

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF MARCH 27, 2003**

I. Meeting called to order by Bill Sanders at 7:34 p.m. in the meeting room of the Township Hall.

Members present: Lois Sherbinow, Michele Wietek, Bill Sanders and Carol Hicks.

Members Absent: Robert Pecotte

Also present: Randy Yelle, Zoning Administrator and Cathy Phelps, Recording Secretary

II. AGENDA APPROVAL

Lois Sherbinow Motioned, Michele Wietek Seconded that the agenda be accepted as presented. Aye 4, Nay 0. Motion carried.

III. PUBLIC COMMENT - None

IV. APPROVAL OF NOVEMBER 21, 2002 MEETING MINUTES

Carol Hicks Motioned, Bill Sanders Seconded that the November 21, 2002 Minutes be approved as presented. Aye 4, Nay 0. Motion carried.

V. NEW BUSINESS

A. VARIANCE 2003-01 Brian Garwood of 330 W Wright Place.

Randy Yelle explained the Zoning Ordinance allows a side setback of 10 feet, and Brian Garwood is requesting a variance of 8 feet allowing the garage to be built 2 feet from the east lot line. No negative responses were received. There is an existing building on the site at this time which is on skids. Mr. Garwood does not want to build the garage at an angle because it would be over a septic field, although it was not in use, as the Garwoods are on city sewer. Randy Yelle noted to the Zoning Board that he would like to see the garage built at an angle.

Brian Garwood noted that the 2-foot distance from the lot line was measured from the eaves. There is a septic field to the west of the proposed garage. He said they have gone over all the options of sites on his lot, and he feels the best place would be where he has proposed. He and his wife do not want the garage at an angle, as they think it will look out of place since all of the other buildings are built parallel to the street.

Carol Hicks asked questions about the attached garage and what his plans were for the storage shed? Brian Garwood said he plans to move it to a higher area behind the house toward the back of his lot. Carol Hicks said that would give him two accessory

buildings. Carol Hicks asked if Brian Garwood had thought about just adding another stall to the existing garage to achieve similar goals? Brian Garwood stated that it would be more expensive because of the roof, they would need to make a new roofline.

Carol Hicks asked about the elevation difference to the neighbor's property, and if there was water ponding in the neighbor's yard? Brian Garwood noted that it is about 3 to 4 feet lower and there were no water problems there. Brian said he planned to have gutters on the garage to direct the water to his property in the back. He assured the Zoning Board that there would not be a problem with water runoff.

Carol Hicks suggestion is to build the garage at an angle. Brian Garwood noted that his wife would not let him do that. He feels it would be a problem for him to get his large van into the garage at that angle.

Bill Sanders asked about the large tree in respect to the proposed garage. Brian Garwood said the limbs were 2 to 4 feet away, and the trunk was 12 to 14 feet away from the proposed garage. Bill Sanders suggested moving the garage 2 feet back and 2 feet west of the proposed location.

Carol Hicks noted that he would not okay a 2-foot side setback, but would consider if it were 5 feet, if the garage was guttered and drained to the back. Brian Garwood assured him it would be built professionally/properly.

Michele Wietek said she has concerns. 2 feet is too close to the lot line, and feels the site may not support the garage (too many buildings in close proximity). This is an R-1 district, small lots. It doesn't appear to be practical.

Bill Sanders asked when the house was built? Brian Garwood said it was built in 1952. Bill Sanders said it was built 25 years before the ordinance. The setback distance is his only concern. Brian Garwood stated that other neighbors also have garages close to lot lines. Carol Hicks stated that when the house was built, they did not consider for future planning.

Lois Sherbinow noted that families back then were one-car families, but that has changed. We now need a garage for two cars and living in this area with our harsh winters we need a two-car garage.

Bill Sanders asked how the back of the neighbor's garage lined up with the proposed garage? Brian Garwood stated the full garage was further back than his neighbors. Bill Sanders said he was comfortable if the garage could be built 5 feet from the lot line and if the gutters were on the garage for water control.

Carol Hicks Motioned, Bill Sanders Seconded that Variance 2003-01 for Brian Garwood of 330 W Wright Place be allowed a 5-foot side setback variance to build a garage 5 feet from the side lot line with the stipulation that the roof be guttered for

water runoff on the Garwood's property.
Aye 4, Nay 0. Motion carried.

B. VARIANCE 2003-02

Randy Yelle gave the explanation of the garage height, as Brian Garwood wants to match the house height.

Bill Sanders noted that the ordinance states that it is the average height, not the peak height. Carol Hicks did the figuring to find the average height, and came up with an average of 14 feet.

Bill Sanders said no variance is needed for the height issue for Brian Garwood, and noted that Mr. Garwood should get a refund for the second variance.

VI. UNFINISHED BUSINESS - None

VII. INFORMATION/CORRESPONDENCE RECEIVED - None

VIII. PUBLIC COMMENT

Two students from an NMU planning class said they were at this meeting to take minutes for their portfolios.

Cathy Phelps asked if there was anyone interested in taking minutes for either the Zoning Board of Appeals or the Planning Commission Meetings?

IX. BOARD MEMBER COMMENTS

Bill Sanders noted that the last Planning Commission meeting was the best meeting ever. There was great participation and everyone worked well together. He reported the results regarding amending the ordinance on Home Occupation and Commercial Vehicle Parking. Carol Hicks stated it would relieve the pressures from the Zoning Board of Appeals. Bill Sanders said the Planning Commission decides on issues regarding conditional use, where they can be more flexible. He noted that Doug Riley did a fabulous job getting this all together. Carol Hicks stated that the Planning Commission was forced to make more rules and regulations concerning commercial vehicle parking.

X. ADJOURNMENT

Bill Sanders adjourned the meeting at 7:08 P.M.

Respectfully submitted:

Carol Hicks, Secretary

Cathy Phelps, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF AUGUST 28, 2003**

I. Meeting called to order by Bob Pecotte at 7:30 p.m. in the meeting room of the Township Hall.

Members present: Bob Pecotte, Michele Wietek, Bill Sanders and Carol Hicks.
Members Absent: Lois Sherbinow
Also present: Randy Yelle, Zoning Administrator and Cathy Phelps, Recording Secretary

II. AGENDA APPROVAL

Bill Sanders Motioned, Carol Hicks Seconded that the agenda be accepted as presented. Aye 4, Nay 0. Motion carried.

III. PUBLIC COMMENT - None

IV. APPROVAL OF MARCH 27, 2003 MEETING MINUTES

Bill Sanders Motioned, Carol Hicks Seconded that the March 27, 2003 Minutes be approved as presented. Aye 4, Nay 0. Motion carried.

V. NEW BUSINESS

Mark Maki suggested that the Zoning Board hear John Cuth's variance before his appeal. A change was made in the agenda switching Mark Maki's appeal with John Cuth's variance.

A. VARIANCE 2003-04 John Cuth of 749 Lakewood Lane requesting a one-foot side setback for a 23' x 64' accessory building.

John Cuth explained his plans for the accessory building.

Bob Pecotte questioned building an accessory building this size in a residential area? He asked Mr. Cuth how many automobiles he has rebuilt? Mr. Cuth answered one in ten years.

John Cuth answered that the size of the building is in accordance with the ordinance. He feels it fits in with the neighborhood.

Carol Hicks noted that it is only the one-foot side setback variance that he is requesting because he would incorporate his existing garage and that was built 9'3" from the lot line.

John Cuth explained the types of homes in the neighborhood. People are buying the older homes, demolishing them and building large, grandiose houses. These people need large garages for a place to store their toys instead of leaving them outdoors, which looks junky.

Carol Hicks said his first thought was the accessory building looks like a production shop, but this is for Mr. Cuth's hobbies (auto restoration).

Bob Pecotte asked what if someone buys this parcel and wants to start a business in this large garage in this residential area?

John Cuth said he is sensitive to pollution. This building is only for his hobbies. He needs a large storage area for them.

Bill Sanders said it is less than a foot that Mr. Cuth needs the variance for, he really

only needs a few inches in the variance.

Bill Sanders said he only needs a 6" variance. How strict are we going to be? The 6" is not going to make a difference, while the perimeter already meets the ordinance requirements. He feels Mr. Cuth should be able to build his accessory building as planned.

Michele Wietek asked Mr. Cuth how many cars per year does he rebuild?

John Cuth answered one in the past ten years.

Michele Wietek asked how Mr. Cuth disposes of the waste from his hobbies?

John Cuth said he is a Senior Hazardous Waste Manager. He disposes of his paint by spreading it on cardboard, drying it, and then disposing of it in the regular garbage pickup. Oil is recycled by dropping it off at the proper stations.

Michele Wietek asked how he disposes of the left over paint thinner? And also asked how he disposes of the sand after sand blasting?

Mr. Cuth said he only does spot priming and sand blasts very little, so there is very small amounts he has to dispose of. He is aware of the proper disposal of heavy metal shavings/sand, that it must be boxed and disposed of properly. He said he is a licensed professional engineer.

Bob Pecotte asked Randy Yelle if there have been any other similar variances along or near Lakewood Lane?

Randy Yelle said not that he knows of, but since Mark Maki was in attendance, maybe he could answer that question. Mark Maki said a variance was given to John Cuth regarding his house.

Carol Hicks agrees with Bill Sanders. The variance being requested is very insignificant (only inches). The existing garage is grandfathered. He asked about the east side of the house being right on the lot line.

John Cuth said it was built that way originally; the porch is right on the line.

Carol Hicks asked Randy Yelle if the public notice was sent out properly?

Randy Yelle stated it had been sent, and no correspondence was received.

Carol Hicks Motioned, Bill Sanders Second that the variance request # 2003-4 for John Cuth of 749 Lakewood Lane granting him up to a one-foot (1') variance to build an addition to his garage within nine (9') of the property line. Aye 4, Nay 0. Motion carried.

B. APPEAL – Mark Maki regarding the Zoning Administrator's performance.

Mark Maki stated that he was not asking for a review of the Zoning Administrator's performance, but was concerned about the following issues that were pending when he left this position. He gave a history of the issues he is concerned with.

Tom Waselesky was ordered by the court to clean up his junkyard on 11-01-02. DRB was ordered to remove contractor's equipment from the C2 zone immediately. It was just moved to Wahlstrom's parking lot in late August. Carlson's tree vehicles were moved to Walt's. A letter from Mark Maki was sent to Walt Racine on 8-23-02 regarding the violation of the ordinance, and he was requested to stop.

Mark Maki said that after he left the Township, Doug Riley became the interim Zoning Administrator. Maki gave Riley a list of the current issues, which needed ongoing enforcement. This is when the bullying of Township officials began. This was the ugliest recall effort he has ever seen. There were so many lies spread about

the Board members being recalled. This ended up in the loss of the Township Supervisor, Mr. Fende.

In April Maki began questioning the follow-up of issues that were on the list. No information was given to him. Waselesky had not yet cleaned up is junkyard, and Walt's vehicles were still parked there.

These court orders have not been enforced. Mark Maki will not let the Township forget about the orders. He feels they must be upheld. After the court has given these orders, and no action has been taken to enforce these orders, why do we even have a zoning ordinance?

Mark Maki requested that Walt Racine's issues be tabled until they have been clarified. He claimed that Walt Racine is advertising for the Thunder Valley Raceway. He feels the ordinance in Section 804 says that no off premise signs are allowed in a C2 zone. He can only advertise for Walt's Auto. These signs are up for 3 to 4 months. This should not be allowed.

Sue Racine asked how the Township can allow advertising on the cross-walk over US 41?

Mark Maki asked if Walt Racine is really working on Carlson's Tree equipment? He said it looks like the Bill Kimmes' home occupation issue has resolved itself. Tom Waselesky has added more cars, even after the court order stated to get the cars out.

Maki said the court rejected that there was selective enforcement of the zoning ordinance. The recall group said there was selective enforcement, this is not true.

Mark Maki stated that the Zorza parking lot is gravel. Dave Zorza says it is not a public parking lot. Mark Maki said he needs to get a permit.

Bob Pecotte asked Mark Maki if he feels the Zoning Board of Appeals should do something? Should this be tabled?

Bill Sanders said they should decide on some action and not table this. Randy Yelle has made a determination and is enforcing the zoning ordinance and Mark Maki is appealing this by saying Randy Yelle has not been enforcing the zoning ordinance. The Zoning Administrator does not have authority to waive any zoning ordinance. Randy has only been working for Chocolay Township for a few months. He has been working on these issues as he can only working 2 days per week. Randy has not waived any ordinances. He is doing his job. He sees no reason for the appeal. There was a long list of undone items, and he feels that the Zoning Administrator is working on them.

Bob Pecotte said he sees a need for further action. It is between the Zoning Administrator and the Board.

Bill Sanders said an appeal application has been filed with the Zoning Board of Appeals, and he feels the Zoning Board should act on it as a general appeal on Section 703 and 707.

Bob Pecotte said Mark Maki's comments are appropriate, as he too is concerned.

Michele Wietek feels the Zoning Board should somehow act on Mark Maki's concerns.

Bob Pecotte said the Zoning Administrator works with the Township Board and Doug Riley, acting as Randy's supervisor for the interim. Randy Yelle said he does report to Doug Riley.

Carol Hicks made note that a Organizational Chart in the packet clearly shows branching of the Zoning Administrator directly under the Supervisor. It shows the

chain of command.

Mark Maki stated that the Zoning Administrator does not answer to the Township Supervisor. The Supervisor does not enforce the zoning ordinance. He asked if the Zoning Administrator does nothing for a year, why have an ordinance? He said he is concerned about these issues. By creating a parking lot without a permit, Zorza is now allowed to continue using it.

Bob Pecotte said Randy Yelle is working on these issues.

Mark Maki said he must enforce them now, not years from now.

Michele Wietek wanted examples from Randy Yelle on what he has been working on.

Randy Yelle listed the following:

- 1) Bill Kimmes has come in for a home occupation permit, it is going to the Planning Commission next month.
- 2) Walt Racine has been cleaning up. They have had personal contact.
- 3) John Sommers on Timberlane has cleaned up over 200 tires.
- 4) Tom Waselesky is working on enlarging his junkyard. It is tied up right now; there is a gag order.

Randy Yelle showed his violations folder and said it was open for the public to see it. He said he is enforcing the Township zoning ordinance.

Bill Kimmes said he did receive a letter from Randy Yelle on August 6, 2003, and it was very specific as to what needed to be done. Kimmes felt he responded in an appropriate time frame and was positive and he felt they could work together. Randy was professional and not argumentative. He said he had only verbal comments from Maki and one letter, which was very confusing.

Bob Pecotte asked Kimmes how long he lived on Fernwood and how long he has been running his business from his home?

Bill Kimmes answered 23 years living on Fernwood and 13 years in business.

Bob Pecotte asked if he had been running the business for 13 years in violation of the ordinance?

Bill Kimmes said he received a letter from Randy Yelle on August 6, 2003, right after the recall election. Before acting on this issue, clarifications were needed regarding contractors' yards. This has been going on for a couple of years. Mark Maki told him to hold tight, but Maki did not put it in writing. He feels it is questionable if he is violation. He said he owns Snap On Tools, and owns three step tool vans. The third one was added in 2001.

Bob Pecotte asked Bill Kimmes why he was not in violation. Commercial vehicles are parked and stored in a residential area. He asked Kimmes how many more vans does he plan to add? He asked how much area does Bill Kimmes own?

Bill Kimmes said he owned three lots in a residential area. He said home occupations are clarified now and he will finalize it. He feels Randy Yelle is doing a great job.

Sue Racine asked how the Township can approve a business and not allow any parking for that business? Zorza's use their property for customer parking. The Racine's are responsible if anyone gets hurt on their property. She explained that there probably should be no parking allowed on the ingress and egress of the highway.

Bob Pecotte asked if she feels the ordinance should be enforced in that case?

Cathy Phelps said her daughters rent from Dave Zorza and they park their vehicles

behind their house. They have rented from them for a couple of years. Customers do not park behind the business, only renters and employees.

Mark Maki stated that Zorza has not been granted a permit from the Planning Commission for the parking lot. When they expanded the parking lot, Mr. Zorza said they don't park there.

Mark Maki said he is not saying Randy Yelle is not doing his job. Since April he has been trying to find out what is going on with these five cases mentioned, he finally had to file this appeal. He stated he had to spend \$157.00 to make this appeal and these are not low issues. People should not have to pay this amount of money. On November 1, 2002 the court ordered an order for Walt Racine to clean up. Don't wait, this should be number one.

Bob Pecotte felt this is an issue for the new Supervisor, that it is not the Zoning Board of Appeal's job.

Mark Maki said the Supervisor does not arrest drunk drivers on the highway; the police department does that.

Walt Racine said he moved here in 1949 and started his business. There was a trucking business in that area and a parking lot. It was then classified as a "general business" area. He started worked on Carlson's equipment thirty five years ago first with their father. They use their equipment, it breaks down often – continuously. Walt has a payment book to prove he works on their equipment.

Michele Wietek has sympathy toward Mark Maki's concern for zoning enforcement. She has respect for his service to the community, he worked as Zoning Administrator for the Township for many years and has knowledge of the zoning issues. She has also looked closely at the materials from Mr. Yelle and Mr. Maki. She has contacted Mr. Riley and feels Randy Yelle is working towards enforcing the Zoning Ordinance although it may not be in the fashion that Mark Maki did.

Bill Sanders Motioned, Michele Wietek Seconded that Mr. Maki's appeal in regard to Section 703 and 707 of the ordinance and that the Zoning Administrator is fulfilling his obligations to enforce the ordinances according to these sections. Aye 4, Nay 0. Motion carried.

VI. UNFINISHED BUSINESS – None

VII. INFORMATION/CORRESPONDENCE RECEIVED - None

VIII. PUBLIC COMMENT

Mark Maki said you have just condoned the actions of a citizen who questioned the activities of the Zoning Administrator, you cannot ignore the issues for months with no excuse – just I'm working on it. What is the time limit to work on it? This is a violation of the open meetings act. The rule of the mob works. The Township is now ruled by the mob, you just condoned that. I will be back at the next meeting with other appeals.

Michele Wietek asked what Randy Yelle's hours at Chocolay Township were?

Randy Yelle said he works 14 to 20 hours per week – authorized for 18 hours per week.

Don Britton thanked Randy Yelle for doing a good job. He feels Mr. Yelle can reason with people and discuss without being sarcastic. 99% of the time he gets results without ending up in court.

Bob Pecotte also stated that Randy Yelle is doing a good job, but he must say "no" to some people 99.9% of the time if he is the Zoning Administrator. If someone is in violation – he or she is in violation!

Walt Racine said Randy Yelle is open minded and easy to work with.

Bill Kimmes said people have different opinions and some things will never change. He wanted to know if there is something the Township can do to prevent a citizen from harassing Township employees or other citizens regarding especially an x-employee?

Sue Racine said Randy Yelle is not doing his job as Mark Maki wants it done; that is the problem.

Bill Sanders said regarding the ice cream shop, how can you have a business with no parking lot? We have the Site Plan Review section of the ordinance now, which we did not have before, to deal with things like this in the future. It is another tool in the box. Regarding the harassment, there is a remedy. The applicant tonight is saying we are doing something improper. What we did tonight was absolutely the proper thing to do. I have no second thoughts that we did something improper. Randy Yelle does a fantastic job. We will see a change now on how the Township approaches some zoning issues. Regarding the question in Walt's case that it is an off premise sign, the advertising for Thunder Valley is related to his business. He is in the auto body business, and what brings in more business than the raceway? It is like a bike shop advertising the Ore to Shore Bike Race. It is a sell tactic. Is this an off premise sign? Sanders does not believe it is. Walt is now advertising remote starters. Randy Yelle is doing a great job.

Carol Hicks noted that Randy Yelle has only been at the Township for 10 months, that is not much time to get anything going. He inherited a lot of issues, and how is he to resolve them all so soon? Regarding the court orders, what is the next step? Is this the District Attorney's job not the Zoning Board of Appeals? Randy Yelle is bringing peace and tranquility to this Township with respect to these issues that have arisen in these past years.

Michel Wietek asked Randy Yelle if he has said "no" to anyone since he has been with Chocoley Township?

Randy Yelle said yes he has. His violation folder is public record. He will be issuing a civil infraction in a few days. In regard to the ice cream parking lot, he saw no change since he has been here. It was done one and a half to two years ago. It should have been handled then, but I will contact the Zorza's. It has been in place for some time already.

Walt Racine said Zorza can use his parking, but he does charge Zorza rent - an ice cream cone!

IX. BOARD MEMBER COMMENTS – None

X. ADJOURNMENT

Bill Sanders adjourned the meeting at 8:30 P.M.

Respectfully submitted:

Carol Hicks, Secretary

Cathy Phelps, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF SEPTEMBER 25, 2003**

I. Meeting called to order by Bob Pecotte at 7:30 p.m. in the meeting room of the Township Hall.

Members present: Bob Pecotte, Lois Sherbinow, and Carol Hicks.

Members absent: Michelle Wietek and Bill Sanders.

Also present: Randy Yelle, Zoning Admin. and Lori DeShambo, Recording Secretary.

II. PUBLIC HEARING – no comments, closed.

III. AGENDA APPROVAL

Carol Hicks Motioned, Lois Sherbinow Seconded that the agenda be accepted as presented. Aye 3, Nay 0. Motion approved.

IV. PUBLIC COMMENT – none.

V. APPROVAL OF AUGUST 28, 2003 MINUTES

Absent member Michelle Wietek submitted to the ZBA proposed changes to the Minutes of August 28, 2003. Her written comments and the Zoning Boards changes were as follows:

- 1.) page 2, 3rd paragraph – should be left over thinner.
- 2.) page 4, 9th paragraph - the word “too” as he is concerned too.
- 3.) page 6, 5th paragraph - typographical error – daughter’s should be plural (daughters’ rent)
- 4.) page 7, 5th paragraph - (under Public Comment) the word “you” are in violation should be changed to he or she.

Carol Hicks Motioned, Bob Pecotte Seconded that the August 28, 2003 Minutes be approved with the four above referenced corrections. Aye 3, Nay 0. Motion approved.

VI. NEW BUSINESS

A. Variance 2003-5 for Lloyd Buckmaster.

Requesting a rear setback variance of 15 feet (ordinance required 35 feet) to allow him to build a storage/garage out building on his property at 126 Ford Road. Mr. Buckmaster’s rear lot line is also the rear lot line of the DNR property and Mr. Buckmaster’s proposed storage building will be back to back to the DNR storage buildings.

Mr. Yelle stated that he has been to Mr. Buckmaster’s home and reviewed the area in question regarding approval.

Bob Pecotte remarked that he too had looked at the property and remarked on moving/removing an old building. Mr. Buckmaster stated he had removed the “lean-two” and the 12’ x 12’ building on his property.

The question was asked by the ZBA to Mr. Buckmaster if any of his neighbors have objected to this, of which the answer was no and stated there was one approval noted, however the individual and address was not stated during the meeting.

Bob Pecotte Motioned, Carol Hicks Seconded that Variance Request #2003-5 for Lloyd Buckmaster at 126 Ford Road granting a 15-foot variance be approved allowing the building of a storage/garage unit 20 feet from his rear property line. Aye 3, Nay 0. Motion approved.

B. Non-Conforming Use #2003-6 for Tom Waselesky.

Requesting to enlarge his Non-Conforming Use/Junk Yard (O/F:970371.07) area from its approved size of 360 ft. x 225 ft to 700 ft. x 800 ft.

Mr. Yelle stated that Mr. Waselesky was presently in violation of the ordinance.

Mr. Waselesky states that his property is “grandfathered” and feels his request for enlarging his junkyard is valid.

The correspondence from Diane Pettinelli dated 09/12/03, a letter from Mark Maki dated 09/10/03, as well as the Central Lake Superior Watershed Partnership letter dated 09/16/03 were noted as opposition to Mr. Waselesky’s request. They referenced contaminants at the junkyard as posing a health threat.

Mr. Yelle pointed out on the proposed enlargement diagram that the creek runs through it and obviously there are many concerns regarding contamination. Discussion was had regarding a de-containment area and the size of containers Mr. Waselesky uses.

Bob Pecotte advised that although Michelle Wietek was not able to attend this meeting, she wanted it known that she opposed the enlargement of Mr. Waselesky’s junkyard.

Mr. Waselesky stated that he bought his property 30 years ago. He has cleaned up the area. He presented the following facts:

- He does the fluid removal from vehicles.
- He has an apple orchard that surrounds the junkyard and the apples are growing.
- He would be the first person to be contaminated on his property, why would he put himself in harm’s way?
- This junkyard started as a hobby as they were left over stock cars.
- His policy has been that junk cars are unsafe. He asks the owners of junk cars to provide a title to the vehicle and he will dispose of the vehicle at no cost to the owner.
- He has a scrap metal bin and the scrap metal is brought to Iron Mountain.
- Public Service Garage takes the left over oil.
- There is no gas left in the junk/crushed cars.
- He has received up to 20 vehicles in a single weekend.
- If for any reason gas is spilled on the ground, he burns the area.
- Due to salvage costs, there are times that his crushed cars will stack up.
- He has transported 490 tons of metal.
- He is the only person that will take your vehicle for free and dispose of it.
- His junkyard does a service to the community by offering engine parts, etc.
- He has been doing this since 1962 and now finds himself in violation.
- He currently has 42 cars to pick up within the Township.

Mr. Waselesky stated that he needs to expand his junkyard because it is getting larger. He will keep the junkyard 300 feet from the road and will surround the yard with a fence so the public would not see it. He advised that people drop off junk cars when he is not home. By having an enlarged area, which is fenced in, these cars can be dropped off and not left for public view.

He understands the ordinance and the concern of the Township regarding pollution, however, he believes the only problem with his junkyard is its visibility and that by moving the yard and fencing it in, that would solve the problem. He states he has retired and will have more time to devote to the junkyard.

Billy R. Jenkins, Sr. of 362 So. Big Creek Road stated Mr. Waselesky’s junkyard does not bother him. He knew that the junkyard was there when he built his house on Big Creek Road.

Mark Maki of 370 Karen Road voiced his displeasure citing from the Zoning Ordinance. He stated that the site plan fails the requirements, does not include an evaluation and did not include a written recommendation. He pointed out that any ground water contamination would affect the people of the Brookfield subdivision. He also pointed out that 10-15 people at the end of Big Creek did not get notice of Mr. Waselesky's request for enlarging his junkyard as they are out of the 300-foot area.

Thomas Kidd of 6245 US 41 South (Assistant Chief of Chocolay Township Fire Department) praised the fact that the department was able to use Mr. Waselesky's junkyard. He pointed out that according to the bylaws, the department has to have eight hours of training and that could take up to 45-60 cars for that training. Since the department has not been able to use Mr. Waselesky's junkyard, they have had to find junk cars and do their training in the parking lot of the fire department. The last time they had a training exercise, they had ten cars at the cost of \$1,200.00 for each car. Unfortunately, the budget of the department will not allow for this to continue. The Chocolay Township Fire Department benefits from Mr. Waselesky's junkyard as they complete their excavation training requirements there.

The Asst. Fire Chief, Tom Kidd, noted that there are numerous vehicle accidents on M-28 which require excavation from a vehicle and that with the new volunteers to the department, it is detrimental to the department that they not be able to use Mr. Waselesky's junkyard for training.

The issue of liability on the part of the Township was raised if the fire department were to have a problem due to insufficient excavation training.

Bruce Smith of 616 Brookfield (?) stated he has no problem with the junkyard and he would rather see the cars at the junkyard than left on the side of the road.

Bob Pecotte suggested that they table this request and wait for the full Zoning Board to be in attendance stating Mr. Waselesky requires three of the Zoning Board members to approve the request.

Mr. Yelle pointed out that the next meeting would be the 4th Thursday of October 2003. Mr. Waselesky stated this has been going on since 1962, he could wait another month and agreed to table the request.

VII. UNFINISHED BUSINESS – None.

VIII. INFORMATION/CORRESPONDENCE – None.

IX. PUBLIC COMMENTS

Lee Blondeau, 30 Tracie Lane, Sands Twp., stated that Mr. Waselesky does the Township a service by taking these junked vehicles. He didn't agree with Mr. Pecotte's reasoning on voting no to the enlargement due to the ruling of Judge Girard.

Mark Maki of 370 Karen Road stated that should ground water be contaminated, the Township would be liable. He stated that Mr. Waselesky's site plan is poor.

X. BOARD MEMBER COMMENTS

Mr. Hicks stated the site plan needs to be more specific. He asked if it was possible for a faster turn over of crushed metal therefore limiting how much room Mr. Waselesky needs for his junkyard.

The Zoning Board addressed health issues such as testing wells and who pays for the testing. Mr. Yelle pointed out that Mr. Mattson has his water tested every 18 months and he pays for that testing. Lois Sherbinow questioned whether rodents could be a health issue.

XI. ADJOURMENT

Bob Pecotte adjourned the meeting at 8:28 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Lori DeShambo, Recording Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF OCTOBER 23, 2003**

I. Meeting called to order by Bob Pecotte at 7:30 p.m. in the meeting room of the Township Hall.

Members present: Bob Pecotte, Carol Hicks, Bill Sanders and Lois Sherbinow, Trustee.
Members absent: Michelle Wietek.
Also present: Randy Yelle, Zoning Admin. and Lori DeShambo, Recording Secretary.

II. AGENDA APPROVAL

The proposed Agenda to be addressed was as follows:

1. Non-Conforming Use #2003-6 For Tom Waselesky
2. Special Approval #2003-7 for Bell Hospital
3. Variance #2003-8 for Kathie Lindberg
4. Appeal #2003-2 for Louis Houghton

Bob Pecotte requested that the Agenda be changed to the following:

1. Variance #2003-8 for Kathie Lindberg
2. Special Approval #2003-7 for Bell Hospital
3. Appeal #2003-2 for Louis Houghton
4. Non-Conforming Use #2003-6 For Tom Waselesky

Bill Sanders Motioned, Carol Hicks Seconded that the October 23, 2003 Agenda, Section V New Business format be changed to the format requested by Bob Pecotte. Aye 4, Nay 0. Motion approved.

III. PUBLIC COMMENT – none.

IV. APPROVAL OF SEPTEMBER 25, 2003 MINUTES

Lois Sherbinow Motioned, Carol Hicks Seconded that the September 25, 2003 Minutes be approved. Aye 4, Nay 0. Motion approved.

V. NEW BUSINESS

1. Variance #2003-8 for Kathie Lindberg

Requesting a height variance of 2.3 feet to allow placing of a garage on the property.

Kathie Lindberg purchased a pre-built garage of which she did not realize the height of this garage would be in violation of the current ordinance and therefore requested a variance.

Mr. Yelle looked at the property and advised the Zoning Board that all is in compliance except for the height of the garage. Ms. Lindberg has 2.6 acres of property.

The Zoning Board discussed how similar cases have been approved.

Carol Hicks Motioned, Bill Sanders Seconded to approve Variance request #2003-7 authorizing Kathie Lindberg of 417 Quarry Road a height variance of 2.3 feet for a storage garage/accessory building. Aye 4, Nay 0. Motion approved.

2. Special Approval #2003-7 for Bell Hospital

Requesting approval to install a directional sign to the medical building which is located at 425 Corning Drive.

Rich Rossway of 704 Hennepin Road, Marquette, Michigan addressed the Zoning Board on behalf of Bell Memorial Hospital as it's Public Relations Director and outlined the rationale behind the request to share the Harvey Laundry sign and pole.

The medical center located at 425 Corning Drive is going to expand and add a family practice physician and internist to the current staff of a general practitioner. This is a medical facility that can be used as an emergency center. The practice is equipped to handle emergency situations wherein time is of the essence, i.e.: bee stings for those with allergic reactions, excessive bleeding, vehicle accidents, traumas, etc.

The Zoning Board discussed the fact that other businesses will want to place off premises signs as well and should priority be given to Bell Memorial because it is a medical care facility? It was noted that this medical service is not an emergency room and is not open 24-hours per day; however, the facility does provide a service to the community.

The Harvey Laundry owner is willing to share his sign space with Bell Memorial, not add another sign but update the older sign presently on the property. This property is zoned as C-2.

The Zoning Board discussed approval of the request *with a strong understanding of the following conditions:*

That the total square footage of the sign which includes Harvey Laundry advertising is not to exceed 100 feet square feet and 10 feet in height. It is to be known that approval was given only due to the fact that this sign serves as a directional sign for emergency medical services.

Carol Hicks Motioned, Bob Pecotte Seconded to approve special approval request #2003-8 for Bell Medical to install a Tourist Directional Sign (Section 809) at 505 Corning Drive, sharing the existing Harvey Laundry sign and pole, directing traffic to the Bell Medical Building with the provisions stated above. Aye 3, Nay 1. Motion approved.

3. Appeal #2003-2 for Louis Houghton

Requesting a Home Occupation Permit to operate an auto/light truck service/repair shop out of his garage at 311 Kawbawgam Road.

Mr. Louis Houghton was not in attendance at the October 23, 2003 Zoning Board of Appeals Meeting.

The ZBA discussed whether this appeal should be tabled or dealt with. Mr. Yelle pointed out that this is Mr. Houghton's third violation of the ordinance and that the property in question is an LS/R zoned district. Mr. Houghton *should be in attendance* at this meeting.

Agreeing with the Zoning Administrator's determination that an auto service/repair shop does not fall within a home occupation and the ordinance clearly states that this type of business is allowed in a C-3 district only.

Bob Pecotte Motioned, Bill Sanders Seconded to deny appeal #2003-2 for Louis Houghton, request for a home occupation permit to operate an auto/light-truck service/repair shop out of his garage at 311 Kawbawgam Road. Aye 4, Nay 0. Motion approved.

4. Non-Conforming Use #2003-6 for Tom Waselesky

Tabled from the September 25, 2003 meeting. Requesting approval to enlarge his Non-Conforming Use/Junkyard area from 360 ft x 225 ft to 700 ft. x 800 ft.

Mr. Waselesky addressed the Zoning Board pointing out a new site plan/diagram which was more specific than what was presented previously. He reiterated his history and why he is requesting approval to enlarge his junkyard.

Bob Pecotte asked Mr. Waselesky how many acres of property he owned and how much of that property was grandfathered in of which he answered 30 acres and approximately 3.8 acres are grandfathered. It was noted during discussion with the ZBA that there is a discrepancy with the Court Order as to how many acres are actually grandfathered in on the Waselesky property.

Carol Hicks asked if Chocolay Township residents were the only car owners requesting disposal of their junk vehicles. Mr. Waselesky stated that he "believed" the majority of the vehicles were, however, he could not be sure as not all vehicle owners have their vehicles properly titled. He also volunteered that the Marquette Police Department has asked him to dispose of vehicles.

Carol Hicks addressed the issue of why cars are only crushed once per year. Mr. Waselesky described his situation to the ZBA regarding the gentleman who lives in Newberry, Michigan that collects his metal.

The Zoning Board discussed in great detail conditions under which approval could be given to Mr. Waselesky for his requested expansion. Bill Sanders noted it is imperative that these conditions include a defined square footage area and the minimum set backs.

The Zoning Board asked Mr. Waselesky if he could abide by the conditions being proposed at that time of which he replied "any acreage expansion given is better than none."

Carol Hicks Motioned, Bill Sanders Seconded to enlarge the Court ordered (M01-1356-CM)) 360 ft x 225 ft. to 520 feet x 400 feet with the following conditions:

- a. Applicant shall immediately construct a non see-through fence obscuring view of junk vehicles from normal eye level, not to exceed eight (8) feet in height all the way around the approved area, subject to approval of Zoning Administrator;
- b. No junk vehicles, parts, or other related materials shall be outside the fence and no salvage activities shall occur outside the fenced-in area with one exception. The Fire Department training area may be located outside of the fence. Waselesky's salvage/junkyard is responsible for cleanup of the training area. This area will be cleaned up within 36 hours after the completion of said training.
- c. Applicant shall plant or put in place a natural screen occupying the area between the above-mentioned fence and any surrounding residential properties to obstruct view of the junk and salvage yard;
- d. All structures and fencing, including any and all salvage/junkyard activities will comply with a waterfront setback of 150 feet minimum from any rivers, lakes, streams, creeks, or impoundments;
- e. Tires will not be stored in any outside area;
- f. The removal or draining of fuel/fuel tanks, oil, lube, antifreeze, engines, transmissions, differentials, radiators, mercury switches, etc. will be done over a containment area two-thirds (2/3) larger than the item being drained and/or removed;
- g. Applicant shall maintain a license from the State of Michigan authorizing operation of a salvage/junkyard;
- h. Wells on properties downstream from the Applicant's salvage/junkyard will be tested for contamination (fuel, oil and heavy metals) within three (3) months of October 23, 2003, along with a similar test every thirty-sixth (36) month thereafter. At his option, Mr. Waselesky may implement his own township approved test well

installed within Applicant's salvage/junkyard and Applicant shall be responsible for any and all reasonable costs associated with such testing. Other properties to be tested may include, but are not limited to; DeVooght, Shimon and Brookfield Lane. The "downstream" direction of water flow is WNW into Big Creek as agreed and understood to be that established by the DEQ for the property identified as Section 28-T47N-R24W, being in the NE-1/4 of the NE 1/4;

- i. Upon reasonable notice to Applicant (Waselesky), the Township Zoning Administrator is authorized to perform a site visit within three (3) days of such notice. Applicant is notified that the Township, at a minimum, shall inspect the property once per year;
- j. Any of the conditions above or actions required of the Application that are not otherwise due by a specified date shall be accomplished no later than July 1, 2004.

Mr. Waselesky asked the ZBA regarding the cost of test wells. Discussion was had regarding the depth of drilling, doing test wells on Mr. Waselesky's property first then moving on to neighbors if need be and that there are five (5) heavy metal standards to check for.

- k. The cost of the test well drilling is to be bore solely by Mr. Waselesky and not by the Township.

Aye 4, Nay 0. Motion Approved.

VI. UNFINISHED BUSINESS.

Mr. Yelle advised the Zoning Board that Mr. Sommers has been progressing with his vehicle clean up. He supplies disposal tickets to Mr. Yelle in proof that he is properly disposing of items. He was given an extension of time to complete the set requirements.

VII. INFORMATION/CORRESPONDENCE – None.

VIII. PUBLIC COMMENTS – None.

IX. BOARD MEMBER COMMENTS

Bob Pecotte asked for specific information regarding the September 8, 2003 Planning Commission Meeting regarding the request for Conditional Use #66 by William Kimmes – Home Occupation/Parking of Commercial Vehicles. Said information was provided.

X. ADJOURNMENT

Bob Pecotte adjourned the meeting at 9:01 p.m.

Respectfully submitted:

Carol Hicks, Secretary

Lori DeShambo, Recording Secretary