

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS
Thursday, March 22, 2007 @ 7:30 PM

I. MEETING CALLED TO ORDER

Meeting called to order by Joy Verlinden at 7:40 PM

II. ROLL CALL

Present: Albert Denton, Dan Maki, Joy Verlinden, Carol Hicks,

Absent: Michelle Wietek, Lois Sherbinow

Staff Present: Randy Yelle (Zoning Administrator) and Laurie Vashaw-Eagle
(Recording Secretary)

III. APPROVAL OF MINUTES OF THE OCTOBER 26, 2006 MEETING

Dan Maki motioned to approve the minutes from 10-26-06 Al Denton seconded.
Ayes 4, Nays 0. Motion approved.

IV. APPROVAL OF AGENDA

Dan Maki motioned to approve the agenda; Al Denton seconded.
Ayes 4 Nays 0

V. OPEN PUBLIC HEARING

1. Chair of Zoning Administrator Comments

Variance Request #07-01

Mr. Eric Keough, 111 Autumn Trail, on Parcel #52-02-251-027-00, Lot #27 Zoned R-3, with a pre-existing lot size of 50 feet by 150 feet deep, fronted on Terrace Street, Village of Harvey, Township of Chocolay, County of Marquette, Michigan.

Requesting 5 foot side setback variances on each side of proposed structure, as Section 300 of Chocolay Township Zoning Ordinance requires a 10 foot setback on each side of said dwelling. (If the proposed change to the ordinance, as related to the Village of Harvey, is adopted, the required side setback within the R-2 district will be 5 feet. Although, I will not recommend granting a variance on the grounds that it may be legal in the future.) The proposed dwelling size is 40 feet by 52 feet deep, granted this is a nice size dwelling, although we do have many

dwellings within our township of a lesser size. Mr. Keough could keep the depth of 52 feet and bring the width to 30 feet, therefore not requiring a variance to develop said parcel. I do not see the practical difficulties as addressed within Section 604 (7) and (8) of Act 110 of 2006. (Michigan Zoning Enabling Act)

Mr. Yelle reported that Mr. Keough had not provided him with additional information regarding the variance so it could be posted 15 days prior to the meeting for public review. Mr. Yelle asked if this should be tabled until the next meeting so the additional information could be posted for public review and revisited at the next meeting. The committee members in attendance felt this was not necessary.

Mr. Yelle also asked Mr. Keough if he wanted to pull his variance request and be reimbursed the money already paid except for the advertisement costs for the variance request. Mr. Keough declined.

Mr. Yelle informed Mr. Keough that he could appeal his decision, but Mr. Keough did not ask to appeal.

Public Input “Support”

There were no public comments

Public Input “Opposed”

There were no public comments.

Public comment closed.

Variance 07-02 (Moyle Development LLC, signage on proposed mall)

McDonalds is requesting a variance from the Chocolay Township Zoning Ordinance, Sections 800 through 805, to allow for multiple signage as indicated within the site plan.

1. One large pole sign (McDonald’s Restaurant) with a changeable reader board sign under, (width is 14 feet 2 inches with the total height not indicated), and;
2. Three enter/exit large signs; one off of US 41, M-28 and within the parking area, (5+/- feet by 2 +/- feet, each) and;
3. Two changeable reader signs; one off of US 41 in front of the Holiday Service Station and one off of M-28, (13 feet by 15 feet each), and;
4. One large sign on each unit of the mall. (3 feet 6 inches by 19 feet 2 inches, and/or 3 feet 7 inches by 15 feet), and;

5. One large sign located about in the center of said mall (Harvey Retail Center) 23 feet by 2 feet 5 inches, and;
6. Not all of the requested located within the property, therefore, would be considered off-premises signs and some signs are within and/or too close to the right-of-way/lot lines.

Section 804 states, as in a shopping center, an additional two square feet of sign area for each ten feet or fraction of street frontage, with a maximum to 200, is permitted only for signs advertising the premises. On-premise signs shall be located so that no portion of the sign area is within five (5) feet of the front lot line. Sign as shall be subject to the other height and set-back rules applicable to building in the zoning district where located. (C-2)

I feel that the requested sizes of all signs are excessive; for example the ingress/egress McDonald's signs that I have seen elsewhere are no larger than 1 by 2 feet and about 30 inches high. (Wisconsin, south Marinette off US 41 and in Marquette across from Burger King)

The requester gives a total project signage requested of 983 sq. ft. (I don't believe this includes the three ingress/egress signs)

I don't believe we should be granting any variances without written approval from the property owners and right-of-way/easement holders without written approval in the Townships department files.

- a. Enter/exit (B3 signs (3) two are requested within the right-of-way and not on the property owner's parcel, the requested size is 3 feet wide by 5 feet high. Note the amended request received February 26, 2007 gives three welcome signs.
 - 1) Arches on top, 3 feet wide by 5 feet 1 ½ inches high
 - 2) Arches within sign, 3 feet wide by 3 feet 3 inches high
 - 3) No arches, 3 feet wide by 3 feet 3 inches.

The enter/exit signs within the photo from the Marquette McDonalds, the sign to the east is about 30 inches high, with the sign itself being about a foot high and about 2 feet wide, as are the ones I saw in Wisconsin on my way to Green Bay. I will not give a proposed motion regarding this request.

Brian Salvolainen, Moyle Development, explained the site plan pertaining to the signage. Mr. Salvolainen reported that Moyle Development is working with the State of Michigan to get variance approval for the ingress/egress signs that are in the right-of-way. Mr. Salvolainen also reported that Togo's has agreed to an easement of 30 feet

so Moyle Development can put through a frontage road, but Holiday Station has not agreed to the frontage road. The State of Michigan is working with them regarding this. For the time being the existing drive will be used.

Togo's also agreed to take down the signs they presently have and their name put at the top of the locator sign. Mr. Salvolainen also said that McDonalds has agreed to the height requirements for the pole sign to comply with the zoning ordinance in Chocolay Township. Carol Hicks questioned the footage request as his figures came to 600 square feet rather than 983 feet requested. Brian Salvolainen from Moyle Development explained that the 983 feet request includes the Togo's Building, as the Togo's sign will be taken down and incorporated into the main sign.

Zoning Board of Appeals, Zoning Administrator and Mr. Salvolainen discussed the lighting of the signage, with everyone understanding and agreeing that there shall be no flashing, rotating, scrolling, or strobe type lighting within the project, all lighting shall be internally illuminated.

Public Input "Support"

Mr. Eric Keough expressed his support for the McDonald's project.

Public Input "Opposed"

There were no public comments.

Public hearing closed.

VI. BOARD ACTION ON VARIANCES

a) Variance #07-01

The following is my recommendation in the form of a motion:

Motion by Dan Maki, Seconded by Al Denton

Finding no existing practical difficulties and
Whereas, a 30 foot wide single-family dwelling may be constructed without any Variance(s) required, and
Whereas, the request is for a single-family dwelling, and
Whereas, there are a reasonable number of nice 24 foot wide single-family two and three bedroom dwellings in the area.
Whereas 2 houses cannot be put on 1 lot, parcel number 52-02-251-027-00 the Variance request number 07-01 is denied.

Yeas 4, Nays 0. Motion carried.

b) Variance #07-02

The following is a recommendation made in the form of a motion:

Motion by Al Denton, Seconded by Carol Hicks

Approve variance request number 07-02 as per the site plan addressing signs with the following conditions:

1. No signs can have flashing lights, rotating lights, or blinking lights, and
2. Any and all signage not located within the lot lines of said property shall have approved documentation from the surrounding property and right-of-way/easement owner/s with copies located in Chocolay Township's zoning and planning files, and
3. The approved exit, entrance and directional signs (three in total) shall be the #70-5M and presented by Moyle Development, and
4. The existing outside signs addressing business located within the existing building, housing Togo's will be removed, and shall become included within the approved 983 square footage of variance 07-02, and
5. The race track, viewing stand and fence shall be removed and disposed of, and
6. Any and all lighting and unaddressed items/activities shall be in compliance with the Chocolay Township Zoning Ordinance.

Ayes 4, Nays 0. Motion passed.

VII. PUBLIC COMMENT

There was no public comment.

VIII. UNFINISHED BUSINESS

There was no unfinished business to address.

IX. NEW BUSINESS

There was no new business to address.

X. PUBLIC COMMENT

There was no public comment.

**XI. TOWNSHIP BOARD MEMBERS' COMMENT (Dan Maki)
PLANNING COMMISSIONER MEMBERS' COMMENT (Albert Denton)**

Dan Maki reported that he had no comments at this time.

Al Denton reported that the Planning Commission continues to address the Dr. English Housing Project located on M-28 by Kawbawgam Road.

Carol Hicks reported that he, Joy Velinden, and Randy Yelle attended a Zoning Board Administrative Training Session to define side yard variance Request and use variance.

XII. ADJOURNMENT

As there was no further business to discuss, Al Denton motioned, Carol Hicks seconded to adjourn the meeting. The meeting adjourned at 9:00 PM.

Approved June 28, 2007
R.L. Yelle

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS
Thursday, June 28, 2007 @ 7:30 PM
Meeting Minutes

DRAFT

I. MEETING CALLED TO ORDER

Meeting called to order by Michelle Wietek at 7:35 PM

II. ROLL CALL

Present: Michelle Wietek, Chairperson, Albert Denton, Dan Maki,
Carol Hicks, Lois Sherbinow

Absent: Joy Verlinden

Staff Present: Randy Yelle (Zoning Administrator) and Laurie Vashaw-Eagle
(Recording Secretary)

III. APPROVAL OF MINUTES OF THE MARCH 22, 2007 MEETING

Michelle Wietek noted there is no indication within the minutes that there was any Discussion, regarding lighting, that discussion should be included in the meeting minutes.

Albert Denton motioned to approve the minutes from 3-22-07 with the lighting Discussion, included in the March meeting minutes. Dan Maki supported.
Ayes 5, Nays 0. Motion approved.

IV. APPROVAL OF AGENDA

Dan Maki motioned to approve the agenda; Al Denton seconded.
Ayes 5 Nays 0

V. OPEN PUBLIC HEARING

Variance Request #07-03

Randy Yelle reported that Mr. Denis Kallery, 101 County Road BX, on Parcel #52-02-122-025-10, Zoned RR2, Township of Chocolay, County of Marquette, Michigan, is requesting a 25 foot setback variance from Section 300 of the Chocolay Township Zoning Ordinance, which requires a 30 foot setback on all sides of said dwelling.

The parcel is zoned RR-2, 9+/-acres, although there are 9 acres, the building site is very small. To the north-north/east of the home, the property drops off rather quickly, to the east of the home. To the north of the requested building site are the drain field and the back-up field area. To the west of the home is the well, therefore, the addressed areas are considered unreasonable building terrain.

The requested 25 foot variance is from the right-of-way of County Road BX, as the property line is south of BX, (County Road BX's right-of-way lies within Mr. Kallery's parcel), as you all know. I do not believe that a garage in the Upper Peninsula is a luxury, but a necessity. County Road BX is a seasonal road, therefore, requires a signed seasonal road agreement, removing any and all responsibility from Chocolay Township and Marquette County regarding services.

Randy Yelle reported that he met with Marquette County Road Commissioner (Mr. Kurt Taavola) in regards to the easement of BX regarding the long time existing fence. (The McNitt Act of 1932) as being the measuring point and not the easement. Mr. Taavola agreed and pulled up the driveway permit issued by Marquette County in April of 1999 using the fence as the right-of-way point. Mr. Taavola also stated that there is no long-term plan of the County to every upgrade this seasonal road, and in 1999 issued Mr. Kallery approval to remove the hill and upgrade said seasonal road, with Mr. Kallery accepting all costs, plowing, upkeep, grading, etc.

Mr. Taavola agrees that the setback should be from the fence line. In this case, the Marquette County issued a Zoning Compliance Permit (June of 1999) on a height variance, using the fence as the line.

If this accessory structure was to be located within the Townships R-1, 2, 3, or 4 zoned districts, it may be located 6 foot from the lot line.

Randy Yelle believes there is a practical difficulty as addressed within Section 604 (7) and (8) of Act 110 of 2006. (Michigan Zoning Enabling Act).

Carol Hicks made a motion and seconded by Dan Maki to approve Mr. Denis Kallery's variance request by finding the existence of practical difficulties, not caused by Mr. Kallery, and in lieu of the placement of the easement passing through said property and taking away some 30 feet of the only feasible building site, and the lay of the property including a steep drop and wet lands, and the main dwelling was approved on this area, and using the existing fence line as the setback point in 1999 by the Township of Chocolay and County Road Commission of Marquette Michigan, and with the septic system and drain field to the east of said dwelling and just north of the request structure, therefore, the requested building site would be the only feasible building site, therefore, Variance Request #07-03 is hereby granted, with the condition that said structure shall be located a minimum of six (6) feet from the fence/property line. Ayes 5, Nay 0. Motion passed.

VI. PUBLIC COMMENT

There was no public comment.

VII. UNFINISHED BUSINESS

There was no unfinished business to address at this time.

VIII. NEW BUSINESS

There was no new business to address at this time.

IX. PUBLIC COMMENT

There was no public comment.

**X. TOWNSHIP BOARD MEMBERS' COMMENT (Dan Maki)
PLANNING COMMISSIONER MEMBERS' COMMENT (Albert Denton)**

Dan Maki reported that the Township Board approved at their June 18, 2007 meeting a Public Hearing for the Superior Pines Condominium Project to be held on Monday, July 16th at 7:00 PM to consider rezoning request #139. Mr. Maki encouraged everyone to attend this meeting.

Albert Denton reported that the Planning Commission held a special meeting on Monday, June 25, 2007 to work on revisions to the Zoning Ordinance. It is the hope of the Planning Commission to present the Final Draft of the Zoning Ordinance to the Board in July or August and then schedule a Public Hearing following the Township Board approval.

XI. ADJOURNMENT

As there was no further business to discuss, Al Denton motioned, Dan Maki Seconded to adjourn the meeting. The meeting adjourned at 8:10 PM.

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS

Thursday, August 23, 2007 @ 7:30 PM

I. MEETING CALLED TO ORDER

Meeting called to order by Michelle Wietek, Chairperson at 7:30 PM

II. ROLL CALL

Present: Michelle Wietek, Albert Denton, Dan Maki, Lois Sherbinow

Absent: Joy Verlinden, Carol Hicks

Staff Present: Randy Yelle (Zoning Administrator) and Laurie Vashaw-Eagle (Recording Secretary)

III. APPROVAL OF MINUTES OF THE JUNE 28, 2007 MEETING

Al Denton motioned to approve the minutes from 6-28-07 and Lois Sherbinow, seconded.

Ayes 4. Nays 0. Motion approved.

IV. APPROVAL OF AGENDA

Michelle Wietek motioned to approve the agenda for the 8-23-07 meeting, and Dan Maki, seconded.

Ayes 4. Nays 0. Motion approved.

V. OPEN PUBLIC HEARING

1. Chair of Zoning Administrator Comments

Variance Request #70-04

Variance Request #07-04 from Mr. Gerald H. O'Jibway, 161 Lakewood Lane on Parcel #52-02-204-025-00, Zoned R-1, Township of Chocolay, County of Marquette, Michigan, Section 6-T47N-R24W.

Requesting 2-foot setback variance from Section 300 of the Chocolay Township Zoning Ordinance, which requires a 6-foot setback on all sides of said dwelling. (14-foot Peak, 320 square foot). (Section 300 footnotes B-A detached accessory building not exceeding 14 feet in height and not exceeding 720 square feet may be located within six (6) feet of the side lot line and 20 feet from the rear lot line).

This parcel is zoned R-1, the location chosen would appear to be the most logical location for said storage structure, whereas, it cannot be constructed between the house and the lake, the proposed structure cannot be moved forward because of the location of the drain field. The northeast corner of the proposed structure is located four (4) feet from the lot line, and because of the angle of said lot, the distance from the lot line increases quickly to the point that the southeast corner of the proposed structure is ten feet six inches (10' 6") from the lot line.

Options were discussion with the O'Jibways such as:

1. Downsizing the width from sixteen (16) to fourteen (14 foot),
 - a. They wanted a larger structure, but have already downsized to this size, and really did not want to go any smaller.
2. Moving the proposed structure closer to the main structure,
 - a. They would like not to reduce the requested area between said structures for access to the lakeside of the parcel.

Whereas, said parcel is angled and the existing location of the drain field, house, and drive, you may consider this to be a practical difficulty.

Some examples of practical difficulty may be:

1. Unique circumstances applying to the property;
2. Need for variance was not self-created;
3. Not general or recurrent in nature.

Common incorrect reasons to grant a variance:

1. No one came to object;
2. The ordinance is too strict;
3. We gave this variance before;
4. We have to give it to them or they may leave;
5. It is only a small variance.

I'm not in favor of granting a variance for convenience, and in this request there are options that would allow for a reasonable size storage structure, without requiring a variance. In my opinion, the most reasonable option would be to build a storage structure being a 20' x 14' = 280 sq. ft. as opposed to a 20' x 16' = 320 sq. ft. The difference being 40 sq. ft.; (the area of a 4' x 8' sheet of plywood is 32 sq. ft.), therefore, we are looking at an area in this request 2 foot by 20 foot.

Mr. and Mrs. Gerald O'Jibway, 161 Lakewood Lane – Thanked Al Denton and Randy Yelle for taking the time to come and view their property. Mr. and Mrs. O'Jibway presented their reasoning for #07-04 Variance Request for a 2 foot setback from the Township Ordinance requirement of 6 foot, to construct a storage structure 4 foot from said property line, Parcel #52-02-204-025-00. Ms. O'Jibway explained that said property is located on the lake and some of the lot lines are on an angle, which, in her opinion, is creating a problem for them in regards to building said structure. Mr. and Mrs. Gerald O'Jibway explained that they have looked at various options for placement of this storage structure on the property with Carol Hicks and a contractor. They would like to build the structure closer to their house so they could store their snow blower, lawn mower and possibly a vehicle in closer proximity to the house. The location of the drain field and the gas lines are also making this more difficult. Mr. and Mrs. O'Jibway feel that the area of the property that they would like to build the structure on is the most practical and are requesting a 2-foot variance.

Al Denton suggested reducing the size of the structure by 2 feet. He also stated that he sees no practical difficulty.

Michelle Wietek said that she doesn't see a practical difficulty either as there are other options on the property for this size structure to be built.

Dan Maki disagreed stating that the this property has a unique property line, the current neighbor having no problems with the structure being located there, and the distance averaging there appears to be a practical difficulty in his opinion.

Several possible options where discussed:

The presentation and discussion concluded and the following recommendation was made in the form of a motion:

Al Denton motioned, seconded by Michelle Wietek that finding no non-self created practical difficulty and finding reasonable options that would not require a variance from the Chocolay Township Zoning Ordinance, including building a 20' x 14' as opposed to a 20' x 16' structure, or repositioning the proposed structure. Therefore Variance Request #07-04 is denied.

Ayes 3. Nays 1. Motioned approved.

Public Input "Support"

There was no public present.

Public Input "Opposed"

There was no public present.

Public Hearing closed. 8:00 PM

VI. PUBLIC COMMENT
There was no public present.

VII. UNFINISHED BUSINESS
There was no unfinished business to address.

VIII. NEW BUSINESS
There was no new business to address.

IX. PUBLIC COMMENT
There was no public comment.

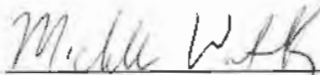
X. TOWNSHIP BOARD MEMBERS' COMMENT (Dan Maki)
PLANNING COMMISSIONER MEMBERS' COMMENT (Albert Denton)

Dan Maki reported that on 7/16/07 the Township Board held a Public Hearing for Dr. English's Superior Pines Condominium Project request. The Township Board agreed with the Planning Commission's decision and denied the request as presented largely due to the density issues.

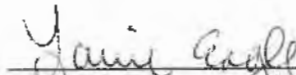
Al Denton reported that the Planning Commission continues to work on the final draft of the Zoning Ordinance. Many typographical errors were found and are being corrected. Mr. Denton also reported that there are some significant changes to the Zoning Ordinance such as a fence ordinance, non-seasonal dwellings will need a 66-foot easement, access roads and the elimination of private roads, etc.

XI. ADJOURNMENT
As there was no further business to discuss, Dan Maki motioned, Michelle Wietek seconded to adjourn the meeting.

The meeting adjourned at 8:10 PM.



Michele Wietek, Chair



Laurie Eagle, Recording Secretary

**CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS
SPECIAL MEETING
Thursday, October 4, 2007 @ 7:30 PM**

I. MEETING CALLED TO ORDER

Meeting called to order by Michelle Wietek, Chairperson at 7:30 PM

II. ROLL CALL

Present: Michelle Wietek, Albert Denton, Lois Sherbinow, Karen Alholm

Absent: Dan Maki

Staff Present: Randy Yelle (Zoning Administrator), Michael Summers, (Township Attorney), Laurie Washaw-Eagle (Recording Secretary)

III. APPROVAL OF MINUTES OF THE AUGUST 23, 2007 MEETING

Lois Sherbinow motioned to approve the minutes with no changes from 8-23-07, Albert Denton, seconded.

Ayes 4. Nays 0. Motion approved.

IV. APPROVAL OF AGENDA

Albert Denton motioned to approve the agenda for the 10-4-07 special meeting, Karen Alholm, seconded the motion.

Ayes 4. Nays 0. Motion approved.

V. OPEN PUBLIC HEARING

1. Chair of Zoning Administrator Comments

Special Meeting Appeal #70-01

This special meeting is being requested by Mr. and Mrs. Nelson Gencheff to review and make an interpretation on Randy Yelle's determination as to the natural grade prior to construction at the building site located at 601 Lakewood Lane (Deanna & Robert Pozega). (Zoning Compliance Permit #2006-99).

When Randy Yelle, Zoning Administrator, was informed of the construction, and was on site, the actual peak height was 38 +/- feet, with an average height of 29 +/- feet, therefore give an average of well over the required 30 foot average peak height. Mr. Yelle took on-site measurements September 7, 2007 with the following results; peak height of 32 feet 4 inches and an eve height of 27 feet 6 inches, giving an average peak height of 30 feet. No other measurements were taken, even though there are other lower peaks attached to the roof.

The permit was approved in November of 2006 and construction started sometime in the Spring of 2007. Mr. Yelle was not notified prior to ground breaking. After visiting the parcel and looking over the provided photos, and considering the information available at that time, Mr. Yelle determined the measuring point of the natural grade prior to the start of construction. Mr. Yelle states that it is his opinion that his determination of the measuring point for the determining of said height of the structure, is fair and correct.

Requestor's Presentation

Mr. Steve Adamini, Attorney, Law, with Kendricks, Bordeau, Adamini, Chilman, and Greenlee, PC, 128 West Spring Street, Marquette, Michigan, representing Mr. and Mrs. Nelson Gencheff, 597 Lakewood Lane, Chocolay Township. Mr. Adamini apologized for Mr. and Mrs. Nelson Gencheff's absence from the Appeal #70-01 Special Meeting.

Michelle Wietek informed Mr. Adamini that she is waiving the 5 minute time limit.

Mr. Adamini explained that Mr. and Mrs. Nelson Gencheff's complaint is in regards to the height requirement in Chocolay Township and are appealing the measurements made by Mr. Randy Yelle, Zoning Administrator for Chocolay Township in regards to his measurement from the ground to the peak height of the existing structure. When construction began, the structure appeared to be higher than the 30 ft. zoning ordinance in Chocolay Township. Mr. and Mrs. Nelson Gencheff hired Gary Van Neste to survey the property in question. Mr. Van Neste conducted a survey and found that the structure was approximately 35 feet, which is higher than the 30 ft. zoning ordinance. Mr. and Mrs. Gencheff being the affected property owners decided to not wait for the Chocolay Township Board to take action, filed suit seeking injunctive relief and the court did grant a temporary restraining order. A hearing was held and the court continued the temporary restraining order. A second court hearing was held and it appeared that that Mr. and Mrs. Pozega's were going to take out the original 6/12 pitch and replace them with trusses that had a 3/12 pitch. On that basis the building would comply with the 30 foot height requirement. The Zoning Administrator, Randy Yelle made a determination that the point where the measurement was taken from at the bottom level was 16 inches or 2 blocks from the footings of the structure. The Chocolay Township Zoning Ordinance states that the vertical distance between the average ground level of the grade within 10 feet of where the structure elements intersect the ground. Mr. Adamini stated that the building with the new trusses has been reduced 4.7 feet from the original site plan, but is still not in compliance with the ordinance and can only be in compliance if you measure 16 inches above the footings. Mr. Yelle testified in court that he believes that this point of measurement should be made at 16 inches above the footings. Judge Weber stated that if Mr. and Mrs. Gencheff disagree with Mr. Yelle, the Township Administrator that they will need to take this issue should be brought to the Chocolay Township Board of Appeals to see if they agree with Mr. Yelle's measurements. Mr. Adamini stated that he has many pictures and materials available to help answer any questions. Mr. Van Neste also is available to answer questions. Mr. Adamini is asking the Board of Appeals to determine if the measurements should be made as stated in the ordinance that states that the vertical distance between the average ground level of the grade within 10 feet of where the structure elements intersect the ground and this would measure out at 3-4 feet above the 30 ft. height requirement. Mr. Adamini is asking the Board to determine if Mr. Yelle's bottom measuring point of 16 inches above the footings is an accurate point of measurement.

Public Input "Support"

No public input

Public Input "Opposed"

Ivan Fende, 600 Lakewood Lane, stated that he was part of the Chocolay Township Board who created the most recent zoning ordinance. Mr. Fende cautioned the Zoning Appeals Board members about deviating from the ordinance as this may cause substantial problems with enforcement of the height requirement in the future. The zoning ordinance was created to be enforced as stated.

Ms. Deanna Pozega stated that she provided notes that are enclosed in the meeting packet with photos of the property in question located at 601 Lakewood Lane. Ms. Pozega provided a brief history in regards to picking out their house plans and hiring an architect (Carol Hicks) to redo the plans so the house would be in compliance with the Chocolay Township zoning ordinance. Ms. Pozega worked with Carol Hicks, the architect on this project, to redo the site plans to bring the structure into compliance with the Chocolay Township zoning ordinance. Ms. Pozega explained that she wasn't aware there was a problem until she was notified of the July, 2007 court date in regards to height noncompliance of said structure. Mr. and Mrs. Pozega met with the Township to modify their plans to be in compliance with the Township of Chocolay. Ms. Pozega stated that these changes have resulted in increased fees due to construction being stopped for approximately 1 ½ months and structural changes that had to be made. Ms. Pozega provided many pictures for the Board members to review from many different angles. She also stated that Mr. and Mrs. Gencheff's house is lower at 27 feet, which was their wish.

Ms. Pozega reiterated that they worked with Chocolay Township every step of the way to fully comply with the zoning ordinance. Ms. Pozega believes the structure is now in compliance and requested the Chocolay Township Appeals Board to deny Appeal #70-01 filed by Mr. and Mrs. Nelson Gencheff.

Public comment closed.

VI. PUBLIC COMMENT

Glen Van Neste, Van Neste Surveying, 1402 West Fair Avenue, Marquette, Michigan, passed out copies of the survey he conducted on the property in question, located at 601 Lakewood Lane. Mr. Van Neste stated that he is available and will be happy to answer any questions related to his survey.

Tom Maravi, 589 Lakewood Lane, stated that he has no problems with Mr. and Mrs. Pozega's home nor the height of the home.

Fred Weiland, 585 Lakewood Lane, stated that he also has no problems with the Pozega's height of their home.

Sue Menhennick, 605 Lakewood Lane, asked that whatever the Zoning Board of Appeals decides that it is made clear and concise so that other potential residents of the Township of Chocolay are not put in this type of situation.

James Walker, 591 Lakewood Lane, stated that he has had problems with Mr. and Mrs. Nelson Gencheff in the past when he regarded his driveway and again when he built a garage.

Steve Adamini, 128 West Spring Street, Marquette, MI commented on a letter dated 7/10/07 that Randy Yelle sent to Carol Hicks. Mr. Adamini also provided a set of site plans and photos of the property in question. Mr. Adamini pointed out a discrepancy on the site plans drawn up by Carol Hicks which state the grade begins at the cement slab. He again asked the Board to enforce the ordinance as written.

Eva Kipper, 115 S. Lakeshore Boulevard, Marquette, MI stated that she represented the Pozega's in circuit court. Ms. Kipper stated that July was the first time the Pozega's knew there was a problem when they were notified to appear in court. On July 18th a hearing was held, which Mr. Yelle and Mr. Summers, Township Attorney, attended and that was when the house was found to be noncompliant with the zoning ordinance in regards to the height.

Deanna Pozega, 601 Lakewood Lane explained that the site plans that Mr. Adamini was referring to are not the complete plans due to the time constraints of the architect to complete them. The plans also do not include the landscaping. Ms. Pozega was unable to provide the completed site plans, but referred to the life size structure that is available on the property.

Randy Yelle, Chocolay Township Zoning Administrator, explained that the average natural grade was first determined and a permit approved in 2006, but construction did not begin until 2007. Unfortunately, when he was notified of the construction and went to the site, the house was in place and ready to have the trusses put up. At that time, Mr. Yelle informed the contractor that the structure was not in compliance in regards to height. Mr. Yelle used photos that he took when he initially went to the property, prior to construction, spoke to neighbors, both contractors, Carol Hicks, Architect, and the Township Planner for their input so he could make the most accurate determination possible. Mr. Yelle instructed the contractor to go from 16 inches or the 2nd block up to determine the redo for the height of the house. Mr. Yelle stated that he is comfortable with his determination. He also stated that the property has many high and low areas, which also makes such determinations more difficult.

VII. UNFINISHED BUSINESS

There was no unfinished business to address at this time.

VIII. NEW BUSINESS

There was no new business to discuss at this time.

IX. PUBLIC COMMENT

No public comment made.

X. BOARD ACTION ON APPEAL

The Zoning Board of Appeals committee members asked Randy Yelle many questions in regards to his determination of the measurements and the average grade of the property in question (refer to the tape recording of the 10/4/07 meeting for detailed questioning from Board Members of the methods Randy Yelle used to make his determination). The Board members also extensively reviewed the photos that Mr. Yelle took prior to construction that assisted him in making his determination. Mr. Yelle also stated that he and the Township Planner visited the property again, and Mr. Yelle stated that he will stand by his determination.

Karen Alholm questioned Randy Yelle in regards to the construction grade being the natural grade? Randy Yelle explained that he felt the construction grade was lower than the natural grade.

Al Denton commented that he has visited the construction site and feels the Zoning Administrator made a reasonable determination in his measurements of the property located at 601 Lakewood Lane. Mr. Denton stated that it is the responsibility of the Zoning Board of Appeals to be able to depend on their Zoning Administrator's and their determinations in these types of situations. Mr. Denton stated that Randy Yelle made his determination and the property is in compliance and he sees no reason to approve the appeal.

Al Denton made a motion, seconded by Karen Alholm to deny Appeal #70-01.

4 Ayes. 0 Nays

**XI. TOWNSHIP BOARD MEMBERS' COMMENT (Dan Maki)
PLANNING COMMISSIONER MEMBERS' COMMENT (Albert Denton)**

No Township Board Member comments or Planning Commission comments.

XII. ADJOURNMENT

As there was no further business to discuss, Michelle Wietek motioned, Karen Alholm, seconded to adjourn the meeting.

The meeting adjourned at 8:40 PM.

Michelle Wietek, Chair

Laurie Eagle, Recording Secretary

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS
Thursday, October 25, 2007 @ 7:30 PM

I. MEETING CALLED TO ORDER

Meeting called to order by Michelle Wietek-Stephens, Chairperson at 7:33 PM

II. ROLL CALL

Present: Michelle Wietek-Stephens, Albert Denton, Karen Alholm, Dan Maki, Wayne Dees

Absent:

Staff Present: Randy Yelle (Zoning Administrator), Laurie Vashaw-Eagle (Recording Secretary)

III. APPROVAL OF MINUTES OF THE OCTOBER 4, 2007 SPECIAL MEETING

Michelle Wietek-Stephens motioned to reject the minutes as written Karen Alholm, seconded. Motion approved. The minutes need to be revised to reflect a correction on page 2 under "Requestor's Presentation" in the 3rd paragraph that begins with "Board to take action" the word "conjunctive" needs to be changed to "injunctive". Also, Michelle Wietek-Stephens and Karen Alholm questioned if more details of the extensive questioning by the Board Members of Randy Yelle and the methods that he used to make his determination should be incorporated in Section X. of the minutes. It was determined that the phrase "refer to the tape recording of the 10/4/07 meeting for detailed questioning from Board Members of the methods Randy Yelle used to make his determination" be added under Section X.) "Board Action of Appeal" after the 1st sentence. Once these changes are made, the revised minutes will be resubmitted to the Board members for approval.

Ayes 5. Nays 0. Motion to reject the minutes was approved.

IV. APPROVAL OF AGENDA

Dan Maki motioned to approve the agenda for the 10-25-07 meeting, Albert Denton, seconded the motion.

Ayes 5. Nays 0. Motion approved.

V. PUBLIC COMMENT

Stephanie Gencheff, 597 Lakewood Lane, commented that at the 10/15/07 Township Meeting, Mr. Mark Maki was escorted out by the police for asking questions during public comment in a belligerent manner. Public discourse should not be allowed to turn into a shouting match although I do not condone Mr. Maki's method, I understand his frustration. There have been many apparent violations of the zoning ordinance. In regards to the Bayou Court Condominiums it does not validate the 25% coverage minus the garages, footnote in Section 300 of the Zoning Ordinance, please show us the map. The residents of Chocolay Township can decide if perhaps the ordinance needs to be amended to better reflect the majority's desire for low density development. If on the other hand, the ordinance is not being enforced then you are not fulfilling your obligation to the people and we have the right to demand that you do. This is outlined in the Zoning Ordinance, Section 1725. Ms. Gencheff stated that she and her husband intend to appeal to Judge Weber to review Appeal #07-01 of the ZBA. The ZBA's obligation is outlined in Section 15 of the Zoning Ordinance. Mr. Denton stated in the 10/4/07 Zoning Board Appeals meeting minutes that "it is the responsibility of the Zoning Board of Appeals to be able to depend on the Zoning Administrator's determination in these types of situations". Ms. Gencheff stated that in browsing through the minutes of previous meetings she found a couple of instances where the Zoning Board of Appeals rejected the determination of the Zoning Administrator. Hence this is neither the policy nor the procedure of the Board to give the Zoning Administrator cart

blanche in decisions when they are asked to review them. Please remember that you serve all the residents of Chocolay Township, not only the people making the determinations, but also the people that the proposed structure will affect. Ms. Gencheff stated she feels there will be future implications for these decisions and she has obtained a copy of the Final Draft of the proposed changes to the Zoning Ordinance and she feels the changes are good and are a step in the right direction, but they still don't address some of the ambiguities and subjectivity regarding to height requirements.

VI. UNFINISHED BUSINESS

No unfinished business to address at this time

VII. NEW BUSINESS

Zoning Administrator, Randy Yelle addressed the Board; This meeting will encompass the appointing of the 2008 officers, reviewing and approving the 2008 meeting dates and time. Also the Zoning Board of Appeals members will be reviewing the 2008 Date of Entry form, Rules of Procedure, and Meeting Rules for Public Hearings and Public Comment. MCL 125.3601 (3) requires that a member of the Township Planning Commission serve as a regular member of the Township Zoning Board of Appeals. MCL 125.3601 (5) one member of the Township Board may serve as a regular member of the Zoning Board of Appeals, but cannot serve as the Chair of the Zoning Board of Appeals. The following are recommendations in the form of motions:

A. Appointment 2008 Chairperson

Motion by Dan Maki, seconded by Karen Alholm, to appoint Michelle Wietek-Stephens as the 2008 Zoning Board of Appeals Chair.

Ayes 5. Nays 0. Motion approved.

B. Appointment of 2008 Vice Chair

Motion by Michelle Wietek-Stephens, seconded by Karen Alholm, to appoint Albert Denton as the 2008 Zoning Board of Appeals Vice-Chair.

Ayes 5. Nays 0. Motion approved.

C. Appointment of 2008 Secretary

Motion by Wayne Dees, seconded by Albert Denton, to appoint Karen Alholm as the 2008 Zoning Board of Appeals Secretary.

Ayes 5. Nays 0. Motion approved.

D. Approval of 2008 Meeting Dates

Motion by Dan Maki, seconded by Wayne Dees, to approve the following meeting dates and starting time for the Zoning Board of Appeals. March 27, April 24, May 22, June 26, July 24, August 28, September 25 and October 23, 2008. The starting time will be 7:30 PM.

Ayes 5. Nays 0. Motion approved.

E. Review:

Wayne Dees stated that the next three items, due to a technicality and not being familiar with any of these items should he just abstain? Randy Yelle said "you can".

1. 2008 Date of Entry Form

Motion by Michelle Wietek-Stephens, seconded by Karen Alholm, after review of the Zoning Board of Appeals "2008 Decision Order and Date of Entry Forms" are approved as presented.

Ayes 4. Nays 0. Abstain 1. Motion approved.

Michelle stated, "note Wayne Dees abstained"

2. Rules of Procedure

Motion by Michelle Wietek-Stephens, seconded by Albert Denton, after review of the Zoning Board of Appeals “Rules of Procedure” are approved as presented. Ayes 4. Nays 0. Abstain 1. Motion approved.

3. Meeting Rules

Motion by Albert Denton, seconded by Dan Maki, after review of the Zoning Board of Appeals “Meeting Rules” are approved as presented. Ayes 4. Nays 0. Abstain 1. Motion approved.

VIII. PUBLIC COMMENT

No public comment made.

**IX. TOWNSHIP BOARD MEMBERS’ COMMENT (Dan Maki)
PLANNING COMMISSIONER MEMBERS’ COMMENT (Albert Denton)**

Dan Maki stated that he’d like to thank Carol Hicks for his years of service on the Chocolay Township Zoning Board of Appeals. Randy Yelle asked the Zoning Board of Appeals members for support to give him authorization to send a thank you letter to Mr. Hicks expressing the Township’s gratitude for his years of service. All Board members unanimously granted this request.

Albert Denton informed everyone that work continues on the Draft of the Zoning Ordinance. A Public Hearing will be held on Monday, October 29, 2007, at 7:00 PM in the Chocolay Township Meeting Hall to review and receive Public Comment pertaining to the Final Draft of the Zoning Ordinance. Michelle Wietek-Stephens inquired how the public can get access to a copy of the Draft Zoning Ordinance? Mr. Yelle stated that they just need to come to the office and request a copy and the office will provide them a copy, there is a fee of \$10.00.

X. ADJOURNMENT

As there was no further business to discuss, Michelle Wietek-Stephens motioned, Karen Alholm, seconded to adjourn the meeting.

The meeting adjourned at 8:05 PM.

Karen Alholm, Secretary

Larue Eagle, Recording Secretary