures that he was not able to obtain. Vashaw indicated that he had received a text message of support from one of the two – Tim Quinnell – which he had shown to Woodward earlier. The other neighbor – Hotchkiss – is unavailable. He has obtained nine out of ten signatures, and the rules of the Association are democratic.

Alholm asked if there are other cabins with garages of similar size. Vashaw said that there are. Garages are becoming more common as people become full time instead of seasonal tenants.

Wietek-Stephens asked Vashaw what would happen if he does not get to build the garage first. Vashaw said maybe he would apply for multiple smaller structures. He has things he is paying to store and he hasn't really thought about Plan B.

Wietek-Stephens asked about the completion status of the floor plans. Vashaw indicated the significant part is complete. Wietek-Stephens asked if the house plans need to be submitted to Woodward when Vashaw applies for his Zoning Compliance Permit. Woodward indicated they do.

Charboneau asked if the building of the cottage addition is dependant on Vashaw's selling of his house in Grand Rapids. Vashaw indicated this deal is not contingent upon that sale.

Milton asked if Wietek-Stephens would entertain a motion. Wietek-Stephens said she would personally like to include the condition as suggested by Woodward.

Moved by Alholm, seconded by Milton, that after conducting a public hearing and review of STAFF REVIEW/ANALYSIS for Variance request #ZB15-03 for parcel #899-025-10, 268 Kawbawgam Road, the Zoning Board of Appeals finds that the request demonstrates the standards pertaining to the granting of nonuse variances, and hereby approves Variance request #ZB15-03 with the following findings of fact:

1. *Strict enforcement of the Zoning Ordinance would cause practical difficulty because strict compliance is unnecessarily burdensome because the applicant proposes to create a temporary nonconformity, dependent on subsequent approved additions to the principal structure;*
2. *Granting the variance would not be contrary to the public interest because the proposed structure will not negatively impact the character of the neighborhood as indicated by the property owner petition submitted by the applicant and information provided by the applicant at this hearing;*
3. *There are circumstances unique to this property, such as the size of the cabin is smaller than a typical residence.*
4. *The variance request is not due to actions of the applicant, as there is no existing garage.*

And with the following conditions:

1. *That the variance will not be granted until the Zoning Compliance Permit for both structures is approved, indicating the garage will ultimately be in compliance at completion of construction of both the garage and the addition to the cabin.*

Vote Ayes: 5 Nays: 0 Motion Carried

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comment

None

X. Informational

Woodward indicated that at this point, there had not been any applications received for next month's meeting.

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:40 p.m.

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS**

Thursday, August 27, 2015

7:00 PM

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:03 P.M.

II. Roll Call

Members Present: Chairperson – Michelle Wietek-Stephens; Vice Chairperson - Karen Alholm; Secretary - Kendell Milton; Board Member – Mark Maki; Member – Sandra Page; Alternate - Geno Angeli

Members Absent: None

Staff Present: Kelly Drake Woodward, Planning Director/Zoning Administrator; Suzanne Sundell, Administrative Assistant

III. Approval of Agenda

Moved by Milton and seconded by Alholm, to approve the agenda for August 27 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of July 23, 2015 Minutes

Moved by Wietek-Stephens, and seconded by Page, to approve the minutes for July 23, 2015 as corrected. (*Page 2, first long paragraph, last line, “Vashaw said this shortage of ~~closest~~ closet space is”*)

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Variance Request #ZB15-04, Donckers, PID #52-02-315-015-00, 417 Lakewood Lane

Planning Director Comments

Woodward explained that this application originated from applicants Doug and Dorothy Vanerka, who live in Illinois and own a home here. They were in negotiations to purchase this property from Nancy Donckers. Before the purchase, the Vanerkas had filed and paid for a variance application to put an addition onto this legal nonconforming residence that does not meet current side setback requirement. The residence was built

before the applicable zoning requirements were in effect. As the owner, Mrs. Donckers had signed the application, along with the Vanerkas.

This is presented to the ZBA for potential expansion of the nonconforming structure, to consist of a 28' x 41.5' attached garage with rear storage bay and breezeway between the house and garage, and also the addition of a Bilco door for basement access on the front of the house near the nonconforming side. After the notices had been sent, Mrs. Vanerka indicated that they would not be purchasing the property, and requested cancellation of the hearing. However, Mrs. Donckers wanted to proceed with the request, as the fee and notifications had already occurred and the fee could not be refunded.

Public Hearing & Applicant Comments

There were no public comments.

Board/Applicant Discussion

Maki asked if the item titled as a location map was a survey or a sketch. It was determined a survey was performed in the creation of the location sketch. Maki was trying to determine if it was a mortgage survey, which is not a survey.

Wietek-Stephens asked about the side that has the one foot setback – she wondered if the Bilco door would open onto the adjacent property. Woodward thought that a Bilco door usually opens with the doors standing straight up instead of folding down. Alholm asked for clarification on the nature of the Bilco door – her understanding is that it is an “old fashioned” type of cellar door, where you walk down into the cellar.

Wietek-Stephens asked Donckers if she had any comments on the variance application. Donckers stated that she was planning to sell the property, and wanted to know if a buyer can add a standard two-car garage to the home. Wietek-Stephens asked if Donckers was planning to build the addition. Donckers said she intended to leave that up to the purchaser. Wietek-Stephens said that was one of her concerns; the ZBA could grant a variance, and then the purchaser might want to build something different, and then the ZBA would have to address this again. She thought it might make sense to address this when there is a purchaser. Woodward felt that as long as the future proposed addition doesn't exceed the dimensions as approved by the ZBA, the purchaser would not have to come back for another approval. If the purchaser wanted to build something with a larger footprint, or greater expansion, they would have to come back. Alholm questioned how long this approval would be valid – Woodward indicated it was a variance, so there is no expiration. Wietek-Stephens pointed out there was language in the motion stating that if the variance is granted, it would be transferrable to the new landowner.

Maki stated he was aware of two issues – the first is the Bilco door, and the other is whether the applicant should be able to expand a nonconforming structure. Maki does not have a problem with the garage addition. But he wondered if there is a fence line or a natural tree buffer to the east of the property. Donckers indicated that there is a natural

tree buffer on the west side. On the east side, the adjacent property owners have a fence. Maki asked if this fence blocks the view of the houses. Donckers indicated it did not – it is a fence to keep the dogs in – probably 3-4 feet high. Wietek-Stephens clarified that it is not a privacy fence. Maki wondered if the natural buffer will be maintained when a garage is built on that side. He was concerned about losing the trees between adjacent properties, which would make the houses feel closer to each other. Donckers indicated that the trees in that area are dead – they are marked for removal. No live trees would be removed.

Wietek-Stephens stated for the record that the garage addition would meet the setback requirements, so the only reason this is coming to the Board is because it is a proposed expansion of a nonconforming structure, based on a nonconformity on the opposite side from the garage addition.

Maki asked if the Bilco door could be moved so it is not within the required setback. It looks like there have been multiple additions to the house, so he wondered if the Bilco door could be moved to a different addition. Angeli said only one portion is a basement – the rest is crawl space. Maki then asked if the Bilco door could be moved closer to the crawl space, which would then make it approximately 8 feet from the property line. Angeli indicated that it might be hard to excavate a hole there without caving something in, because buildings are stronger at the corner. The potential for the Bilco door to open onto the adjoining property was again discussed. Donckers discussed the location of the gas line on the west side of the house.

Wietek-Stephens asked why the basement door was needed. Donckers indicated that right now there is a trap door in the kitchen, and there are narrow steps going down into the basement. The electrical systems have been moved upstairs, to eliminate the need to go downstairs. Maki asked if it was something Donckers wanted to do, or was this something that the original applicant had wanted. Donckers indicated that the original applicant had come up with the idea. Maki did not think the Bilco door would be a big issue. Milton indicated that the future purchaser would probably need a maintenance easement on the west side because it is so close to the lot line. Wietek-Stephens was not in favor of the Bilco door, as it is so close to the lot line. Donckers said the Bilco door would not be very visible as it is behind the porch. The basement would just need to be accessed to change the furnace filter.

Maki stated that if the neighbor wanted to build a detached garage, it could be 6 feet from the property line. Woodward clarified the 6' side setback pertains to garages under a certain size. Maki said a variance would not be needed for a detached garage. Maki stated that the garage that Donckers is asking for is in compliance with the 10' side setback. Milton asked if the breezeway is creating the nonconformity. Woodward said that is not the only attachment – it is directly attached at the rear.

Wietek-Stephens asked if the variance is granted for the garage, but not for the Bilco door at this time, would the future purchaser be able to come back to the ZBA with a plan for a similar door, or would denying it now prevent any kind of door in the future.

Woodward indicated that it would depend on if it was placed in the same location. Maki indicated that if the ZBA is not willing to grant the variance on the Bilco door, it may be best if Donckers withdrew that portion of the variance. Wietek-Stephens indicated that she would not be comfortable granting the Bilco door portion without seeing design specifications relating to the open doors and whether they'd extend onto the adjacent property. She would like to know if it could be located further from the property line. She asked if it would be possible to remove the Bilco door from the application, so they wouldn't have to rule on it and preclude a future owner from asking for one. Woodward said that would be possible, since there wouldn't be a formal ruling on it.

Maki explained to Donckers that if the ZBA makes a ruling on the Bilco door and denies it, then a future purchaser would not be able to apply, because the ZBA would have already ruled on it. It would be better for the ZBA not to act on it, so it could be brought forward on a different application at a later date. Wietek-Stephens indicated to Donckers that the ZBA would only be excluding the door portion, and asked what she would like to do. Implications were further discussed. Wietek-Stephens asked if Donckers was formally requesting that the Bilco door portion of the variance request be removed, and that the ZBA proceed with the variance request for the garage addition to the nonconforming structure. Donckers indicated that she was, as long as the purchaser was able to come back for the Bilco door portion, if needed.

Moved by Wietek-Stephens, seconded by Page, that after conducting a public hearing and review of STAFF REVIEW/ANALYSIS for Variance request #ZB15-04 for parcel #52-02-315-015-00 at 417 Lakewood Lane, Marquette, MI, the Zoning Board of Appeals finds that the request demonstrates the standards pertaining to the granting of nonuse variances, and hereby approves Variance request #ZB15-04, as amended by the applicant to remove the Bilco door request, with the following findings of fact :

- 1. Strict enforcement of the Zoning Ordinance would cause practical difficulty because conformance is unnecessarily burdensome because it would prevent the improvement and typical expansion of the preferred development type in this zoning district, specifically a garage addition;*
- 2. Granting the variance would not be contrary to the public interest because most homes in this neighborhood have at least one garage, so the addition would not alter the essential character of the neighborhood, and the addition is located on the conforming side of the structure, and will conform to all ordinance requirements;*
- 3. There are circumstances unique to this property, including this residence was built before zoning regulations, and therefore has never been, and can never be, compliant with the 10' side setback;*
- 4. The variance request is not due to actions of the applicant, but is a result of subsequently adopted government regulation. In addition, it is consistent with many actions done in the Lakewood Lane area because of the narrowness of the lots.*

And with the following conditions:

- 1. The addition is consistent with that presented in the submitted diagrams, and shall not exceed the dimensions or change the location of the approved addition.*

Before seconding the motion, Maki indicated that the applicant could build a detached garage without getting a variance. Wietek-Stephens asked if Maki was just pointing this out. Maki indicated that a variance was needed for an attached structure, however the purchaser could build a detached garage without a variance. This was not included as a condition to the motion.

Donckers asked if the purchaser would be able to amend the plans. Maki indicated that they would need to stay within the same footprint. Wietek-Stephens indicated that she was not interested in ruling on some random addition, she is only interested in ruling on the addition as presented. If the purchaser wants something different, they would need to come back to the ZBA. Wietek-Stephens indicated that the motion that she is making is for the drawing as presented, dated 7/15/15.

Vote Ayes: 5 Nays: 0 Motion Carried

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comment

Maki discussed the 2016 Budget. Discussions were related to the 2% money from the KBIC, and “dark stores” issues. Alholm asked about the “Bayou property” and the status of the purchase. Maki discussed potential legal issues, the pending appraisal, and potential ownership.

There was no Planning Commission member comment.

X. Informational

Woodward discussed the 2015 budget item allowing for three webcasts per member through the Michigan Township Association. All members are to let Woodward know of their interest, and whether they want to do the webcasts individually, or as a group. Group viewing would save money. Wietek-Stephens indicated that she would do this from home. Maki asked to include the webcasts with a meeting. The webcasts will be 75 minutes or less. It was suggested that “Decision-Making and Documentation” be viewed as a group.

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:54 p.m.

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS

Thursday, December 17, 2015

5:30 PM

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 5:33 P.M.

II. Roll Call

Members Present: Chairperson – Michelle Wietek-Stephens; Vice Chairperson - Karen Alholm; Secretary - Kendell Milton; Alternate - Geno Angeli; Alternate – Paul Charboneau

Members Absent: Board Member – Mark Maki (excused); Member – Sandra Page (excused)

Staff Present: Thomas Murray, Planning Director/Zoning Administrator; Suzanne Sundell, Administrative Assistant

III. Approval of Agenda

Moved by Milton and seconded by Alholm, to approve the agenda for December 17, 2015 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of August 27, 2015 Minutes

Moved by Alholm, and seconded by Milton, to approve the minutes for August 27, 2015 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Review and approval of the 2016 Meeting Schedule

The Board discussed the presented 2016 Meeting schedule. Wietek-Stephens indicated that she would prefer the December 22, 2016 meeting date be moved to December 15, 2016. The March 24, 2016 date was also a conflict and there was discussion of moving this to March 17, 2016.

Wietek-Stephens moved, and seconded by Milton, to approve the 2016 Meeting schedule for the Zoning Board of Appeal to include changes of moving the meeting date in March from March 24, 2016 to March 17, 2016, and the meeting date in December from December 22, 2016 to December 15, 2016.

Vote Ayes: 5 Nays: 0 Motion Carried

B. Election of Officers for 2016. (Chair, Vice-Chair, Secretary)

Moved by Alholm, and seconded by Charboneau to nominate Wietek-Stephens for another term as Chair.

Vote Ayes: 5 Nays: 0 Motion Carried

Moved by Milton, and seconded by Charboneau to nominate Alholm for another term as Vice-Chair.

Vote Ayes: 5 Nays: 0 Motion Carried

Moved by Alholm, and seconded by Wietek-Stephens to nominate Milton for another term as Secretary.

Vote Ayes: 5 Nays: 0 Motion Carried

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comment

None

X. Informational

Angeli inquired about what was happening with the Dollar General store. Murray indicated that they had withdrawn their Site Plan review. Dollar General had come back with an alternate entry, which was taken back to the Corridor Advisory group, and it was approved with restrictions on left-hand turns heading south on US 41 from Silver Creek Road, and on exit there would be right-turn only. Alholm asked if Dollar General had withdrawn after the decision by the Corridor Advisory. Murray indicated they had, and the restrictions would be there for anyone wanting to build on that corner. Milton asked about the easement across the former Blondeau property (now Hendrickson). Murray indicated that the cost of the easement was high, and did not go along with the Dollar General guidelines. Alholm asked if there was any chance of entering the property from Corning Avenue. Murray stated that they would still need an easement across the Quiznos property, and the Corridor Advisory would still have a problem with the access being so close to the highway. Milton asked if the Corridor Advisory committee was a State committee. Murray indicated that it was a group formed by MDOT, along with municipalities along US 41. The committee is also part of our Zoning Ordinance.

Murray also indicated that the Planning Commission will be working on a revised Firearms Ordinance. The ordinance refers back to the old zoning districts of R1 thru R4, C1 thru C3, and LSR (Lake Superior Residential). LSR will be replaced by WFR (Waterfront Residential), which also includes the residential areas around Kawbawgam Lake. This ordinance would restrict firearms discharge in these areas, and would also include pneumatics with CO₂ cartridges. Angeli asked what brought this change on. Murray indicated that it was partly because of the zoning districts, and that the police

had brought up the subject of pneumatics. There have also been people trying to duck hunt along the shores of Lake Superior near the Bayou. Charboneau asked if you can currently discharge firearms in these areas. Murray indicated that you can currently discharge firearms in the AF district, or anything more than 500' from a residence. Wietek-Stephens stated there should be notification of homeowners around Kawbawgam Lake, especially if they are used to hunting there.

Murray indicated that the interviews for Planning Director / Zoning Administrator would be on Friday, December 18.

XI. Adjournment

Wietek-Stephens adjourned the meeting at 5:48 p.m.

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS**

Thursday, March 17, 2016

7:00 PM

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:03 PM.

II. Roll Call

Members Present: Chairperson – Michelle Wietek Stephens; Secretary - Kendell Milton; Board Member – Mark Maki; Member – Sandra Page; Alternate - Geno Angeli; Alternate – Paul Charboneau

Members Absent: Vice Chairperson – Karen Alholm (excused)

Staff Present: Dale Throenle, Planning Director/Zoning Administrator; Suzanne Sundell, Administrative Assistant

III. Approval of Agenda

Moved by Maki and seconded by Milton, to approve the agenda for March 17, 2016 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of August 27, 2015 Minutes

Moved by Maki, and seconded by Wietek Stephens, to approve the minutes for December 17, 2015 as corrected. *(Wietek Stephens indicated on Page 3, first paragraph reads "...Murray indicated that you can currently discharge firearms in the AF district, or anything **within** 500' from a residence. ..." **within** should be changed to **more than**, to read "...or anything **more than** 500' from a residence."*

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Variance Request ZB 16-01, 320 Shot Point Drive, Erin and Elizabeth Bassett

Planning Director Comments

Throenle indicated the home was built in 1960 and is a wood frame home which is currently 26' from the edge of the rock pile on their property. The Bassets are looking to take part of that house and extend the height. During his research, Throenle found that in 2005 there had been a ZBA application to raise the roof two feet. The application was approved, but apparently the applicant never followed

through with this. The slope on the structure goes from the front of the building to the water side, so there is not much head clearance in the back. The property is such that they want to use the existing foundation, so this is not considered an addition, but an extension upward. In the minutes from 2005, there was an indication that the building may have moved off of the foundation. Throenle had taken pictures of the property, and did not see anything that would indicate this. Throenle also pointed out that the picture of the rocks coming up to the house were “iced” rocks and not the water level. Throenle indicated that there had been a few comments sent in, and these are included in the packet. Maki asked if Throenle had received any comments that were opposed. Throenle indicated he had not.

Applicant Comments

Erin Bassett indicated the application covered things. Wietek Stephens asked how long they had owned the property. Elizabeth Bassett indicated they had been there for 1 ½ years. They are planning on living there full time, starting May 1.

Wietek Stephens indicated it is not uncommon for people to buy waterfront property with a smaller older house on and tear it down and rebuild.

Elizabeth Bassett indicated this was probably true, but this property has an amazing view of the lake, and they have no interest in taking down the structure that is currently there, nor does she think the lot would support it, as there is quite a bit of swamp land.

Wietek Stephens asked Throenle how far the adjacent house is to the lake. Throenle indicated that they are all about the same – Elizabeth Bassett indicated she felt they were all about 100 feet back. Wietek Stephens asked if the lot was wide enough going back 100 feet to support the structure. Elizabeth Bassett indicated that the lot is 100’ at the lake and 28’ at the road, so it would be questionable, especially with the septic mound, which is 125’ from the lake.

Angeli asked if the house had ever been damaged by the lake – Elizabeth Bassett indicated they had heard stories, but as far as she knew, the only time would have been a broken window when the Edmund Fitzgerald went down. At that time, most of Shot Point would have been under water. Maki stated that it was his understanding that the waves have pounded on the windows in prior storms. Elizabeth Bassett indicated that there are storm shutters on the windows, and with the addition they are looking at mechanicals underneath to raise the windows up.

Maki asked if there had been any conversation regarding the flood plains and building codes. Throenle indicated that he had looked at the flood plain maps, and the Bassett’s are not in the flood plain. Maki asked if the property would have been in the flood plain on the old maps, and Throenle indicated they were not. Maki indicated he would have thought all of Shot Point would have been in a flood plain.

Maki asked if the second floor will work with the current structure. Erin Bassett indicated they would be hiring engineers to take a look. The contractor they have has indicated that the structure should support a second floor. Elizabeth Bassett indicated that she and Erin thought the best place to start was with the ZBA.

Wietek Stephens indicated that she liked the plans, and they are much more aesthetically pleasing than the current structure, and that the plans were modest. It has a great view, but when the water can hit the side of your house, it seems to be excessively close. Elizabeth Bassett stated it would take a major storm for that to happen. Wietek Stephens indicated that one of the reasons for requiring the waterfront setback is to keep water away from the structure, and part of the reason they had to come before the Zoning Board of Appeals for a variance is that the Zoning Ordinance is designed to discourage making places like this more habitable. The Zoning Ordinance seems to encourage that they take it down and rebuild within the setback. Elizabeth Bassett indicated that they are not interested in doing this, and they do not feel that there is anywhere else on the lot that is buildable. Wietek Stephens indicated that she would like to know if any other area on the lot was buildable. Throenle indicated that the drain field would need to be dug up and moved for this to happen, and then setbacks would need to be determined.

Maki indicated that when the lots were divided on Shot Point, it was not unusual for the lot to be 28' at the road and 100' at the waterfront. Maki feels that one of the draws would be how the structure is located. Maki indicated that even if the approval was given to build the second floor, it would not include tearing down and rebuilding the current structure within setbacks.

Milton indicated that he had been in the house before, and he found it interesting that the water was at window level.

Maki was impressed with the fact that the structure has been there for over fifty years, and although it would be nice to see it be rebuilt, it would be more costly than what the Bassett's are suggesting.

Wietek Stephens stated that there was some language about it not being consistent with the neighborhood, and it does seem to be inconsistent with the neighborhood. Elizabeth Bassett indicated there are some large houses on Shot Point, but theirs would be one of the smaller ones, even with the extension. Wietek Stephens pointed out that she would be more inclined to support this if she knew the exact dimensions were 100' back, because if the dimensions of the property 100' back were too narrow to support a house, it would be an argument for approving the variance.

Maki asked if they were being asked to approve a variance, or an expansion of a non-conforming structure. Wietek Stephens indicated that it requires a variance to build an extension to a non-conforming structure. Maki indicated that this would be a Class A expansion. He also indicated that in 2005 there were Class A and Class B designations, but now there is no distinction. The whole idea of having two types of

non-conforming was that in Class B you were not able to do certain things. Having a Class A designation essentially freed you from the regulation. The new language now just has non-conforming expansions. Wietek Stephens indicated that expanding a non-conforming structure is in opposition to the Zoning Ordinance.

Maki moved, Milton seconded to expand the structure to add a second floor because:

- 1. The building was built prior to there being any zoning ordinance requirements;*
- 2. They are not building any closer to the water than the current structure is;*
- 3. It is one of the only dwellings that's sitting within the 100' setback in that area;*
- 4. It does not appear to inhibit the adjoining properties to any degree, being not visible from them; and*
- 5. If the building does end up having to be torn down, they will need to come back to the ZBA. If the structure is added on to, then the variance is void.*

AYES: 4

NAYS: 1 (Wietek Stephens) MOTION CARRIED

Martha Jennings, 376 Shot Point, stated that she feels that the way the house sits right now is somewhat of a blighted property. She feels it is in the best interest of the neighborhood and the township. It will make the neighborhood nicer. She has had her property since 2006, and values have come down considerably.

B. Variance Request ZB 16-02, 120 Bayou, Ray Hirvonen

Planning Director Comments

Throenle indicated that this property, owned by Matt Hirvonen and Kathy Bull, is surrounded on three sides by water. The property owner would like to build a 28' x 40' garage. Regardless of where they would build the garage, they would not meet the setback requirements on all sides. The property owners have two proposed locations which are indicated on the map. The first location is the preferred location – the driveway that comes into the property goes to the home, and the garage would be located on the edge of the driveway. The second location is next to a drain field, and is also where the snow is pushed when plowed, which would mean there would be snow in front of the garage. The property owner's property extends across the bayou, but this piece is marshland and cannot be developed. In this area, other homeowners have garages, so this would not be the first one built. By building the garage, the homeowners would not impede the view of any of their neighbors. Throenle has looked at the flood plain maps, and this property is not in a flood plain. There is a sandbank along the water's edge that tends to move back and forth, so it would be a struggle to meet the setbacks at any given time.

Applicant Comments

Matt Hirvonen and Kathy Bull are the owners. Hirvonen indicated that the property has been in the family since 1962, and he has been looking forward to retiring there for quite a while. They are planning on living there for the rest of their independent living.

Wietek Stephens asked about the wood storage – Hirvonen indicated he is interested in woodworking and wood turning. He currently has a small sawmill at this location. The wood dries slowly, and needs somewhere to stack and store it. Wietek Stephens asked if this was a hobby or a business. Hirvonen stated that this was a hobby. Currently, about 1/3 of the garage is for storage.

Angeli questioned if there were any comments from the neighbors. Throenle indicated that he had not received anything – negative or positive. Maki indicated that the only ones it would impact are the neighbors right next to Hirvonen. Hirvonen indicated that he had spoken to everyone in the area and received no negative comments. Maki asked if there were any neighborhood covenants. Hirvonen indicated that they have a road association that meets twice a year, and he had brought this up at their last meeting.

Maki wondered if Hirvonen was planning on extending the driveway once this is built. Hirvonen indicated he would be. Maki questioned how far back the garage would be from the natural road surface. Hirvonen had not measured, so he was not sure. Maki indicated that he is supposed to be a minimum of 30 feet back from the road. Hirvonen indicated that it is a private road, and it ends at the highway – he owns the road from the railroad tracks back. Angeli asked if the setback applies to private roads – Maki indicated that it does.

Maki asked if anything would be done to the existing garage, such as converting to living area. Hirvonen indicated he was not planning on doing anything – he needs the additional storage.

Wietek Stephens felt that either location could be moved closer to the driveway or drain field, and get almost a full building width away from the water, reducing the non-conformities. There was a discussion of setbacks and determination of what is front and what is back. Maki indicated that there should be a setback of 30' from Bayou Road, but this is not an issue for Hirvonen as he is the last house on the road. Maki feels that the first location is the best spot, plus it gives an added buffer between Hirvonen and his neighbor. Hirvonen also indicated that if he needed to move the garage closer to the driveway, he may not have the turn radius to back his trailer into the garage.

Wietek Stephens pointed out the setback requirements for each property in the packet material. The first location would result in three new non-conformities, where the second location would result in one new non-conformity.

Wietek Stephens asked if the size of the garage is necessary. Hirvonen indicated that he was considering two structures at first, but then decided that the one that he is applying for is large enough. Bull indicated that one of the constraints of the house is there is no basement, which is where hobbyists would normally store their lumber, so they are making up for this with an additional garage.

Maki moved, Milton seconded to grant a variance with the 15' setback and the 63' setback as shown because:

- 1. Having water on three sides makes it practically difficult to meet the 100' setback;*
- 2. The lot line that has been looked at as a front lot line, is more of a side lot line, which would normally only require a 10' setback;*
- 3. With a condition that the land near the water not be changed from its natural conditions.*

AYES: 5 NAYS: 0 MOTION CARRIED

VIII. Public Comment

Matt Hirvonen offered his thanks for approving his request.

IX. Township Board Member/Planning Commission Member Comment

Page asked about the difference between a Class A and Class B designation. Maki indicated that the designation was dropped when the new Zoning Ordinance was adopted in 2008. Maki indicated that if you are Class B, there really is no protection. Class A would give the protection, because right now if you are non-conforming, and your property is destroyed, you can't rebuild. Not having a Class A designation also makes it harder to get financing. Maki is planning on proposing the Township bring back the Class A and Class B. Charboneau asked how the different classes are determined. Maki indicated that a hearing is held, and a determination is made, similar to a variance. There are standards in the ordinance that would be addressed, and the ZBA would make the determination. Throenle asked if this also applies to non-conforming lots – Maki indicated that the classes only apply to structures – non-conforming lots are grandfathered in.

Wietek Stephens asked that Township Board Member Comments be added to IX. Commissioner's Comments.

X. Informational

None

XI. Adjournment

Wietek-Stephens adjourned the meeting at 8:08 PM

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS

Thursday, February 23, 2017

5:30 PM

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 5:32 PM.

II. Roll Call

Members Present: Chairperson – Michelle Wietek Stephens; Vice Chairperson – Karen Alholm; Secretary - Kendell Milton; Board Member – Mark Maki; Member - Geno Angeli; Alternate – Paul Charboneau

Members Absent: None

Staff Present: Dale Throenle, Planning Director/Zoning Administrator; Suzanne Sundell, Administrative Assistant

III. Approval of Agenda

Moved by Alholm and seconded by Angeli, to approve the agenda for February 23, 2017 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of March 17, 2016 Minutes

Moved by Milton, and seconded by Maki, to approve the minutes for March 17, 2016 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

Michael Cain, resides at 1603 Division St., Marquette – has property at 104 Railroad in Chocoday Township which was bought 20 years ago. At the time, he was told that the property was grandfathered in. He decided to put up a garage, so when the contractor came in to get the permits, he was told that it was not allowed because of setbacks. He only has a quarter of an acre in the AF district, so he cannot build anything. Also, if his place burns down, it cannot be rebuilt. He was wondering if there is some type of “grandfather act” that would cover this.

VI. Unfinished Business

None

VII. New Business

A. Appointment of Officers

Throenle indicated that they should elect officers in order of Chair, Vice-Chair, and Secretary.

Maki moved, Alholm seconded to nominate Wietek-Stephens as Chair.

AYES: 5 NAYS: 0 MOTION CARRIED

Wietek-Stephens moved, Milton seconded to nominate Alholm as Vice-Chair.

AYES: 5 NAYS: 0 MOTION CARRIED

Alholm moved, Maki seconded to nominate Milton as Secretary.

AYES: 5 NAYS: 0 MOTION CARRIED

It was recommended that staff should pull existing applications to consider a second alternate.

B. Review of 2017 Calendar

Alholm moved, Wietek-Stephens seconded to approve the 2017 Meeting Calendar as presented.

AYES: 5 NAYS: 0 MOTION CARRIED

C. Variance Questions

Throenle indicated that he had included this for guidance. There are quite a few non-conforming parcels in the Township that are basically not able to do anything on their property. Throenle was asking for guidance on how to handle these situations, short of taking each case before the Zoning Board of Appeals.

Angeli pointed out that consideration of those types of cases is a job for the Zoning Board of Appeals. Maki indicated that is the case. Wietek-Stephens stated there are no guarantees, and the ZBA looks at the facts on a case by case basis. The Planning Commission are the ones that would set up the zoning regulations. One of the purposes of the ZBA is to give relief, especially when it is not the fault of the landowner. The ZBA and the Zoning Administrator cannot offer people blanket relief from the zoning ordinance – that would have to come from the Planning Commission and the Township Board.

Maki stated the only option would be to take this back to the Planning Commission to review the setbacks.

Throenle indicated that he is starting to get requests from people that bought the property 30 – 40 years ago, and are now looking at retiring and would like to update the existing house. He also has an elderly woman who would like to make some improvements, but would not be able to travel to Chocolay Township for the ZBA Hearing. Wietek-Stephens indicated that there have been cases where the owner's contractor has represented them.

Throenle also asked about the selling of property and the non-conformance or variance. Maki indicated that the non-conformity or a granted variance runs with the land.

Wietek-Stephens and Maki reminded Throenle that he should get everything in writing – it makes it much easier for everyone involved. Wietek-Stephens also indicated that if there is a pattern of issues, it should be taken to the Planning Commission.

Milton asked about the acreage breakdown that had been provided by Throenle, which indicated on some parcels that there was no district assigned. Throenle indicated that this was taken off the assessing database, and some had not been updated.

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comment

Milton (Planning Commission) – none

Maki (Board Member) – updated the ZBA on the KBIC Casino expansion and the water supply at Kawbawgam (high iron, lack of water). KBIC also came to the Board in January to request comments on their application to Bureau of Indian Affairs for Trust Status. The Board finally approved a motion to not oppose the process for Trust application but asked that it not be put into Trust until the current project is complete.

Maki was also concerned about a sign on a trailer at Lakenland, which may have just been there because of the Dog Sled races.

Wietek-Stephens asked that Board Member comment be added back to the agenda.

X. Informational

Throenle indicated that there is a Joint Meeting with the Planning Commission and Township Board on March 20, 2017 starting at 5:30 PM.

XI. Adjournment

Wietek-Stephens adjourned the meeting at 6:14 PM

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS

Thursday, May 25, 2017

7:00 PM

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:00 PM.

II. Roll Call

Members Present: Chairperson – Michelle Wietek Stephens; Vice Chairperson – Karen Alholm; Secretary - Kendell Milton; Board Member – Mark Maki; Member - Geno Angeli; Alternate – Paul Charboneau

Members Absent: None

Staff Present: Dale Throenle, Planning Director/Zoning Administrator; Suzanne Sundell, Community Development Coordinator

III. Approval of Agenda

Moved by Milton and seconded by Alholm, to approve the agenda for May 25, 2017 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of February 23, 2017 Minutes

Moved by Maki, and seconded by Wietek Stephens, to approve the minutes for February 23, 2017 as corrected. *(Maki indicated that even though there were six members present, which included the alternate, only five members would be allowed to vote. The alternate would not be allowed to vote unless filling in for one of the regular members. Votes on all motions should be changed from 6 to 5.)*

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

June Rydholm, 221 Lakewood Lane – they live two camps over from the applicant for the variance. She has lived in this neighborhood since 1954, and has known all the owners of the property and has observed how the properties have changed over the years. At the beginning they were “fish camps” with the bathroom being an outhouse and the septic being a pipe from the house running to a tin in the woods. In order to keep children interested, they would make improvements to these “fish camps”. The body of water (bayou) was alive, and began at Lakewood Lane. A couple of residents did not like having to row a mile to get to the lake, so they made a new “mouth” and blocked the river, which resulted in no moving water, with more swamp with vegetation. She feels that the measurement should be from Lake Superior. She is in support of Gray-Ritchie’s addition to her property. She feels the Township needs to encourage people to make improvements to their property.

Deborah Mulcahey, 633 Lakewood Lane – Mulcahey indicated she has a different perspective as she worked with Natural Resources for 30+ years, and during that time one of her responsibilities was the protection of our resources and wetlands. She does not see anything that is proposed for 209 Lakewood Lane that would be endangering our natural resources. One concern for her is why this is even coming before the ZBA. The correspondence that was in the materials from Ryan McConnell (DEQ) was that he would consider the open portion of water as a body of water, but the vegetative growth surrounding the pond would be a wetland. She feels there needs to be some common sense used. She is in 100% support of a bedroom being added, but is questioning the plans that seem to show two separate units, so she has concern about short term rentals on this property. She questioned the redacting of certain phone numbers and emails in the packet.

VI. Unfinished Business

None

VII. New Business

A. Variance Application ZB 17-01

Staff Introduction

Throenle indicated that there were new maps on the Board table – the map included in the packet identified the wrong portion of the Bayou. Also on the table was a piece of correspondence in support of the project, which was received after the distribution of the packets.

Throenle introduced the applicant, Joyce Gray-Ritchie. She would like to add an extension onto her property, which would consist of a bedroom. All comments received have been in support of her project. Gray-Ritchie is in WFR, with 107' of frontage. Total lot size is 2.08 acres, which is conforming according to the ordinance. The existing dwelling was built in 1905, with an addition added in 1974, which was prior to the enactment of the zoning ordinance. The waterfront setback was established in the 1977 ordinance. Distance from the closest corner of the house to the bayou is 51', with the distance across the bayou being 100'. The dwelling edge to Lake Superior is 353'. There are three non-conformances that exist on the property – setback from the nearest body of water, lot width measurements, and existing structure is below minimum floor area for dwelling units. The addition of the bedroom will be attached to the house by the porch. This will then take care of the non-conformance of minimum floor area for dwelling units.

DEQ has provided information that there is not a state regulation on setback for a body of water – the Township is the one that sets this.

Throenle brought up a map to show alternate locations for the addition, and provided information on why these locations would not be feasible. Throenle also did not feel that the structure could be moved because of its age.

Throenle then went over the condition requirements that the ZBA should consider when deciding on granting the variance.

Board Discussion

Alholm questioned if the addition would negate one of the non-conformities. Throenle indicated that it would make the minimum floor area conforming. Alholm also questioned who the actual owner was, as information provided showed Gray Family Camp LLC as owner with Joyce Gray-Ritchie as additional. Gray-Ritchie indicated that she was half owner, and that she did not understand why it was listed as an LLC. Throenle indicated that it was actually a trust, with all the correspondence going to Joyce Gray-Ritchie.

Wietek Stephens asked if Gray-Ritchie would like to make a statement. Gray-Ritchie indicated that she had married into the family, and they came to the Lakewood Lane property on their honeymoon in 1951. At that time, they noticed the roof was leaking and made repairs, and continued to make repairs on the property on subsequent visits. In 1965, they became owners of the property, and no matter where life took them, they would come back to the property every year. In the beginning, the place was declared uninhabitable. Every summer on their vacation of three weeks, they would come to the property and do repairs. She has four children that spent their vacations on Lakewood Lane.

Throenle indicated that Gray-Ritchie is requesting this addition, as she lives in Oklahoma, but prefers to spend her summers in Marquette due to the heat. This would give her the additional space needed to be able to spend time with family and not feel overcrowded.

Alholm questioned the blueprint and where the addition would be attached. Throenle indicated that all the addition was going to be was a bedroom, with no bathroom. These blueprints have been modified. Throenle directed the ZBA to look at Item VII.A.2. Maki indicated that this was a foundation and footing plan. Throenle stated that all that was proposed was a bedroom on this.

Wietek-Stephens asked if the Township would inspect to see if it was being constructed as a bedroom, and not the full dwelling depicted. Throenle indicated that we do. In order to get the building permit from the County, the landowner needs a zoning compliance permit from the Township.

Maki asked about the size of the proposed addition. Throenle indicated that it is 20' x 24' bedroom. Maki asked why this was not shown in the packet material. Throenle indicated he had stated it changed in the narrative. Maki was concerned that in the light of short term rentals, we need to be careful on what is being approved. Maki questioned there had not been updated plans showing what is actually being considered. Maki also questioned the setbacks which were different in the texts from the diagrams, and questioned the actual lot width. After discussion, it was decided that the shed was actually on the lot line, not as shown on the

diagram. Maki also questioned the distance between the addition and the Bayou. Throenle indicated that this information was given to the ZBA in the staff report. Maki indicated that going forward it may be advisable to also provide a map showing the actual measurements that are consistent with the staff report.

Throenle explained the measurement process from the existing structure to the Bayou, and then going to Lake Superior.

Wietek Stephens indicated that pictures are worth a thousand words in the packet, so in the future if there are inaccurate pictures, they should be flagged somehow to indicate they are original application material, and that they are no longer pertinent. Throenle indicated that his understanding was that the entire application needed to be submitted to the ZBA.

Wietek Stephens asked about the connection between the house and bedroom. Gray-Ritchie indicated it would be through the existing porch. Wietek Stephens also asked about the age of the septic system. Gray-Ritchie indicated that it is approximately 20 years old, with regulations for use by three bedrooms.

Wietek Stephens acknowledged a comment from the audience:

Deborah Mulcahey, 633 Lakewood Lane – wondered if there was some restriction on putting a bathroom in the bedroom. Throenle indicated there were restrictions.

Wietek Stephens asked why the addition was not being attached more securely to the house, rather than using the porch. Gray-Ritchie indicated that she had done it that way, so as not to obscure the view of the lake from the neighbors, and the fact that it would also take out some of the windows. Maki wondered why she would not be able to have a master bath on the bedroom. Throenle indicated he was trying to avoid the requirements of an accessory structure. Alholm asked if it would be permissible if the bedroom was built as a suite. Throenle indicated that this would be something that should be decided by the ZBA.

Alholm asked what the size of the bathroom would be. Gray-Ritchie indicated that it would just be small bathroom. There was discussion on what was considered a separate dwelling. Wietek Stephens stressed that there would need to be caution taken in this case, as it could appear as a separate dwelling due to where it is situated.

Wietek Stephens moved, Angeli seconded that after conducting a public hearing and review of the Staff Review and Analysis for Variance Request ZB 17-01 for parcel 52-02-300-013-00 at 209 Lakewood Lane, Marquette, MI, the Zoning Board of Appeals finds that the request demonstrates the standards pertaining to the granting of non-use variances, and hereby approves Variance Request ZB 17-01 with the following findings of fact:

- (a) Strict enforcement of the Zoning Ordinance would cause practical difficulty because purchases of neighboring properties to widen the lot is not practical because it would create other non-conformities on adjacent*

parcels. Relocating the existing dwelling elsewhere on the lot to remove the waterfront setback requirement would prove to be an unreasonable hardship,

- (b) Granting the variance would not be contrary to the public interest because direct neighbors are in support of this project, indicate no adverse effect of the addition to the dwelling would occur and lake views and neighbor property access would not be disturbed. The setbacks as described are consistent with the existing structure and with the neighboring property use,*
- (c) There are circumstances unique to this property, including the dwelling was built before any zoning regulations, and the property will never be compliant with the 125' width requirement unless additional property is purchased which creates other non-conforming parcels and there are two different waterfront distances within the parcel,*
- (d) The variance request is not due to actions of the applicant, but is a result of subsequently adopted government regulation after the property was purchased and the dwelling was built. In addition, the enlargement of the structure removes one of the non-conformities from the parcel, namely the issue of inadequate square footage for a dwelling.*

Approval of this variance request is contingent upon meeting the following conditions:

- (a) Staff will be diligent in following up to inspect for plumbing during construction to ensure that there is not plumbing and that this will not be a standalone dwelling, and*
- (b) The addition will be a 20' x 24' bedroom / sitting area, with an 8' porch as described in the text, not the diagram.*

AYES: 5 NAYS: 0 MOTION CARRIED

Additional comment by Milton clarified that a bathroom is not part of the variance approval. Wietek Stephens commented that the applicant can come back in the future with a variance request if she wants to put a bathroom in that addition.

Gray-Ritchie thanked the ZBA for their approval of her variance.

VIII. Public Comment

June Rydholm, 221 Lakewood Lane – feels that Chocolay Township wants to increase the tax base. The Township needs to satisfy the needs of the next generation.

Deborah Mulcahey, 633 Lakewood Lane – cannot believe it took 1 ½ hours to make a decision on this issue. Feels it is dangerous for people to take waterfront / wetland measurements that don't know what they are doing.

IX. Township Board Member/Planning Commission Member Comment

Maki (Board Member) – has been on the Board for 8 years, was the Zoning Administrator at the Township for 25 years, retiring in 2002. Maki feels like he is still the Zoning Administrator, constantly trying to get the Township to enforce the ordinance. No one wants to deal with the issues. Since the 2008 Zoning Ordinance rewrite, there have been approximately 26 amendments. There are still issues with short term rentals, outside storage, and signs. Also talked about public concern in the Kawbawgam area in connection with the KBIC casino expansion.

Milton (Planning Commission member) - None

X. Informational

Throenle indicated that there is a new Assessor starting on June 1 – Sam Gerber. The new Community Development Coordinator is Suzanne Sundell. There is a new Administrative Assistant who started on May 14 – Kristin Cannoot.

Throenle addressed Maki’s concerns on enforcement – there has been a significant increase in the number of calls and complaints. There are also a variety of projects coming up that are taking a majority of his time to prepare for site plan reviews. The Zoning Ordinance is very hard to interpret at times, and at the last meeting of the Planning Commission, it was decided to forward information to the Board to find funds in the current budget to submit an RFP for a complete rewrite of the Zoning Ordinance. He indicated that the issues are being addressed, just slowly.

Regarding short term rentals, there is State legislation being reviewed, which if approved, would create a different language for the short term rental concept. This would open up short term rentals to all districts. Townships would still have control on issues in the Zoning Ordinance, such as noise, etc.

XI. Adjournment

Wietek-Stephens adjourned the meeting at 8:40 PM

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS

Thursday, June 22, 2017

7:00 PM

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:00 PM.

II. Roll Call

Members Present: Chairperson – Michelle Wietek-Stephens; Vice Chairperson – Karen Alholm; Secretary - Kendell Milton; Board Member – Mark Maki; Member - Geno Angeli; Alternate – Paul Charboneau

Members Absent: None

Staff Present: Dale Throenle, Planning Director/Zoning Administrator; Suzanne Sundell, Community Development Coordinator, Kristin Cannoot, Administrative Assistant

III. Approval of Agenda

Moved by Alholm and seconded by Milton, to approve the agenda for May 25, 2017 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of May 25, 2017 Minutes Maki wants reference to the original issue/topic.

Wietek-Stephens directed the members to page two of the minutes, item VII.A second paragraph, (“...add an extension onto her ~~property~~ **dwelling**...”).

Page three, second to last paragraph, Wietek-Stephens suggested, (“...constructed as a bedroom, **and not the full dwelling depicted...**”)

Page three, last paragraph, (“...Maki also questioned the setbacks, **which were different in the text from the diagrams,**..”). (“...After discussion, it was decided that the shed was actually on the lot line, **not as shown on the diagram...**”)

Wietek-Stephens questioned her use of the word “and” in the motion because the motion is four paragraphs that are one sentence; she meant to use some periods.

*(a) Strict enforcement of the Zoning Ordinance would cause practical difficulty because purchases of neighboring properties to widen the lot is not practical ~~and~~ because it would create other non-conformities on **adjacent** parcels. Relocating the existing dwelling elsewhere on the lot to remove the waterfront setback requirement would prove to be an unreasonable hardship, ~~and~~*

(b) Granting the variance would not be contrary to the public interest because direct neighbors are in support of this project, indicate no adverse effect of the addition to the dwelling would occur and lake views and neighbor property access would not

be disturbed. The setbacks as described are consistent with the existing structure and with the neighboring property use, ~~and~~

- (c) There are circumstances unique to this property, including the dwelling was built before any zoning regulations. ~~and~~ The property will never be compliant with the 125' width requirement unless additional property is purchased which creates other non-conforming parcels and there are two different waterfront distances within the parcel, ~~and~~*
- (d) The variance request is not due to actions of the applicant, but is a result of subsequently adopted government regulation after the property was purchased and the dwelling was built. In addition, the enlargement of the structure removes one of the non-conformities from the parcel, **namely the issue of inadequate square footage for a dwelling.***

Approval of this variance request is contingent upon meeting the following conditions:

- (a) Staff will be diligent in following up to inspect for plumbing during construction to ensure that there is not plumbing and that this will not be a standalone dwelling, and*
- (b) The addition will be a 20' x 24' bedroom / sitting area, with an 8' porch as **described in the text, not the diagram.**"*

Page five, last paragraph should read, ("*...dangerous for people to take **waterfront / wetland** measurements ...*")

Moved by Maki, and seconded by Alholm, to approve the minutes for February 23, 2017 as corrected.

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

Tony Retaskie – believes this project will be good for jobs and building trades.

John Waldo – 1943 State Hwy M-28 – widening of M-28 he wants encroachment limited to the land side, not lake side. He also asked about color / graphics on the water tower.

Paul Angeloni – likes the work possibilities from this project

Deborah Mulcahey – 633 Lakewood Lane – concerned about agenda – lack of the word casino on the agenda, driveways, sewer, water and roads; demanded eight foot shoulders on M-28; mentioned three story building and water tank, set back, lighting and that casino created this problem

Rory Rankinen – Local 1329 – doesn't get what Mulcahey was trying to say about towers and blinking lights – why would she not want jobs created

Andy Olsen – 1195 Ortman Road – project is beneficial, good for jobs, long term growth, and community

Rick Stoll – 1927 M-28 – variance for neighborhood, Township took non-complying property and rezoned it commercial and now have to live with the various exceptions being asked for, not due to hardship, redesign is a choice, water tower should be shorter, variance doesn't limit later addition

Wietek-Stephens interjected that there is a limit, variance is granted for a thing, not anything

Dennis Tryan – 135 Kawbawgam Rd. – in favor of project, good neighbors, height of structures not a problem, feels it is good for property values, likes the commercial road

Roger Anderson – Gwinn – In favor, good for trades, jobs, good tourist attraction, wants the variance granted

Public Comment Closed at 7:30 p.m.

VI. Unfinished Business

None

VII. New Business

A. Variance Application ZB 17-02

Karen Alholm recused herself from participating and voting on this issue due to a conflict of interest. She is on the Alger-Delta Co-op Electric Board, which is the utility provider for the casino.

Wietek-Stephens motioned and Milton seconded to approve her recusal.

Vote Ayes: 4 Nays: 0 Motion Carried

Alternate Paul Charboneau joined the Board.

Throenle introduced the Variance Application for hotel and water tower, unique as KBIC was asking for a variance prior to the construction of the items being attached to the existing casino. Throenle read section 3.2 under Exemptions of the Zoning Ordinance for the record. In his opinion, the water tower should be considered a public utility.

Board Discussion

Wietek-Stephens asked the height of the tower, Throenle responded 186 feet.

Maki commented about the history of the zoning of the property and questioned the zoning. Wietek-Stephens asked Maki if his questions address tonight's issue. Maki responded that it pertains to history. He then asked about the four residential homes.

Throenle discussed the lot split record for four residential houses. They are not on commercial land. He then showed a graphic of the plan per Maki's request. Maki questioned variances for two other towers in the Township and talked about towers in general.

Maki asked if there was a reason we did not proceed to develop this under a planned unit

development. Throenle responded that they did, but it was looked at from the standpoint of what was already there. Maki is stating they didn't do a planned unit development does Dale have clarification? Wietek's understanding is KBIC did look at it. KBIC did look at a PUD but it was not pursued due to the development that was already there".

Peter Dupuis – Gundlach Champion Project Manager – He stated that the water tank is needed to provide adequate water pressure to the proposed buildings. The Township Fire Department has access to the water tank and the access road (Acorn Trail) that the fire department requested has been included in the plans. The height of the hotel is requested is a standard Choice Hotel design.

Wietek-Stephens asked which section is hiding the elevator shaft. Dupuis indicated the middle parapet. Wietek-Stephens asked if there will be lighting on the roof. Dupuis indicated there will be soft sconce lighting. Wietek-Stephens asked what options were considered for a shorter water tower. Dupuis responded that anything under this height is not good for water pressure. Wietek-Stephens asked how tall an adequate ground water tower would be. Dupuis responded that has not been looked at. Wietek-Stephens asked if the hotel would be two stories would it lower the height of the water tank. Dupuis did not have an exact answer. Dupuis thought it would but not sure how much, guessed it would mean lowering the hotel by 8' and maybe the tower would be lowered by 10". Wietek-Stephens requested more information on building a two story hotel and lowering the water tank height as it doesn't seem 10' of tower doesn't equal 10' of hotel. You would about 60' for hotel and elevation. Dupuis didn't have the information but thought it would still need to be somewhat lower but still pretty tall. Doesn't want to just throw numbers out.

Milton commented that the State of Michigan would have standards for a public water system, and stated water tanks are part of our master plan as we want to provide water and fire protection for our community. He was glad to see that there is a public / private component to this water system that is available to the community.

Wietek-Stephens interjected, that is good and the fire department usage is good, but the water tank height is correlated to the hotel. Milton commented that the height is not the issue, it is the pressure. Pressure and sprinklers were discussed. Maki asked Dupuis if they have done a water tank before. Dupuis responded no.

Dupuis pointed out the Township Fire Department requirements. The fire department will be provided a ships ladder, roof top hatch to access the roof, stand pipes at the end of each floor's hallways so the firemen do not have to haul so much hose up the stairs, and an access road, all of which have all been provided in the design.

Maki asked why the building is not subterranean, below grade. Dupuis responded that they did not consider that. Maki asked about 30' ladder height. Fire Chief Johnson responded that Township ladders are 35'; however, Johnson is more concerned about rooftop access. He pointed out that the Township has mutual aid agreements with Marquette Township and the City of Marquette fire departments. Johnson asked about

the roof top hatch; he was concerned with snow removal in the winter. Dupuis responded that staff will keep them clear. Johnson stated that the stairwell with direct rooftop access is the fire department's preference; however, the option presented is OK. The water tower is a benefit as there is not a close water source out there other than Lake LeVasseur.

Wietek-Stephens asked if the fire department has any concerns or comments. Johnson responded, the stand pipes are important so we do not have to drag 1000 feet of hose, sprinklers, access road are all good. Wietek-Stephens asked Dupuis if they were to provide stairwell, where would it be. Dupuis explained where and that it would require a higher parapet and that they would be willing to do that.

KBIC representative Don Wren interjected about the project and the benefit to the community. Wietek-Stephens asked if he missed public comment earlier. Wietek-Stephens directed Dupuis back to the discussion of a stairwell to the roof.

Maki asked how the sewer issues come in to play with the project and what happens if that portion of the project falls apart. Dupuis responded that approvals are in the pipeline and they are confident they will all be approved. Maki stated that the sewer would be built by KBIC and then turned over to the Township, and asked how the Township was going to fund maintenance. Dupuis stated that he could not answer that. Jason Ayres, real estate officer for KBIC, stated that fees would cover that. Maki stated that the Township has been unwilling to raise rates in order to fund these in the past. Ayres stated that KBIC will pay a fee as well. Ayres went on to discuss why a two story hotel is not competitive.

Jennifer Misegan – VP KBIC – thanked everyone for their time and discussed that KBIC originally wanted to go to the old airport, and the Governor would not allow it because of tax issues. KBIC enjoys being in Chocolay.

Wietek-Stephens understands the need to compete with Marquette hotels; she felt the hotel on the corner of 28 and 41 would not be able to compete.

Nicole Young – Marquette County Convention and Visitors Bureau – commented that she is excited for the project and complimented KBIC on being good neighbors.

Wietek-Stephens asked if anyone else wanted to comment.

Rick Stoll – commented about waste water and quality and quantity of water and what studies have been done.

Ayres described tests that had been done, how quickly wells came back, and that they expect to see no effect to other wells.

Wietek-Stephens asked if there would be lights on the tower. Throenle responded no, as there was no FAA requirement to do so. KBIC representatives responded that there would be no lights on the tower, no branding, no advertising and that they want it to fit

into the environment.

Milton discussed the height of the hotel and the mutual aid agreements for the fire department and stated that the only thing that limits the size of the building is fire protection between the floors and that the sprinkler system adds height. He discussed the height of the water tank and PSI (pounds per square inch) of pressure, and indicated that the tank would partially freeze in the winter. He felt the proposed water tank should be as is as required by the state.

Maki asked Milton about the formula for the water tank and Maki confirmed that the state has worked all of that out. Milton confirmed that the state DEQ reviews this based on the required water usage.

Wietek-Stephens feels that it is difficult to word a variance when it says “it is not a problem created by the applicant.” Milton feels they have mitigated everything. Wietek-Stephens was surprised that more people commented and were concerned with the water tower and not the hotel. She stated that in order to approve a variance the Board has to state why it was not a problem created by the applicant and that it will not alter the character of the neighborhood. She felt that those are difficult to argue because they will alter the character of the neighborhood as it is quite a tall structure. Milton stated that he did not see any opposition to the project, none from people who live near the proposed structures and that if there were any problems they would have brought them up. Wietek-Stephens asked if we received any written. Throenle responded no, we sent out seventy-nine letters and there were no letters, comments, emails or anything. Nothing came up in terms of the height of the hotel or the height of the water tower.

Wietek-Stephens allowed public comment.

Mike Angeli – 220 Kawbawgam – He talked about the casino being in his backyard, and stated he does not mind the height of the hotel or water tower. He wanted to know if someone will buy his house, as they are putting up a privacy fence.

John Waldo – claimed he sent an email today and that he made repeated phone calls and that he drafted a letter.

Maki asked Waldo if he made a public comment and that the Township did not receive it. Waldo stated that the phone call was returned after public comment.

Maki commented about water towers and their height. He asked about building a smaller tank. Dupuis responded that it is not practical and would be an additional cost upwards of \$200,000. Throenle explained that water towers are a public utility regulated by the DEQ and FAA.

Maki suggested to Wietek-Stephens that the Board should approach this variance in three different ways. One is the tower, one is the building and one is the parapet. Maki agreed that a three story hotel is marketable and is an attraction that draws people in. Maki wanted to do a motion; Wietek-Stephens wanted to discuss further because she felt that the burden of meeting the requirements of the motion have not been satisfied.

Wietek-Stephens stated that the Board is allowed to deviate from the zoning ordinance if the spirit of the zoning ordinance is observed, public safety is secured, and substantial justice is done. To grant a variance for the building, the roof of the building is only three feet above the zoning ordinance with the exception of the stair tower. Wietek-Stephens asked if anyone on the Board had any concerns with allowing the thirty-three foot variance for the height of the hotel. Milton commented that the parapet is beneficial to keep the fire from jumping. Wietek-Stephens redirected the Board to the fact that Maki wanted to talk about the parapet separately. Wietek-Stephens stated that the proposed roof is thirty-three feet, the elevator is thirty-eight feet, and the stairwell is thirty-seven feet. Maki asked how the elevator is hidden by the parapet. A KBIC representative showed how on a graphic. Maki asked Wietek-Stephens to confirm that they are discussing the heights of everything to satisfy the Fire Department. Chief Johnson stated he is OK with everything and reiterated that he is mostly concerned with the snow removal on the roof hatch. Wietek-Stephens asked if the stairwell could be lowered. Dupuis stated that he would have to ask the hotel. The parapets are part of the design to hide the necessary roof top items.

Wietek-Stephens asked again if the Board had any issues with the height of the roof. Maki made a motion that the Board accept the project plan for the building as proposed because the building is set back so far away from anything and will not be able to be seen from the road. Wietek-Stephens asked Maki if he was making a specific motion. Maki stated he is making a motion because he feels that KBIC has satisfied the fire issues, sprinkler system and that the parapets are designed to hide structures on the roof and give the building a nice design and provide for safety. Wietek-Stephens asked if the motion he was making covers the building and the parapets as shown. Maki said yes and went on to describe the way he would have preferred things to be done. Wietek-Stephens directed Maki to page eight of the packet and to go with that formal language because it is one variance request and needs to be one motion. Maki feels that they are separate issues and would like to discuss the water tower separately.

Wietek-Stephens opened a discussion about the water tower and stated her conditions for the water tower as follows: there are to be no lights, a requirement for subtle paint colors, no advertisements on the tower and for the building staff to keep the roof hatch clear of snow for the fire department. Wietek-Stephens asked Maki what he wanted to discuss about the tower. Maki stated there are no signs or lights proposed and that he thought it was common to have a municipal name on the water tower. Maki asked Throenle about the west lot line and the residential lots. Throenle addressed that if the tower were to drop that it would drop on the commercial property and would not reach the residential lots. Wietek-Stephens asked if the tower were to fall if the water would impact any residents. Throenle stated no.

Maki moved, Milton seconded that after conducting a public hearing and review of the Staff Review and Analysis for Variance Request ZB 17-02 for parcel 52-02-112-048-00 at 200 Zhooniyaa Milkana Trail, Marquette, MI, the Zoning Board of Appeals finds that

the request demonstrates the standards pertaining to the granting of non-use variances, and hereby approves Variance Request ZB 17-02 with the following findings of fact: (must prove all conditions a-d)

- (a) Strict enforcement of the Zoning Ordinance would cause practical difficulty because the building exceeds the height by only three feet based on the location of the site, the excess of setbacks from the road, the desire to make an attractive building with parapets functioning as a design on the front to hide the roof type utilities that are necessary for the project and*
- (b) Granting the variance would not be contrary to the public interest because the building will be sprinkled and is designed to satisfy setback issues, the height issue doesn't impede any view and the fire department issues have been resolved through mutual aid agreements and through the design changes to accommodate the roof top access and ships ladder. The water tower height is designed to accommodate the need to supply the water system and fire department and*
- (c) There are circumstances unique to this property including existing casino, development to accommodate that development and expansion and*
- (d) The variance request is not due to actions of the applicant, but is a result of trying to establish a modern facility.*

The conditions are as follows;

- 1. To provide the ships ladder with a latch to assist the fire department and that the water tower be accommodated with a fire hydrant to assist the fire department with fire suppression in the area and the immediate community;*
- 2. No lighting, logos or signage on the water tower, subtle colors to be used.*

Vote: AYES: 4 NAYS: 1 (Wietek-Stephens)

MOTION CARRIED

Recess at 9:30 p.m.

Wietek-Stephens called the meeting back in session at 9:35 p.m.

Alholm rejoined for substitute Paul Charboneau.

VIII. Public Comment

Nicole Young – Marquette County Convention and Visitor's Bureau – commented on being excited for the Township and appreciates the time the ZBA took to approve the motion.

IX. Township Board Member/Planning Commission Member Comment

Maki (Board Member) – discussed zoning enforcement and how they are dragging their feet on enforcement. He also commented on violations.

Milton (Planning Commission member) – no comments

Angeli - asked how zoning is enforced, and if citations are issued.

Wietek-Stephens – asked Maki if the Township Board has discussed getting Throenle an administrative assistant.

Throenle – discussed recent staff transitions and that he takes the enforcement comments seriously - he is still learning the job and feels he can improve his time management skills.

Kendell – likes the idea of a public/private water system and would like to see a 250,000 gallon water tank.

X. Informational

None

XI. Adjournment

Wietek-Stephens adjourned the meeting at 9:45 PM

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS**

Thursday, March 22, 2018

5:30 PM

I. Meeting Called to Order/Roll Call

Chairperson Michelle Wietek-Stephens called the meeting to order at 5:30 PM.

Members Present: Chairperson – Michelle Wietek Stephens; Vice Chairperson – Karen Alholm; Secretary - Kendell Milton; Board Member – Mark Maki; Member - Geno Angeli; Alternate – Paul Charboneau

Members Absent: None

Staff Present: Dale Throenle, Planning Director/Zoning Administrator; Lisa Perry, Administrative Assistant

II. Approval of Agenda

Moved by Alholm and seconded by Wietek-Stephens, to approve the agenda for March 22, 2018 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

III. Approval of June 22, 2017 Minutes

Moved by Maki, and seconded by Alholm, to get a revised edition of the minutes to reflect the discussion and changes for review.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Public Comment

None

V. Public Hearings

None

VI. Presentations

None

VII. Unfinished Business

None

VIII. New Business

A. Appointment of Officers

Alholm moved, Angeli seconded to nominate Wietek-Stephens as Chair.

AYES: 5 NAYS: 0 MOTION CARRIED

Wietek-Stephens moved, Maki seconded to nominate Alholm as Vice-Chair.

AYES: 5 NAYS: 0 MOTION CARRIED

Maki moved, Wietek-Stephens seconded to nominate Milton as Secretary.

AYES: 5 NAYS: 0 MOTION CARRIED

B. Review of 2018 Calendar

The Zoning Board discussed conflicts of the schedule.

Alholm moved, Wietek-Stephens seconded to adopt the 2018 Meeting Calendar as proposed.

AYES: 5 NAYS: 0 MOTION CARRIED

IX. Public Comment

None

X. Commissioner's Comments

Mark Maki (Board representative) – asked if the ZBA could revisit some of the issues that were granted or were not granted as a learning tool.

The Township Board has had some amendments to some of the ordinances, specifically the fireworks and noise ordinances.

The Township Board has also set up a committee to look at some of the ordinances in the Township. The purpose being to see if any changes need to go before the Board, as some of the ordinances have been around for a while.

Suggested that the Planning Commission should consider looking at languages pertaining to height issues in the Township.

Road Millage has passed, the Board has not addressed it yet as a final plan, should be coming soon. Addressed questions pertaining to the road millage. Suggested they could contact the new Township manager, Jon Kangas with questions regarding the ranking/prioritizing system.

Addressed questions asked regarding fireworks.

Wietek-Stephens – who would do the research if we did go back and revisit sites? Asked if the fireworks ordinance passed and if passed as written?

Milton (Planning Commission representative) – asked questions pertaining to the road millage.

Alholm – asked questions pertaining to the road millage and site follow up.

Angeli – asked questions pertaining to the road millage. Also asked if there was anything in place for follow up within the Township, would also like to do follow up on sites that have been done.

XI. Director's Comments

Throenle explained there is a newsletter included in the packet, which is also on the Web. It gives the Board update, which includes what the staff have been doing for the month.

XII. Informational Items and Correspondence

A. Township Board Minutes 02.12.18

B. Township Newsletter – March, 2018

XIII. Adjournment

Alholm moved to adjourn, Wietek-Stephens seconded, meeting was adjourned at
6:08 PM

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS

Thursday, September 27, 2018

7:00 PM

I. Meeting Called to Order/Roll Call

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:00 PM.

Members Present: Chairperson – Michelle Wietek Stephens; Vice Chairperson – Karen Alholm; Secretary - Kendell Milton; Board Member – Mark Maki; Member - Geno Angeli; Alternate – Paul Charboneau

Members Absent: None

Staff Present: Dale Throenle, Planning Director/Zoning Administrator; Lisa Perry, Administrative Assistant

II. Approval of Agenda

Moved by Alholm and seconded by Wietek-Stephens, to approve the agenda for September 27, 2018 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

III. Approval of Minutes

A. June 22, 2017 Zoning Board of Appeals meeting minutes.

Moved by Wietek Stephens, and seconded by Maki, to get a third revised edition of the minutes to reflect the discussion and changes for review.

Vote Ayes: 5 Nays: 0 Motion Carried

B. March 22, 2018 Zoning Board of Appeals meeting.

Moved by Maki, and seconded by Alholm, to approve them as written

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Public Comment

Elizabeth Delene, 232 Kawbawgam Road – Lived at this property for 20 years. Has complaints regarding the casino lights and trash, dead birds in her yard, and vibrations within her home from the casino generators. Shared photos regarding the lights and dead birds. Wants to be a good neighbor and find a solution, has called the casino and nothing has been done. Yard was clear cut five feet beyond the easement by SEMCO, flowers were cut and bird nests were left on the ground. Lights are brighter now that the trees have been cut. Has spent \$1000 on replacement trees, put in extra insulation, new triple windows with blackout window coverings, and uses a sound machine to keep out noise. There is a fence, but lights shine above the fence.

Deborah Mulcahey, 633 Lakewood Lane – Asked about the status of the archeological review that is to be done before the start of construction. Is confused by the request for the variance, understands there is a request for the sign and portico but the literature of the request talks about increasing the height of the building inside. Are they talking about changing the height of the building itself or changing of the building? Referencing the height of the building, she sees it happen where the height is agreed upon but then the applicant brings in truckloads of sand to the building location which adds to the elevation. Have property elevations been provided to the Township to prevent this? Has concerns about the lights with Lake LeVasseur being nearby. Feels there needs to be something done to address the need, for the applicant, to have lights that do not impact the wildlife and public as a whole.

Wietek Stephens asked if the public present tonight was at the June 22, 2017 meeting where the variance for the height of the building and the sign. Wietek Stephens had made a comment at that meeting regarding the lack of issues brought forth when looking at the hotel.

Kurt Rife, 202 Wanda Street – Appreciates the invitation to the meeting and that the Zoning Department does go over the ordinances. His feelings on variances is, if there have been no recent changes to the ordinances, why build something that is in violation of the ordinance? Why have to ask for a variance? Not in favor of bingo or a casino.

Public comment closed at 7:27 pm.

Alholm interjected she would not be recusing herself from any discussion/decision tonight as there is no monetary impact with tonight's meeting for the Alger-Delta utility company (for which she is a member of their board). This project is already going through and the meeting tonight is for more aesthetic/cosmetic issues. Wietek Stephens thanked her for clarifying this.

VII. New Business

A. Variance Application ZV 18-57

Staff Introduction

The applicant is proposing to extend the height of the casino entrance to 32' 8" to accommodate an architectural design for the building and to add a sign on the front of the entrance.

The applicant is proposing to set the sign structure height to 45' to accommodate the entrance signage.

The primary focuses of the height extensions is to accommodate architectural design for the casino entrance. The purpose of the height extension for the entrance is to accommodate structural and architectural design inside the proposed casino. The purpose of the extended height of the signage structure is to design an entrance that will be easily identifiable for those entering the property, and the actual sign will be a portion of the structure.

There were three written comments from the public, but one of the comments did not directly relate to the project (comments are included in the packet materials). One call was received related to the project, which resulted in one of the written comments.

Board Discussion

Wietek Stephens asked if the sign would be lit. Casino representatives stated it would be. She also questioned why it wasn't designed to comply with the ordinance.

Maki suggested they let the representatives of the casino make their presentation but would first like to ask Throenle questions.

Maki asked Throenle why the notice for the meeting on the 27th, that was in the paper, stated that written comments were only being received until September 19th. Throenle stated the date was established so the written comments could be included in the distribution of the packets to the Boards/Commissions, which is standard for all Township packets.

Maki also asked about a 40' height that was mentioned in the previous variance, he felt the hotel variance previously granted was 33'. Peter Dupuis, project manager from Gundlach Champion didn't have the plans but felt the top of the hotel was around 33' and with the parapet it would be 40'.

Maki also asked if the lighting came up with Zoning when they did the site plan review. He asked if the Planning Commission put any conditions to buffer the lighting when they did the site plan review. Throenle stated they do but didn't have that paperwork with him. Throenle said the concept was for the new structure to have all downcast lighting, no lighting or signage on the water tower, the perimeter lights would also be downcast lights, and the buffers were set up as fences along the property line. Throenle said this was what taken into account when the site plan review was done. What is out there now will all be replaced with the downcast lighting. Dupuis commented that the fixtures were approved as low impact lighting and as far as the landscaping portion, KBIC agreed to extend the separation fence between the parking lot and residences, when the project was finished. Maki asked

about the construction schedule and Dupuis answered it runs through next year (2019). Alholm asked about the length of the buffer fence and was told the existing fence is around 10' in height

Maki asked for clarification of the residential property being used as commercial for the parking lot. Throenle stated it has been this way since 1997 as that is when the parking lot has was put in, which was long before he came to work for the Township. Wietek Stephens asked how this pertained to tonight's variance request. Throenle stated he didn't believe it did so. Wietek Stephens asked to move onto the applicant's presentation.

Sam Olbekson, design principal with Cuningham Architecture, referred to the design plans. He explained most of the project is on tribal land and they kept the designed height of the building as low as possible. However, there were design issues with the event center portion if the height of the building was kept to 30'. He explained they expanded the gaming facility location away from the adjacent neighbors.

He added there will also be a restaurant located where the existing casino is and that it will act as a buffer and will not have any outdoor lights. This allows the entrance of the gaming facility to be moved farther away from the residential units.

Olbekson confirmed that the lights being used have been looked at from a light pollution standpoint and will be pointed down. They will be self-illuminating and won't project light out.

Olbekson explained the area of the entrance is brightly lit to direct people where to go and for safety. The lighting also helps with the elder and handicap parking. The height of the porte cochere is designed to accommodate a fire truck.

Maki asked where the existing casino is and was told this would be the restaurant when the new facility was done. Maki also asked if Olbekson knew the reason why the casino was built so close to residential land when there was an excess of land available. Olbekson stated he did not know.

Maki asked if the site plan is the same as the one that was originally presented and was told it was. He questioned the location of the restaurant and was assured this was the same. Maki stated the existing building is 30'4" and asked if the new building would be the same. Maki also wanted to know how they got approval for that height as it is higher than what is allowed in the Township ordinance. Olbekson responded that the addition would be slightly over that due to the flashing that helps keeps water out when adding onto an existing building. Olbekson reminded him that section is on tribal trust land. Maki asked if the casino is all on trust land and the

answer was yes. Olbekson also explained the vestibule, the fire truck lanes and the support for the vestibule, which also holds the sign are not on trust land, as well as the restaurant and hotel.

Wietek Stephens asked if the restaurant needed a variance for the height and was told no as it was lower than the overall mass of the building. She also confirmed that the vestibule would be attached to the building for the reason being the application summary referred to a minimum height of 16-1/2' for a detached building. Throenle explained he did it this way as it would be considered detached if it was built by itself from a variance scenario. The original variance said 40' took into account everything being connected, until everything else is built it would be considered a detached building.

Wietek Stephens asked if it would need a variance if it were an addition to an existing building. Throenle stated if it exceeded the 30' height it would, which it does in this case as it goes to 32'8". She asked if it then would only need a 2'8" variance and not a 16' variance. Throenle said that would be correct.

Olbekson stated again the entrance lights would be pointing to the ground, as they were not intended to be a beacon or seen from the adjacent highway. Lights will be soft glowing. Angeli asked if there would be any spotlights on the roof area and Olbekson stated it would be soft glowing, backlit lights.

Maki asked the size of the sign, Olbekson replied it would be about 6' x 6', but it is still in the design stage. Maki asked why they would need 45' if the building is 30' and the sign is 6' -- that is 36'. Olbekson explained that the sign will be on one of the walls that is part of the porte cochere.

Wietek Stephens verified that the sign structure, other than the water tower, would be the tallest thing on the site at 45 and the parapets for the hotel would be at 40'.

Maki stated all of these items should be on the site plan review. When they are not, he said, this is where the variance issues happen.

Wietek Stephens had issues that the previous variance request for a large hotel was now being used to justify the request for something even taller. She asked if they had known a taller sign request was coming, would they have approved the hotel.

Throenle asked what the impact would be if the sign height was reduced from 45' to 40'. Olbekson stated the impact of the 40' would not serve its functional purpose and would stand out less than the adjacent building. Olbekson felt there would be

confusion of where to go and that is one of the primary considerations in planning an entrance like this. It needs a presence and to stand out.

Olbekson stated they are trying to establish a circulation pattern for traffic. This is not a motel, this is a hotel. The owner wants this to be classier than a motel, as it will have a new logo and be a beautiful building. He felt the Township would not want anything less than this elegant, beautiful structure. He felt the architects did their due diligence to design this to the proportions.

Wietek Stephens asked if the parking lot lights are the new ones, Olbekson stated they were not and technology has come a long way. She also asked if the new lights were going to be brighter or less obtrusive and Olbekson answered that they were less obtrusive.

Wietek Stephens also asked about the lighting below the sign of the entranceway and which way it was pointing. Olbekson answered that it would be LED lights, nothing flashing and the light will be directed down. Alholm questioned if the light from the sign would cause any more light pollution for the neighbors on Kawbawgam Road than what is there now. Olbekson stated no, it would be less harsh than the existing lighting.

Wietek Stephens asked about detached height versus attached height and why this was not called an addition to the existing building. Throenle stated that we could look at it as an addition. He looked at it if the hotel was not built or it was built by itself. She asked if the building is being built at 32'8". Throenle stated the building is being built at 30'4" but the section for the entrance is why they are asking for the additional 2'8". The building itself is on tribal land so it does not have to meet any height restrictions. Wietek Stephens felt it should be a condition, if approved, that they have to attach to the building it goes to.

Maki asked why it couldn't be the same height, 30', as the building. Throenle stated it was his understanding it had to do with the internal design of the casino itself. Olbekson stated the building, even though it is on trust land, is designed to a minimum. The project is designed to be economically responsible to a budget. They want fire trucks to have access to the porte cochere, want it to be lit so it is known where the entrance is, and none of it disregarded current zoning. Olbekson said this property cannot be seen from the highway and Olbekson felt this is respectful to the lighting concerns and branding and identity.

Wietek Stephens opened the meeting for Public Comment to discuss if the granting of this variance would be contrary to the public. She said it seems the casino is asking for a 2'8" height variance above the 30' allowed height for the rectangular

entrance and the sign structure is 45' and 30' is allowed. She asked for comment from the public on those two issues.

Public Comment

Elizabeth Delene, 232 Kawbawgam Road – Not against the casino but feels she sees people at their destination now but still has the issue of light shining in her back yard. How can you guarantee she will be better off with a hotel facing her and the portico with a sign on it?

Deborah Mulcahey, 633 Lakewood Lane – All for aesthetics, likes to know where she is going but feels the sign could be moved so it wouldn't affect the people around the casino or the wildlife. Maybe have a separate sign for the emblem, maybe at the entrance when they drive in. The 2' x" may not seem like much but they already had a variance. She also questioned signage for the restaurant.

Wietek Stephens asked about the entrance to the restaurant, in reference to the comment above. Olbekson commented there is no entrance or signage for the restaurant from the outside, only access is from the inside of the casino.

Maki questioned if there were to be any signs or lighting on the restaurant at all. Olbekson commented that the signs would be when entering the main entrance and the only lighting from the restaurant would be from the windows from the restaurant as seen from the parking lot.

Kurt Rife, 202 Wanda Street – Interjected from the audience regarding the signs and the mechanical that would be located on the top of the building.

Maki asked questions to clarify the heights above the roof of the canopy. Olbekson explained that the heights had to be where they are to provide direction to the people as they were driving towards the entrance.

Throenle explained that without the height variance requested, you would not be able to find the entrance from the back of the parking lot. The height allows for people to see over any vehicles or other objects that may be in line of view.

Board Decision

Moved by Wietek Stephens, and seconded by Angeli that after conducting a Public Hearing and review of the staff review and analysis for variance request ZV 18-57, for parcel 52-02-112-048-70 at 200 Zhooniyaa Miikana Trail in Marquette, MI, the Zoning Board of Appeals finds that this request demonstrates the standards

pertaining to the granting of non-use variances and hereby approves variance request ZV 18-57 with the following findings of facts and conditions at the end.

Strict enforcement of the Zoning Ordinance would cause practical difficulty because they are asking for minimal intrusion of height with regard to the porte cochere (entryway), it comes down to a 2'8" variance for what is felt to be valid architectural reasons. Granting the variance would not be contrary to the public interest because the most obtrusive part of this project appears to be the light source above the entryway that is lighting up the walking area and the parking area which is below the allowed heights and does not require a variance. The signage above the height restrictions, that requires the variance, has minimal lighting. There are circumstances unique to this property including the 30'4" building that is going to be built on trust land which is outside of our jurisdiction.

It is known that the variance request is due to the actions of the applicant. Approval of this variance request is contingent on meeting the following conditions:

- 1) The entryway variance is being granted for 32'8" without any additional fill above what is present (so not to add 10' of fill and then the building of 32'4" on top of that). No significant alteration to the height of the site.*
- 2) The sign structure is granted a variance for 40' rather than the 45' to bring it in line with the maximum height of the hotel architectural features.*
- 3) This variance is only permitting the structure to be built if the structure behind it, on trust land, is actually constructed.*
- 4) That the light impacts continue to be minimized as presented tonight.*

AYES: 4

NAYS: 1 (Maki)

MOTION CARRIED

VIII. Public Comment

Janice Simpson, 231 Kawbawgam – Commented on the noise from the generator when the power goes out. Asked if it will be moved with the renovation or remain in the same spot. Questioned where the construction trucks are going on Kawbawgam Road, they have torn the road up. Has a neighbor with a junk yard in their back yard, cars with no license plate. This is against the ordinance. Has stopped in the Township office to complain.

Deborah Mulcahey, 633 Lakewood Lane – Not sure where the architect lives, but assumes it's not in the immediate community. People have different perspectives of being a good neighbor. Commented on generators in her neighborhood, people have those rights but may be something to be discussed with Planning regarding buffering.

Why isn't the casino addressing the issues of noise and garbage? Could add vegetation for aesthetics and to help buffer noise. Questioned why there was no service road for the casino to use. Asked that the casino to be a good neighbor now, not wait for the new casino to be built.

Elizabeth Delene, 232 Kawbawgam Road – Presented a taped recording of the noise inside her house from the generators at the casino.

IX. Township Board Member/Planning Commission Member Comments

Mark Maki (Board representative) – Commented on the failure of the Township to address short term rentals. Also spoke of the Planning Commission appointment process not being followed by the Township Board and/or Supervisor, specifically the Board members not provided with materials to be reviewed beforehand.

Milton (Planning Commission representative) – No Comments

Wietek Stephens asked that the correspondence be moved from the back of the package to the area of the packet it pertains to. In the agenda format, under the New Business section for variance applications, would like a space for applicant and public comment within the decision making process.

Director's Comments

Throenle stated there will be a ZBA meeting next month.

Informational Items and Correspondence

- A. Township Newsletter – September, 2018
- B. Correspondence – Delene
- C. Correspondence – Stoll
- D. Correspondence – Pavalkyte/Waldo

X. Adjournment

Wietek-Stephens adjourned the meeting at 9:43 PM

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS

Thursday, October 25, 2018

7:00 PM

I. Meeting Called to Order/Roll Call

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:00 PM.

Members Present: Chairperson – Michelle Wietek Stephens; Vice Chairperson – Karen Alholm; Secretary - Kendell Milton; Board Member – Mark Maki; Member - Geno Angeli; Alternate – Paul Charboneau

Members Absent: None

Staff Present: Dale Throenle, Planning Director/Zoning Administrator; Lisa Perry, Administrative Assistant

II. Approval of Agenda

Moved by Alholm and seconded by Wietek-Stephens, to approve the agenda for October 25, 2018 as changed with the additions below.

Wietek-Stephens would like to discuss accepting comments up until the meeting date, under Informational Items and Correspondence.

Vote Ayes: 5 Nays: 0 Motion Carried

III. Approval of Minutes

A. June 22, 2017 Zoning Board of Appeals meeting minutes.

Moved by Maki, and seconded by Wietek Stephens, to approve the minutes as changed with the revisions stated tonight.

Vote Ayes: 5 Nays: 0 Motion Carried

B. September 27, 2018 Zoning Board of Appeals meeting minutes

Moved by Maki, and seconded by Alholm, to approve the minutes as changed with the revisions stated tonight.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Public Comment

Jason Gauthier, 1242 Cooper Lake Road, Ishpeming, MI – Was here representing Carol and Charles Booth of 281 Lakewood Lane. The Booths have a variance application submitted for a modest addition to the northwest corner of their building. He was here to answer any questions in regards to that application.

Wietek-Stephens asked if he was the contractor/friend of the applicant, Gauthier stated he was the architect.

Maki stated he did not see a map anywhere in the packet that showed this. Wietek-Stephens pointed out the plans that were brought to the meeting were more helpful.

Public comment closed at 7:17 pm.

VII. New Business

A. Variance Application ZV 18-59

Staff Introduction

Background

Staff received a Zoning Compliance application for an addition and deck replacement at 281 Lakewood Lane. When reviewing the application, staff saw that the addition and deck were to be added to a structure that was within the 100' setback from the nearby bayou. Staff related this information to the applicant, with the instructions to submit a Zoning Variance Application with the intent of receiving a variance from the setback requirement from the Zoning Board of Appeals (ZBA) so that the planned construction could take place. The applicant filed the application (ZV 18-59) on September 24, and a ZBA hearing was set for October 25.

Staff determination for the setback variance requirement was based on three items:

- 1) On May 25, 2017 the owner of the property at 209 Lakewood Lane sought a variance from the ZBA (case ZB 17-01) for a similar project on that property.
- 2) In an email from the DEQ regarding that case, the DEQ designated a bayou in the Township as a "body of water". (see email attachments)
- 3) In Section 6.8 Waterfront Setback of the Zoning Ordinance, it states:

"All new structures on lots abutting any body of water, including but not limited to inland lakes, rivers, streams, creeks, impoundments, and Lake Superior, shall maintain a minimum setback of 100 feet as measured from the edge of a river or the edge of a lake's shoreline."

Staff Findings

Staff proceeded to develop the packet for the ZBA hearing, and in doing so, staff discovered the existing structure was built in its current location as a new structure in 1992. Staff pulled a copy of the original *Application for Zoning Compliance Permit* (92-9) from Township records to determine how the structure was permitted within the 100' setback in 1992.

When reviewing the application, staff discovered the following text in the Remarks section of the application:

"Located in DNR high risk erosion area.

Sec 403 exempt from 100' setback. No exempt from 30' area within water bayou edge. Copy given to applicant". (see attached Application for Zoning Compliance Permit 92-9)

In reviewing the 1977 Zoning Ordinance in effect at that time, the language in Section 403 WATERFRONT SETBACK of that ordinance states:

“All new structures on lots abutting any body of water, including but not limited to inland lakes, rivers, streams, creeks, impoundments, and Lake Superior, shall maintain a minimum setback of 100 feet as measured from the edge of a river or the edge of a lake's shoreline.”

This language is identical to the language adopted in Section 6.8 Waterfront Setback in the current Township Zoning Ordinance. (see attached ordinance extracts from 1977 and 2008)

Staff interpretation of the remarks is that the setback was not required; however, the requirement for the 30' buffer remained in place, and, as shown in the property pictures, this buffer still exists.

Board Discussion

Wietek-Stephens did not understand the comment about exempt from 100' setback. Throenle said it was based on the interpretation of the comments indicating that in 1992 that the bayou was not considered a body of water.

Wietek-Stephen's interpretation was that the variance in 1992 was granted for the plan that was presented at the time. Throenle and Maki stated it did not go before the Zoning Board, Maki stated he would give insight as he was the Zoning Administrator at that time.

Maki stated when looking at the language that existed in 1992 states that “*These provisions do not apply to any nonconforming parcel of land or use on a recorded plat, or described in a deed or land contract executed and delivered prior to the effective date of the Ordinance.*” This lot was a nonconforming lot as it was only 100' wide.

The history goes back even farther. In the 1970s when they were doing the Zoning Ordinance and trying to impose the 100' setback, that was one of the major issues with certain areas in the Township as many public comments were objecting the 100' setback, so the Township Board put in exemptions for the many parcels involved. Maki met with the Planning Commission in 1978 and explained they may not want to do this; they agreed, created amended language to bring before the Board. They brought it before the Board, there were the same objections in that Public Comment, but the Board refused to adopt the amended language. This is how the language exempting those setbacks existed for many years. There was exempting language in the Zoning Ordinance from 1977 to 2008 and the only thing applied was the 30' buffer and this is why it was permitted to be built within the 100' setback.

Wietek-Stephens thanked him for the explanation of how the house was built but the construction in 1992 was permitted to proceed according to the plans presented to the Zoning Administrator at that time which did not include the deck or addition we are looking at tonight. She did not feel they need to look at what Ordinance was in place for the work in 1992 for the existing work.

Throenle asked if they are adding to a property that was already exempted, why should they go through the process? Maki stated because they are no longer

exempted. Throenle stated this is the information he needs tonight before going into the actual presentation tonight pertaining to the 100' setback being removed from consideration.

Wietek-Stephens stated there were many properties before there even was a Zoning Ordinance. Does the permit hold up or does the Ordinance take precedence? Wietek-Stephen's interpretation is that the current Ordinance applies to the situation.

Alholm stated she did not know the law or legal decisions relative to a Planning Administrator stating it is exempt under current Ordinances if this continues to the subsequent owners or not. Wietek-Stephens stated it could not as the structures that were built under prior ordinances would not be able to be regulated, there would not be any nonconforming properties or issues.

With this being said Throenle asked for a motion for clarification to determine which way the ZBA interprets this from the standpoint of which takes precedence.

Wietek-Stephens motioned Alholm seconded that for clarification purposes it is moved that the current Zoning Ordinance is what applies to the construction project presented before us today.

AYES: 5

NAYS: 0

MOTION CARRIED

Throenle continued on with the application summary stating the proposed new addition and replacement deck would be two feet closer to the house which brings the non-compliance of the east corner of the house from 59' to 61'. (the additional measurements of the summary inadvertently says west end of the house, it should read the east end of the house).

Maki asked why there was not map provided that shows existing verses proposed in the packet, other than what was presented this evening.

Maki also asked when the original deck was built. Throenle stated he did know this answer; he would have to go through all the records. If it was added since 1992 it was not part of the original application and he knows it has not been done in the last seven years. Maki stated it was not part of the original application.

Throenle stated the only record he looked at for this hearing was the original building record. Maki stated he was asking because if it was built after the Ordinance was amended it would not be in compliance. Throenle agreed.

Gauthier, the applicant's representative, stated that the current owners inherited the property. They did not build it and they would not know any details.

Throenle stated he asked for the interpretation tonight, depends how the bayou was looked at. Was it considered a body of water when the deck was built? Maki stated it was. Throenle told the Zoning Board he had looked at the house two doors down and in 1990 their application was approved with the bayou called a marsh; it is the same bayou. Throenle had a hearing last year to get a declaration if it was a body of water or not.

Throenle explained that the current project that would replace the existing deck would push the non-conformance permit out as the non-conformance only exists on 1/3 of the house.

Maki asked about the diagram from the 1992 permit as it shows a bayou on each end, does this mean there is not a bayou on the west end? Throenle told him from the far end of the bayou closest to the lake, where the picture was taken, from that corner you are looking at Lake Superior. On the picture presented it is basically a wide path between the two bayous that goes out to the lake.

Throenle stated the edge of the property where the extension is proposed will be a straight shot to the lake. The deck will be to the edge and into the area the bayou, which led to the question for the non-conformance of the 59' to the water. Maki asked if the bayou on the west side exists, Throenle stated not at that particular property. According to the diagram it is extended too far but it was probably filled in at some point as it was the Chocoley River. Historically it was the original path of the Chocoley River but is not sure what happened in the 1980s and 1990s when these properties were built.

Wietek-Stephens stated they were told at a different meeting where the bayou was an issue it was filled in. The landowners filled it in which redirected the river. Throenle stated the bayous have no inlet or outlet and are standing bodies of water. Depending on rainfall, they go up or down in temperature, etc. There are fish in them but from the from the shoreline standpoint it fluctuates with the rain. He has no maps that represent the historical progression of the bayou.

Wietek-Stephens questioned the dotted line on the map presented. She asked if that was the 59' from the corner to the bayou. Throenle stated it was. She stated, according to the map they had from the architect, it looked as if none of the project would be outside the 100' setback. She stated from that map, it looked as if the project ran the whole length of the house, where even the farthest corner from the bayou (which is considered an official body of water per the DEQ) would not be outside the 100'. Throenle measured it and stated it was 105'.

Gauthier showed the Zoning Board where the proposed project would be, explained where the existing deck and hot tub are currently would be an enclosed addition with a deck added 40 feet from there. Alholm asked if it went to the end of the structure and Gauthier stated it did not. Maki asked why there was no sketch showing this in the packet. Throenle stated it was partially because he has nothing capable of scanning the size prints presented by the architect and asked if they could move forward as it is irrelevant at this point. Wietek-Stephens does not want to hash this out now but agreed with Maki that it would make it easier if they had something to review ahead of time as it is an important piece of information. She also was confused by what addition was being proposed as there was nothing in the packet that suggested what the applicant was attempting to do.

Wietek-Stephens noted for the minutes that Gauthier approached the Board table to show the Board where the proposed addition was happening on the blueprint.

Maki asked Gauthier several questions regarding the current and proposed deck/addition.

Wietek-Stephens felt they should not use the existing deck's encroachment into the 100' setback as justification for this being better as they do not know when the original deck was built and if it was built according to the regulations. She feels this should be looked at as a stand-alone issue. Throenle asked if she wanted him to go through the records and find when the original deck was added and she stated no. The current deck request should be looked at as a stand-alone issue in her opinion.

Maki asked if the northeast corner of the deck was the closest to the bayou and Throenle said it would be. Maki asked how close, Throenle stated from the angle standpoint the measurements he was using on the presentation screen are fairly accurate, it would be 60'. This would be 48'9" after including the 12' Maki reminded him he had to go out from the house. Throenle stated this measurement was from the edge of the house to the closest water, from the picture provided, but reminded the Board that the edge of the water changes with debris floating in the water.

Throenle also reminded the Board that there was a previous variance request, in 2017, which was under 50' and was approved. He could pull the record on that to see what the request was. They are both similar distances regarding both structures.

Wietek-Stephens stated the two properties to the west seem much closer to the bayou than the one being presented. Throenle stated from the pictures he has, the property to the immediate west, the deck is right on the edge of the bayou.

Alholm questioned Wietek-Stephens on the reason to consider this a stand-alone without any consideration for the deck. She questioned if they were to assume it was done without a permit. Wietek-Stephens answered they did not know it was done with a permit or done under the new Zoning Ordinance that required a 100' setback. If it was done under the new Zoning Ordinance, it was probably non-compliant. It is being said it looks older than the new Zoning Ordinance but that is only a guess. Alholm stated it does look like the wood was not finished or treated and could have weathered quickly.

Maki asked if the existing deck goes as far as the garage/mudroom. Gauthier stated he felt it did not go that far. Maki stated if they had a deck that was roughly 12' x 40' it would be half the size and would be about 58' verses the 49' from the bayou. Gauthier also stated they are proposing a deck that is 6' longer than what exists. Maki stated it would be going closer to the bayou.

Throenle stated the Township assessing record classifies the body of water as a marsh/part pond, which is unclear to what it really is.

Maki stated in the 25 years he was assessing the bayou was considered a body of water. Throenle wanted to stress with this body of water there is no inlet or outlet. There are only two ways for it to rise, one being a major flooding event on Lake Superior or an excessive rain amount that would raise the bayou eight to ten feet above the current bank. The bank is extremely high as shown in supplied pictures and to raise eight feet would be a tremendous amount of water. If they were

permitted to build in the setback it would not be a major impact from water, it would be different if it were along the river or on Lake Kawbawgam.

Wietek-Stephens pointed out the property was previously river and could be cut as a river again with the era of increased flooding. She pointed out the flooding this year in the Houghton area. Throenle stated even if it were cut as river, according to a FEMA discussion, they would look at the water line as being the current water line and it would only have to be one foot above the water line to be legal according to NFIP requirements. This house would automatically get a letter of map amendments stating it was out of the flood plain if it became a FEMA/river scenario. This property is high enough up and far enough from Lake Superior they would not be impacted by a lake effect. If it was cut as river again, the other two properties next door would be in more danger due to the proximity to the newly cut river.

Wietek-Stephens stated she did not have strong feeling regarding this. Strict enforcements of the Zoning Ordinance would not cause a practical difficulty. She felt with the surrounding properties and the substantial nature area, as long as they protect the buffer it would be OK. Throenle pointed out they would not be doing anything to the buffer, as it would be sustained and would actually be two feet further back.

Maki would like to maintain the 60' buffer, they would still be able to put the addition with a deck, but the deck would not extend as far to the east..

Milton felt they could extend the deck further and it would be a dock and exempt from the current zoning description of waterfront setback, with what is said the 50' is irrelevant if it is only a deck and could be a dock if long enough. He felt as far as the discussion of decks are concerned it is irrelevant especially with the neighboring house having their deck on the bayou. He also felt the bayou is a body of water that is only supported by ground water of Lake Superior.

Alholm stated it is listed as a 42' deck which is a big deck. Gauthier stated there is a feature of having the deck this big that is very important to the clients as it connects one side of the house to the other. A deck this big would allow them to connect their mudroom to the deck, changing this by even 5' would eliminate this and change the layout or use of the deck.

Wietek-Stephens felt the plans could still provide a walkway closer to the house and maintain the access and the flow. Gauthier questioned the difference between the 60' setback and a 55' setback. He felt there was no more liability of the bayou coming up, it's not a water hazard and the precedence has been set with the two homes on the west side. He could understand if it was an exorbitant amount of space that would be intruding on that but felt the additional 5' would comply.

Maki asked what the space was from the end of the deck to the water and Throenle stated it was roughly 60', and he reminded the Board it was approximate based on the aerial view and the contour of the bayou. The measurements were completed with two people and a tape measure and was as close to the water as they could get. Throenle reminded the Board, as Flood Plain Coordinator for the Township, he is

extremely concerned when people build on waterways in the Township and he does not see the water level risk from the deck to the bayou. It would be totally different if it were Lake Superior or the Chocoday River. The bayou has no water going in or out and is approximately a 6' to 8' rise, and if that happened it would not matter where the deck is as all the houses would be gone.

Maki was not thinking there will be a flood problem, he was thinking the setback is currently 60' and the ordinance has changed to 100' and they still want to go further into the setback. He does not know the situation of the other houses, they may be in violation of the ordinance.

Angeli asked the main concern was for flooding and Maki stated no it was not. Throenle stated there were two main reasons and they would be:

1. To prevent a scenario of being close to a flooding event.
2. In the 1970s there was a strong push for environmental protection. The 100' setback including the 30' buffer would protect the lake shore and river shore as well.

This is an arbitrary number that the Township came up with, as this is not a State of Michigan or County mandate. For example, they do not have a setback requirement in Marquette, and Throenle stated and this was the number the Township set up in 1977. The Township chose to be forward thinking regarding setbacks. As Maki pointed out there is language in the 1977 ordinance that allowed folks to build where they built.

Milton felt the bayou would be a bog someday. Angeli asked if there have been any comments from the neighbors and Throenle stated none that he is aware of. Throenle added there was a notification map in the packet that included twenty three sent out and one was returned in the mail.

Alholm addressed Maki's concerns that from the corner of the proposed deck is 60' from the bayou is 59' from the corner of the house. The maps are being used are approximately three to four years old, he could not get an aerial shot as we do not have the technology to do that.

Maki asked to get a measurement to the existing deck in its northeast corner and Throenle stated from the closest point to the water is roughly 60'. Maki asked if they could build the addition and the deck and still be 60' and Throenle stated that was correct. Maki asked if this would be 40' more to the east than what it sets currently and Throenle answered yes. Gauthier added that where the existing deck ends they would be going another 6'. Gauthier showed Maki on the plans where the deck would end.

Board Decision

Moved by Alholm, and seconded by Milton that after conducting a Public Hearing and review of the staff review and analysis for variance request ZV 18-59, for parcel 52-02-310-005-00 at 281 Lakewood Lane in Marquette, MI, the Zoning Board of

Appeals finds that the request demonstrates the standards pertaining to the granting of non-use variances and hereby approves variance request ZV 18-59 with the following findings of fact:

- A. Strict enforcement of the Zoning Ordinance would cause practical difficulty because the applicant purchased a structure that had been deemed in compliance.*
- B. The granting of the variance would not be contrary to the public interest because the 100' setback is from a bayou unlikely to have flooding issues, which is one of the purposes for the 100' setback.*
- C. There are circumstances unique to this property including prior permit issued asserting compliance under a prior ordinance section 403.*
- D. The variance request is not due to the actions of the applicant but as a result of construction occurring prior to the applicant's ownership which was similar to the type of variance the current applicant is seeking so will not create a hardship or additional problems.*

Optional language would be approval of this variance contingent upon the applicant/owner continuing to maintain the 30' buffer required from the bayou.

AYES: 5

NAYS: 0

MOTION CARRIED

VIII. Public Comment

Pamela Greenleaf, 409 Green Garden Road – Her home is very close to the Chocoy River, is 30' from the flood plain and has flooded three times this summer. Climate change is real. Had to be rescued from her home in the 2016 flash flood and has water go through her house three times this summer.

IX. Township Board Member/Planning Commission Member Comments

Alholm – Her term ends the end of 2018 and she will not be seeking reappointment. She has been on the Zoning Board of Appeals for over ten years.

Angeli – No Comment, but thanked Alholm for her service.

Mark Maki (Board representative) – May want to read the Board minutes to keep up to date. The Board is in the budget process now, no new surprises there. Have been some issues with casino sewer project regarding the location. Even though they are in the right of way, people have lost trees. Does not feel there was adequate notice, feels this was due to it being rushed. Discussed the changing of the Sewer Ordinance. Also discussed the road millage and what is being done.

Milton (Planning Commission representative) – No Comment

Wietek-Stephens – Thanked Alholm for her service.

Director's Comments

Throenle stated there will be no ZBA meeting in November, probably not in December either. Also thanked Alholm for her service as did the rest of the Zoning Board.

Informational Items and Correspondence

A. Township Board Minutes – 10.08.18 draft

B. Township Newsletter – October, 2018

Wietek-Stephens wanted to discuss the dates of acceptance for written comments. Throenle stated it is hard as these comments are published and put on the web when the Zoning Board gets their packets. They remain on the Web as a historical reference. There has to be a cutoff so the packet can be put together and delivered. If changed, there would have to be changes internally pertaining to the procedures of packet distribution. The current procedure has been in place for seven years.

Wietek-Stephens asked if it could be stated that everything received before a date is included in the packet and anything received after that date would be given to the Zoning Board at the meeting and included in the comments so it can be part of the public record. Throenle stated the problem is the packet is the official historical record and the comments are not in that. Wietek-Stephens was looking to get them as an addendum to the minutes as a way of getting them into the public historical record.

Throenle stated the date of receiving comments can be changed by changing the delivery date of the packet but would like to have a cutoff time to be assured the comments are received. For instance, emails are usually not checked after business hours the day of the meeting, and there could be something missed.

Wietek-Stephens stated it would be fine as long as the public can still give comments up to the meeting date and staff will make reasonable effort to get those comments to the Zoning Board.

Alholm asked if the website could be updated to state this and Throenle stated he would formulate language and put it there.

Adjournment

Wietek-Stephens adjourned the meeting at 8:40 PM

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS

Thursday, June 27, 2019

7:00 PM

I. Meeting Called to Order By:

II. Roll Call

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:03 PM.

Members Present: Chairperson – Michelle Wietek Stephens; Secretary - Kendell Milton; Board Member – Mark Maki; Member - Geno Angeli - Paul Charboneau; Alternate – Anthony Giorgianni

Members Absent: None

Staff Present: Dale Throenle, Planning Director/Zoning Administrator; Lisa Perry, Administrative Assistant

III. Approval of Agenda

Wietek-Stephens advised the Commission there was a request to add the election of the board positions to the agenda as it was inadvertently left off.

Moved by Wietek-Stephens, seconded by Milton, to approve the agenda for with the addition of the elections, item A under New Business.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of Minutes

A. October 28, 2018 Zoning Board of Appeals meeting minutes.

Moved by Maki, and seconded by Charboneau, to approve the minutes as changed with the revisions stated tonight.

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

Deborah Mulcahey, 633 Lakewood Lane – Appreciates the work the Zoning Board of Appeals does. Stated the work is not always welcomed or agreed upon and she welcomes the civil discourse.

Public comment closed at 7:17 pm.

VII. New Business

A. Election of Officers

Maki moved, Milton seconded to nominate Wietek-Stephens as Chair.

AYES: 5 NAYS: 0 MOTION CARRIED

Maki moved, Angeli seconded to nominate Charboneau as Vice-Chair.

AYES: 5 NAYS: 0 MOTION CARRIED

Wietek-Stephens moved, Angeli seconded to nominate Milton as Secretary.

AYES: 5 NAYS: 0 MOTION CARRIED

B. Variance Application ZV 19-09

Staff Introduction

Kim and Carol Parker, owners, wish to build a second story addition onto a structure located at 483 Lakewood Lane in the waterfront residential (WFR) zoning district that does not meet the current side setbacks of 10 feet for a legal conforming residence. The current setback for the existing structure is approximately 2' 9" from the west side lot line of the neighboring property at 481 Lakewood Lane and 3' from the east side lot line of the neighboring property at 485 Lakewood Lane.

According to Section 6.1.A Height and Placement Regulations in the Township Zoning Ordinance:

“Except as otherwise specifically provided in this Ordinance, no structure shall be erected or maintained between any lot line and the pertinent setback distance listed ... The side setback requirement applies to a side lot line and also to any lot line which is neither a front, rear, or side lot line. All distances are measured in feet from the drip lines of said structure/s.”

The dwelling was built in 1952 as a residential home prior to Township zoning ordinances. The property has been used as a camp and residence since then. The property was zoned Lakeshore Residential (LS/R) in 1977 and re-zoned Waterfront Residential (WFR) in 2008.

Lot Size

Latest Township records indicate the applicant's lot is 0.805 acres, with a frontage of 50 feet and a depth of 701.06 feet. The lot size measurement is in compliance with the minimum lot size for the WFR zoning district of 25,000 square feet.

Lot Width

Township records indicate the lot frontage is 50 feet. The lot width is not in compliance with the minimum lot width of 125 feet for the WFR zoning district.

Additional Measurements

The southwest edge of the applicant's home and attached garage is approximately 2.9 feet from the west property line. The northeast corner of the applicant's home is approximately 3 feet from the east property line. Both measurements are under the ten feet of setback distance required for the applicant's project to move forward.

The applicant is proposing to add a second floor on the existing structure on the property that will follow along existing structure walls. The existing roof will be removed to accommodate the second floor, and a new roof will be installed. The new height of the proposed project will be 22' 5" to the mid-roof height and 26'4" from grade to the ridge of the new roof. The proposed height is within the 30-foot height maximum for the structure.

One addition will be added beyond the existing structure walls. This addition is approximately 32 square feet (5' x 6' 4"), and will be located at the northwest corner of the current structure. This addition, which will accommodate a staircase going to the second floor, does not encroach on the west setbacks for the property.

The closest setback encroachment on the west side of the existing structure is 2' 9" at the southwest corner of the garage (shown on the survey). The closest encroachment on the east side of the structure is 3 feet at the northeast corner of the structure.

Two comments were received from the public related to this project – one was received at the office counter, and the other via mail.

Public Comment

Throenle stated that public comment regarding the variance application ZV 19-09 cannot be taken as the meeting had been tabled.

Board Discussion

Since the packet was sent out there have been two email comments were received regarding this zoning application. One was sent to the Chairperson of the Zoning Board of Appeals on one was sent to the Zoning Administrator. They were received after the deadline of the printing of the ZBA packet so they were printed and presented to the Commissioners at the start of the meeting this evening.

Also included tonight is a copy of variances regarding setbacks on Lakewood Lane, this was requested by the Chairperson via email. This document goes back to 1999.

Milton asked if all cases pertained to 50 foot lots, Throenle stated they were not but were all setback issues.

Maki objected to getting information at the last minute for a meeting. He also felt the list of variances did not tell the ZBA anything. Maki motioned to table the meeting until they could have more information and had more time to review the information given.

Wietek-Stephens opposes this request and Charboneau stated the one piece of the information provided this evening was a reiteration of public comment and the other was a second public comment and he felt there was no other information involved that would change the information supplied in the packet.

Wietek-Stephens added that she would read them into the minutes if it would help. Maki stated it would not. These were added into the agenda and agenda materials.

Wietek-Stephens stated she would like to move on with the Staff presentation.

The resident to the west of the proposed variance was in attendance and stated that she was not properly notified and was unaware of the impact to her property.

The Commission had discussion and decided they wanted more information regarding other setback variances issued in the area, more information regarding the measurements of the southwest corner of stairwell, and an improved public notification.

Board Decision

Wietek-Stephens motioned, Charboneau seconded, to table variance application ZV 19-09 to acquire more information, specifically more detail on setback variances granted in the neighborhood, an improved public notification, resolution of the issue if two variances are needed for the two non-conformities on the property, and a measurement for the southwest corner of the stairwell structure for the earliest possible date.

Vote Ayes: 5 Nays: 0 Motion Carried

VIII. Public Comment

Deborah Mulcahey, 633 Lakewood Lane – Felt the whole concept “sucked” regarding public notice, admission of public comments to the packet. She also could not read the numbers on the plans supplied. Stated the plans were not available by the 19th so she could not add her public comment. Is puzzled why this is before the ZBA as there are prudent alternatives. Referenced Mr. Brinks email referencing written comment from May, asked where this response was. Stated there is an alternative by making the second floor smaller than the first floor or go to the South. Questions the true motives of what is being done as this has been a short term rental in the past. Stated the zoning ordinance setbacks were in place when these owners purchased this property in 2006. Totally opposed to expansion on a non-conforming lot when there are alternatives.

Carol Hicks, 360 Shot Point Drive – Has resided on the Lake Superior for 50 years, knows more about snow drifting and wind factors. Holds a PHD from College of Engineering, has been schooled in engineering and architecture. He has spent twelve years on the opposite side and have seen where people tried to pull the wool over the eyes to get what they want, does not feel this is the case in this situation. He knows all the numbers and setbacks from every corner of this house, had all the data ready to present. Feels it would be asinine to have two requests and pay for it twice. Cannot see any water from the first floor of the house due to the sand dunes, this is why they want to go up.

Kim Parker, 483 Lakewood Lane – Absolutely no plans to continue a short term rental as in the past. Then plan they have in place is what they want to go with and are willing to roll the dice with the ZBA, if it does not get approved, they will not permanently move into the house, they will do something else. Wants to build a home they can enjoy for many years to come. The plan presented is their best option and the ZBA to consider it. The view on the website, when they were renting, was from the gazebo.

IX. Township Board Member/Planning Commission Member Comments

Mark Maki (Board representative) – Spoke on the concerns regarding the *Sign Ordinance*. It was four pages and part of the *Zoning Ordinance* from 1977 to 2015. He

was the administer for 25 of those years. Gave credit to the Planning Commission regarding the electronic sign section, best he has seen. Feels they have changed the ordinance to allow non-compliance signs to some degree. It is now 23 pages and hard to read. Spoke regarding the trailer sign at Lakkenland. Planning Commission is now going review the *Sign Ordinance* again. Feels the *Sign Ordinance* does not get enforced and should come before the ZBA for clarification.

Milton (Planning Commission representative) – Requested that future site plans have zoning information for adjacent properties included on the plans submitted with the application.

X. Informational Items and Correspondence

- A. Township Board Minutes – 06.10.19 draft
- B. Township Newsletter – June, 2019

Adjournment

Wietek-Stephens adjourned the meeting at 8:43 PM

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS

Thursday, July 25, 2019

5:30 PM

I. Meeting Called to Order By:

II. Roll Call

Chairperson Michelle Wietek-Stephens called the meeting to order at 5:35 PM.

Members Present: Chairperson – Michelle Wietek Stephens; Secretary - Kendell Milton; Board Member – Mark Maki; Members - Geno Angeli - Paul Charboneau; Alternate – Anthony Giorgianni

Members Absent: None

Staff Present: Dale Throenle, Planning Director/Zoning Administrator; Lisa Perry, Administrative Assistant

III. Approval of Agenda

Maki advised the Commission he would like to make a short presentation regarding the signs in the Township. He advised he wasn't looking for any decisions. This would be added as section VII, Item B.

Moved by Milton, seconded by Maki, to approve the agenda with the addition of the sign presentation, item B under New Business.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of Minutes

A. June 27, 2019 Zoning Board of Appeals meeting minutes.

Moved by Milton, and seconded by Charboneau, to approve the minutes as written.

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

Deborah Mulcahey, 633 Lakewood Lane – Thanked the Zoning Board of Appeals for discussing the meeting materials this evening. (itemVII.A) Offered suggestions for allowing the public to get comments into the packet and suggested a draft agenda so the public may know ahead of time what will be on the agenda.

Public comment closed at 5:41 pm.

VI. Unfinished Business

A. Variance Application ZV 19-09

Throenle asked the Chair person, Wietek-Stephens if she would allow public comment before the Staff introduction to allow him to address issues that come up in the public comment. Wietek-Stephens allowed this.

Public Comment

Laurie Krzymowski, 741 Lakewood Lane – Built a house on Lakewood Lane and is against granting appeals as there are other ways to build without them. Spoke regarding noise and fire access to structures on Lakewood Lane.

Cathy Crimmins, 422 E. Michigan Street/485 Lakewood Lane – Owner of the property directly to the East and agrees with the previous comments regarding fire access as the houses in the area are old. Her house is closer to the lake so it has never been an issue but feels the second story addition would be an issue. Has concerns regarding snow removal if this were to be a year round home. She is doing her remodeling according to the zoning guidelines and feels that the lot is not suitable for a house this size. Mentioned the list of eight variance requests of properties on Lakewood Lane, that were in last month's packet, all were granted but stated that none were as close to the lot line as this one is.

Wietek-Stephens asked Cathy Crimmins, regarding the variances listed in the packet last month, where her information came from. Crimmins answered from the paper in the packet and Wietek-Stephens stated it was not on there, as she was also wondering the size of those setbacks. Wietek-Stephens did note she saw some notes on a couple that refer to the setbacks but it's not general information that is provided for each of them.

Deborah Mulcahey, 633 Lakewood Lane – Spoke regarding to the Township website not having the up-to-date information for this variance. Wondered why this property has four people listed on the deed and only two applicants on the variance request. There are several properties at 50 feet in width and feels that fire and access are concerns. Questioned the authenticity of the site plan as there are differing dimensions from the survey and the Township assessor. She also questioned the size of the septic system and felt there were different options on the placement of the stairwell. Has concerns regarding structural issues of adding a second story. Asked the Zoning Board to add a stipulation, if the variance were to be granted, that either floor could not be independently rented as a two unit property.

Kim Parker, 483 Lakewood Lane – Owner of property applying for the variance. Addressed the issues questioned, stated there are tight quarters on 50 foot lots, his house would not be any noisier with a second story. There is a house to the left of his property and several others on Lakewood Lane with two stories and feels the fire department is capable of handling that situation. Stated his house has had snow

removal year round since 2006 when he was renting the house out. They will be living there now and no plans for renting any part of it out. Pointed out if the neighbor rebuilds the screen porch according to plans it would be twelve feet closer to the lake than his house and should not be affected. Addressed the names on his deed as himself, his wife, and two children. Explained his survey shows 52 feet on the lake side and 50 feet at the road (Lakewood Lane). Will be working on the permit for the septic if they get the variance.

Staff Introduction

Kim and Carol Parker, owners, wish to build a second story addition onto a structure located at 483 Lakewood Lane in the waterfront residential (WFR) zoning district that does not meet the current side setbacks of 10 feet for a legal conforming residence. The current setback for the existing structure is approximately 2' 9" from the west side lot line of the neighboring property at 481 Lakewood Lane and 3' from the east side lot line of the neighboring property at 485 Lakewood Lane.

According to Section 6.1.A Height and Placement Regulations in the Township Zoning Ordinance:

“Except as otherwise specifically provided in this Ordinance, no structure shall be erected or maintained between any lot line and the pertinent setback distance listed ... The side setback requirement applies to a side lot line and also to any lot line which is neither a front, rear, or side lot line. All distances are measured in feet from the drip lines of said structure/s.”

The dwelling was built in 1952 as a residential home prior to Township zoning ordinances. The property has been used as a camp and residence since then. The property was zoned Lakeshore Residential (LS/R) in 1977 and re-zoned Waterfront Residential (WFR) in 2008.

Latest Township records indicate the applicant's lot is 0.805 acres, with a frontage of 50 feet and a depth of 701.06 feet. The lot size measurement is in compliance with the minimum lot size for the WFR zoning district of 25,000 square feet.

Township records indicate the lot frontage is 50 feet. The lot width is not in compliance with the minimum lot width of 125 feet for the WFR zoning district.

The southwest edge of the applicant's home and attached garage is approximately 2.9 feet from the west property line. The northeast corner of the applicant's home is approximately 3 feet from the east property line. Both measurements are under the ten feet of setback distance required for the applicant's project to move forward.

The applicant is proposing to add a second floor on the existing structure on the property that will follow along existing structure walls. The existing roof will be removed to accommodate the second floor, and a new roof will be installed. The new height of the proposed project will be 22' 5" to the mid-roof height and 26'4" from grade to the ridge of the new roof. The proposed height is within the 30-foot height maximum for the structure.

One addition will be added beyond the existing structure walls. This addition is approximately 32 square feet (5' x 6' 4"), and will be located at the northwest corner of the current structure. This addition, which will accommodate a staircase going to the second floor, does not encroach on the west setbacks for the property.

The closest setback encroachment on the west side of the existing structure is 2' 9" at the southwest corner of the garage (shown on the survey). The closest encroachment on the east side of the structure is 3 feet at the northeast corner of the structure.

Two comments were received from the public related to this project – one was received at the office counter, and the other via mail.

The original application was submitted April 22, 2019 and it was tabled at the June meeting because the Zoning Board wanted an improved public notification, more information regarding more detail on setback variances granted in the neighborhood. They also wanted a resolution of the issue if two variances are needed for the two non-conformities on the property and a measurement for the southwest corner of the stairwell structure for the earliest possible date.

Throenle reminded the Zoning Board if the setbacks on this property were met, and they were not here this evening, a second story would have been granted with a Zoning Compliance Permit.

Board Discussion

Wietek-Stephens commented there were questions at last month's meeting as to why this had come to the Zoning Board of Appeals. She explained that it is a non-conforming structure (does not meet the requirements of the *Zoning Ordinance*) and any non-conforming structure has to get approval from the Zoning Board of Appeals. She further explained that Throenle's job is to enforce the *Zoning Ordinance* and the ordinance states that a non-conforming structure cannot be enlarged. The Zoning Board is to assure the structure is not detrimental to the public safety, health, welfare, and character of the neighborhood.

Wietek-Stephens explained that looking at the site plan, the west side would be compliant but the east side is 4-1/2 feet from the property line to the foundation and 2-1/2 feet from the dripline to the foundation making it very tight.

Maki asked what was being used as the measurement, Throenle commented it was the dripline as standard practice.

Charboneau commented there was an existing eave over the existing foundation and Throenle confirmed that was correct. Throenle explained this would be not move the eave over any more, it would just raise it up.

Charboneau asked if the staircase was located inside the structure and the owner of the property, Mr. Parker answered it was inside.

Wietek-Stephens stated the reason the Zoning Ordinance prohibits the expansion of non-conforming structures is that expansion entrenches the non-conformity when the goal of the ordinance is that these structures should go away or be made to conform.

Wietek-Stephens commented that most lakefront property gets overcome with giant houses and it gets tight. She stated that it is reasonable to put a second story on this

house, the problem is the house is so close to the lot lines that it unintentionally impedes the view and access. She also stated that the neighbors may change their properties in the future and these issues may become more onerous if the Zoning Board allows this structure to expand to this extent.

Throenle referenced there were properties in 2000 and 2008 there were homes on 50 foot lots in this neighborhood that added second story additions, adding this would not be precedence setting property nor is it a massive trend as the last time was in 2008.

Throenle asked the neighbor on the east how they were looking to expand their property and she answered it would be a bedroom on the opposite side that would not be a second story. She also stated that due to the Parker's renovations, they may need to extend their septic and drain field.

Maki asked Throenle to repeat the information from 2000. Throenle stated it was a second story addition with a 5 foot setback.

Wietek-Stephens asked if Throenle recalled the setback on the 2008 variance for the second story. Throenle answered it was not in the record, he looked at the record again prior to the meeting. It does state that it is a non-conforming enlargement to construct a second floor on the existing structure and stated it was located behind neighbor's houses and would not obstruct the view. Throenle added from what he was reading it would be similar to the variance in front of them tonight.

Throenle stated there was another variance for an addition with a setback issue in 2012 but was not for a second story. He also added there another variance request at Shot Point several years back, it was 35 feet from the water and was approved to go up with second story but not out.

Maki questioned Mr. Parker regarding the thought process of the outside stairwell and why it was not considered on the inside of the structure. Parker replied that it was on the inside of the structure and demonstrated to the Zoning Board, on the plans, where and how it would be located. Charboneau asked if it was completely enclosed and Parker stated it was.

Maki asked if the Fire department would be notified on these type of variances and Throenle answered that Chocoley Township has no fire inspection on any Zoning Compliant Permit. Maki felt it would be advisable to notify the Fire and Police departments regarding these type of requests.

Maki asked if the west side was 8 feet to the dripline and Throenle answered it would be 9 feet 4 inches assuming it is a 2 foot dripline which is standard.

Maki asked what the northeast corner measurements would be and Throenle state 2 feet 6 inches to the dripline.

Maki went and looked at the property and felt there was an issue of the addition being too high in that area and how the house sits. Maki asked if there was any consideration to changing the plans and making the setback shorter on the one side. Parker stated they wanted to add value and felt this would take away from that and prefers to work with the original plan.

Throenle presented a visual to help the Zoning Board get an actual feel of the size of the variance, which amounted to 6 feet, he asked the Zoning Board if that changed the overall concept of the second story.

Wietek-Stephens stated she what swayed her was the fact she went to the site and it was difficult to walk from the parking area, around the garage, on the southwest side without feeling her arm was trespassing on the adjacent property. She also mentioned the gravel from the parking area is right on the property line and was not sure if that was allowed. She stated it was equally tight from the eave line on the northeast corner. She told Parker he did not create the situation as the garage was there but this is what swayed her and she felt this structure would not be a good candidate for the future, and that remodeling or relocation would be preferable to expansion.

Parker agreed it is a tight space but would never get less tight even by doing nothing or adding another story it would still be tight.

Throenle commented on the tightness as he felt that also but only at the garage. Once you get passed the garage it opens up. Throenle stated for whatever reason these house were skewed when they were built as he has seen in other cases in the same area. Throenle asked Parker if there had been any discussion of moving the garage, Parker commented it had never occurred to him, it could be considered.

Wietek-Stephens commented the structure could be torn down or moved. Throenle stated this house has a basement so this would cause a considerable amount of expense as it could not be rebuilt on the same foot print.

Wietek-Stephens pointed out if the neighbors ever put a privacy fence or landscaping of any kind, there would be the same issues in the northeast corner and Throenle agreed. She stated that it is not apparent at this time as it is only native plants and encroaching on the house.

Throenle asked Parker how many times he goes around that corner (northeast) of the garage, Parker commented that would be tough to answer, Wietek-Stephens commented there was no apparent path when she was there. Parker stated the easiest way to the lake would be using the front door.

Milton commented that it would not matter to him until the building are less than 15 feet apart and these buildings are more than that apart, he has no problem going up.

Angeli questioned if the ordinance prohibits an existing structure from being expanded, does it specifically say from expanding up and out. Wietek-Stephens stated it is expanding, changing internally, and doing “stuff” with non-conforming structures.

Throenle commented that it basically says the footprint. There has been variances in the past that have been for non-conforming structures that were approved to not increase the footprint but were allowed to build up. Angeli state that is what he sees in this variance.

Wietek-Stephens interjected and advised the Zoning Board that it says *“Establish to the satisfaction of the Zoning Board of Appeals that the proposed extension, expansion or enlargement of the existing, lawful non-conforming structure would not*

be contrary to public health, safety or welfare with the spirit of the Zoning Ordinance or the Township Master Plan.” Wietek-Stephens stated this is considered an expansion.

Charboneau stated there have been non-conforming properties in the past that have built up or out of the footprint and the variance was for a small piece off the footprint. Throenle answered that was correct and reminded the Zoning Board his list only went back to 2000.

Maki suggested changing the blueprint as he does not like a second story added to a 2 foot 9 inch lot line setback. Throenle stated it is that close to the lot line but not the property next door.

The neighbor to the east asked about her property values if this ordinance is granted. Throenle commented they cannot predict what properties will sell for in the future and the 2 foot 9 inch tightness will still be there with a one or two story house.

Wietek-Stephens reminded Throenle that the issue is perpetuating a non-conforming property. Throenle commented that he understands this and reminded the Zoning Board they have made exceptions in the past.

Maki commented he does not know those cases and all cases rise on their own merit. He has an issue with a second story looking down onto the neighboring properties. Angeli reminded him that one neighbor is 30 feet away on the west side and the east side is 40 feet away. Maki stated determining what fits makes these variances interesting and troublesome.

Angeli questioned where the existing drain field was, Parker pointed out on the map and Angeli agreed that would probably have to be expanded. Parker acknowledged this but was waiting to go further upon the outcome of the variance.

Throenle commented there were natural buffers (tree line) and asked Parker if he planned to keep them in place and Parker answered yes, he planned to.

Throenle pointed out that either side neighbor could add a second story, which would immediately impact the Parkers, but it would be allowed.

Wietek-Stephens reminded the Zoning Board that this structure is non-conforming by most of the side setbacks and it would increase this in a vertical direction.

Throenle asked Maki if the lot lines of 50 foot lots could be redrawn, have the survey markers moved, to take care of the non-conformities. Maki felt it could not unless one party conveyed property to the other. There was no clear answer on this.

Based on the above information the following motion(s) were made.

Board Decision

Wietek-Stephens motioned, Maki seconded, after conducting a public hearing and review of the Staff Review and Analysis for Variance Request ZB 19-09 for parcel 52-02-109-037-00 at 483 Lakewood Lane, Marquette, MI, the Zoning Board does not find that the request demonstrates the standards pertaining to the granting of non-use variances, and hereby denies Variance Request ZB 19-09 with the following findings of fact:

1. *Strict enforcement of the Zoning Ordinance would not cause practical difficulty because the structure currently functions as a dwelling and there are possibilities for construction of an approved compliant dwelling.*
2. *Granting the variance would be contrary to the public interest because the setbacks are extremely tight on both the Southwest and Northeast corners. It is difficult to walk without feeling as if you may trespass on adjacent properties.*
3. *There are no circumstances unique to the individual property on which the variance is granted that would prohibit its use as a residence.*
4. *The variance request is due to the actions of the applicant and their desire to expand the existing structure and leave the non-conformities in place.*

AYES: 2 NAYS: 3 (Angeli, Charboneau, Milton) MOTION FAILED

Charboneau motioned, Milton seconded, after conducting a public hearing and review of the Staff Review and Analysis for Variance Request ZB 19-09 for parcel 52-02-109-037-00 at 483 Lakewood Lane, Marquette, MI, the Zoning Board of Appeals makes a motion to grant the request because:

1. *Strict enforcement of the Zoning Ordinance would not cause practical difficulty because there is no usable property to move the structure and moving the structure would be an extreme burden on the applicant*
2. *Granting the variance would not be contrary to the public interest because there is no safety concern here or health concern.*
3. *The circumstances unique to this property is it was built in 1952 predating the ordinances and denying the application is not going to make the property any more conforming or improve the non-conforming in any way.*
4. *As correlation to that, the variance request is not due to the actions of the applicant as the property was built in 1952 predating the ordinances. Contingent on remaining within the footprint, with exception to the landing for the staircase and that includes the driplines.*

AYES: 3 NAYS: 2 (Wietek-Stephens, Maki) MOTION PASSED

VII. New Business

A. Meeting Materials Discussion

Staff Introduction

Three items were submitted to the members at the meeting that were completed after the receipt deadline for the packet for the June meeting. This prompted discussion and a request to add an item to this month's agenda to discuss the process.

Traditionally, all packet materials for the Township Board, Planning Commission, and Zoning Board of Appeals must be submitted no later than noon on the Wednesday prior to the scheduled meeting date. This submission date was set in

order to prepare packets prior to the meeting without having to insert additional materials into the packet after the packets are prepared and delivered.

Items have been overlooked in the past for all three packets (Board, Planning Commission, and Zoning Board of Appeals) that were received prior to the deadline, especially if they were received via email. Traditionally, those materials are given to the Board, Planning Commission or Zoning Board of Appeals on the night of the meeting with an explanation as to why the materials were not included in the packet. It is up to each (Board, Planning Commission, and Zoning Board of Appeals) as to the acceptance of the materials for the meeting.

This process was initiated as citizens were waiting until the last minute to submit their comments or materials for the meeting. This caused several issues, especially if the comments or materials were not discovered in email files until after the meeting.

Board Discussion

Wietek-Stephens thanked Throenle for the explanation as she now understands the process better. She does not have any problems with the packet preparation dates, she does have an issue with residents finding out about an item in the packet after the deadline and not being able to comment on it.

Throenle stated there is a public notice in the newspaper and on the Township website, and the neighbors within 500 feet of the project get notification in the mail stating the time frame. At some point it should go back to them.

Wietek-Stephens feels the 500 feet is small, even though it has been increased from 300 feet. In the rural areas where the lots are bigger there would be hardly any notices sent. The condensed areas, with smaller lots, have more issues with this.

Angeli stated an increase in the notification footage would increase the amount of people and the meetings would go on double the amount of time. Wietek-Stephens stated it would be better know what was going on and comment than come after and say they were not informed. Angeli feels the 500 feet is plenty for people to comment.

Throenle interjected he has had people come in three months after a meeting and say they did not know what was going on and have sent a letter. The number of feet does not make the difference, it's the responsibility of the reader of the letter to follow up with the deadline.

Maki asked if written comments, after the deadline, were given as a handout to the Zoning Board. Throenle commented he has attempted to do this in past meetings and it did not work very well. If the cutoff was held to the same standards the Township Board and Planning Commission follow, it would be done on the Wednesday before. It has streamlined the process for packets immensely.

Maki asked if people handing in comments, beyond the deadline, were told it would not be included in the packet. Throenle answered they were told. Maki stated they would have the option to come to the meeting to make comment, Throenle agreed. Throenle also stated if the person could not make it to the meeting, they could put

their comments in writing and have a friend or neighbor read them into the public record. This has happened in the past.

Maki stated in the past when there was a variance, rezoning, conditional use, there had to be a posting on the property per State law but has since been changed. Maki felt this would give people more notice as they went by the property. Maki agreed that it is tough but the question is what to do with it when you get it late.

Charboneau stated you can post it to the website but in the end, what material are you allowing to in. Throenle stated even if it is plans or something pertaining to the item on the agenda, if it comes in after the deadline it would not be put into the packet. Charboneau stated an applicant can be reached for discussion but it's the public comment that is the problem.

Throenle stated there are many ways to get public comment in before the deadline, he has taken comments over the counter and he knows that Wietek-Stephens has taken comments via the phone. Wietek-Stephens stated she would not be doing that again, she would direct the calls to Throenle in the future.

Wietek-Stephens does not like the fact there is no public comment a week before the meeting. She does, however, agree they could make arrangements with someone to get comment in but knows not everyone has a big support structure to help with this. She would like the Zoning Administrator to make a good faith effort to get the Zoning Board the comments. She is in favor of handouts. She knows that everyone on the board does not agree with handouts.

Throenle asked if it would be acceptable to read late comments into the record. Charboneau stated it would come down to volume. Wietek-Stephens stated they have never had an issue with volume as the public usually comes to the meeting and makes comment. Throenle felt the last meeting was the first time for the Zoning Board to get late comments.

Throenle would be willing extend the current deadline from Wednesday before to the Thursday before. Wietek-Stephens does not see how one day would make a difference. She would like to continue with the policy of having the handouts available the night of the meeting and reading them into the record. Charboneau asked if they could also be posted on the Township website. Throenle stated in the past comments have been added to the electronic packet and reposted. Throenle stated it would still be up to the Chairperson to decide if the comment gets included in the packet as sometimes the comments do not pertain to anything in the packet. Wietek-Stephens stated if it is late and does not pertain to the current variance or packet materials, the person could be advised it would be held for the next meeting. Charboneau asked if that would be taken as public comment as if the person was making comment at the meeting and Throenle stated yes, it would be. Wietek-Stephens stated this could be listed as part of the procedure for taking public comment.

Maki stated the problem with additions is someone may have read the agenda before the additions and now they are not aware of the additions. Feels the Zoning Board

should continue with handouts and reading them in and deal with them on a one by one basis.

Throenle stated they would then be added to the official packet after the meeting. Throenle felt everyone had the same idea so he suggested adding the following statement for the Zoning Board of Appeals: “Any comments that come in past the deadline of noon on Wednesday, will be scanned and emailed to the Zoning Board members as well as put on the table, to be read the night of the meeting, assuming the comments are related to the variance.”

Board Decision

Wietek-Stephens motioned, Charboneau seconded, with regard to the meeting materials discussion that the Zoning Board of Appeals will keep the existing deadlines for packet preparation, however, for variance specific public comment, those comments will be documented as handouts out at the meeting. The Chair will read them into the meeting minutes. If possible, an email to the Zoning Board of Appeals containing the comment will be made.

Vote Ayes: 5 Nays: 0 Motion Carried

B. Sign Discussion

Board Discussion

Maki stated he had sent all of the Zoning Board of Appeals a letter regarding many different signs in the Township. He discussed the fact that the *Sign Ordinance* is twenty-three pages in length. Maki reviewed the history of the size of the signs at Lakeneland and feels it goes against section 7 of the *Sign Ordinance*, due to the size and nature of the sign. He feels it would leave to problems.

Angeli asked if it would be different due to the distance away from the highway, Maki stated no.

Maki also commented on a new sign by the casino entrance. Throenle stated that sign had a permit through the Township.

Maki also talked about real estate signs and temporary signs. He feels temporary signs should be signs pertaining to an activity that only happens every so often, not something that continually gets put up and taken down.

Maki mentioned banner style signs and felt he remembered a banner was supposed to be mounted on the building. Charboneau stated he had read through the whole *Sign Ordinance*, doesn't remember all of the part regarding banners, but his recollection was they did not have to be affixed to the building, just a certain distance away from a driveway, curbs and sidewalks.

Maki also asked about the banner style signs that are popping up everywhere. There are two areas in Chocolay Township that have these. The ones in Chocolay Township say Welcome and Sale. Throenle stated these style are not classified as signs, they are classified as flags. Charboneau felt when he read the Ordinance it

stated a banner or flag could not advertise a business. Throenle stated it cannot have the business name on the flag.

Maki would like Throenle to address this issue so it can be discussed at a future meeting. He feels there needs to be some amendments or clarity as these are new signs.

Angeli asked how would they be enforced? Wietek-Stephens stated that Throenle would hand them a violation. Maki added that Throenle would have to view them as a violation before you would do that. Maki also stated the Planning Commission is going to be discussing the *Sign Ordinance* but those processes can take one to two years as there are many questions regarding this.

Throenle told the Zoning Board that he thought it was 2015 (not positive) that the Supreme Court ruled that he, as the Zoning Administrator, cannot make any judgement on sign based on its content. Maki stated we never had. Throenle stated they cannot make exceptions for certain kind of signs. (ex: real estate, political)

Throenle explained to the Zoning Board this would go back to the Planning Commission to tear apart the *Sign Ordinance* and then put it back together. The Zoning Board is only getting this as informational; they cannot mandate this gets changed.

Wietek-Stephens stated she felt some of Maki's statements were not based on content. Maki would like Throenle to address them back to Zoning Board to look at. Throenle stated there was a part of the Ordinance that states:

16.3 Fees – “Neither the Township Planning Commission nor the Zoning Board of Appeals shall consider any matter until there is first paid a fee, except that such fee shall not be required where the Township Board (#34-10-12) or any official body thereof is the moving party. The Township Board, by resolution, shall set all fees. The Township Board, by resolution, may change these fees, from time to time, as they determine appropriate.”

Throenle went on to explain there is an application available called “Zoning Application for Interpretation”. For this application to be considered by the Zoning Board it has to be completed and the fee has to be paid to the Township.

Wietek-Stephens stated this is how past sign issues have come before the Zoning Board for a variance or interpretation. Wietek-Stephens also stated her understanding was Throenle would issue citations or contacting the sign owner about interpretation and this would not be a general discussion as the Zoning Board does not have the power to create a sign ordinance. Throenle agreed and stated he is operating under the current *Sign Ordinance* and the Planning Commission is the starting point for revisions.

Wietek-Stephens asked if Throenle was not enforcing the *Sign Ordinance* waiting for Planning Commission, and Throenle commented he enforces it based on interpretation. Maki stated Throenle should administrate and the Zoning Board should be making the interpretations.

Maki commented that the Zoning Board had the ability to state their interpretation and disagree with the Zoning Administrator, but it would need the administrator's determination. Throenle stated the application for interpretation would have to be filed before the Zoning Board of Appeals could do the determination. Maki stated the Zoning Board could file the application. Wietek-Stephens felt it was not appropriate for the Zoning Board to file applications on properties in the Township. Wietek-Stephens stated she did not feel it was the Zoning Board's job to do this, she feels it was the Zoning Board's job to respond to variance requests and requests for interpretation. She also stated she felt Maki was asking the Zoning Board to make policy. Wietek-Stephens commented that she would like citations issued or owners notified to come before the Zoning Board to ask for variances as some could be deserving of variances. Maki commented this was not happening.

Wietek-Stephens asked Maki, as a citizen, if he could come before the Zoning Board and he answered he could if he wanted to pay the fee. Wietek-Stephens commented that she did not think it was appropriate to ask the Zoning Board to take it out of their budget. Maki stated the fee could be waived as they are the Zoning Board and he only wanted to get answers to his questions.

Throenle interjected that Maki had been previously advised by the Township Board to follow a chain of command for Throenle to answer the questions. Throenle stated Maki's intent was to circumvent the Township Board's directions. Maki stated the Township Board does not tell him what to do. Wietek-Stephens interjected that the Zoning Board's role is to deal with variances that come before them.

Wietek-Stephens personally felt that Lakenenland issue is a sign and Throenle commented that it is for storage of tables and chairs. She would like to give them a variance for it due to public service but it would have to be a formal process.

Maki felt the Township should amend the ordinance if they are going to allow those type of signs. Wietek-Stephens agreed that would be best but does know the best solution as she is in favor of enforcing the *Zoning Ordinance*.

VIII. Public Comment

Deborah Mulcahey, 633 Lakewood Lane – Was not happy with the approval of the June minutes tonight as they were not verbatim.

IX. Township Board Member/Planning Commission Member Comments

Mark Maki (Board representative) – None

Kendall Milton (Planning Commission representative) – None

Dale Throenle (Zoning Director) – No meeting for the Zoning Board of Appeals in August.

X. Informational Items and Correspondence

A. Township Board Minutes – 07.08.19 draft

B. Township Newsletter – July, 2019

C. Correspondence - Emerson

Adjournment

Wietek-Stephens adjourned the meeting at 8:10 PM

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS

Friday, November 1, 2019

5:30 PM

I. Meeting Called to Order By:

II. Roll Call

Chairperson Michelle Wietek-Stephens called the meeting to order at 5:30 PM.

Members Present: Chairperson – Michelle Wietek Stephens; Secretary - Kendell Milton; Board Member – Mark Maki; Members - Geno Angeli - Paul Charboneau; Alternate – Anthony Giorgianni

Members Absent: None

Staff Present: Dale Throenle, Planning Director/Zoning Administrator; Bill DeGroot, Township Manager, and Lisa Perry, Administrative Assistant

III. Approval of Agenda

Moved by Maki, seconded by Milton, to approve the agenda as written.

Vote: Ayes: 5 Nays: 0 Motion Carried

IV. Approval of Minutes

A. July 25, 2019 Zoning Board of Appeals meeting minutes.

Moved by Maki, and seconded by Wietek-Stephens, to approve the minutes as changed.

Vote: Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

Bill DeGroot, 2017 Wetton – Introduced himself as the new Township Manager to the Zoning Board of Appeals. He started on September 30, was going to have a meeting a few weeks ago with the chair, Wietek-Stephens, but there were complications. Told the Zoning Board his door is open to discuss land-use, zoning board issues, about training and any issues pertaining to administration or the Township in general.

Mark Maki, 370 Karen Road – Stated he had sent a letter to Wietek-Stephens, Chair of the Chocolay Township Board of Appeals, the Chocolay Township Zoning Board of Appeals members, and the Chocolay Township Planning Commission but does not see it on the agenda, so he handed a copy to them. He will be sending the letter from tonight and the original letter so they will become part of the public record.

He discussed a flashing sign in Beaver Grove. Also discussed temporary signs and feels these are being misused in accordance with the ordinance.

Public comment closed at 5:52 pm.

VI. Unfinished Business

None

VII. New Business

A. Variance Application ZB 19-82

Staff Introduction

Wilbur Jennings introduced himself as the general contractor on the project for Jonathan and Samantha and stated he would answer any questions.

Throenle explained the reason for the meeting date change and apologized as he had the wrong address listed in the original publication. He also stated the meeting had been reposted in the paper with all requirements met.

He said Jonathan Housman and Samantha Asby, property owners of parcel 52-02-251-004-00, wish to add an extension onto a non-conforming structure located at 218 West Fairbanks Street in the high density residential (R-2) zoning district and it has been there for quite a few years.

Throenle stated he had sent 48 final notifications out on October 4, 2019 and no comments were received via mail, email, or by phone.

Two issues requiring Zoning Board of Appeal discussion are:

- 1) The current footprint for the existing structure is approximately 324 square feet, which does not conform to the minimum square footage requirement of 800 square feet.

According to Section 6.3.A Minimum Floor Area for Dwelling Units in the Township Zoning Ordinance:

“Every single-family dwelling shall have a minimum floor area of 800 square feet, and every dwelling unit in a multi-family dwelling shall have a minimum floor area of 600 square feet, provided: (A) It has a minimum width across any front, side or rear elevation of 20 feet and complies in all respects with the Marquette County Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Marquette County Building Code, then and in that event such federal or state standards or regulations shall apply.”

- 2) The structure is approximately three feet from the front lot line, which does not meet the current front setback of 25 feet for a legal conforming residence.

According to Section 6.1.A Height and Placement Regulations in the Township Zoning Ordinance:

“Except as otherwise specifically provided in this Ordinance, no structure shall be erected or maintained between any lot line and the pertinent setback distance listed ... The side setback requirement applies to a side lot line and also to any lot line

which is neither a front, rear, or side lot line. All distances are measured in feet from the drip lines of said structure/s.

He also explained the lot size is unique as the topography behind the structure changes dramatically and goes up at almost 45 degrees to the top of the property. The property is surrounded by residential on all sides and the current lot width conforms with the minimum required in the R2 district.

Throenle continued to explain the pictures, included in the packet, of the property and the different measurements pertaining to the property setbacks and property lines.

Board Discussion

Wietek-Stephens asked if there was a basement or a crawl space. Throenle answered it was a crawl space. Wietek-Stephens if the crawl space was set into the ground and Throenle answered it was. Jennings commented he had pictures of the crawl space. Wietek-Stephens asked if it was excavated in the ground or just on top of the ground. Jennings answered it looks like there may have been an addition at one point or an excavation to create a makeshift crawl space. Jennings added it is very shallow and the plan would be to clean it up, put a paper barrier, and make it up to code without having to excavate or raise the structure.

Wietek-Stephens stated she had climbed the hill and noticed survey tapes on the top and the one farther back on the left/east side but not a corresponding one on the right. She asked if the lot ended at the top of the hill or if it went farther back. Throenle stated it goes back 140 feet from the lot line. She added there is a flat section on the top of the ridge and Throenle confirmed that was part of the property.

Maki asked if there were any provisions in the Township regarding “tiny houses” and Throenle commented there were not, the only provision is the 800 foot minimum square footage requirement.

Wietek-Stephens asked Milton (Planning Commission representative) if “tiny houses” were being considered by the Planning Commission. Milton answered not that he had heard.

Maki also stated there were non-conformance steps in the Zoning Ordinance, but they do not seem to be followed. He also stated they require the Zoning Board of Appeals to make certain findings to expand a non-conforming structure. DeGroot interjected it was Section 14. Throenle stated it was in the packet at the end of the report section, listed are the variance standards. Maki stated he was talking about the standards for the expansion of the non-conforming structure, not variance. He felt this needed to be determined before they could move to the next step due to it being a non-conforming structure similar to the last meeting the Zoning Board had.

Wietek-Stephens stated she remembered looking at that language for the last meeting but does not see it now. She added it was under non-conforming use, there is a paragraph regarding non-conforming structures.

Maki thought the applicant would need to get the approval for a non-conforming structure before they can proceed to get a variance. Wietek-Stephens stated that is what the Zoning Board of Appeals does, they make the decision on the non-conformance. Charboneau stated he believed that was the language in the variance packet.

Wietek-Stephens read section 14.2(D) which states:

As a condition of securing the approval of the Zoning Board of Appeals required by Section 14.2(C) the applicant must, at a minimum, establish to the satisfaction of the Zoning Board of Appeals that the proposed extension, expansion, or enlargement of the

existing lawful nonconforming structure:

Zoning Ordinance

1. Would not be contrary to the public health, safety, or welfare, or to the spirit of this

Zoning Ordinance, the Township Master Plan, or any other land use plans and/or ordinances enacted by the Township or any of its Boards, Commissions, or other agencies; and (#34-18-02)

2. Would not displace, inhibit, or have any type of deleterious effect upon a permitted or conforming structure, either on the subject premises or upon any nearby premises;

3. Will not increase any existing nonconformity such as, but not limited to, setbacks, height limitations, absence of sufficient parking space, or the like;

4. Will not result in any new nonconformity which did not exist prior to the proposed change; and,

5. Will meet all reasonable conditions which might be imposed by the Zoning Board of Appeals as a condition to the granting of said Application.

Jennings interjected that the applicant met all of these conditions. Maki answered he was not sure this was true as they have not reviewed this, and the applicant was looking at extending the front setback. The non-conformity would be increased as the plan is to make the structure wider. Jennings stated he could not argue that as that was correct.

Maki stated this is something the Zoning Board of Appeals needs to review for this case, but they do not have it in the packet. Wietek-Stephens agreed it would have been nice to have this language in the packet but felt it was something they could do now.

Wietek-Stephens asked if it would be a substantive change that increases the side to side non-conformity. Maki felt this should have been included with the application and it was not so they should come back with all the information. Wietek-Stephens agreed it should have been included but does not concur with coming back. She stated the question was if they met the criteria. Maki commented that this would

need to be published, Wietek-Stephens went back to the packet (VII.A.7) and read aloud that it stated the applicant wished to “add an extension onto a non-conforming structure.”

Maki felt it would the Zoning Board should have a copy of that language to look at instead of looking at the TV screen to address it. Throenle interjected if they could take a couple minute recess, he would print a copy for them. Wietek-Stephens agreed.

There was a slight recess to allow copies to be printed.

Wietek-Stephens commented they now had the language in front of them and explained to the Zoning Board where to look for the information that would be discussed.

Maki stated his concern for Section 14.2 which states:

- 3. Will not increase any existing nonconformity such as, but not limited to, setbacks, height limitations, absence of sufficient parking space, or the like;*
- 4. Will not result in any new nonconformity which did not exist prior to the proposed Change;*

He felt the new non-conformity was an extension on both ends of the structure. Wietek-Stephens commented that the non-conformity was based on the distance of the structure from the lot line, it would not matter if it was five or fifteen feet of non-conformity as it would be a depth perception. Throenle agreed. Maki commented it would either meet the setback or it would not. Wietek-Stephens stated it did not meet the setback but would not meet the setback any less because of this. Maki felt it would expand it because there would be more to the non-conformity. Wietek-Stephens felt this would only be an issue if the house were at an angle and a corner would protrude farther into the right of way, which she does not see any evidence to indicate this to be the case.

Maki asked for clarity - if it were to be kept at the same level it would not increase the front. Wietek-Stephens answered that would be her opinion as it was based on a depth from the front lot line.

Wietek-Stephens asked Throenle if the houses to the east, with the two car garages, were wider, and if he had the width of them. Throenle answered that he would access them from the assessing records. Throenle commented it was 75 feet for the lot to the east.

Wietek-Stephens asked if the house, between the two, was encroaching the front setback as well. Throenle stated he noticed an error with the aerial pictures of the property. Houseman stated there was an error as there was another property in between the two properties being discussed.

Throenle used the assessing program to locate the property in question. Wietek-Stephens asked if he had the setback for this one. Throenle stated it would be

roughly another ten to fifteen feet. Wietek-Stephens stating that looking at in person it would be closer to five feet. Throenle stated she would be accurate in stating it was within the setback. Using a rough measuring tool, it looks to be about 30 feet from the centerline and stated Wietek-Stephens was pretty close with five feet.

Charboneau asked if the setbacks on West Fairbanks were the same as on West Terrace. Throenle stated they were. Charboneau continued by saying the two houses on 209 and 213 West Terrace were new builds a few years ago, Wietek-Stephens added they were Habitat for Humanity houses. Charboneau asked if there was an exemption for them and Wietek-Stephens said she was not sure. Charboneau asked what the setback was for these, Throenle commented it was 25 feet for the front setback from the centerline for a total of 55 feet as it was in the R2 district. Maki asked if this was just in Harvey and Throenle commented it was.

Maki stated he felt the houses were in compliance but was not sure about the porches. Charboneau stated it looked like the structure was less than 55 feet from the centerline.

Maki stated that the building was 18 feet x 18 feet, why not tear it down and start over. Throenle answered that even if they tore it down and started over, an 800 foot structure would not fit in that space enough to meet the setback. Maki stated they could go into the hill. Wietek-Stephens commented she had that same thought and that was the reason she asked about the width for the lots of the other houses. It appeared that those lots are wider to have a bigger house and that would make it more feasible for that kind of earth moving.

Maki stated he was not concerned with the size as much as it being three feet from the front lot line and now it will be bigger. He asked again why it should not be torn down as it is uninhabitable and in poor shape. Angeli stated it would be not be cost effective to tear it down and have to put in another foundation. Ashby (owner) asked if she could comment, Wietek-Stephens stated she could. Ashby explained that they had discussed many possible solutions for this property and the cost of building into the hill to make it a big enough structure would be cost prohibitive. Houseman (owner) also stated that it became financially impractical to level it and build from scratch due to the foundation issues. If the person that will be living there would like to buy it someday their financial situation plays a role also. As an investment, this seemed to make the most sense from a practical standpoint.

Maki asked if it was designed or intended to be used as a short-term rental and Ashby answered it would not as her mother would be living there while helping with childcare.

Wietek-Stephens asked if there was room up on the bluff, after any needed excavation, if there any access from the back street to create a passable driveway so the house could be on top of the bluff. Ashby stated she thought that would be very

tight. She also stated they had thought of that also but there would be too many steps in the winter to climb and there would be a big expense with this.

Throenle stated that there is an issue with the topography of this parcel. He commented that building into the hill would also require some sort of barrier or retaining wall to prevent the hill from collapsing. Angeli commented it would be out of the budget.

Wietek-Stephens commented she had advocated for the tearing down of a structure last month that the Zoning Board had before them and it got voted down, but that was a waterfront property which was longer and deeper, and it was more feasible for someone who wanted a desirable lakefront property. She stated this property is narrow and shallow and it has a significant topographical feature that would impact the usability, both on the top or by the road. In her opinion it could either get turned into park land or the Zoning Board could do something with it where it is at.

Angeli felt the existing plans would be a viable solution for this property. He felt it would improve the neighborhood and people have expressed to him they are looking forward to this project being done.

Wietek-Stephens asked the Zoning Board if they had any arguments that it would be contrary to the public, after looking at the requirements that need to be met, to issue a variance.

Charboneau asked if there were any comments from any of the neighbors and Throenle commented that he had not received any.

Wietek-Stephens also asked if it would be contrary to the public health, safety, welfare, or the spirit of the *Zoning Ordinance, Master Plan*, or any other land use plans.

Maki answered that an argument could be made as it does not comply with the current setback or comply with the size for houses. Charboneau felt they are increasing the size to the floor space which makes it more conforming and it would not be pushing any more into the current setback.

Wietek-Stephens assumed the non-conformity on the front lot line was there to provide visual distance between the road and the house for aesthetics and to allow the use of the right of way for the road and utilities; this is not encroaching in the right of way as there is still a three foot front setback. She agrees this is not enough and normally she would argue to set the structure back into the hill but given how narrow the lot is and the steepness of the hill, she is having difficulty recommending that.

Jennings commented if the city did need to get within three feet of the house and excavate, it would not be collapse due to the way the footings are set up now.

Wietek-Stephens asked if the plans for changing the crawl space would make this more dangerous and Jennings told her they would be continuing with a similar crawl

space on both sides. There would be a five and ½ foot extension added on the west side and a five foot extension on the east side so they can still meet the side setbacks and allow for a small amount of green space in the back of the property.

Wietek-Stephens asked if the side setbacks will be met and Jennings answered they were trying to meet as many setbacks as they can; the only two not met would be the square footage and the front setback.

Wietek-Stephens stated this plan would not displace, inhibit, or have any type of deleterious effect on a permitted or conforming structure, either on a subject premises or nearby premises.

She does not see any negative effects it would have on surrounding properties or structures. It would also not increase any existing non-conformity such as setbacks.

She stated Maki thought it would increase the nonconformity by making it wider; she feels the non-conformity is based on the distance from the lot line and adding on side to side would not increase the non-conformity as long as it did not come forward. Charboneau agreed.

Wietek-Stephens stated it reduces the non-conformity of it being a tiny house as much as practical for the site in her opinion. She would like the Planning Commission to discuss the tiny house issue. Milton stated it was the first time he heard of them, but he would talk about it getting included in the future.

Wietek-Stephens felt this would not result in any new non-conformity which did not exist prior to the proposed change.

Will meet all reasonable conditions which might be imposed by the Zoning Board of Appeals such as removing the shed that is on the lot line.

Board Decision

Wietek-Stephens motioned, Milton seconded, after conducting a public hearing and review of the Staff Review and Analysis for Variance Request ZB 19-82 for parcel 52-02-251-004-00 at 218 West Fairbanks Street, Marquette, MI, the Zoning Board of Appeals finds that the request demonstrates the standards pertaining to the granting of non-use variances after having reviewed the five standards specifically and hereby approves Variance Request ZB 19-82 with the following findings of fact:

- a) Strict enforcement of the Zoning Ordinance would cause practical difficulty because relocating the existing dwelling elsewhere on the lot to remove the front setback requirement would prove to be an unreasonable hardship given that the lot is too narrow to allow for a big enough house to justify digging into the hill.*
- b) Granting the variance would not be contrary to the public interest because there has been no public comment in opposition. It lessens the non-conformity for the tiny house issue by increasing the size of the tiny house. It removes a blighted property.*

- c) *There are circumstances unique to this property including the dwelling being built before any zoning regulations and therefore never having been compliant with the 25 foot front setback. The hill is quite steep, the lot is narrow making the property nearly unusable for a standard sized structure.*
- d) *The variance request is not due to the actions of the applicant but is the result of adopted government regulation after the property was purchased and the dwelling was built.*
- e) *Approval of this variance request is contingent on the removal of the shed which is within the side setback.*

Maki interjected to ask how the off-street parking would be dealt with as he felt one could not be in the right of way. The Zoning Board discussed this and felt there could be parking in the right of way if it was off the street.

Wietek-Stephens asked if this was a requirement in the Township and Maki stated he felt there needed to be two parking spaces for each dwelling. Charboneau stated this was an existing structure, not a new build, with a provision for another parking area being made. He feels this is an improvement to the parking situation.

Maki stated one car would be under the parking area but asked where a second vehicle would be parked. Angeli stated the other vehicle could park directly behind the other car. Wietek-Stephens stated with a dwelling of this size, one car would not be an unreasonable expectation.

Samantha Ashby (applicant) interjected and told the Zoning Board that currently two cars would not fit due to the lean to and where the shed is currently situated. Charboneau felt when the carport was built you would be able to park one car behind the other.

Wietek-Stephens asked if this was a regulatory requirement that two cars be parked off the right of way? Maki stated to look up off street parking in the Zoning Ordinance. Throenle put the document up on the screen and upon review it was confirmed that two parking spaces were needed.

Wietek-Stephens asked if it was prohibited to park in the right of way overnight. This was not confirmed. Maki stated there still needed to be two spaces and Angeli stated there were, one under the carport and one behind it.

Wietek-Stephens stated, for the record, that there were two parking spaces off street as long as it was permissible to park in the right of way. Maki commented that one car could not be parked behind the other. The rest of the Zoning Board felt it was OK to do this. Maki asked how the one car would get out, Wietek-Stephens answered they would have to be asked to move. Charboneau stated the Zoning Ordinance did not state they had to be parked side by side.

Maki stated it would be common sense to have them side by side and Wietek-Stephens commented she had lived in many houses where she had to ask

people to move their vehicle. Throenle commented that there were many residences in the Township that do not provide side by side parking.

Wietek-Stephens commented if side by side parking was a requirement, she would agree that it would be issue for the Zoning Board of Appeals to look at. She asked Throenle to look for this. He answered he was looking and did not see anything regarding side by side parking, just the minimum amount of parking spaces provided.

Wietek-Stephens amended her motion to add that this variance is contingent upon the removal of the shed and meeting the applicable parking regulations.

Wietek-Stephens asked Milton if this would still be seconded with the new language. Milton felt one was able to park in the right of way as it extends to the property line. Wietek-Stephens agreed but felt the need add the amendment due to the possibility of it being a requirement as it could create a new non-conformity.

Throenle commented in relation to side by side parking, there were eight notes associated with the parking table in the Zoning Ordinance, Section 8.1 and all are pertaining to residential units of five units or more. It also states, “with the exception of residential housing of four units or less”. He does not see any notes regarding side by side parking.

Maki stated he would second the motion with the condition of meeting the applicable requirements for parking.

Vote: Ayes: 4 Nays: 1 (Maki) Motion Carried

Jennings asked if he needed to resubmit the drawing. Wietek-Stephens stated only if there is a parking requirement that is not met with the current plan. She asked Throenle to check on the parking and get back to the applicant.

VIII. Public Comment

Mark Maki, 370 Karen Road – Questioned why meetings were at 5:30 instead of 7:00.

Public comment closed at 6:55 pm.

IX. Township Board Member/Planning Commission Member Comments

Mark Maki (Board representative) – Questioned the Planning and Zoning report that stated the Planning Commission discussed an appeal process for site plan reviews. Asked if there were minutes regarding this discussion. Throenle stated there was. Maki felt the issue was site plans appeals, under the ordinance, come to the Township Board. He asked Throenle if the discussion at the Planning Commission was about a proposed change to put it to the Zoning Board of Appeals. Throenle commented yes but it had not gone any further.

He also asked Throenle if there was a time frame on the Sign Ordinance review. Throenle stated the agenda for the Planning Commission was set meeting to meeting but is full for the next two months.

Kendall Milton (Planning Commission representative) – Stated he will bring up the small houses at the next meeting.

Dale Throenle (Zoning Director) – Reminded the Zoning Board to set their clocks back on Saturday. No meeting for the Zoning Board of Appeals in November.

X. Informational Items and Correspondence

A. Township Board Minutes – 09.09.19

B. Township Newsletter – October 2019

Adjournment

Wietek-Stephens adjourned the meeting at 7:03 PM

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary



**Zoning Board of Appeals
Charter Township of Chocolay**

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on January 23, 2020.

The meeting was cancelled.



**Zoning Board of Appeals
Charter Township of Chocolay**

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on February 27, 2020.

The meeting was cancelled.



**Zoning Board of Appeals
Charter Township of Chocolay**

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on March 26, 2020.

The meeting was cancelled.



**Zoning Board of Appeals
Charter Township of Chocolay**

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on April 23, 2020.

The meeting was cancelled.



Zoning Board of Appeals
Charter Township of Chocolay

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on May 28, 2020.

The meeting was cancelled.



**Zoning Board of Appeals
Charter Township of Chocolay**

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on June 25, 2020.

The meeting was cancelled.



Zoning Board of Appeals
Charter Township of Chocolay

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on July 23, 2020.

The meeting was cancelled.



**Zoning Board of Appeals
Charter Township of Chocolay**

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on August 27, 2020.

The meeting was cancelled.



**Zoning Board of Appeals
Charter Township of Chocolay**

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on September 24, 2020.

The meeting was cancelled.

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, October 22, 2020

I. Meeting Called to Order By:

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:00 PM.

II. Roll Call

Members Present:

Michelle Wietek-Stephens – Chairperson
Kendell Milton – Secretary
Mark Maki, Township Board representative
Geno Angeli, member
Paul Charboneau, member
Anthony Giorgianni, alternate

Members Absent:

None

Staff Present:

Dale Throenle, Planning Director / Zoning Administrator

III. Approval of Agenda

Moved by Maki, seconded by Milton, to approve the agenda as written.

Vote: Ayes: 5 Nays: 0 Motion Carried

IV. Approval of Minutes

A. November 1, 2019 Zoning Board of Appeals meeting minutes.

Maki requested a clarification on his motion request on page ten of the minutes. He stated the minutes reflected he seconded a motion regarding the requirement for parking at the property. Throenle stated the reason was Maki said he would second the motion to get the discussion going on that item, then Maki voted against it.

Wietek-Stephens asked staff to review the minutes to clarify that section of the minutes.

Moved by Wietek-Stephens, seconded by Charboneau, to hold off on approving the minutes until the voting record is checked.

Vote: Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Appointment of Officers

Moved by Maki, seconded by Milton, to appoint Wietek-Stephens as the Chairperson for another year.

Vote: Ayes: 5 Nays: 0 Motion Carried

Moved by Wietek-Stephens, seconded by Charboneau, to appoint Milton as the Secretary for another year.

Vote: Ayes: 5 Nays: 0 Motion Carried

B. Variance Application ZV 20-66

Staff Introduction

Throenle stated Danny and Carol Smith, who reside at 111 West Main Street wished to add an addition on the rear of their conforming structure that would extend ten feet into the waterfront setback.

Throenle gave an overview of the information in the packet. He stated he had sent 51 final notifications out on September 4, 2020 and indicated three were returned as undeliverable two days prior to the meeting. He said there were no comments received from the public via phone, mail, or by email.

He stated the parcel is located at the corner of Green Bay Street and Main Street and is zoned waterfront residential. He pointed out one property located to the northwest of the applicant is zoned residential and that properties across the street on West Main and Green Bay street are also zoned residential.

He stated the structure, the former Harvey railroad depot, was moved to the property prior to the first Township zoning ordinance. Throenle stated the property is in the flood plain, but the structure decision is not affected as the structure and the proposed additions are outside of the flood plain. He stated measurements for the property were taken within the last ten days.

Throenle then proceeded to show pictures of the property with the approximate measurements on the pictures. He pointed out that the rear deck, even though it is in the setback, is not involved in the discussion as the deck is not connected to the principle structure. He explained the slope to the water is approximately 31 feet from the back of the structure, and that it was difficult to see the bottom of the house from the water's edge.

Board Discussion

Wietek-Stephens started the discussion by asking the applicants why the addition should be in the back and not to the sides or to the front. Carol Smith replied that it would be the easiest to manage; the applicants did not want to add onto the front. Danny Smith added that the contractors had recommended that they approach the ZBA first prior to laying out their project. Wietek-Stephens further questioned if the applicants had considered adding the addition on the deck end of the house for the laundry and bathroom. Danny Smith commented that room on the lot would be a potential problem as well as the roof line. He further explained that it would be more expensive; Carol Smith added that the sewer line location would be a problem.

Maki asked for a clarification on the extension. Carol Smith explained that the upper level would be the addition; the lower portion would remain open and the basement would not be expanded. Maki asked how they chose to go twelve feet instead of eight feet. Carol Smith explained the decision was to provide more room, as the dining room was to be moved to that area, the bathroom would be expanded, and the laundry facilities would be moved to the first floor.

Maki asked if the house was only twenty feet wide. Danny Smith replied that it was. He asked if the extension would be twelve by thirty-six, the Smiths confirmed that size. Maki asked if part of that would be the dining room, the extension of the bathroom, and the extension of the living room; the Smiths confirmed that they would.

Milton asked if the extension would be supported by piers; the Smiths replied that would be the plan. They further explained that the area would remain open under the extension.

Wietek-Stephens asked Throenle if he took the measurements from the house to the edge of the bluff; Throenle replied he had. Wietek-Stephens stated it really did not look that big; Throenle further explained the perspective was hard to capture in the photographs, but that the approximate measurements were taken from the house to the edge of the bluff.

Wietek-Stephens expressed a concern regarding the flood plain. She stated she was concerned about erosion of the bank in a flood event and the possibility that future erosion may reach the addition. Carol Smith stated that they saw several flooding events since they have lived in the house and did not experience erosion on the bank. Throenle pointed out that previous flood events and heavy recent rains have not encroached further on the bank. He pointed out that the measurements for the application were taken after five days of rain and that the bank was still heavily vegetated. Carol Smith pointed out that the water rose to the bridge when the Lake LeVasseur dam blew out in the 1980s and that the water did not rise above the bluff.

Maki asked if decks or other additions would be added. Carol Smith explained that no additions would not be added to the deck. Maki further asked what was in the lower area. Carol Smith stated the living room, kitchen, bathroom, and dining area were in the bottom level. She stated the bedrooms and the kitchen were upstairs. Wietek-Stephens asked if water was connected to the kitchen. Carol Smith replied that there was. Charboneau asked for clarification as to the location of the kitchen. Carol Smith stated the kitchen was on the deck end of the house, and Danny Smith pointed out that the stairwell is in the middle of the house; he also indicated where the original foundation was located. Carol Smith pointed out that there was no basement under the kitchen as that was a crawl space.

Maki stated that from a history standpoint many of the houses in that particular area built in the 1910s, 1920s, 1930s, and 1940s were built closer to the river than the applicant.

Wietek-Stephens stated she did not see a need to encroach into the waterfront setback as there were other options, though not the easiest, but doable. Maki replied that the applicants wanted to extend the bathroom, living room, and the dining room and he believed the only way to do that was to extend on the rear side.

Wietek-Stephens replied that the application stated that the applicants wanted to bring the laundry room upstairs and have a handicap-accessible bathroom, and it was possible to do that on the garage side of the property. She understood the desire, but she was not sure as to approval for extending into the setback. Throenle asked Wietek-Stephens to clarify if she was suggesting a second bathroom; Wietek-Stephens replied no. She asked if it would take a twelve foot extension to develop a handicap-accessible bathroom at the current location; Milton replied that three feet was necessary to get to the toilet. Wietek-Stephens stated they had two feet to play with; she was willing to grant a variance for three feet. Angeli asked Wietek-Stephens if she was suggesting expansion toward the chimney side of the house. She said no, as the chimney would present a problem for expansion. She further clarified that she was recommending the kitchen side as the applicants did not want to expand the front. Angeli asked Wietek-Stephens if side expansion would require a variance; she stated the applicants had room on that side to expand without the need for a variance. Angeli stated the costs should be considered as part of the request; Wietek-Stephens reminded the Board that cost cannot be considered as part of the application.

Wietek-Stephens and the Smiths further discussed the location of the bathroom and the expansion effect on the inside of the house. Danny Smith approached the Chair and explained locations of existing and expansions within the house and existing foundations on the application documents.

Maki asked if the documents represented where everything was located. Danny Smith further described where all of the different rooms were located.

Maki stated he was not really concerned about the expansion, except for the justification of the final size of the expansion being eight feet versus twelve feet. He stated all through the period of the 1970s, 1980s, 1990s, 2000s up until 2008 you were exempt from the 100 foot setback because you had an existing building. He said that all structures in 2008 were then required to meet the setback for all additions and structures. He further stated he believed the Smith's house was the only one the Chocolay River area for a mile or so that actually met the waterfront setback. Wietek-Stephens asked if it made sense to make the only compliant house on the river non-compliant. Maki stated he was not concerned about flooding as the house is high enough on the bank to prevent that.

Angeli asked how many feet they were going to be into the setback. Maki replied that the variance would be ten feet. Wietek-Stephens stated that the request was based on the current level of the river but there was only thirty feet of usable space on the bluff, and a good portion of that would be absorbed as part of the project. Throenle displayed the picture with the measurements to the bluff for visual purposes.

Board Decision

Wietek-Stephens motioned, Charboneau seconded, after conducting a public hearing and review of Variance Request ZV 20-66 for parcel 52-02-203-009-00 at 111 West Main Street, Marquette Michigan, the Zoning Board of Appeals denies Variance Request ZV 20-66 with the following findings of fact:

- a) Strict enforcement of the Zoning Ordinance would not cause practical difficulty because there are options at several locations for expansion on the structure*
- and*

b) *Granting the variance would be contrary to the public interest because it would move the structure towards the bank possibly presenting erosion concerns and esthetic concerns making the structure more obtrusive from the river*

and

c) *There are no circumstances unique to this property that would conclude expanding to other sides that would necessitate encroaching into the setback*

and

d) *The variance request is due to actions of the applicant desiring to expand into the easiest location*

Vote: Ayes: 2 Wietek-Stephens, Charboneau

Nays: 3 Milton, Maki, Angeli

Motion Failed

Maki motioned that the variance be granted with the following conditions:

1) No further encroachment beyond twelve feet be permitted, including decks, etc.

2) Bottom below the addition would remain open for the 12 feet of extension

Maki further pointed out that the house is over 100 years old, there is a history of flooding in the lowland area but not at the house, that the house is 20 feet wide, eight feet of expansion is not enough, and that the setback would be 90 feet after expansion, and there would not be impact on the adjoining properties.

Wietek-Stephens asked Maki to address the four findings of facts. Maki stated:

a) Strict enforcement will cause practical difficulty because the only practical place to build the additions to get the desired result is going towards the water

b) The variance would not be contrary to the public interest because they will still have a 90 foot setback which would be greatly in excess of most properties along the Chocolay River

and

c) There are some circumstances unique to this property including the fact the house has been there over 100 years and there is no adjoining property owner on the east side

and

d) The variance request is not due to the owners need for a variance request; the building is there and it is a small house.

Milton seconded the motion.

Vote: Ayes: 3 Milton, Maki, Angeli

Nays: 2 Wietek-Stephens, Charboneau

Motion Passed

VIII. Public Comment

Danny Smith, 111 West Main Street

He suggested the measurements be tied to the flood plain instead of the setback.

Board members discussed the issue briefly, reflecting on insurance and accuracy of the flood plain maps.

Public comment closed at 6:46 pm.

IX. Township Board Member/Planning Commission Member Comments

Mark Maki (Board representative)

Stated this would be his last meeting with the Zoning Board of Appeals as he was not running for reelection to the Board. He expressed he would be moving out of the Township after 44 years, and that it had been quite the experience.

Wietek-Stephens thanked Maki for his service and making meetings interesting for her during Maki's time on the Board.

Kendall Milton (Planning Commission representative)

Milton stated he had no report. Wietek-Stephens asked Milton if the Planning Commission had addressed the tiny house question. Milton stated he brought up the idea, but that were not very many Planning Commission meetings since that occurred, so it has not gone any further.

Wietek-Stephens commented that she stopped by the project on 218 West Fairbanks that was approved at the last meeting and pointed out the project was bold architectural statement.

Angeli asked what happened with the project. different in its look. Wietek-Stephens indicated the project was finished on the outside, and Angeli stated the neighbor across the street was satisfied with the project.

Dale Throenle (Zoning Director)

He stated there would be no meeting in November. He thanked Maki for his service to the Township and expressed thanks for the he had learned from Maki during that timeframe.

X. Informational Items and Correspondence

A. Township Board Minutes – 09.09.19

B. Township Newsletter – October 2019

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:51 PM.

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary



**Zoning Board of Appeals
Charter Township of Chocolay**

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on November 19, 2020.

The meeting was cancelled.



Zoning Board of Appeals
Charter Township of Chocolay

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on December 17, 2020.

The meeting was cancelled.



**Zoning Board of Appeals
Charter Township of Chocolay**

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on January 28, 2021.

The meeting was cancelled.

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, February 25, 2021

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:00 PM.

II. Roll Call

Members Present:

Michelle Wietek-Stephens (Chair)

Geno Angeli

Paul Charboneau

Anthony Giorgianni, alternate

Members Absent:

Kendell Milton (Secretary)

Staff Present:

Dale Throenle, Planning Director / Zoning Administrator

III. Approval of Agenda

Moved by Angeli, seconded by Wietek-Stephens, to approve the agenda as written.

Vote: Ayes: 4 Nays: 0 Motion Carried

IV. Approval of Minutes

A. November 1, 2019 Zoning Board of Appeals meeting minutes

Wietek-Stephens asked staff if a review of the minutes had been completed. Throenle read quotes taken from the recording of November 1 meeting that supported the minutes as written.

Moved by Wietek-Stephens, seconded by Charboneau, to approve the minutes as written.

Vote: Ayes: 3 Nays: 0 Motion Carried

B. October 22, 2020 Zoning Board of Appeals meeting minutes

Wietek-Stephens stated one change from “fi” to “if” in the last paragraph on page two of the minutes.

Moved by Angeli, seconded by Wietek-Stephens, to approve the minutes as amended.

Vote: Ayes: 3 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Appointment of Officers

Moved by Wietek-Stephens, seconded by Angeli, to appoint Giorgianni as a member of the Zoning Board of Appeals.

Vote: Ayes: 3 Nays: 0 Motion Carried

Moved by Wietek-Stephens, seconded by Angeli, to appoint Milton as the Secretary.

Vote: Ayes: 4 Nays: 0 Motion Carried

Moved by Angeli, seconded by Wietek-Stephens, to appoint Wietek-Stephens as Chair.

Vote: Ayes: 4 Nays: 0 Motion Carried

Moved by Wietek-Stephens, seconded by Angeli, to appoint Charboneau as Vice Chair.

Vote: Ayes: 4 Nays: 0 Motion Carried

B. Variance Application ZV 21-02

Staff Introduction

Throenle stated Ron Lieno, who resides at 749 Lakewood Lane, wished to add an addition on northern part of his home. The addition will replace a portion of the deck on the rear of the home. Lieno is at the meeting to request a variance on the east side of the property to allow for the project to be built.

Throenle gave an overview of the information in the packet, indicating the home was built in 1955. Throenle showed a presentation that showed pictures of the property with measurements and distances from the neighbors and Lake Superior. Throenle stated he received one comment from the neighbor to the east in support of the project. No other comments were received.

Board Discussion

Wietek-Stephens asked Throenle if the 1998 variance created the non-conformance on the structure. Throenle replied it did not, as the structure was built originally one foot, eight inches from the property line.

Wietek-Stephens stated she did not have problems with the variance request. Wietek-Stephens asked Board members for reasons that strict enforcement of the zoning ordinance would cause practical difficulty for the addition. There were no reasons provided.

Wietek-Stephens asked Board members if there were reasons that granting the variance would be contrary to public interest. There were no reasons provided.

Wietek-Stephens asked Board members for circumstances unique to the property that would prevent the approval of the variance. None was provided.

Wietek-Stephens asked Board members if the variance request is the fault of the applicant. All Board members responded with a no.

Board Decision

Wietek-Stephens motioned, Angeli seconded, that after conducting a public hearing and review of Variance Request ZV 21-02 for parcel 52-02-110-012-00 at 749 Lakewood Lane, Marquette Michigan, the Zoning Board of Appeals approves the Variance Request

ZV 21-02 with the following findings of fact:

- a) *Strict enforcement of the Zoning Ordinance would cause practical difficulty because the lot is non-conforming and the house was non-conforming prior to the purchase by the owner, and the expansion would be less non-conforming than the rest of the house is*
- b) *Granting the variance would not be contrary to the public interest because it will not increase the non-conformity or the impact of the non-conformity. The structure is set well back from the neighbors, and the expansion is not likely to increase noise or block views, plus the neighbor most likely to be impacted by the expansion has indicated approval of the expansion*
- c) *There are circumstances unique to the property being the excessively narrow lot which was a historical feature and a structure that was constructed prior to any zoning ordinances*
- d) *The variance request is not due to the actions of the applicant but is rather the building that occurred prior to regulations.*

Wietek-Stephens stated she did not see any conditions that had to be added.

Vote: Ayes: 5 Nays: 0 *Motion Carried (Milton joined the meeting prior to the vote)*

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comments

Kendall Milton (Planning Commission representative)

Milton stated he had no report.

Dale Throenle (Zoning Director)

Throenle stated there would be a meeting in March.

X. Informational Items and Correspondence

A. Township Board Minutes – 01.11.21

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:24 PM.

Respectfully Submitted

Kendell Milton, Zoning Board of Appeals Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, March 25, 2021

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:00 PM.

II. Roll Call

Members Present:

Michelle Wietek-Stephens (Chair)

Kendell Milton (Secretary)

Geno Angeli

Paul Charboneau

Anthony Giorgianni

Staff Present:

Dale Throenle, Planning Director / Zoning Administrator

III. Approval of Agenda

Moved by Charboneau, seconded by Angeli, to approve the agenda as written.

Vote: Ayes: 5 Nays: 0 Motion Carried

IV. Approval of Minutes

A. February 25, 2021 Zoning Board of Appeals meeting minutes

Moved by Wietek-Stephens, seconded by Giorgianni, to approve the minutes as written.

Vote: Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Variance Application ZV 21-05

Staff Introduction

Throenle stated that Dorothy and Bruce Peterson, who own the property at 289 Lakewood Lane, wished to add an addition on the northeastern portion of the home. He mentioned that the Petersons and the designer, Carol Hicks, had joined the meeting via teleconference.

Throenle gave an overview of the information supplied to the Board that was in the meeting packet. He indicated EGLE had determined the bayou a "body of water" in a 2017 email, which, because of the house location, would require a variance from the waterfront setback of 100 feet. Throenle stated he sent out 29 notices to the neighbors; he received four comments from the neighbors – one which was received after the submission deadline – that supported the project. He stated no other comments were

received. He indicated that all deadlines for publishing in the newspaper and posting on the Township web site were met. Throenle stated that there were two conditions for the Board to consider: 1) the southwestern corner of the house was 8.5 feet from the western lot line, and 2) the house was within the setback of 100 feet from the bayou. He added that the lot was considered non-conforming based on the lot width, but that non-conformance was not a factor as the lot dimension was sufficient to meet lot setbacks.

He stated the house was built in 1930, and added the lot was part of a platted subdivision in 1908, but there are no known covenants for the subdivision. He stated that the current zoning for the property is Waterfront Residential.

Throenle stated he took two sets of measurements; one set was taken from the principle structure, and the other was taken from the proposed project site.

Charboneau asked Throenle to repeat the non-conforming lot specification. Throenle stated that as long as a lot provided the correct setbacks for a zoning district, building could occur on that lot.

Throenle opened a presentation that showed pictures of the property with measurements and distances from the neighbors and Lake Superior. He stated staff did not have issues with the applicant's request.

Board Discussion

Wietek-Stephens asked Throenle if the addition created any side setback non-conformity. Throenle stated that there would not be. Wietek-Stephens stated the project would increase the non-conformity to the bayou in the waterfront setback; Throenle concurred that it would and stated that it would be about ten feet closer to the water. He also pointed out that the application referenced an addition in 1980, but there were no Township or County records available regarding that addition. He stated the structure as built was there when the applicants purchased the property.

Wietek-Stephens asked about a deck on the addition. Throenle stated the existing deck would not be expanded.

Milton asked for the location of the septic field. Throenle stated the septic field was on the south side of the house; Dorothy Peterson confirmed this. Bruce Peterson added that the septic system was originally located on the east side of the house near the bayou, and they moved it to the south side of the house.

Wietek-Stephens asked the Board for additional questions. Charbonneau asked about the first floor drawing and the deck. Hicks pointed out that the deck would be extended to the east as part of the project. Wietek-Stephens asked if the deck increased the addition to the east; Hicks responded that it did as there would be a door exit from the addition onto the deck. Throenle asked Hicks if the deck was included in the dimensions that were provided with the application; Hicks responded that they were. Wietek-Stephens asked the distance of 41 feet to the water included the deck; Hicks responded that it did.

Wietek-Stephens asked the Board if there was a practical difficulty for the owners if the zoning ordinance was strictly enforced.

Bruce Peters interjected with a brief statement regarding the project. He pointed out that the west side of the house would be a problem for the addition as that was in the setback and that was the location of the septic field. He stated the neighbors had seen the plans and were in support of the project. He indicated there would be no flooding from the

bayou, and that the project would not cause additional environmental impacts. He indicated that the problems were not created by their ownership over the 16 years of ownership, and he restated that they moved the septic system from a location near the bayou to the south side of the house.

Wietek-Stephens asked the Board if anyone had any arguments with Bruce Peterson's statements; Board members indicated they did not. Charbonneau stated he felt that if they did not do the project, the Petersons would have to move, which would create a practical difficulty.

Board Decision

Wietek-Stephens motioned, Milton seconded, that after conducting a public hearing and review of Variance Request ZV 21-05 for parcel 52-02-310-009-00 at 289 Lakewood Lane, Marquette Michigan, the Zoning Board of Appeals approves the Variance Request ZV 21-05 with the following findings of fact:

- a) Strict enforcement of the Zoning Ordinance would cause practical difficulty because the structure was built on a 1908 lot in the 1930s and any modification would require a variance. Denying a variance as strict enforcement of the zoning ordinance would essentially lock the structure into a 1980s configuration at best.*
- b) Granting the variance would not be contrary to the public interest because it does not create any new non-conformities and it does not appear that it would create any aesthetic or practical impact on the neighbors which is supported by letters of support received from several neighbors.*
- c) There are circumstances unique to this property including the fact that it is a very narrow lot and it was a house that was built far before there were anything like wetland protections or even side setbacks.*
- d) The variance request is not due to the actions of the applicant but is the result of zoning placed on pre-existing situations and the applicant appears to have selected the least offensive location for the project.*

Wietek-Stephens stated she did not see any conditions that had to be added.

Vote: Ayes: 5 Nays: 0 Motion Carried

Bruce Peterson thanked the Board for their decision. Hicks also thanked the Board for their decision.

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comments

Kendall Milton (Planning Commission representative)

Milton stated he had no report.

Wietek-Stephens stated that Township Board member comments item should be removed from the agenda. She added that if a Board member were added in the future, she would recommend the Board consider Kendra Symbal for the position.

Dale Throenle (Zoning Director)

Throenle stated there would no meeting in April.

Charbonneau asked Throenle if there was a record added to the Assessing records regarding the addition. Throenle stated the Assessing folder did not contain anything. Wietek-Stephens stated that she did not see where there was an addition added to the property; Throenle stated he had reached the same conclusion.

X. Informational Items and Correspondence

A. Township Board Minutes – 03.08.21 draft

B. Minutes – Planning Commission 03.02.21

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:29 PM.

Respectfully Submitted

Kendell Milton, Zoning Board of Appeals Secretary



Zoning Board of Appeals
Charter Township of Chocolay

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on April 22, 2021.

The meeting was cancelled.



Zoning Board of Appeals
Charter Township of Chocolay

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on May 27, 2021.

The meeting was cancelled.



Zoning Board of Appeals
Charter Township of Chocolay

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on June 24, 2021.

The meeting was cancelled.

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, July 22, 2021

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:00 PM.

II. Roll Call

Members Present:

Michelle Wietek-Stephens (Chair)

Kendell Milton (Secretary)

Geno Angeli

Paul Charboneau

Members Absent:

Anthony Giorgianni

Staff Present:

Dale Throenle, Planning Director / Zoning Administrator

III. Approval of Agenda

Moved by Milton, seconded by Wietek-Stephens, to approve the agenda as written.

Vote: Ayes: 4 Nays: 0 Motion Carried

IV. Approval of Minutes

A. March 25, 2021 Zoning Board of Appeals meeting minutes

Moved by Wietek-Stephens, seconded by Charboneau, to approve the minutes as written.

Vote: Ayes: 4 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Variance Application ZV 21-42

Staff Introduction

Throenle stated that Sally Jacob and Edward "Ted" Lorsbach, who own the property at 160 Bayou Road, wished to add an addition to the existing structure.

Throenle gave an overview of the information supplied to the Board that was in the meeting packet. He indicated that all deadlines for publishing in the newspaper and posting on the Township web site were met.

Throenle stated he sent out 11 notices to the neighbors; he received five comments from the neighbors – one which was received after the submission deadline – that supported

the project. He stated no other comments were received.

He stated the lot is part of the Agate Beach subdivision that was platted in 1965, and he said the house was built in 1965. He said the current zoning for the property is Waterfront Residential.

He indicated the addition to the house would require a variance because the house is located in the setback of 100 feet from Lake Superior.

Throenle opened a presentation that showed pictures of the property with measurements and distances from Lake Superior and Bayou Road that showed no visual impact to the neighbors. He further indicated the property was partially located in a FEMA-mapped flood plain with a flood map zoning of AE. He said no elevation certificates were submitted to indicate if the structures on the property were out of the flood plain. He stated the garage on the property was at a lower elevation than the principal structure.

He mentioned that George Bennett and one of the applicants, Sally Jacob, had joined the meeting via teleconference.

Board Discussion

Wietek-Stephens asked for clarification if the footprint would be changed with the second floor addition; she further asked what the purpose of the addition would be. Bennett explained that the primary purpose was to provide larger living space on the second floor.

Wietek-Stephens asked if the grade of the site would be changed. Bennett explained that between the house and the garage was a connection that existed to provide access to and from the garage, and that the space between the retaining walls on the northwest side of the house was currently filled in. He stated the purpose of the excavation was to return to the original connection between the house and the garage.

Wietek-Stephens stated she saw in the Township-provided materials that the Bayou Road area had flooded due to ice dams at the mouth of the river. She asked Throenle if the basement of the residence was ever flooded. Throenle stated it was his understanding that there was no flooding in the residence, but that flooding had occurred in the garage.

Wietek-Stephens asked Bennett if flooding would occur if the excavation was completed. Bennett replied that the elevation per his measurements was high enough that flooding should not occur. Wietek-Stephens asked if the connection between the house and the garage would be enclosed; Bennett replied it would.

Frank Lorsbach, Ted's father, spoke from the audience, and gave a brief history of flooding and related corrections on Bayou Road. He indicated that there may have been water in the garage in the past, but it would have been no more than an inch or two.

Bennett stated the residence was elevated on higher ground than the garage, and that the elevation was not mentioned in the original application. He stated the desire was to keep the residence on the higher portion of the property that was located in the setback instead of moving the structure outside the setback which would put the structure into a lower elevation.

Wietek-Stephens stated she did not have any issues with the second floor addition as it did not encroach further into the setback or cause issues with the neighbor's sight lines.

She expressed concerns with the connection between the garage and the basement.

She requested comments from the public in attendance regarding the project. Frank Lorsbach responded that the majority of the garage connection was outside the setback; Bennett further emphasized that the intent for the design of the connection was to maintain that majority.

Wietek-Stephens questioned the excavation timing regarding the increase in severe weather conditions that have occurred over the last several years.

Charboneau asked Throenle the distance from the bayou to the property. Using measurements with an online aerial view, Throenle gave an approximate distance of 450 feet from the bayou. Wietek-Stephens asked the distance from the house to the low area where the bayou would flow into; Throenle responded the distance was approximately 102 feet.

Throenle indicated the biggest staff concern was whether the garage was in or above the flood plain. Wietek-Stephens asked who would be responsible for allowing the construction; Throenle stated it would be the Marquette County building code department.

Throenle explained the flood plain determination based on elevation. He stated that the Township could not issue permits until the County determined the garage was out of the flood plain.

Wietek-Stephens asked the Board if they had concerns with the project; none were expressed.

Charboneau asked Bennett if the connection between the garage and the house was depicted on the site plan; Bennett indicated it was. Charboneau asked if the excavation intent was to put a door on the house to access the path to the garage; Bennett stated that was the intent. Bennett further clarified that the excavation would be further north on the structure.

Milton expressed that he did not have any problem with either project addition.

Charboneau asked for additional clarification on what the structural connection was between the house and garage. Bennett showed 3-D renderings and photos of the project to the Board that explained the connection.

Wietek-Stephens, Charboneau and Throenle discussed how the addition between the garage and the house was considered if a portion of the addition was outside the setback. Throenle stated that if any portion of a structure is outside the setback, the entire structure and related additions would be considered non-conforming.

Wietek-Stephens stated that a condition for the variance should be a submittal of drawings showing the dimensions of the connection between the house and garage. Bennett stated he had drawings and references for the addition that could be submitted.

Charboneau asked for the dimensions of the connection between the house and the garage; Bennett provided those verbally to the Board.

Board Decision

Wietek-Stephens motioned, Milton seconded, that after conducting a public hearing and review of Variance Request ZV 21-42 for parcel 52-02-330-004-00 at 160 Bayou Road, Marquette Michigan, the Zoning Board of Appeals approves with conditions Variance Request ZV 21-42 with the following findings of fact:

- a) *Strict enforcement of the Zoning Ordinance would cause practical difficulty because the proposed alteration does not significantly increase the nonconformity and the structure appears to be adequately useful as a dwelling and is not a candidate for tear down.*
- b) *Granting the variance would not be contrary to the public interest because it does not impact the functionality of the neighbor's properties or the aesthetics of the neighborhood in a negative manner.*
- c) *There are circumstances unique to this property including the fact that the lot lines and the development occurred prior to any zoning ordinance or waterfront setbacks in particular. The property is shallow in terms of distance from the lake to the road and a rebuild beyond the 100 foot setback might be difficult given the front line setback. Also moving the building towards the road would lower the elevation of the structure further into the flood plain and create additional concerns there. An additional circumstance unique to the property is that the flood plain regulations do impact the site and County approval will be needed in order to continue with the project.*
- d) *The variance request is not due to the actions of the applicant but is a result of the zoning and environmental protections implemented after the structure was built and well prior to their ownership of it.*

Additional conditions

- 1) *Not to extend the footprint of the existing dwelling within the waterfront setback with the exception of a small portion of the hallway from the garage to the house*
- 2) *The architect shall submit more detailed 3-D site plans for inclusion into the record with dimensions calculated to date including the dimensions provided verbally that the hallway is approximately 31 and one-half feet in length by 6 feet 3 inches wide with an 8 foot ceiling which would give it an approximate height depending on the grade of 9 feet on the exterior.*

Vote: Ayes: 4 Nays: 0 Motion Carried

Bennett and Jacob thanked the Board for their decision.

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comments

Kendall Milton (Planning Commission representative); he stated that he had no report.

Throenle provided general information from the Board meeting that construction for Lakewood Lane would begin the following week or week after. He also stated that in the future the Township will be moving from cable to fiber for internet services.

Dale Throenle (Zoning Director)

Throenle stated there would no meeting in August.

X. Informational Items and Correspondence

A. Township Board Minutes – 06.14.21 draft

B. Minutes – Planning Commission 06.21.21 draft

C. Township newsletter – June 2021

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:58 PM.

Respectfully Submitted

Kendell Milton, Zoning Board of Appeals Secretary



**Zoning Board of Appeals
Charter Township of Chocolay**

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on August 26, 2021.

The meeting was cancelled.

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Tuesday, October 5, 2021

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:00 PM.

II. Roll Call

Members Present:

Michelle Wietek-Stephens (Chair)

Geno Angeli

Paul Charboneau

Anthony Giorgianni

Members Absent:

Kendell Milton (Secretary)

Staff Present:

Dale Throenle, Planning Director / Zoning Administrator

III. Approval of Agenda

Moved by Angeli, seconded by Charboneau, to approve the agenda as written.

Vote: Ayes: 4 Nays: 0 Motion Carried

IV. Approval of Minutes

A. July 22, 2021 Zoning Board of Appeals meeting minutes

Moved by Wietek-Stephens, seconded by Angeli, to approve the minutes as written.

Vote: Ayes: 4 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Variance Application ZV 21-61

Staff Introduction

Throenle stated that Richard and Kristin Overbey, who own the property at 408 Shot Point Drive, wished to replace a second floor deck on their existing home that would extend into the waterfront setback.

Throenle gave an overview of the information supplied to the Board that was in the meeting packet. He indicated that all deadlines for publishing in the newspaper and posting on the Township web site were met.

Throenle stated he sent out eight notices to the neighbors; he received no comments from the neighbors or others regarding the project. He stated the property is somewhat

isolated, with Lake Superior to the northwest and undeveloped properties on either side of the lot. He indicated that the house was built in 1981, which placed the house under the 1977 ordinance; the property was zoned Lakeshore Residential at that time and is now zoned as Waterfront Residential. He stated that there was one zoning compliance permit approved in 1990 for an addition to the main structure.

Throenle opened a presentation that showed pictures of the property with measurements and distances from Lake Superior. He further indicated the property in 1990 was approximately 112 feet from Lake Superior, making a conforming property at the time the permit was issued. He pointed out that the current property is 72 feet from the water, showing that the water line had changed by 40 feet, which made the current structure non-conforming. He showed the measurements from the sides of the lots and stated that there were no other non-conformances on the lot. He stated that neighbors would not see an impact from the proposed project.

He stated that there were two sets of measurements regarding the variance; the first set was taken at the time of denial, and the second was taken just prior to the meeting. The difference between the two sets was that the deck was removed from the rear of the structure after the first set of measurements was recorded. The new measurements indicated that the new deck as proposed would be less encroaching on the waterfront setback.

Board Discussion

Charboneau asked Overbey if he would like to address the Board. Overbey stated they bought the house in 2017 and began improvements from the inside out for safety issues related to the structure. He stated the deck was removed as it was not considered safe based on its construction. He requested that the Board approve the extension from the structure to go from the original deck width of six to twelve feet.

Wietek-Stephens asked if there would be a covering or roof on the deck; Overbey stated there would not be a covering.

Wietek-Stephens asked Throenle what setbacks were in place when the property was conforming; Throenle stated the 1977 ordinance put the setback at 100 feet. He also stated that the structure, when built in 1981, was conforming due to the water level of the lake.

Charboneau asked Throenle if there was any record showing when the deck was added; Throenle stated that there were no zoning compliance records indicating when the deck was added; only the zoning compliance record for the addition was in the records.

Wietek-Stephens asked Overbey if he knew when the original deck was added; Overbey stated he did not know.

Wietek-Stephens stated she did not see a particular issue with this change, as the deck did not extend closer to the lake than the existing structure.

Charboneau stated that the overall change did not extend the structure toward the lake, and improved the setback from the lake. Throenle stated that the deck was removed, but it did not change the encroachment. Wietek-Stephens pointed out that the deck at the time of the application was the consideration, and it appeared that the change would not cause an impact.

Charboneau asked for a clarification regarding the lot at 412 Shot Point Drive; he asked

if the lot was vacant. Throenle stated it was.

Wietek-Stephens asked what type of materials would be used in construction of the deck; Overbey stated the deck would be built using Trex materials (wood composite) to prepare the deck for winter weather.

Charboneau asked about the look of the deck; Overbey stated the deck would look the same as the previous deck.

Board Decision

Charboneau motioned, Wietek-Stephens seconded, that after conducting a public hearing and review of Variance Request ZV 21-61 for parcel 52-02-003-032-70 at 408 Shot Point Drive, Marquette Michigan, the Zoning Board of Appeals approves with conditions Variance Request ZV 21-61 with the following findings of fact:

- a) Strict enforcement of the Zoning Ordinance would cause difficulty because the structure was existing and was taken down in order to address structure issues for the primary residence, and the reconstruction would cause difficulty because there's no other way to reconstruct that feature of the home.*
- b) Granting the variance would not be contrary to the public interest because it doesn't pose any safety issues, sanitary or otherwise, and the circumstances unique to this property include the fact that the structure existed and reconstituting the structure will actually improve the non-conformance because of the elimination of the staircase and the expansion of the deck will still be within the footprint of the structure.*
- c) The variance request is not really due to the actions of the applicant, but is a result of structural issues that need to be addressed to the primary residence.*

Additional conditions

- 1) The deck include a traditional railing and no overhead structure.*

Vote: Ayes: 4 Nays: 0 Motion Carried

Overbey thanked the Board for their decision.

VIII. Public Comment

Richard Dummer, 396 Shot Point Drive

Asked what the reason was for the setback from the water.

Wietek-Stephens stated the reason was to protect the property structures from erosion, to protect sensitive habitats such as the dunes, and to protect the aesthetics of the lakeshore.

IX. Township Board Member/Planning Commission Member Comments

Dale Throenle (Zoning Director)

He stated the Planning Commission had finished the draft of the Township master plan, and pending approval from the Board on October 11, the plan would be put out for public comment for 63 days.

Wietek-Stephens asked Throenle what the most exciting change that could be found in the new plan. Throenle stated the proposal for a water system that would be installed. Charboneau asked if that would be a system bringing public supply to the Township;

Throenle stated that was the intent. Charboneau asked if those that have wells would have to give them up; Throenle stated that the final details of the proposed system are still under discussion. He added that the corridor and Kawbawgam Road would be part of the discussion.

Charboneau asked about the resurfacing of Lakewood Lane. Throenle stated he was under the impression that the resurfacing was scheduled to be completed this year.

Wietek-Stephens asked about Board-related projects. Throenle stated a new sewer ordinance was adopted, the sign portion of the Zoning Ordinance has been updated, and the Board's direction will be a new zoning ordinance update in 2022.

Charboneau asked about the general direction for the new zoning ordinance. Throenle stated the primary goal was to match the new zoning ordinance to the new master plan so that the recommendations and direction were in synch. The primary direction for the zoning ordinance discussion was to relook at the non-conformances in the agricultural / forestry (AF) district, and to look at issues the Zoning Board of Appeals has addressed in the past to see if those can be addressed in the zoning ordinance. He also stated that the public would be involved in the zoning ordinance process.

Charboneau asked if there would be changes with regards to structures within the setback. Throenle stated that there was none at this time, but that accessory structure height has been modified in the current zoning ordinance to allow for 30 feet on an accessory structure to match the maximum height on the primary residence.

Wietek-Stephens asked if anything had changed for signs in the agricultural district. Throenle stated no, and added that each public entity (Road Commission, MDOT and the Township) would be responsible for ensuring that signs were placed properly. He stated that the placement of political signs and the timing for signs prior to an election were changed as well.

Angeli asked about activity in the business corridor. Throenle stated the former Quiznos restaurant was now a plumbing contractor, that the former Hudson property was now an electrical contractor, and the storage units on Carmen Drive were almost completed. There is a Subway and a doctor's office coming to the Moyle Center, and a new development will be coming online behind the Moyle center. He also told the Board about the new residential development near the dog kennel on US 41 South.

Charboneau asked about low income housing. Throenle stated that there were housing comments in the master plan, with a large concern regarding the aging of the population in the Township. He stated the plan is looking at a balance between economic development and housing, and that there are considerations in the plan for tiny homes.

Throenle pointed out that the new lift stations for the sewer system are in place and should be online by the end of the year.

Charboneau asked about the hotel for the casino. Throenle stated there has been no updates on any casino projects. He also stated that the hotel across from the Township was up for sale.

Throenle stated the official meeting Zoning Board of Appeals meeting for October was cancelled and apologized for the change in meeting date for tonight's meeting.

X. Informational Items and Correspondence

A. Township Board Minutes – 09.13.21 draft

B. Minutes – Planning Commission 08.16.21

C. Township newsletter – August 2021

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:41 PM.

Respectfully Submitted

Kendell Milton, Zoning Board of Appeals Secretary



**Zoning Board of Appeals
Charter Township of Chocolay**

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on October 28, 2021.

The meeting was cancelled.



**Zoning Board of Appeals
Charter Township of Chocolay**

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on November 18, 2021.

The meeting was cancelled.

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, December 16, 2021**

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:00 PM.

II. Roll Call

Members Present:

Michelle Wietek-Stephens (Chair)

Kendell Milton (Secretary)

Geno Angeli

Paul Charboneau

Anthony Giorgianni

Staff Present:

Dale Throenle, Planning Director / Zoning Administrator

III. Approval of Agenda

Moved by Angeli, seconded by Charboneau, to approve the agenda as written.

Vote: Ayes: 5 Nays: 0 Motion Carried

IV. Approval of Minutes

A. October 5, 2021 Zoning Board of Appeals meeting minutes

Wietek-Stephens requested that the original deck structure be included in the minutes to further back up the decision process for the deck variance approval. She requested the changes be included in paragraph 3 on page 2. She also requested a minor typographic correction on page 3 in the top paragraph to change from "to prepared the deck" to "to prepare the deck".

Moved by Wietek-Stephens, seconded by Giorgianni, to approve the minutes with the additional text and requested as changed.

Vote: Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

Eileen Becker, 205 Judy Street

Expressed concerns that the structure at 204 Judy was too close to the road and should be aligned with other structures in the neighborhood. She also expressed concern that the structure that is on the property does not match the structure as it was permitted.

Throenle read into the record the following comments received prior to the meeting but after the submission deadline from Dan Clement, 208 Judy Street:

"Dear Zoning Board of Appeals members, I am a property owner located within 500 feet of Mister Beyers property he is seeking a variance on. I feel he should be granted the variance under one condition only. If his building application was approved with his proposed house located where it currently sits, however I believe he put it where it is because of the odd shape of his property. If he were to put the house with the proper

offset from the roadway it would encroach on the properties on either side of him. His house is in the only place on the property where it will fit. His choices were to build it where it is in the current size it is and encroach on the 30 roadway offset, or to reduce the size of the house and comply with all zoning regulations. As a result of his decision here we are now. He is asking for a variance once the foundation is built thinking it is easier to ask for forgiveness [sic] than permission. Again if he was granted a building permit with his house located where it currently sits his appeal should be granted, under no other circumstances should this appeal be granted.

Thank you”

VI. Unfinished Business

None

VII. New Business

A. Variance Application ZV 21-82

Staff Introduction

Throenle stated that Pat Beyer, Sr. who own the property at 204 Judy Street, wished to gain a variance of 11 feet from the front setback for a structure that has already been partially built on his property.

Throenle gave an overview of the information supplied to the Board that was in the meeting packet. He indicated that all deadlines for publishing in the newspaper and posting on the Township web site were met.

Throenle stated he sent out forty-seven notices to the neighbors; he received one comment via telephone to the Township Manager and one email that came in after the deadline, both of which were opposed to the project.

He stated the parcel is lot 55 of the Ewing Park Subdivision, which was platted in March of 1977, two months prior to adoption of the 1977 Township zoning ordinance. He stated that a covenant was issued with the plat; the covenant was updated in 1984 to reduce the minimum size requirement of primary structures on a property. He stated that a zoning compliance permit had been issued for the build on the property.

Throenle pointed out that a letter was received from Sam Elder, signer of the covenant, that gave Mr. Beyer relief from the required setback in the covenant prior to the approval of the zoning compliance permit. Throenle stated the covenant measured setbacks from the center of the road, as opposed to the Township *Zoning Ordinance* which measures setbacks from the property line. He stated the covenant indicated that the measurements were a minimum of 58 feet to a maximum of 70 feet from the center of the road. Throenle stated the road in the front of the project site was 30 feet in width, which meant that the road was 15 feet wide from the center line.

Throenle referred to *Zoning Compliance Permit* ZC 21-04 that was issued for the project. He pointed out that the approved orientation of the project did not match the partial structure on the site; he stated the structure was rotated 90 degrees. He stated that Marquette County Building Codes approved permits based on the new orientation, as those were the plans that Mr. Beyer gave to the County.

Wietek-Stephens asked if attachment VII.A.5 in the packet was the original site plan for the site; Throenle stated it was. He pointed to the site plan within the application that showed the original orientation of the project, which indicated the house was to be built

perpendicular to the road, not parallel. Throenle stated that when Mr. Beyer was asked about the change when staff visited the site, Mr. Beyer stated he changed the orientation due to concerns from the neighbors, and stated he was not aware that he had to tell the Township that his plans had been modified. Throenle also pointed out that Mr. Beyer misinterpreted the measurement instructions for the front setback; Mr. Beyer assumed that the measurements were front the edge of the road and not the front property line.

Throenle added that Mr. Beyer stated he believed the stakes for the basement and pad were moved without his knowledge prior to pouring the concrete, and that caused the structure to be closer to the front than measured.

Staff visited the site after a complaint was received. After discussion, staff issued a stop work order with instructions to Mr. Beyer to file a *Zoning Variance Application*.

Throenle stated that he missed section 28 of the covenant which stated that a vote of three fourths of the owners of the platted subdivision were required to approve the change in setback; Throenle indicated that the original zoning compliance permit would not have been issued if he had seen that section of the covenant.

Throenle opened a presentation that showed pictures of the property with measurements and distances from Judy Street.

Wietek-Stephens asked for clarification about the covenant for the subdivision, and if there was a statement in the Township *Zoning Ordinance* about covenants being enforced; Throenle said there was no statement in the ordinance for required enforcement. Throenle further indicated that between the zoning ordinance and the covenant, which ever was more restrictive, that was the restriction would be followed.

Throenle stated the original application showed that the structure would be placed 40 feet from the curb (55 feet from the center line); he stated the measurements changed after the structure was reoriented. Throenle added that the Township did not perform stake surveys to determine if the applicant was putting the structure in the correct place. He stated it was up to the applicant to follow the placement of the structure as it was approved on the zoning compliance permit. He also stated that Marquette County Building Codes did not verify the orientation shown on the original zoning compliance permit.

Charbonneau asked about development approvals and what the processes are. Throenle stated the approvals generally go through the Planning Commission; however, there was no requirement at the time as the subdivision was created prior to the 1977 ordinance. Throenle also indicated there were several other subdivisions developed prior to 1977.

Wietek-Stephens asked about the orientation and approval of the original zoning compliance permit. Throenle stated the letter from Mr. Elder was used for the permit approval, and the orientation of the project was approved as submitted. Throenle further stated the project problems began when the project was reoriented, which caused further encroachment into the front yard setback.

Throenle continued the presentation showing conformance to side setbacks and fill locations at the rear of the property, with a drop off approximately six feet to the neighbor's lot in the rear.

Board Discussion

Wietek-Stephens asked Mr. Beyer if he wished to comment. Mr. Beyer indicated there were several missteps that were part of the problem, including possible moving of stakes

that provided further problems for the location of the structure.

Milton asked how the non-compliance was discovered. Throenle stated a call was received concerning the project; Throenle stated that he and the Township Manager went out to the project and completed measurements that showed the project was not compliant with the original zoning compliance permit.

Charbonneau asked if there was an indication as to how far the property line was from the curb. Throenle pointed out that site surveys are not required for zoning compliance permits; he stated staff assumed the property owner knows where the property lines are.

Wietek-Stephens asked if staff was sure the front of the house did not meet the front setback. Throenle indicated that the measurement, if taken from the center of the road would be 63 feet; the measurements taken were well within the 63 feet, making the structure non-conforming.

Milton pointed out that the monument points for the curb are well established and should be easy to find.

Charbonneau asked about the covenant; Throenle stated that Mr. Elder believed that the covenant had expired and was no longer in effect; Mr. Elder wrote the letter because of Throenle stating the covenant was still in effect.

Wietek-Stephens asked if there any additional Board or staff comments; none were given.

Wietek-Stephens asked if there any additional public comment. Becker stated she had not received a letter from Lee Elder regarding the covenant. She stated that Elder stated he would have to go door-to-door for signatures.

Board Decision

Wietek-Stephens motioned, seconded by Milton, that after conducting a public hearing and review of Variance Request ZV 21-82 for parcel 52-02-455-005-00 at 204 Judy Street, Marquette Michigan, the Zoning Board of Appeals denies Variance Request ZV 21-82 with the following findings of fact:

- a) Strict enforcement of the Zoning Ordinance would not cause practical difficulty because there were options that were more in compliance with both the zoning ordinance and the covenant as demonstrated by the original application of February 2021.*
- b) Granting the variance would be contrary to the public interest because it obstructs the neighborhood sight lines and the character of the neighborhood and violates the covenant with which all the other residents complied in a significant way as evidenced by several neighborhood complaints.*
- c) There are circumstances unique to this property. It is a small site with a drop off but a more compliant structure was already planned as evidenced by the original application, so the circumstances of the site did not affect the ability to build a functional structure.*
- d) The variance request is due to the actions of the applicant by not following the submitted building plans and not overseeing his contractor.*

Vote: Ayes: 5 Nays: 0 Motion Carried, Variance Denied.

VIII. Public Comment

Pat Byer, applicant

Asked why he had to put a floor on his project if the variance would not have been granted. He also asked what his options were; Wietek-Stephens stated he should meet with the Township for further direction.

IX. Township Board Member/Planning Commission Member Comments

Kendall Milton

Had no comments

Dale Throenle (Zoning Director)

Gave a brief update on projects the Board was considering.

He stated that there was no meeting scheduled for January.

X. Informational Items and Correspondence

A. Township Board Minutes – 09.13.21 draft

B. Minutes – Planning Commission 08.16.21

C. Township newsletter – August 2021

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:59 PM.

Respectfully Submitted

Kendell Milton, Zoning Board of Appeals Secretary