

CHOCOLAY TOWNSHIP  
ZONING BOARD OF APPEALS  
MINUTES OF FEBRUARY 26, 2004

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

Members present: Bob Pecotte, Carol Hicks, Michelle Wietek, Bill Sanders

Members absent: Lois Sherbinow

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

**II. APPROVAL OF OCTOBER 23, 2003 MINUTES**

The following changes are to be made to the October 23, 2004 Minutes:

- 1) II. Agenda Approval: *Carol Hicks* replaces Carl Hicks
- 2) IV. Approval of Minutes: *Carol Hicks* replaces Carl Hicks
- 3) V. 4. Add a "K" after the paragraph beginning with "Mr. Waselesky asked".....  
please add:  
*K. The cost of the test well drilling is to be bore solely by Mr. Waselesky and not by the Township.*
- 4) VI. Unfinished Business. *Mr. Sommers* replaces Mr. Summers.

Carol Hicks Motioned, Bill Sanders Seconded that the October 23, 2004 Minutes be approved with the above corrections. Aye 4, Nay 0. Motion approved.

**III. AGENDA APPROVAL**

Carol Hicks Motioned, Michelle Wietek Seconded that the February 26, 2004 Agenda be approved as presented. Aye 4, Nay 0. Motion approved.

**IV. SCHEDULED PUBLIC HEARINGS**

- A. Application Class A Non-Conforming Classification #2004-1**
- B. Application Variance #04-01**

Randy Yelle explained the history of the church. He said churches in a RR-2 have never been addressed that he has knowledge of.

Bill Sanders said he would comment in New Business.

**V. PUBLIC COMMENT – none.**

**VI. UNFINISHED BUSINESS – none.**

**VII. NEW BUSINESS**

**A. Application Class A Non-Conforming Classification #2004-1**

Randy Yelle would like to see the Class A Non-Conforming #2004-1 authorized in RR-2. He said Attorney Summers also agrees. He said a text amendment to RR-2 will be introduced later.

Bill Sanders explained they would like to get a jump on the demolition and building, and not waiting for the text amendment.

Michelle Wietek supports it also, but asked if Randy Yelle thought it might have been overlooked when the Zoning Ordinance was drafted? Randy Yelle thought that was the case. Michelle Wietek said if it properly modernized, this application would conform.

Carol Hicks agreed that churches belong in all residential areas including RR-2.

Bill Sanders also agreed that churches and schools should be located in residential areas. He noted that they are not sure where the property line is located. Reason being that US 41 was widened years ago from 66 feet to 200 feet and the legal description is still showing the property line in the middle of the highway. The existing hall was moved to the present location at that time. It was the original German school, and then was used for the kindergarten classes in the 1950's. He said the road will probably not be changed in the future, as it would destroy the antique church building.

Michelle Wietek asked if they could just build it back 15 feet? Bill Sanders explained the layout of the structures, noting that by building it with a 30-foot setback it would spoil the relationship of the new building with the existing buildings (pastor's residence). Also they want to save the trees.

Carol Hicks asked why they want a detached structure? Why not attach it to the church? Bill Sanders explained they the congregation began to make plans for an addition in 1992. The majority of the congregation did not want to disturb the character of the church. Carol Hicks agreed that the church is quite visible from the highway.

Bob Pecotte asked how many people make up the majority? Bill Sanders answered about 100 or so.

Carol Hicks asked what the plans were for the dimensions of the porch, and the projection for the lift? Bill Sanders said the building is planned to be a 40'x 60' rectangle with the 8 foot wide covered entry. He said the setback to the main foundation of the building would then be 23 feet. Carol Hicks noted that they would only need a variance for the 7-foot encroachment to the building. Carol Hicks said the variance should read 7' and not 15' as the porch encroachment is not considered living quarters.

Michelle Wietek suggested the building be built 7 feet back, so the variance would not be necessary. Just the covered entry porch would be encroached.

Motion by Bob Pecotte, Seconded by Carol Hicks that the request for a Class A Non-Conforming Use/Structure for St. Paul's Lutheran Church #2004-1 be approved as requested. Aye 3, Nay 0, with Bill Sanders abstaining. Motion approved.

**B. Application Variance #04-01**

Discussion by the Zoning Board was continued regarding the front setback variance, which was being requested. St Paul's Lutheran Church is requesting the ZBA to approve the demolition of the existing accessory building to the church and construction of a new and larger building on the same site.

Motion by Carol Hicks, Seconded by Michelle Wietek that the requested Variance #04-01 be approved allowing a variance of 7-foot front yard setback to the foundation of the building proper allowing for a covered entry porch to project forward. The reason for the variance is to locate a new structure precisely in line with the existing structure, which is to be removed. Aye 3, Nay 0, with Bill Sanders abstaining.

**VII. PUBLIC COMMENT – none.**

**VIII. TOWNSHIP BOARD MEMBERS' COMMENT  
PLANNING COMMISSIONER MEMBERS' COMMENT**

Carol Hicks noted he read the information packet from Randy Yelle, which was interesting reading. He feels that Randy Yelle is doing a thorough job answering questions. Bob Pecotte agreed.

Bob Pecotte asked if Randy Yelle would review the terms for Zoning Board of Appeal members, and for the chairperson position. Randy Yelle said the term is 3 years and they elect officers at each October meeting.

Randy Yelle said he had given Greg Seppanen, the Supervisor, a memo regarding adding alternates to the ZBA. Mr. Seppanen agreed with the memo. Randy Yelle asked if anyone knew anyone who may be interested. (Pat Dooley, Cori or J.P. Bodeman were mentioned.)

Michelle Wietek requested that Randy Yelle inspect Bob LaJeunesse's Home Occupation Permit for compliance, as it has been some time since his permit was approved.

Michelle Wietek also asked about the permit denied to Mr. Houghton, and if Randy Yelle had checked if it was cleaned up. Randy noted that he is received a complaint against Mr. Houghton at 311 Kawbawgam, after he was denied a Home Occupation Permit. Michelle Wietek asked if that was his 3<sup>rd</sup> violation, and asked if Mark Maki had addressed these violations? Randy Yelle said no, and that he probably would be going to court regarding Mr. Houghton. He has three violations: 1) home occupation, 2) nuisance violation, and 3) junk car violation. Bill Sanders said the junk car ordinance, as it exists, is terrible to try to enforce. The Planning Commission is directing the staff to re-write the ordinance. It is unenforceable as it reads now. Randy Yelle said he has studied the ordinance from CUPAD, other townships. There is a possibility the zoning administrator may be given the enforcement responsibility in the near future.

**IX. INFORMAL REPORTS AND COMMUNICATIONS**

**A. RELIGIOUS LAND USE "ACT OF 2000"**

Carol Hicks stated that this act was a result of storefront churches in California. Randy Yelle said he wanted the ZBA members to get a copy of this.

**B. INFORMATION – MTA – LEGISLATIVE UPDATES**

**X. ADJOURNMENT**

Bob Pecotte adjourned the meeting at 8:10 p.m.

Respectfully submitted:

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Carol Hicks, Secretary

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Cathy Phelps, Recording Secretary

**CHOCOLAY TOWNSHIP  
ZONING BOARD OF APPEALS  
MINUTES OF APRIL 22, 2004**

**I. Meeting called to order by Michelle Wietek at 7:32 p.m. in the meeting room of the Township Hall.**

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

**II. ROLL CALL** (Welcome newly appointed alternate member, Albert Denton)

**III. APPROVAL-MINUTES OF THE FEBRUARY 26, 2004 MEETING**

Lois Sherbinow Motioned, Bill Sanders Seconded that the February 26, 2004 Minutes be approved. Aye 4, Nay 0. Motion approved.

**IV. APPROVAL OF AGENDA**

Michelle Wietek requested that Non-Conforming Use #2003-6 Tom Waselesky matter be brought up to date under Item VIII, New Business. Bill Sanders Motioned, Albert Denton Seconded. Aye 4, Nay 0. Motion approved.

**V. SCHEDULED PUBLIC HEARINGS**

A. Application Variance #04-02

Mark Maki of 370 Karen Road, Marquette, MI 49855 commented that the request from Paul Cowley for a setback variance was not required and quoted excerpts from the ordinance that pertains. He stated that the lot and home were established before the ordinance was put into order in 1997. He also commented that the Cowley's should not have paid the \$150.00 fee for the variance request.

**VI. PUBLIC COMMENT**

Mark Maki of 370 Karen Road, Marquette, MI 49855 addressed the Zoning Board with his displeasure at how the Waselesky matter is being handled. He stated he has been asking for updates on the clean up project and gets no response.

Mr. Yelle explained that Mr. Waselesky informed the Township that the water results would be in sometime on the 23<sup>rd</sup>.

Mr. Maki had drawn a diagram on the chalkboard and attempted to address his displeasure by showing chronologically how the Waselesky matter has progressed.

At this time it was noted that the agenda had been amended and that the Board of Appeals should move on to discussion of the setback variance, returning to the Waselesky under Item VIII.

**VII. UNFINISHED BUSINESS – None.**

**VIII. NEW BUSINESS**

A. Variance 04-02

Randy Yelle stated to the Mr. and Mrs. Cowley that should he discover that the fee of \$150.00 was incorrectly charged for the setback variance request, they would be reimbursed their money.

Discussion was had with the Board of Appeals members and Randy Yelle as to how exactly one measures a river set back regarding a variance.

Mr. Yelle stated he, Doug Riley and Denny Magadanz measured the distance. The river was up 7.5 feet above the normal water level when it was measured.

Michelle Wietek asked Mr. Cowley if he had looked at other options to construct his proposed garage other than what he proposed to the Zoning Board of Appeals. Mr. Cowley informed all the due to practical purposes and the fact that he and his family would have to walk 110 feet from the back door of their home.

Mr. Cowley discussed all options regarding his property and where to build a garage and the proposed lay-out was the most feasible. The building of this garage would have a low impact on the environment.

Michelle Wietek asked if the garage could be built at the front of the existing home for which Mr. Cowley stated the sewer was there. There is only eight to ten feet in front of the house to build a garage and that is not enough room.

Discussion was had between the Zoning Board of Appeals members and the Mr. Cowley as to exactly what size garage did he propose to build. The final answer was 34' 8" wide x 24' deep

Michelle Wietek asked if there were any further comments regarding the set back variance proposal of which there was none.

Motion by Albert Denton, Seconded by Lois Sherbinow to approve Variance #04-02 allowing Mr. Cowley a thirty-five (35) foot river side setback variance, to construct a 34' 8" x 24' garage sixty-five (65) feet from the rivers edge at 145 East Main Street, Chocolay Township parcel number 52-02-203-001-11, for the reason of practical difficulty and economic hardship. The approval is subject to the following stipulation: That the new garage can be contracted no closer than the existing retaining wall. Aye 4, Nay 0. Motion approved.

#### B. Newspaper posting.

Mr. Yelle advised that Greg Seppanen of the Township Board had asked him to approach the Zoning Board of Appeals to advise that posting an upcoming meeting was not required in a local newspaper. It is only necessary to notify persons surrounding 300 feet of any proposed variance request. To achieve this, the Zoning Board of Appeals would need a motion stating that only property owners within 300 feet of a proposed variance be notified, and there will no longer be newspaper notification of the Zoning Board of Appeals meetings. This will save Chocolay Township money.

Lucille Scotti of Little Lake Road asked about the web site for Chocolay Township and whether notices would be posted there? Could the public find an agenda and minutes on the web site? She was answered positively.

Bill Sanders suggested the same be posted on the bulletin board at the Township Hall and perhaps other locations within Chocolay Township.

Mark Maki of 370 Karen Road stated he thought it was nonsense that the township has to alert the public.

Mr. Maki also questioned the increase in fees. He stated that in most cases the fees had doubled.

Michelle Wietek thanked Mr. Maki for his comments. She stated that she did not feel that not posting a variance request in the newspaper was the right thing to do. Giving the neighbors within 300 feet is not enough information to adjacent property owners. She stated she would ask the Planning Commission to increase the parameter from 300 feet to 500 feet. She stated the newspaper ads were needed and she would not support this motion.

Bill Sanders asked what type of issues would impact a variance request? Traffic on roads?

At this point Lois Sherbinow suggested the issue be tabled until the absent members, Bob Pecotte and Carol Hicks, could be in attendance to discuss this issue.

Motion by Bill Sanders, Seconded by Michelle Wietek to table the issue of newspaper posting. Aye 4, Nay 0.

C. Non-Conforming Use #2003-6 Tom Waselesky.

Mr. Waselesky is clearing his property for the expansion allotted him. He is aware of the fact that he has a July 31, 2004 deadline. When the clearing is complete, the cars will be relocated.

Mr. Yelle noted that Mr. Waselesky knows he has a house that needs to be moved. Mr. Yelle also reminded him that he has a fence to put up.

Lois Sherbinow asked if Mr. Waselesky understands the type of fence he is to put up?

Mr. Yelle stated that Mr. Waselesky understands the requirements of the fence as well as the natural barrier that he must plant.

Michelle Wietek then told Mark Maki he could have his public comment for which he asked Mr. Yelle where Mr. Waselesky obtained his water testing bottles. Mr. Yelle stated the bottles were obtained at the Township Hall and/or D.E.Q. .

Mr. Maki stated that Mr. Waselesky was not doing to right type of water testing if the bottles came from the Township Hall. These tests would not address fuel, heavy metal, benzine, etc. He stated that the Zoning Board of Appeals can not overrule a judicial court order and that he would file a complaint with the Board.

Bill Sanders then took the floor stating that Randy Yelle has been doing a good job as administrator and that progress has been seen in the Waselesky matter. It is hoped that this matter will be cleared up by the July 31, 2004 deadline.

Michelle Wietek asked if there were any other comments regarding the Waselesky matter.

Lucille Scotti asked about the removal of fuel, oil, gas, etc., from the vehicles before being crushed. Michelle Wietek noted that variance #7 lays out all the particulars regarding drainage.

Randy Yelle advised that the State of Michigan requires that no release of oil, gas, etc. be released into the ground and that Mr. Waselesky is aware of that.

Mark Maki asked what will happen with the water testing results.

Mr. Yelle stated the Township would follow through with Mr. Waselesky if the test results came back positive.

Michelle Wietek stated she agreed with Mr. Maki in that the water test results must be specific and have addressed the issues of gas, fuel, etc.

Lucille Scotti questioned whether she could be in attendance when the cars were crushed.

Mr. Yelle replied that a township person could be there, otherwise, permission from the property owner would have to be obtained.

Bill Sanders asked Randy Yelle if the DEQ could be brought in for the crushing? Mr. Yelle stated yes if they had a reason to suspect the requirements were not being adhered to.

**IX. PUBLIC COMMENT – None.**

**X. TOWNSHIP BOARD MEMBERS COMMENT/PLANNING COMMISSION MEMBERS COMMENT**

The resignation of Doug Riley as Director of Planning and Research was discussed.

Lois Sherbinow commented that there have been good applicants for the open position.

Mark Maki asked if these interviews are open to the public.

Bill Sanders advised Mr. Maki that he should contact the Chocoday Township office to obtain an answer as to whether the interviews for the position of Director of Planning and Research would be open to the public.

**XI. INFORMATIONAL REPORTS AND COMMUNICATIONS**

- A. Memo (Stipulation and Order – Draft)**
- B. Memo (Informational “role of the chair”)**
- C. Memo (TWP BD-appointment of ZBA members and alternate)**

Mr. Yelle advised that all the information listed above could be reviewed in the packets provided to the members of the Zoning Board of Appeals.

**XII. ADJOURNMENT**

Michelle Wietek adjourned the meeting at 8:29 p.m.

Respectfully submitted:

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Carol Hicks, Secretary

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Lori DeShambo, Recording Secretary

**CHOCOLAY TOWNSHIP  
ZONING BOARD OF APPEALS  
MINUTES OF JUNE 24, 2004**

**I. Meeting called to order by Bob Pecotte at 7:32 p.m. in the meeting room of the Township Hall.**

Members present: Michele Wietek, Bill Sanders, Bob Pecotte, Lois Sherbinow and Albert Denton

Members absent: Carol Hicks

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

**II. ROLL CALL**

**III. APPROVAL-MINUTES OF THE APRIL 22, 2004 MEETING**

Lois Sherbinow Motioned, Albert Denton Seconded that the April 22, 2004 Minutes be approved. Aye 5, Nay 0. Motion approved.

**IV. APPROVAL OF AGENDA –**

Someone made a motion to approve the Agenda as presented. Aye 5, Nay 0. Motion approved.

**V. PUBLIC COMMENTS**

Mark Maki of 370 Karen Road, Marquette, Michigan objected to three (3) particular sentences in the April 22, 2004 where he stated he was “misquoted.”

Mr. Maki advised the Zoning Board of Appeals that he had several issues with Mr. Yelle including but not limited to the Waselesky junkyard clean up issue and most recently, a permit for the Lakenen sign.

Mr. Maki advised the Zoning Board of Appeals that he had a meeting scheduled with Mr. Seppanen and Attorney Michael Summers on July 14, 2004, to occur at the law office of Attorney Summers so he could air his grievances. This would be at no charge by Attorney Summers.

Public comment closed.

**VI. UNFINISHED BUSINESS – NEWSPAPER POSTING**

Discussion was had with Mr. Yelle and the Zoning Board of Appeals regarding the request to withdraw postings in the local newspaper for the purpose of notification. Mr. Yelle advised the Board that Mr. Seppanen had asked him to address this issue with the Board in an effort to save the Township money.

Discussion was had on the cost of newspaper ads, the savings for not posting these ads to the Township.

Michelle Wietek pointed out that the only way she knew what was happening in the community in the past was to read the local newspaper. She feels strongly on keeping the ads in the paper for the sake of keeping the Township apprised of proposed changes.

Lois Sherbinow pointed out that once an ad is placed in the newspaper, the Zoning Board of Appeals can state that the public was informed and they had the opportunity to voice an opinion. We are doing our part to inform.

Motion by Bob Pecotte, Second by Bill Sanders, that the Zoning Board of Appeals will continue to post Zoning Board of Appeals requests in the local newspaper for the purpose of notification. Aye 5, Nay 0. Motion Approved.



**VII. NEW BUSINESS**

**A. ELECTING ZONING BOARD OF APPEALS CHAIR**

Bob Pecotte stated he would like to pass on the chairperson’s position and motioned that Michele Wietek should be elected to the position. Bill Sanders supported the motion. Michele Wietek questioned the term for which the response was 1 year. Aye 5, Nay 0 to elect Michele Wietek as Zoning Board of Appeals chair

**B. ELECTING ZONING BOARD OF APPEALS SECRETARY**

Bill Sanders motioned that Carol Hicks be elected Zoning Board of Appeals Secretary. Bob Pecotte seconded. Aye 5, Nay 0 to elect Carol Hicks as Zoning Board of Appeals Secretary.

**VIII. PUBLIC COMMENT – Closed.**

**IX. TOWNSHIP BOARD MEMBERS COMMENT/PLANNING COMMISSION MEMBERS COMMENT**

Topics of discussion included the Waselesky clean up status. Water sample testing results have been received. Thus far, all results within limits *except for* arsenic found in drinking water. However, it was pointed out that the Chocolay area has **HIGHER** levels than normal. This information was going to be researched by Michelle Wietek.

The Chocolay Township Fire Department utilized the Waselesky junk yard within the past month; 6 cars were cut up.

If Mr. Waselesky does not confirm his property to the restrictions administered by the Zoning Board of Appeals by the deadline, he may be fined and ultimately shut down.

The issue of the Lakenen sign was discussed. Mr. Yelle laid out the order in which a permit was obtained for the park and then later for the sign.

Attorney Michael Summers at the Township Board meeting of June 19, 2004 volunteered to meet with Mark Maki and others free of charge. Mr. Yelle feels this may open the door for other entities/persons in the community to come forward and want a no charge meeting with an attorney and several members of various Boards of Chocolay Township.

Bill Sanders stated that he agreed with Mr. Yelle and will not participate in this meeting as the Zoning Board of Appeals has acted on the appeal from Mr. Maki .

**X. INFORMATIONAL REPORTS AND COMMUNICATIONS – MTA INFORMATION**

Bill Sanders asked about the status of the questionnaire being sent out by the planning consultant. It was discussed as to who was inputting for the comprehensive plan. This questionnaire asks general questions about the community.

**XI. ADJOURNMENT**

Al Denton motioned to adjourn the meeting at 8:03 p.m. Bob Pecotte seconded. Motion approved . Aye 5, Nay 0.

Respectfully submitted:

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Carol Hicks, Secretary

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Lori DeShambo, Recording Secretary

**CHOCOLAY TOWNSHIP  
ZONING BOARD OF APPEALS  
MINUTES OF JULY 22, 2004**

**I. Meeting called to order by Michelle Wietek at 7:33 p.m. in the meeting room of the Township Hall.**

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

**II. ROLL CALL**

**III. APPROVAL-MINUTES OF THE JUNE 22, 2004 MEETING**

Bob Pecotte Motioned, Bill Sanders Seconded that the June 22, 2004 Minutes be approved. Aye 4, Nay 0. Motion approved.

**IV. APPROVAL OF AGENDA –**

Applicant for variance 04-03 (Mr Joe Gibbs) Pulled from Agenda by Zoning Administrator. Applicant for variance 04-04 (Mr. Tim Djupe) not in attendance at the beginning of the meeting.

Michelle Wietek Motioned to approve the agenda with holding variance request 04-03 and 04-04 holding to see if applicants arrive. Bob Pecotte Seconded. Aye 4, Nay 0. Motion approved.

**V. PUBLIC COMMENTS**

None to be had as the applicants for variances and an extension were not in attendance. Public comment closed.

**VI. UNFINISHED BUSINESS – None.**

**VII. NEW BUSINESS**

- A. VARIANCE 04-04 – Tabled to the August 26, 2004 meeting.
- B. REQUESTED EXTENSION FOR WASELESKY – Tabled to the August 26, 2004 meeting.

There were comments/questions posed regarding variance 04-04 request. The request is for a side setback variance of 15 feet to allow Mr. Djupe to build a detached garage. Mr. Yelle addressed the Zoning Board of Appeal members regarding this variance request.

Bob Pecotte asked how close are the applicant's neighbors?

Mr. Yelle's response was that the applicant only has one neighbor which is located 100 feet away with the other side of his property being a field.

Michelle Wietek asked when the lot was conformed.

Mr. Yelle advised this was done before the adoption of the Ordinance (May 9, 1977).

Bill Sanders asked if the house had been built prior to 1976 of which Mr. Yelle responded that yes, it was built prior and is an older home.

The Board of Appeals members commented on reducing the size of the requested garage. Another topic was why the applicant would want a detached garage.

Bob Pecotte motioned to table 04-04 variance request to another meeting when the applicant can be in attendance. Carol Hicks Seconded. Aye 4, Nay 0. Motion approved.

Mr. Waselesky requested an extension of time to complete the removal of the pallet fence on his property. Mr. Waselesky was not in attendance at this meeting, however, his son was.

Michelle Wietek pointed out that no decisions can be made regarding this issue without Mr. Waselesky being in attendance at this meeting, however, open discussion can be had to bring all up to date.

Issues discussed regarding Mr. Waselesky and his junkyard clean up:

- ✓ New overview of property was shown.
- ✓ The house trailer needs to be removed, however, waiting for the cars to be removed by the “crusher” which was scheduled to arrive in the fall (September, October, November). It was noted that the “crusher” could possibly be in the area and the cars would be moved shortly. The fence could then be moved with a new fence built at the tree line.
- ✓ It has been two years since Mr. Waselesky had cars removed/crushed from his property.
- ✓ The issue of water testing was addressed – how many wells tested, which wells were tested, from what direction was the water flowing when the one and only water test was taken? It was suggested that an Affidavit be obtained from Mr. Waselesky attesting to the manner in which he collected the next water samples.
- ✓ A Court Order directed to Mr. Waselesky and his required clean up is now two years old and the issues have yet to be completely addressed.
- ✓ The required fence was discussed in detail with Mr. Waselesky’s son stating that members of the Chocoy Fire Department had “volunteered” their personal time to assist in the building of this fence in thanks for being able to use Mr. Waselesky’s property to practice emergency drills.
- ✓ The question was raised of whether anyone had actually spoke with the “crusher” owner to see if he had Mr. Waselesky on his proposed agenda for pick up.
- ✓ As Mr. Waselesky is in violation for not conforming to all aspects of clean up according to the deadline, it was suggested that he be fined.
- ✓ What type of containment area is currently being used at the Waselesky property was discussed.

The decision was made that Mr. Yelle would go to Mr. Waselesky’s home and discuss with him fencing issues, water issue and potential fines.

Bill Pecotte Motioned to extend the July deadline to the August 26, 2004 Zoning Board of Appeals meeting when issues can be specifically addressed to Mr. Waselesky. Carol Hicks Seconded. Aye 4, Nay 0. Motion approved.

Please note: The Zoning Board of Appeals came to this decision to allow an extension only because Mr. Waselesky has made progress on his property and the fact that Mr. Yelle will be addressing the above outlined issues within days; giving Mr. Waselesky days to respond.

**VIII. PUBLIC COMMENT – None.**

**IX. TOWNSHIP BOARD MEMBERS COMMENT/PLANNING COMMISSION MEMBERS COMMENT**

Bob Pecotte commented on the sign for Gentz’ golf course. He stated it has zero set back. Mr. Yelle stated that the sign has put there prior to him becoming the Zoning Administrator.

Bob Pecotte noted that variance request 04-03 is addressing the need to change a set back for a sign and that the ZBA should be up to speed on the Gentz sign for the next meeting so they can properly address variance request 04-03.

Bill Sanders noted that several difficult and important issues have been raised of late and wondered if a professional opinion would be in order for some of these decisions to be made.

Michelle Wietek stated that she would like to see the ZBA not make a motion decision the first night it is proposed. ZBA should take the time to evaluate and properly word their response(s) with respect to major issues.

Bill Sanders noted that he would not want this board to get a reputation of getting requests at one meeting and making people wait until the next month's meeting to get a decision.

**X. INFORMATIONAL REPORTS AND COMMUNICATIONS**

**A. MTA INFORMATION**

**B. WASELESKY WATER TEST LABORATORY REPORTS**

Mr. Yelle provided to the Zoning Board of Appeals members a packet with updated MTA information. Michelle Wietek asked if the Togo/Track sign in violation. Mr. Yelle stated they were and MDOT investigated. Nothing has been done by MDOT at the present time.

The Waselesky water test laboratory reports will be pursued further as other samples must be taken.

**XI. ADJOURNMENT**

Michelle Wietek adjourned the meeting at 830 p.m. Bob Pecotte seconded.

Respectfully submitted:

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Carol Hicks, Secretary

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Lori DeShambo, Recording Secretary

**CHOCOLAY TOWNSHIP  
ZONING BOARD OF APPEALS  
MINUTES OF AUGUST 26, 2004**

**I. Meeting called to order by Carol Hicks at 7:30 p.m. in the meeting room of the Township Hall. (Chair Michelle Wietek in attendance, however, ill with throat condition, thus Carol Hicks acting Chair for this meeting.)**

Members present: Michelle Wietek, Bill Sanders, Bob Pecotte, Carol Hicks and Lois Sherbinow

Members absent: None.

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

**II. ROLL CALL**

**III. APPROVAL-MINUTES OF THE JULY 22, 2004 MEETING**

Michelle Wietek asked that Section IX, page 3, paragraph 4 that read "Michelle Wietek stated that she would like to see the ZBA not make a motion decision the first night it is proposed. ZBA should take the time to evaluate and properly word their response(s)." be changed to add the wording "with respect to major issues."

Lois Sherbinow Motioned, Bill Sanders Seconded that the July 22, 2004 Minutes be approved with the above referenced change. Aye 5, Nay 0. Motion approved.

**IV. APPROVAL OF AGENDA**

Bob Pecotte Motioned, Bill Sanders Seconded that the agenda for the August 26, 2004 Zoning Board of Appeals meeting be approved. Aye 5, Nay 0 Motion approved.

**V. SCHEDULED PUBLIC HEARING**

A. Application of variance 04-03, Joe Gibbs Sign.

B. Application of variance 04-04, tabled from the July 22, 2003 meeting.

Carol Hicks asked Randy Yelle if the public hearings to be heard today have been posted. Mr. Yelle responded with yes, the hearings were posted and he had received no response(s).

**VI. PUBLIC COMMENT**

Mark Maki of 370 Karen Road, Marquette asked if these public hearings were posted in the local newspaper and did this publication include anything regarding the Waselesky request for extension of deadline?

Mr. Maki also inquired as to the status of his correspondence dated 08/19/04 to the Zoning Board members. Mr. Yelle stated he did not receive that letter and, furthermore, the Chocolay Township staff has been instructed to forward any correspondence, etc. from Mr. Maki to Greg Seppanen for his handling.

Mr. Maki stated his correspondence is to advise of a law suit being filed against the Zoning Administrator. He also advised that Mr. Seppanen has written to him instructing him on the procedure that he should take to voice his concerns/complaints.

Tim Djupe, 440 Green Garden, Marquette asked the Zoning Board members on who to approach with his concerns regarding the speed limit on Green Garden Hill now that the bridge work is near completion and the vehicles are speeding through. He stated there are 7 children that reside in the area (all under 6 years of age) and he is concerned for their safety. He wanted to know if a sign could be posted something to the effect of "Slow, Children Playing."

Carol Hicks told Mr. Djupe that the Zoning Board of Appeals does not make that type of decision and that he should be addressing the County Road Commission. He was advised to contact Dennis Stachewicz, Chocolay Township Planning Director for more specifics.

## **VII. UNFINISHED BUSINESS – SEE B UNDER NEW BUSINESS**

## **VIII. NEW BUSINESS**

### **A. VARIANCE 04-03 GIBBS**

Carol Hicks asked Randy Yelle to update the Zoning Board members on this request. Mr. Yelle stated that this issue has been brought before Michigan Department of Transportation (herein referred to as MDOT), as well as Alger Delta Electric and no objections or concerns were raised. Mr. Yelle asked Mr. Joe Gibbs who was in attendance at this meeting if he had anything to add to the request of which he did not.

Carol Hicks verified the specific setback request.

Mark Maki wanted to know specifically how many feet would this proposed sign be from the centerline of M-28 and argued about many feet is correct. He disagreed regarding the right of way issue. Although Mr. Yelle and the Zoning Board of Appeals members did their best to answer his questions, Mr. Maki became quite belligerent with Mr. Yelle demanding that Mr. Yelle give him the answers he was looking for. A disagreement then followed between Mark Maki and Joe Gibbs with Mr. Gibbs pointing out to Mr. Maki that MDOT would not have approved his request for the setback variance if the footage in question by him was incorrect. A heated discussion was had between Mr. Maki and Mr. Gibbs at this time. Mr. Hicks asked the gentlemen to kindly behave and allow the meeting to continue.

Bill Sanders remarked to Carol Hicks that in the past, the issue of right of way concerning a trailer park has been raised which proceeded to the courts and it was determined that the Zoning Board of Appeals has no jurisdiction on that issue. Mr. Maki advised that this issue went to the Appeals Court and the decision was overturned.

Bill Sanders attempted to advise Mr. Maki that the road commission will grant variances that are within reasonable limits and, therefore, the issue of correct footage is moot. As Mr. Sanders had the floor and was attempting to explain the footage, right of way and variance request, Mr. Maki continued to interrupt him and then approached the meeting table where the Zoning Board of Appeals members sit wanting to look at the packet regarding the agenda for this meeting which contains a copy of the variance request of Mr. Gibbs. Michelle Wietek was kind enough to give him her copy. Mr. Maki was asked to step away from the members meeting table and to take a seat (for the third or fourth time).

At this point, a loud verbal argument ensued between Mark Maki and Tom Waselesky to a point where an effort was made to find a police officer from the department located within the building to escort Mr. Maki out of the building. Unfortunately, an officer could not be found.

Once things calmed down, Bill Sanders who still had the floor reviewed the request, remarked on a map included with the request regarding the specific footage for the variance. He stated he thought the request to be reasonable.

Once again, Mr. Maki voiced his objections and wanted to see the map. Carol Hicks provided him with the map and asked him again to please sit down. Mr. Maki reviewed the map and again argued that the variance request was wrong. Carol Hicks told Mr. Maki that Mr. Sanders had the floor and that he would have an opportunity to speak following Mr. Sanders.

Mr. Sanders stated that in light of the fact that the requested variance had been given the go ahead by MDOT and electric company, he would have no objections to granting the request.

Mr. Maki then provided the Zoning Board of Appeal members with his interpretation and opinion of this variance request.

Mr. Hicks advised Mr. Maki that the members would act on the request as it is presented. He advised that he had been to the site where the proposed sign was to be placed as he had a

concern regarding clear sight distance from the private road onto a major highway. It is imperative that a vehicle have clear sign distance when pulling onto a highway such as M-28. Having been on the site and reviewed where the proposed sign would be placed, Mr. Hicks stated he was comfortable with the clear sight distance issue.

Michelle Wietek voiced her opinion that just because MDOT feels the request is reasonable, that does not mean that the members have to agree with their decision. She had concerns regarding the surrounding neighborhood and the effect the proposed sign would have.

Bill Sanders advised Michelle Wietek that the board requirements are being met with this variance request and provided her with a copy of the variance wording found in the packet which she had allowed Mr. Maki to review.

Bob Pecotte stated to Carol Hicks that in comparison to the Gentz sign (Homestead Golf Course on County Road 480, subject of discussion during a previous meeting), that the sign of Mr. Gibbs is back further so if the Gentz sign has been approved, then the Gibbs sign should be as well.

At this point, Michelle Wietek advised that the language of the variance puts her concerns to rest.

Bob Pecotte asked Randy Yelle what the wood planking before the mailboxes on M-28 just before the private road to the golf course was all about. Mr. Yelle had not seen this nor had he been apprised of this but said he would look into it.

Motion by Bill Sanders and Second by Lois Sherbinow to approve Variance number 04-03, allowing the placing of one Chocoday Downs Golf Course sign no less than 60 feet south of the centerline of M-28, and 48 feet west of the centerline of Chocoday Downs Golf Drive for the reasons of visibility and practicality. Aye 5, Nay 0. Motion carries.

#### **B. VARIANCE 04-04 DJUPE**

Carol Hicks again asked Randy Yelle to update the members on the specifics regarding the set back request by Mr. Djupe for the purpose of building a garage.

Carol Hicks pointed out that this request was on the agenda from the July 2004 meeting, however, had been tabled due to questions the members had and the absence of Mr. Djupe at that meeting to answer them. Mr. Djupe advised that he was not aware of the fact that he needed to be in attendance at the meeting and apologized for any inconvenience.

Carol Hicks asked Mr. Djupe why he does not want his garage built attached to his home. Mr. Djupe stated for insurance reasons and because he desires a separate building. He wants to the footage between his home and the garage for snow removal purposes.

Mr. Hicks asked the applicant why not build a standard 24' foot garage versus the requested 26 foot. Mr. Djupe stated it is his personal preference to have a larger garage and stated with the pitch of the roof and with a man door, he prefers a larger garage.

Mr. Djupe was asked how close would this proposed garage be to his neighbor and as Mr. Djupe was not sure on the footage, he "guessed" 200 feet.

Bill Sanders remarked that Mr. Djupe has made some major improvements to that home and it looks great.

Bob Pecotte remarked to Mr. Djupe that he does not have any practical reasons for this variance for which the applicant stated he had two. He can't go forward because he would run into the variance for the easement on the road and he can't go back because of the septic field. He stated he was trying to centrally locate the garage.

Lois Sherbinow asked if there had been any input from the neighbors regarding this request for which there has not.

Motion by Bill Sanders Second by Lois Sherbinow to approve Variance number 04-04, allowing the detached garage to be built 15 feet from the east lot line approving a 15 foot variance from the required 30 foot. Reason being the lot of record was before May 9, 1977, which was the date of the Ordinance adoption. We considered this a practical difficulty as it applies to this variance. Aye 5, Nay 0. Motion carried.

### **C. REQUESTED EXTENSION FOR WASELESKY**

Carol Hicks asked Randy Yelle to update the members on the progress Mr. Waselesky has made regarding his junkyard. Mr. Waselesky provided color photographs of his property and other information to the members.

Mr. Waselesky advised the members of the following issues:

Crusher (Troop Auto) will arrive in weeks.  
Area will be cleaned up following crusher departure  
Fencing will be moved  
Fencing will be redone  
The Chocolay Fire Department has been coming to the yard two to four times per week and practicing emergency removal tactics  
Trailer house will be removed as part of the area clean up

Bob Pecotte pointed out to Mr. Waselesky that he had a deadline of July 2004 to have all of this done.

Mr. Waselesky advised that his daughter's home burned in the interim which superseded the junkyard project. Also, Mr. Yelle has been issuing tickets to residents of Chocolay Township of late regarding old vehicles and their removal which means the cars come to Mr. Waselesky's junk yard. He stated that between his daughter's personal loss, the fire department and an influx of junk cars, he has had little time to work on his clean up project.

He has been piling brush along his property line to assist as a visual aid/fencing.

Mr. Waselesky did state he has a pallet type fence up now so the neighbors can not see the junk cars and, this deters from theft as he experiences a lot of breaking into the junk yard at night.

Carol Hicks asked Mr. Waselesky exactly what type of extension of time are you looking for?

Mr. Waselesky pointed out that from November of 2004 until March of 2005, not much can be accomplished due to the weather.

Mr. Waselesky stated that the main concern that was voiced to him previously is that the people wanted a fence around the junk yard so you could not see the cars. This was done. They constructed a pallet fence, utilized steel poles and 2 x 4 lumber. This is a heavy duty fence. He stated that there is no fence ordinance. He understands that the Zoning Board of Appeals does not care for a pallet fence but states that you can not see through the fence. Mr. Waselesky stated that if he were forced to take down the pallet fence, the robberies would start again.

Bob Pecotte asked Mr. Waselesky again, what type of time limit are you looking at?

Mr. Waselesky stated he wished he could say the end of fall of this year, he's not dragging his feet but for what all need to be done in sequence, this will cost hundreds of dollars even before getting the fence down. There are several things to be done before the fence could come down. Perhaps a time limit could be implemented to have items taken care of in stages.

Bob Pecotte advised Mr. Waselesky that the members are willing to work with him but requires a date for a deadline.

Carol Hicks asked if he was going to build the fence himself or would he contract the job out. Mr. Waselesky stated he was going to do the fence himself but right now, his priority is to get



the cars into the junk yard, get them cleaned and ready for crushing. He does not have the funding to contract out for this fence.

Michelle Wietek pointed out that planning, making commitments and having financial responsibilities are all part of having a business.

Bill Sanders asked if the crusher would take all the vehicles he has on hand now. Mr. Waselesky stated yes plus any other metal he has.

Bill Sanders asked if when the cars are gone, can the fence be moved immediately? You may have to stop taking cars for a while or, put them in the back.

Bob Pecotte suggested the fence be moved within one month after the crusher leaves.

Michelle Wietek stated she would prefer a deadline in the fall; she is not comfortable with a spring date.

Bob Pecotte suggested then that December be a deadline date.

Mr. Waselesky stated that he has paid \$500.00 for water samples. His neighbors are happy with the existing fence and that time limits don't work for him.

Carol Hicks again told Mr. Waselesky that a deadline was needed. He reminded him that there was a Court Order issued regarding his junkyard and that the ZBA has been diligently working with him. Randy Yelle has commented to the members on the progress he has made and the ZBA is happy about that but more advances need to be made. If the ZBA weren't working with Mr. Waselesky, he would be out of business. Mr. Hicks then asked Mr. Waselesky to give the members a date; he was told to pick a date.

Mr. Waselesky responded with at least late fall.

Bob Pecotte reiterated December 1, 2004.

At this time, Mr. Waselesky realized that the ZBA was looking at having a four sided fence completed by December 1, 2004. He stated this was impossible. He can not afford to contract out a fence to be built. He again advised that he has piled brush up as a visual barrier. All that would have to be moved, as well as firewood, and there just isn't the time nor the funds to do all this by December 1, 2004.

The Zoning Board of Appeals members discussed this at length as Mr. Waselesky had agreed to have this fence in place by July and here they were again, having to grant another extension.

It was finally decided that by December 1, 2004, the front portion of the fence must be completed.

Mr. Waselesky was asked what it was that the ZBA expected to gain from this fence.

Randy Yelle responded with safety and Bill Sanders with visual.

The topic of the pallet fence was discussed. The ZBA does not want a pallet fence. Mr. Waselesky stated the is corrugated metal up as far as eight feet on the back side of the fence and you can not see through the pallet fence.

Motion by Michelle Wietek and Second by Bill Sanders to extend the deadline to December 1, 2004 for Mr. Waselesky to complete the required fence. Aye 5, Nay 0. Motion carries.

## **IX. PUBLIC COMMENT**

Mr. Waselesky asked the ZBA why they tolerated Mark Maki's actions?

Carol Hicks advised that he has a right to attend any public meeting and to express his opinion.

**X. TOWNSHIP BOARD MEMBERS COMMENT  
PLANNING COMMISSION MEMBERS COMMENT**

Michelle Wietek voiced her opinion regarding the verbal confrontation that Mr. Maki, Mr. Gibbs and Mr. Waselesky engaged in earlier in the meeting. She stated this can not be tolerated.

Bill Sanders stated that the Zoning Board of Appeals was going to submit a letter to the Township Board requesting that Mr. Yelle be given more hours to complete his job as the Zoning Administrator. The job is becoming impossible to complete on a part-time basis.

Carol Hicks asked Michelle Wietek if she would draft this letter to which she said she would.

**XI. INFORMATIONAL REPORTS AND COMMUNICATIONS**

- A. LETTER DATED JULY 27, 2004 SIGN FOR HOMESTEAD GOLF COURSE**
- B. MTA FAXES OF JULY 23<sup>rd</sup> and 30<sup>th</sup>, 2004.**

Mr. Yelle provided a packet of information to the ZBA. Bob Pecotte noted there were a few legitimate issues on a letter from Mark Maki. Mr. Yelle stated he could not respond as he has yet to see the letter.

**XII. ADJOURNMENT**

Carol Hicks adjourned the meeting at 8:55 p.m.

Respectfully submitted:

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Carol Hicks, Secretary

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Lori DeShambo, Recording Secretary

**CHOCOLAY TOWNSHIP  
ZONING BOARD OF APPEALS  
MINUTES OF SEPTEMBER 23, 2004**

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

Members present: Michelle Wietek, Bill Sanders, Bob Pecotte, Carol Hicks and Lois Sherbinow

Members absent: None

Also present: Randy Yelle, Zoning Admin, Sgt. Gary Heinzelman, Police Dept. and Mary Kratzke, Recording Secretary.

**II. ROLL CALL**

**III. APPROVAL-MINUTES OF THE AUGUST 26, 2004 MEETING**

Carol Hicks asked that Section XII Adjournment, page 8, be corrected to show his name as Carol Hicks instead of Carol Hunt.

Michelle Wietek recalls that under Section VIII New Business, Part C – Requested Extension for Waselesky, page 7, that she made the motion to extend the deadline to December 1, 2004 for Mr. Waselesky to complete the *entire* fence rather than the front section of the fence.

Lois Sherbinow Motioned, Carol Hicks Seconded that the August 26, 2004 Minutes be approved with the above referenced changes. Aye 5, Nay 0. Motion approved.

**IV. APPROVAL OF AGENDA**

Bob Pecotte Motioned, Michelle Wietek Seconded that the agenda for the September 23, 2004 Zoning Board of Appeals meeting be approved. Aye 5, Nay 0. Motion approved.

**V. SCHEDULED PUBLIC HEARING**

Appeal Wayne Goodwin 2004-01

Carol Hicks asked Randy Yelle to update the Zoning Board members on this request. Randy Yelle stated that there is property on N. Big Creek Road, which is zoned RR2, which has a track constructed that ATV's operate on. And, according to his interpretation, this is in violation of Chocolay Township Zoning Ordinance Section 208. Race tracks are neither a permitted use or a conditional use in the RR-2 zoned district.

**VI. PUBLIC COMMENT**

None.

**VII. UNFINISHED BUSINESS.**

None.

**VIII. NEW BUSINESS**

Appeal Wayne Goodwin 2004-01

Complainant Judy Copeman was unable to attend tonight's meeting, so her son Jason Copeman was representing her tonight. Jason indicated that his mother has concerns regarding machinery at the Goodwin property upsetting her horses. They tried to work out something amicably, however this could not be done thus far. He stated that muffler devices have been used to help alleviate the noise problem. However, now a track has been constructed and this is against zoning. Jason stated that the main issues are noise and dust.

Brandi Goodwin stated that their property consists of 35 acres and in addition, her father-in-law owns another 15 acres. They have been riding their four-wheelers on both pieces of property and she stated that this was not a constructed track, it's just a track consisting of all natural hills. She presented a hand-drawn map to the Board and answered any questions/concerns

Board Members had. Brandi Goodwin also presented a petition containing signatures of 16 neighbors on their road who don't have a problem with them riding their 4-wheelers on their own property.

Wayne Goodwin stated that he did not feel that he had to notify Judy Copeman each time they rode their 4-wheelers (Judy had originally made this request of the Goodwin's). He stated that since they are not allowed to ride their 4-wheelers anywhere else in Chocolay Twp. that they should be able to at least ride them on their own property for their own recreational use.

Jason Copeman then presented photographs that showed equipment on the Goodwin's property that supposedly was used on "natural hills"; Wayne Goodwin spoke up saying that this equipment was used on the driveway construction on his property – not on the trail. However, Copeman states the equipment was very obviously on the track. Copeman addressed any questions/concerns that Board Members had on the photographs he provided.

Carol Hicks asked if the track was just a natural trail or if it has been graded with machinery. Goodwin stated that equipment was used for his driveway.

Carol Hicks was also concerned as to exactly who is using this track and Goodwin stated that it was family members only.

## **IX. PUBLIC COMMENT**

Jim Negri, 545 N. Big Creek – States that he thinks the track looked really nice and he's aware of the fact that the modified pipes they installed on the ATV's have curbed the noise. He stated that horses must kick up dust, too.

Bob Basal – 400 N. Big Creek – He feels that property owners should be able to do what they want as that is why they're living where they are. He states that they smell manure from the horses, but they don't complain. It does not bother him what the neighbors do on their own property. Wanted to know where's the dividing line between the government and the property owner; says he has reservations about the whole Zoning Board anyway.

Stan Wittler, Co. Rd. 545 – Stated he was at the meeting tonight as an observer and believes a person has the right to do whatever they want on their own property as long as it doesn't affect the neighbors. He thinks you should mediate if there's noise, etc., otherwise property owners should be able to do what they want.

Mr. Copeman – Made a comment that dust is not being kicked up by horses.

Darrell Britton (relative of Goodwin's) – Stated that he rides ATV's on Goodwin's property and when they noticed the dust blowing towards Copeman's house, they halted their activities.

Brandi Goodwin stated that, at most, they ride for 1-2 hours per week, mostly on the weekend. They adhere to safety precautions and the riding is for family enjoyment. She stated that they have a flag up to help them determine wind direction in dust issues.

## **X. TOWNSHIP BOARD MEMBERS COMMENT PLANNING COMMISSION MEMBERS COMMENT**

Bob Pecotte stated that if the Zoning Admin. thinks that Goodwin's have a track in their yard, then you must adhere to the ordinance. Mr. Yelle is only policing the ordinance.

Bill Sanders agreed that Mr. Yelle has made an interpretation of the land use rules. He stated relying on the applicant's statement and that only family members are using the track, he is less convinced that people can't use their land the way they want, as long as it's not like 20 unrelated people.

Carol Hicks says he tends to agree with Sanders, however he's concerned that it's a constructed, machine-graded track. Also, he commented on the petition containing 16 signatures "for" the approval versus only 1 opposition heard tonight. He was wondering about the radius of those 16 people from the Goodwin residence...how far away are they?

Jason Copeman interacted and stated that this is an ordinance violation as these are motorized units on a trail. And, that he observed this was being a constructed track. He stated that this area is zoned for horses, not for tracks. He said that the noise is an issue and that this track is just a continuation of this matter.

Bill Sanders states it's a land use question. However, if it's an issue of people not getting along, that's something the Board can't resolve. Sanders also stated that people who live on that parcel should be able to ride ATV's.

Bob Pecotte questioned why every RR-2 and R-1 parcel for that matter could have a track?

Wayne Goodwin reiterated that it is only family that rides on their property and Bill Sanders confirmed that it can only be family members riding.

Stan Wittler asked what the definition of a trail is and of a track. Randy Yelle said that the township attorney's verbal opinion is that if the ordinance does not address it, then it is not allowed. Randy also stated that he has attempted to resolve this with both parties, but has been unsuccessful.

Bill Sanders stated that he did not feel that this was a racetrack. Bob Pecotte disagreed.

Brandi Goodwin said that Mr. Yelle has not seen the entire trail. Mr. Yelle stated that from what he did see, it appeared to be a constructed track for motorized vehicles, whether the use is for recreation, racing or whatever, it is a track for motorized use and is a violation of the Zoning Ordinance Section 208. Also the Goodwins were never told that they could not ride of their property only on the constructed motorized track that was constructed in violation of the Township Ordinance.

William Goodwin says that since there's no ordinance covering trails, then common sense has to prevail. So, only if it's written in an ordinance, then can you do it?

Darrell Britton stated that Judy Copeman has previously called the cops, who never found anything wrong, However, the police now stated they were not going to intervene once it became an ordinance issue.

Lois Sherbinow said it sure would be nice if everyone could work this out.

Jason Copeman said the noise and original close proximity to the fence are big issues. He states that the muffler work has helped the noise, however.

Mr. Goodwin said that if the dust is an issue, they could water down the trail because that's only a small part of it.

Michelle Wietek suggested that Randy Yelle take a look at the area in question again before the Board makes a decision. She says he needs to view the entire track. And, she thinks this should be tabled until the October meeting.

Mrs. Goodwin stated that their lawyer told them that if they received a "no" from the ZBA, that they can then bring the matter to the township board, then to court.

Randy Yelle stated that was not true, the Township Board cannot overturn a Zoning Board of Appeals Determination. The only recourse would be to appeal through circuit court.

Bob Pecotte said he's wondering why the Planning Committee isn't dealing with ATV's in Chocoday Township now that it's an issue.

Bill Sanders said that if this is denied, the Goodwins could apply for a conditional use permit through the Planning Comm.

Carol Hicks stated that RR2 intent is (as written in the ordinance) it would have to be a wide-range that allows for low density recreational activities. He stated he would like to see an amicable agreement between the two parties regarding noise, dust, etc.

The Goodwin's stated that they are willing to compromise

Michele Wietek questioned if Randy's interpretation is right or wrong.

Lois Sherbinow agreed that Randy should go view the track and possibly change his determination.

Brandi Goodwin stated that they would make arrangements to have their mother-in-law accompany Randy Yelle for a site visit on their property since neither she nor her husband are available during the hours that Mr. Yelle is available.

Motioned by Michelle Wietek; Seconded by Bill Sanders that this appeal be tabled until the October ZBA meeting allowing time for Randy Yelle and additional Board members to view the entirety of the site. Ayes 5; Nays 0. Motion carried.

Wayne Goodwin asked what activities they could engage in while "in appeal" and Michelle Wietek advised them that while the investigation is going on, they should be discreet in their choice of riding.

**PUBLIC COMMENT:**

Stan Wittler stated he was confused as to what the Zoning Board is now going to do and where they are going. Michelle Wietek said that they will decide next month if Yelle's determination is correct or not and go from there.

Bill Sanders told the group that there's a process underway in writing the Comprehensive Plan – it's going on right now and anyone with concerns should come to a Planning Comm. Meeting, which are held on the 2<sup>nd</sup> Monday of each month at 7:30PM in the Chocoley Twp. Hall. He stated that the present plan is 14 years old. If anyone has an interest in what's happening in the township, they should consider attending.

**NOTE: At this point, Michelle Wietek re-opened "New Business" so that the Board could view a video that the Goodwin's brought and so that the Board could receive any additional comments.**

**XI. INFORMATIONAL REPORTS AND COMMUNICATIONS**  
**MTA INFORMATION**

Michelle Wietek presented a letter she drafted to Greg Seppanen (twp. supv.) requesting an increase in Randy Yelle's hours. It was decided that they should request 30 hours weekly for Mr. Yelle. Michelle will format the letter and submit to Mr. Seppanen.

Randy Yelle stated that the salvage yard on S. Big Creek has been crushing daily and should be done within the next couple of weeks.

**XII. ADJOURNMENT**

Michelle Wietek adjourned the meeting at 9:01 p.m.

Respectfully submitted:

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Carol Hicks, Secretary

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Mary Kratzke, Recording Secretary

**CHOCOLAY TOWNSHIP  
ZONING BOARD OF APPEALS  
MINUTES OF OCTOBER 28, 2004**

**I. Meeting called to order by Michele Wietek at 7:32 p.m. in the meeting room of the Township Hall.**

Members present: Michele Wietek, Lois Sherbinow, Robert Pecotte, William Sanders and Carol Hicks

Members absent: None

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

**II. ROLL CALL**

**III. APPROVAL-MINUTES OF THE SEPTEMBER 23, 2004 MEETING**

Bill Sanders Motioned, Carol Hicks Seconded that the September 23, 2004 Minutes be approved. Aye 5, Nay 0. Motion approved.

**IV. APPROVAL OF AGENDA**

Robert Pecotte Motioned, Bill Sanders Seconded that the agenda for the October 28, 2004 Zoning Board of Appeals meeting be approved. Aye 5, Nay 0 Motion approved.

**V. SCHEDULED PUBLIC HEARING**

Variance 04-05 – Lakenen 3 foot height variance  
Add Variance 04-06 Brey variance from Section 402

**VI. PUBLIC COMMENT**

Mr. Yelle advised the ZBA members that he approves of both variances being requested above. Public comment closed at 7:39 p.m.

**VII. UNFINISHED BUSINESS**

Tabled from the September 2004 ZBA meeting allowing Mr. Yelle time to further investigate the track in question.

Discussion was had regarding the Goodwin/Copeman issue. Mr. Yelle has not changed his opinion from the last ZBA meeting. Michele Wietek inquired if Mr. Yelle had reviewed the “whole” track in question of which Mr. Yelle stated he had not. The ZBA members asked for the opinion of the Township’s attorney of which Mr. Yelle advised was found in the packet for this evening’s agenda.

Mr. Yelle explained his interpretation of land lay out versus equipment being brought to the Goodwin property to construct the track.

Jason Copeman spoke on behalf of his mother, Judy Copeman, stating the issue at hand is not that the track exists but more so the riding on the track and how it interferes with his mother’s horse farm. He stated there needs to be an agreement made between the parties as to where and when the ATV’s are ridden, notice of activities provided to each party, notify of riding lessons on his mother’s property, etc.

Wayne Goodwin of 355 North Big Creed Road stated he is in agreement with the Copeman’s that something can be worked out but he feels that the “Township” should be making these arrangements as others in the community will want the same advantages they have.

William Goodwin of 215 N. Big Creek Road addressed the issue from the last month’s meeting of whether moving dirt around on one’s property is allowed, i.e.: to allow ATV tracks.

Reference was made to the correspondence of Attorney Michael G. Summers dated October 13, 2004 wherein he states that “the observed use and track is not permitted in residential districts.”

Mr. Yelle stated that the only violation of the Goodwin’s is that the track was built – a constructed track built with the use of heavy equipment.

Mr. Yelle advised the ZBA members that this issue should be addressed by the Planning Commission in the Comprehensive Plan that is currently being developed.

Michele Wietek advised that a “track” is not defined in the zoning ordinances. The job of the ZBA is to look at the conditions.

Bill Sanders pointed out that Mr. Yelle has ruled that the Goodwin track is in violation and that the ZBA only has the power to agree or disagree with Mr. Yelle.

William Goodwin asked that if their request is turned down, can they not use the property that has not been constructed (as in dirt moved by equipment).

Mr. Yelle stated that if the ZBA members agree with him, then the Goodwin’s are in violation in that they have a track and you can not maintain a track.

Tony Lakanen of 910 S. Willow Road stated that he has a track that his kids ride electric golf carts on (on his property). The track is there for the safety of his children and erosion of his property.

Carol Hicks pointed out to Tony Lakanen that he has a “trail” .... Not a track. He went on to say that there is no definition of “trail” in the zoning ordinances. Mr. Yelle borrowed the language of the definition of a track from Sands Township for a basis of discussion. Chocolay Township will be defining what a track is in the near future as defined in the Comprehensive Plan.

Bob Pecotte asked if the ZBA supported Mr. Yelle’s assessment and the Goodwin’s appeal is denied, what would be the next step of recourse for the Goodwin family.

Michele Wietek motioned to support Randy Yelle’s determination regarding Appeal 2004-1 (Goodwin) based largely based on the legal opinions submitted by Attorney Michael Summers and the language of Section 208 Rural District RR2 which does not include “track” as an allowed use. Bob Pecotte Seconded. Aye 5, Nay 0.

## **VIII. NEW BUSINESS**

Variance 04-05 – Mr. Daniel Lakenen is requesting a (3) foot variance to allow for the construction of a winter storage garage for his motor home.

Mr. Yelle recommended that the ZBA members approve this request. He had received no comments from nearby property owners, nor any response to the ad that was placed in the newspaper.

Bob Pecotte asked Mr. Yelle if there were any records to show that the ZBA had ever approved a variance of (3) feet? Mr. Yelle stated they had.

Conversation was had between Dan Lakenen, Carol Hicks and Bill Sanders as to the requested three feet variance and if different dimensions (i.e., reduce the pitch, adhere to codes) and other alternatives were looked at, a variance of only (2) feet would be needed.

Bob Pecotte asked Mr. Lakenen if his winter storage garage would be larger than his residence to which Mr. Lakenen said no.

Tony Lakenen of 911 Willow Road stated that he has an identical size garage and he doesn’t understand why Dan would have to settle for a lesser sized garage.



Tom Lakenen pointed out that he basically has no neighbors to object as his parents live on one side of him.

Bill Sanders explained the requirements of the ZBA to allow variances.

Michele Wietek pointed out that the job of the ZBA is to look for a practical reason to allow a variance to an ordinance.

Carol Hicks states that the ZBA has the right to deny a variance request and that a reasonable difficulty must be shown to the ZBA as to the variance request.

Bob Pecotte pointed out that Mr. Lakenen's current relatives could sell that home at any time.

After further discussion regarding trusses, berm and reduced dimensions, the ZBA motioned as follows:

Motion by Bill Sanders, Seconded by Carol Hicks to approve variance request number 04-05 approving only a (2) foot height variance from height, total average feet of 17 feet, as no practical purpose was presented. Aye 3, Nay 2.

Variance 04-06 – Mr. James Brey is requesting a variance from section 402 of the Chocolay Township Zoning Ordinance to allow for the construction of a single-family dwelling on a non-confirming lot.

Mr. Yelle advised the ZBA members that the former assessor had approved this lot. There is enough room to build a home and a driveway.

Bill Sanders asked Mr. Brey if he could meet the requirements to build of which Mr. Brey states yes.

Bob Pecotte asked Mr. Brey why he didn't purchase the lot next to this non-conforming piece of property to avoid the variance request of which Mr. Brey stated it would cost too much money.

Jill Brey advised the ZBA members that the relator had told them the parcel could have a home built on it and they were not aware of the restrictions until they attempted to have a septic system installed, well, etc.

Discussion was had between ZBA members regarding researching this lot and the approval given to it by the previous assessor, then ruled out due to a time factor and the Brey's not being able to start construction of their home.

Motion by Carol Hicks, Seconded by Bill Sanders to approve variance number 04-06 allowing a single family dwelling be constructed on the lot at 162 Ridgewood Drive with 38 feet of approved road frontage. Reasoning that this lot was created by the Township after the Zoning Ordinance was adopted in 1977. Aye 3, Nay 2.

Mr. Yelle advised the ZBA members that he would find that information for them regarding approval of that particular lot. The Brey's were provided with the necessary paperwork by Mr. Yelle following this meeting.

## **IX. PUBLIC COMMENT**

Wayne Goodwin asked when he could ride his ATV's on his property.

Mr. Yelle told him he would send him a letter outlining the agreement.

## **X. TOWNSHIP BOARD MEMBERS COMMENT PLANNING COMMISSION MEMBERS COMMENT**

The ZBA members acknowledged that this was the last meeting for Lois Sherbinow and thanked her for her time and participation.

Mr. Yelle advised the ZBA members that this was the last meeting for the year of 2004 as his hours had run out. He told Michele Wietek that she is welcome to conduct a meeting should something come up in the interim.

**XI. INFORMATIONAL REPORTS AND COMMUNICATIONS  
MTA INFORMATION**

**XII. ADJOURNMENT**

Michele Wietek adjourned the meeting at 8:50 p.m.

Respectfully submitted:

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Carol Hicks, Secretary

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Lori DeShambo, Recording Secretary