

**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".

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

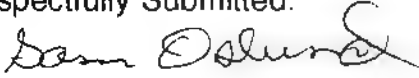
Mark wrote a letter to the Planning Commission and there has been no discussion on this issue by the Planning Commission. Mark suggests we wait to see if we get any more requests regarding this issue.

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 that 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 1/2 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 1/2 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 & Chocoley.

-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 Chocoley 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