

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 faces 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