

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS

Thursday, March 27, 2008 @ 7:30 PM

I. MEETING CALLED TO ORDER

Meeting called to order by Michelle Wietek-Stephens, Chairperson at 7:30 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 FROM OCTOBER 25, 2007 MEETING

Albert Denton motioned to approve the minutes as written Michelle Wietek-Stephens seconded.

Ayes 5. Nays 0. Motion approved.

IV. APPROVAL OF AGENDA

Albert Denton reported that Variance Request #08-01 requested by Mr. Jacob Johnson has been withdrawn. Albert Denton motioned to approve the agenda after removing Variance Request #08-01 from the 3-27-08 meeting agenda, Dan Maki seconded the motion.

Ayes 5. Nays 0. Motion approved.

V. OPEN PUBLIC HEARING VARIANCE #08-01

Chair or Zoning Administrator's Comments:

Randy Yelle, Zoning Administrator, reported that there will be no public hearing held as Variance Request #08-01 has been removed from the 3-27-08 agenda. Mr. Yelle reported that Mr. Johnson dropped off a written request that stated "I Jacob W. Johnson withdraw my variance request. I shall removed existing well house structure after snow has melted no later than May 15, 2008." Mr. Yelle reported that Variance Request #08-01 was requesting a side setback variance from Section 300 of the Chocolay Township Zoning Ordinance. Parcel #52-02-008-001 which is zoned RR-2 with a minimum setback of 30 feet on said property located at 2300 M-28 East, Township of Chocolay, County of Marquette, Michigan.

Requestor's Presentation:

There will be no Requestor Presentation as Variance Request #08-01 has been removed from the 3-27-08 agenda.

Public Input "support":

No public input "support" due to withdrawal of Variance Request #08-01.

Public Input "opposed":

No public input "opposed" due to withdrawal of Variance Request #08-01.

VI. VARIANCE #08-01

No action required as Variance Request #08-01 was withdrawn.

VII. PUBLIC COMMENT

No public comment.

VIII. UNFINISHED BUSINESS

No unfinished business to address at this time

IX. NEW BUSINESS

No new business to address at this time.

X. PUBLIC COMMENT

No public comment.

ZONING ADMINISTRATOR'S COMMENT

Randy Yelle, Zoning Administrator, presented and explained the proposed new Zoning maps for the Township of Chocolay. Mr. Yelle also explained some of the revisions that were put into the Final Draft of the Zoning Ordinance pertaining to height restrictions, private roads will need to be built up to County standards and will need to include the addition of a maintenance agreement, and fencing restrictions. Mr. Yelle reported that the final revisions will be reviewed at the April Township Board meeting for final approval. If the Zoning Ordinance is approved, it will be posted in 6 areas of the Township of Chocolay for the public to view, on the Township website, and in the Mining Journal. If adopted, the Zoning Ordinance will go into affect 8 days after the Mining journal posting.

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

Dan Maki reported that the Township Board has been working on the Final Draft of the Zoning Ordinance. Mr. Maki stated that the Township Board passed the 2008 budget. Mr. Maki stated that the Township building renovations are near completion and that the Township Board is awaiting the 2007 Fiscal Audit results.

Albert Denton reported that the Planning Commission is waiting to see if the Township Board approves the Final Draft of the Zoning Ordinance. He feels it is a good document and a lot of time and hard work was put into it.

Michelle Wietek-Stephens asked if the Township of Chocolay's website is being kept up to date and current?

Mr. Yelle reported that to the best of his knowledge this is being done.

XIII. ADJOURNMENT

As there was no further business to discuss, Albert Denton motioned, Dan Maki, seconded to adjourn the meeting. The meeting adjourned at 7:55 PM.

Michelle Wietek, Stephens, Chairperson

Recording Secretary

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS

Thursday, June 26, 2008 @ 7:30 PM

I. MEETING CALLED TO ORDER

Meeting called to order by Albert Denton, Vice-Chairperson at 7:30 PM

II. ROLL CALL

Present: Albert Denton, Dan Maki, Wayne Dees, Lois Sherbinow, Michelle Wietek-Stephens, arrived at 7:40 PM and took her place as chairperson.

Absent: Karen Alholm

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

III. APPROVAL OF MINUTES FROM MARCH 27, 2008 MEETING

Dan Maki motioned to approve the minutes as written Wayne Dees seconded.
Ayes 5. Nays 0. Motion approved.

IV. APPROVAL OF AGENDA

Dan Maki motioned to approve the agenda as written, Lois Sherbinow seconded.
Ayes 5. Nays 0. Motion approved.

V. OPEN PUBLIC HEARING VARIANCE #08-02

Mr. and Mrs. Terrance Tripp of 180 Edgewood Drive, Township of Chocolay, County of Marquette, Michigan, is requesting a front setback variance from Section 6.1 (A) of the Chocolay Township Zoning Ordinance. Parcel #52-02-430-019-00 is zoned R-1 requiring a minimum setback of 30 feet from the front property line or right-of-way.

Mr. and Mrs. Tripp is requesting a 16 foot front yard setback from the Zoning Ordinance required 30 feet per Section 6.1 (A) Page 47, if approved said structure would be located 47 feet from the center line of Edgewood Drive as opposed to 63 feet, noting that the setback is measured to the drip line of the structure (Section 6.1(A)).

Mr. and Mrs. Tripp are suggesting that the existing practical difficulty is the well, located in the front-side-yard, and there is no other location suitable for the placement of the proposed garage.

If Variance #08-02 is granted, as requested, said well would be located about 4 feet from the proposed garage. (Note: A well shall be no closer than 50 feet from any septic tank and/or drain field, and 5 foot from the overhang of any structure. (Per Marquette County Environmental Department).

The requested garage is 30 feet deep, the same depth as the existing home, therefore, attaching the requested garage to the existing home, would be adding 24 feet to the said home giving a side setback of 25 feet, with no variance required, giving Mr. Tripp the size structure requested.

Randy Yelle also stated that the letter dated June 2, 2008 that was included in the meeting packet was also mailed to Mr. and Mrs. Tripp.

Requestor's Presentation:

Sarah Tripp, 180 Edgewood Drive, explained that she and her husband are seeking a variance to build an additional garage on their property as the current garage only allows for 2 cars with no room to get around the vehicles without opening the garage door. Ms. Tripp stated that they would like to be able to put up a temporary fence that would be attached to the garage to create a safe play area for her children, enable them to expand on the landscaping, and make the property

more functional, as well as add to the aesthetics and value of their property.

Public Input "support":

No public present.

Public Input "opposed":

No public present.

VI. VARIANCE #08-02

Wayne Dees asked why they don't expand the garage outward?

Mr. and Mrs. Tripp stated that the depth of the garage is not the problem it's the width and feel this would be problematic and the aesthetics would also be a problem.

Al Denton stated that he went by the site and the well does appear to be close to the road, but doesn't feel this could be considered a practical difficulty. He also stated that there is a nice yard where the kids play on the west side of the garage. Mr. Denton stated that he does have a problem justifying the approval of the variance request as there is nothing prohibiting them from building onto the existing garage.

Dan Maki asked if they built onto the existing garage would there still be a problem with the well?

Mr. and Mrs. Tripp stated "no", but feel this would be costly and the property would lack curb appeal.

Dan Maki stated that the Board cannot use finance to constitute a hardship and he also feels this could set an unwanted precedence.

Michelle Wietek-Stephens stated that she is sympathetic to the difficulty trying to get small children in and out of vehicles in the elements in a small space and, but the Board cannot use that or aesthetics as a reason to approve the request especially since there are other options that can be explored.

Motioned by Al Denton, supported by Dan Maki, that after conducting the required Public Hearing, receiving public comment and reviewing staff input, and documentation and input from the requester, it is the determination of this Board that no practical difficulty as described by statute exists, and identifying a suitable alternate location on said property that does not require a variance from the Chocoday Township Zoning Ordinance, therefore, Variance #08-02 is denied.

Ayes 5, Nays 0, Motion granted.

VII. PUBLIC COMMENT

No public present.

VIII. UNFINISHED BUSINESS

No unfinished business to address at this time.

IX. NEW BUSINESS

Wayne Dees would like to submit for the next meeting agenda a handout containing 4 motions to consider for policy and procedural changes that may help the ZBA better assist new members and the public as well as reduce the workload of the recording secretary.

This will be added to the next meeting agenda.

X. PUBLIC COMMENT

No public present.

XI. ZONING ADMINISTRATOR'S COMMENT

Randy Yelle asked the Board members to review the draft of the Rules and Regulations proposed additions/revisions. Please contact Mr. Yelle with any suggestions or comments pertaining to the draft. Mr. Yelle did clarify that #1 is the document that is already in effect, numbers 2 and 3 are for review and board consideration.

Mr. Yelle also stated that he feels the Conflict of Interest addition should be adopted into the Rules and Regulations.

Mr. Yelle reported that the Data Entry Form that the Zoning Board of Appeals has adopted and is now utilizing worked well in a recent legal case, with Judge Weber.

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

Dan Maki reported that he missed the June meeting, but at the May Township Board meeting, discussion ensued pertaining to a wage and compensation study that was conducted for the Township employees, which showed the Township was within 2% of the market.

Mr. Maki reported that the Township audit went well and that the Zoning Ordinance was adopted.

Al Denton reported that at the July meeting development east of Togos will be discussed.

The original proposed development for this property was approved last spring and an extension to this approval was granted. The developers are now seeking approval for 6 or 7 more unite on the east end of the property. Mr. Deuton also reported that Chocolay Downs is seeking approval to extend the residential area to the west, but the Planning Commission doesn't want to approve it as there is no exit on the west side. Chocolay Downs is discussing with the DNR for a possible easement to put through an exit on the west side. Mr. Denton also reported that in July or August both golf courses will be requesting approval for liquor licenses.

XIII. INFORMATIONAL ITEMS

1. Township Candidates Filing Petitions

XIV. ADJOURNMENT

As there was no further business to discuss, Michelle Wietek-Stephens motioned, Al Denton, seconded to adjourn the meeting. The meeting adjourned at 8:20 PM.

Michelle Wietek Stephens
Michelle Wietek, Stephens, Chairperson

Jeanne Gagle
Recording Secretary

CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS
Thursday, October 23, 2008 @ 7:30 PM

I. MEETING CALLED TO ORDER

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

II. ROLL CALL

Present: Michelle Wietek-Stephens, Albert Denton, Wayne Dees,
Lois Sherbinow, Karen Alholm

Absent: Dan Maki

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

III. APPROVAL OF OCTOBER 4, 2007 CORRECTED MINUTES AND JUNE 26, 2008 MEETING MINUTES

Lois Sherbinow motioned, seconded by Al Denton, to approve the June 26, 2008, minutes for the Zoning Board of Appeals meeting, said minutes are approved with a correction on page 2 section VI) second sentence, change the word “depth” to the word “width” and the word “width” to the word “depth”.

Ayes 5. Nays 0. Motion approved.

Karen Alholm motioned, seconded by Michelle Wietek-Stephens, to approve the October 4, 2007, corrected minutes for the Zoning Board of Appeals special meeting as written.

Ayes 4. Nays 0. Motion approved. Wayne Dees abstained.

IV. APPROVAL OF AGENDA

Al Denton, motioned, seconded by Karen Alholm, to approve the agenda for the October 23, 2008, Zoning Board of Appeals meeting as written.

Ayes 5. Nays 0. Motion approved.

V. OPEN PUBLIC HEARING ON A NONCONFORMING ENLARGEMENT (2008-03)

Chair or Zoning Administrator Comments:

Randy Yelle, Zoning Administrator, reported that Mr. and Mrs. John Bruggink are requesting a public hearing pertaining to a nonconforming enlargement (2008-03) request to construct a second floor on the existing structure located at 673 Lakewood Lane, Township of Chocolay, County of Marquette, Michigan, parcel number 52-02-110-040-00. Mr. Yelle also explained that he sent out 21 letters to the neighbors and received one positive response back.

Requestor’s Presentation:

Mrs. Bruggink explained that the current structure was constructed by the previous owner. The proposed 2nd story addition is behind the neighbor’s houses and would not obstruct their views of the lake; the lot is only 50’ feet wide and they don’t want to increase the building footprint on the narrow lot. The current one story portion of the house is a converted garage that may not be strong enough to support a second story and cannot be adequately heated as it stands. Mrs. Bruggink also explained that they have 2 daughters and the bedrooms the girls are currently in on the north side of the house are very small and they would like to convert the room over the garage portion (middle portion) of the existing structure into a bigger bedroom and a hallway with the lower level being a sunroom. Mrs. Bruggink stated they are working with a contractor who is evaluating the existing foundation to make sure it will be able to support a second story and if not, this will be addressed.

Michelle Wietek-Stephens asked if the width of the structure will be changed?

Mrs. Bruggink stated the width will not be altered at all.

Wayne Dees asked how the roof will be tied in with the other two roofs and will it need to be higher?

Mrs. Bruggink stated she is working with the contractor on this and the roof will not be an issue in regards to height.

Public Input “support”:

No public present.

Public Input “opposed”:

No public present.

1) ENLARGEMENT NONCONFORMING 2008-03 PUBLIC INPUT

Jenell and Bob Mckee, 653 Lakewood Lane, Township of Chocolay returned the notification letter that was sent to them on October 1, 2008, with a note stating “Best of Luck on your New Addition to your Home”.

b) BOARD ACTION ON NONCONFORMING 2008-03

This parcel is zoned Waterfront Residential (WFR) with a minimum lot width of 125 feet and minimum size of 25,000 square feet with the front and rear setbacks 30 feet and the side setbacks are 10 feet, (Setbacks are measured from the structures drip-line) with a maximum peak height of 30 feet. (Section 5.2 of the zoning ordinance, Lake Superior Shoreline/Dune protection overlay District, requires that along Lake Superior in a width from the erosion hazard line to encompass the entire fore dune, or to a maximum of 100 feet landward, whichever is less.

Wayne Dees asked a procedural question pertaining to the discrepancy of the date of September 28, 2008 on the “Application for Zoning Compliance Permit”, which is less than the 30 day requirement for submission of said request.

Randy Yelle explained that Mrs. Bruggink did bring the application to him 30 days prior to the meeting, but it was the wrong form. Mr. Yelle stated he gave Mrs. Bruggink the correct form and she completed and returned it within a few days. Technically the form was handed in 30 days prior to the meeting.

Karen Alholm, motioned, seconded by Al Denton, to grant approval to construct a second story on the existing structure located at 673 Lakewood Lane, parcel number 52-02-110-040-00 as requested within request 2008-03, finding that said request meets all the requirements addressed in Section 14.2 C) & (D) of the Chocolay Township Zoning Ordinance. Residents are required to have an approved Zoning Compliance Permit, Marquette County Building Permit, and Marquette County Health Department approval.

Ayes 5. Nay 0. Motion carried.

VI. PUBLIC COMMENT

Randy Yelle informed the Committee members that his wife just had back surgery and he is caring for her himself and if he gets contacted by her, he will need to leave the meeting.

Mr. Yelle has made arrangements for Al Denton to bring him any business he might miss.

VII. UNFINISHED BUSINESS

1. MDOT, Dealing with Right-of-Way Encroachment at 2801 US-41 South

Randy Yelle reported that he has contacted the MDOT to assess the right-of-way encroachment by a portable carport that is now a structure located at 2801 US-41 South. The MDOT has determined that there is an encroachment and will follow-up on this with the property owner.

VIII. NEW BUSINESS

A. 2009 Meeting Dates

The 2009 proposed meeting dates for the Zoning Board of Appeals to be held at the Chocolay Township Hall, 5010 US 41 South, Marquette, Michigan, was reviewed.

Michelle Wietek-Stephens, motioned, seconded by Lois Sherbinow, to approve the 2009 Zoning Board of Appeals meeting dates of February 26, April 23, May 28, June 25, July 23, September 24, and October 22, 2009.

Aye 4. Nays 1. Motion Carried.

B. Rules of Procedure

The Draft Revised Rules of Procedure, for the Zoning Board of Appeals for the Township of Chocolay was provided for review. The first revision includes the addition of Conflict of Interest #10, which states, “when a member declares a conflict of interest the remaining members shall determine if there is a conflict of interest, and if so, the member will be excused for that item and replaced by a Zoning Board of Appeals alternate. The member must leave the meeting room, and will return when the conflict of interest item has been completed, resuming his/her place on said board”. The second addition to the Rules of Procedure is #12, which states “Cancelled and/or special meeting will be approved by the chair or any two other Zoning Board of Appeals members”.

A second suggested revision of the Draft Revised Rules of Procedure was submitted by Michelle Wietek-Stephens with #11 reworded for review. Much discussion ensued pertaining to the suggested revisions. The Draft Revised “Rules of Procedure” will be re-revised to include the suggested revisions from Draft #2 adding #10 and #12 and from Draft #3 adding the reworded #11. These revisions will be made to the Draft Revised Rules of Procedure and revisited at the next meeting.

C. 2009 Chair, Vice Chair, and Secretary

Al Denton, motioned, seconded by Lois Sherbinow, to approve the appointment of Michelle Wietek-Stephens, as Chair, for the Zoning Board of Appeals for 2009.

Aye 5. Nays 0. Motion Carried.

Karen Alholm, motioned, seconded by Lois Sherbinow, to approve the appointment of Albert Denton, as Vice-Chair, for the Zoning Board of Appeals for 2009.

Aye 5. Nays 0. Motion Carried.

Al Denton, motioned, seconded by Michelle Wietek-Stephens, to approve the appointment of Karen Alholm, as Secretary for the Zoning Board of Appeals for 2009.

Aye 5. Nays 0. Motion Carried.

D. Presentation From Member Wayne Dees

In order to expedite the meeting, if there are not two others who would agree with making any changes then let my motion die for the lack of a second. Mr. Dees is presenting these motions for policy and procedural changes, as the newest member, because he believes the Zoning Board of Appeals can better help the public and new members as well as reduce the workload of the recording secretary. The four proposed motions are as follows:

1. Recording of the minutes - Mr. Dees moves that there be electronic audio tape and digital video recording of each meeting.
No motion made. Motion failed.
2. At least five copies of the agenda for the public are available at each meeting and that one copy be posted on the back wall in the event that there are more than five copies needed. (The agenda would include guidelines for presenting comments and the order in which people can give comments).

Wayne Dees, motioned, seconded by Karen Alholm, to approve #2 as listed above.

Aye 5. Nays 0. Motion Carried.

3. There be a review of the Application Form for a Variance to determine if we can add or change anything that would help the applicant to present their position, and that would enable us to understand it better, e.g., using graph paper to make a sketch according to scale as best they can do; advising that attachments could be made such as a written statement summarizing their oral comments, photos, sketches, surveys, or anything else that they might consider relevant. I would also seek to include a copy of the “zoning variance process” and the “criteria for granting a variance”.

Wayne Dees, motioned, seconded by Karen Alholm, to approve #3 as listed above. The “Application Form for a Variance” will be added to the next meeting agenda.

Aye 5. Nays 0. Motion Carried.

4. The board work with the zoning administrator to compile introductory material for new members in a packet format so that the person has something that will enable the understanding of the procedural and statutory obligations.

Wayne Dees motioned, seconded by Michelle Wietek-Stephens, to approve #4 as listed above.

Aye 5. Nays 0. Motion Carried.

IX. PUBLIC COMMENT

No public comment.

X. ZONING ADMINISTRATOR'S COMMENT(S)

Randy Yelle reported that he was directed by the Township Board to hold a special Zoning Board of Appeals meeting in December to address a request for a variance to install an outdoor wood burner. Mr. Yelle asked the Committee members to discuss and agree on a December date for this special meeting to be held.

The Zoning Board of Appeals committee members agreed to hold the Special Zoning Board of Appeals meeting on Thursday, December 4, 2008 at 7:30 PM.

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

No Board member in attendance to provide a report.

Al Denton reported that the Planning Commission is working with Moyle Development who is the company constructing the new Gateway Plaza on the corner of M-28 and US-41. Mr. Denton also reported that the Chocoy Downs Development is exploring possibilities for a second entrance/exit for this development.

XII. ADJOURNMENT

As there was no further business to discuss, Karen Alholm, motioned, Michelle Wietek-Stephens, seconded to adjourn the meeting. The meeting adjourned at 8:35 PM.

Michelle Wietek, Stephens, Chairperson

Recording Secretary

**CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS
SPECIAL MEETING**

Thursday, December 4, 2008 @ 7:30 PM

I. MEETING CALLED TO ORDER

Meeting called to order by Michelle Wietek-Stephens, Chairperson at 7:35 PM.

II. ROLL CALL

Present: Michelle Wietek-Stephens, Albert Denton, Wayne Dees,
Lois Sherbinow, Karen Alholm

Absent: Randy Yelle, (Zoning Administrator)

Staff Present: Tom Murray, Community Development Coordinator,
Jennifer Thum, Director of Planning and Community
Development, Laurie Vashaw-Eagle, Recording Secretary

III. APPROVAL OF OCTOBER 23, 2008 MEETING MINUTES

Al Denton motioned, seconded by Wayne Dees, to approve the October 23, 2008, minutes for the Zoning Board of Appeals meeting. Karen Alholm inquired about the formatting of the minutes. The reason for the formatting problem is due to the computer program the recording secretary uses and the computer program the Township uses not being the same. Township staff agreed that they can easily fix the minutes before distributing and will inform staff who were absent.

Ayes 5 Nays 0 Motion approved

IV. APPROVAL OF AGENDA

Wayne Dees, motioned, seconded by Karen Alholm, to approve the agenda with the addition of item VII) Unfinished Business #2, Application for Appeal to the December 4, 2008, Zoning Board of Appeals Agenda.

Ayes 5 Nays 0 Motion approved.

V. OPEN PUBLIC HEARING ON VARIANCE REQUEST #08-04

Chair or Zoning Administrator Comments:

Tom Murray, provided information to the members regarding the contents of the packet explaining that this public hearing is in regards to Variance Request #08-04 from Ms. Kenlyn Hubbard to install and operate an outside wood burning boiler at 121 Wintergreen Trail, Township of Chocolay, County of Marquette, Michigan, parcel #52-02-108-006-52, Section 8 & 9, T47N-R24W, and that the parcel is zoned Residential-1 (R1) with a lot size of 8.8 acres. (Section 6.2 (b) of the Zoning Ordinance requires that an outside wood burning boiler have a chimney height of 15 feet from grade to top of its chimney, or 2 feet higher than any structure within 1000 feet, whichever is higher. Ms. Hubbard is requesting a variance from this requirement to allow the installation and operation of an

outside wood burning boiler on her property to be located 373 feet from parcel #52-02-500-003-00, 453 feet from parcel #52-02-500-002-00, 657 feet from parcel #52-02-108-006-53, and 816 feet from parcel #52-02-109-082-00.

Staff reported that Conditional Use Request #83 went to the Planning Commission in October as directed by Ordinance Section 4.1(C.5). During this meeting, Ms. Hubbard indicated that she would need a chimney height of about 50 feet to meet the ordinance, stating that she did not realize that her neighbors were within 1000 feet of the proposed location. Randy Yelle at that meeting stated that in his opinion the location requested by Ms. Hubbard is the best location for the boiler within the 8.8 acre parcel.

Requestor's Presentation:

Ms. Kenlyn Hubbard stated that her residence is located two feet above the flood plain and that all of her surrounding neighbors are located on a lot higher ground. She stated that she had burned brush this past summer and the smoke only went so high and then it settled into the flood plain. Ms. Hubbard stated that her neighbors didn't even realize she was burning brush and feels that smoke from her wood burner will not be an issue with her neighbors. Ms. Hubbard also explained that her main purpose for the wood burning boiler was to help ease the cost of propane gas for heating her home as well as her water. She stated that natural gas is not available on Wintergreen Trail.

Public Input "support":

No public was present to provide input. One letter of support was received from one of Ms. Hubbard's neighbors (Mr. and Mrs. Karl Shunk) in support of her installing the wood burning boiler.

Public Input “opposed”:

No public present to provide input.

Variance #08-04 Public Input

No public present to provide input.

Board Action on Variance #08-04

Wayne Dees provided a handout titled “Comments for the Record” (see attachment), which outlines his concerns pertaining to this variance request. There was discussion as to why this variance request is before the ZBA. Jennifer Thum explained that at the time Ms. Hubbard appeared at the Planning Commission meeting in October, it was her understanding (at that time) that this needed to be forwarded to the Zoning Board of Appeals to request a variance and then back to the Planning Commission for a conditional use request. Ms. Thum also explained that the Planning Commission doesn’t have the authority to grant a variance request and that is why it was forwarded to the Zoning Board of Appeals. Michelle Wietek-Stephens and Wayne Dees stated that they were concerned about making a decision that could set precedence, which could precipitate a series of these types of requests. Karen Alholm stated that decisions of the ZBA are non precedent setting, and that each request should be reviewed on a case by case or situation by situation basis. There was also discussion pertaining to the Zoning Ordinance’s 1,000 foot requirement being a bit excessive.

Karen Alholm asked Ms. Hubbard if she would have a problem if a condition was added that she would only be able to utilize her wood burning boiler from October 1st through April 30th and if this would be a problem.

Ms. Hubbard stated she would be willing to follow this condition and only utilize the wood burning boiler from October 1st through April 30th.

Motion by Karen Alholm, supported by Al Denton, to approve the variance request for Kenlynn Hubbard with the following conditions:

1. Outside boiler will only operate from October 1st through April 30th and
2. Receive an approved Conditional Use Approval from the Chocolay Township Planning Commission, and
3. Receive an Approved Zoning Compliance Permit from the Chocolay Township Zoning Administrator.
4. Chimney height will be at least 15 feet from the grade of the property per the zoning ordinance.

Once these conditions are met, it is the decision of the Chocolay Zoning Board of Appeals to grant Variance Request #08-04, allowing an outside wood burning boiler to be installed and operated within the conditions on parcel #52-02-108-006-52 .

Ayes 3 Nays 2 Motion Carried.

VI. PUBLIC COMMENT

No public present to comment.

VII. UNFINISHED BUSINESS

1. Rules of Procedure

After much discussion and additional suggested revisions such as removing from Draft #3 amended on December 4, 2008 the sentence in #11 that states “Because it is usually signed before the minutes have been rendered and approved, the date of the decision order, shall normally serve as the date of the decision, rather than the date that the meeting minutes are approved”. There was also discussion pertaining to #13 being changed to state “A copy of the agenda shall be posted outside of the Township Hall at least 5 days prior to the meeting and posted on the bulletin board in the back of the meeting hall”. It was decided by the Committee to amend Draft #3 again to incorporate these changes and to revisit the amended Draft #3 at the next meeting for possible additional revisions.

Motioned by Michelle Wietek-Stephens, supported by Lois Sherbinow, to table this until the next meeting to allow for additional revisions, review, discussion, and comments.

Ayes 5 Nays 0 Motion approved to table this until the next meeting.

2. Application for Appeal

The Committee reviewed Wayne Dees draft version (see attached) of the “Zoning Board of Appeals Process and Application for Appeal Rezoning Compliance”. There was much discussion by the Committee. The Committee agreed to table this until the next meeting to allow for additional review, discussion, review by the Zoning Administrator, additional comments and possible legal review/input.

Motioned made by Michelle Wietek-Stephens, supported by Lois Sherbinow,

to table this until the next meeting to allow for additional review, discussion, Review by the Zoning Administrator, additional comments, and possible attorney review/input.

Ayes 5 Nays 0 Motion approved to table this until the next meeting.

VIII. NEW BUSINESS

No new business to discuss at this time.

IX. PUBLIC COMMENT

No public present to comment.

X. BOARD MEMBER COMMENT (Position is currently vacant)
PLANNING COMMISSIONER MEMBERS' COMMENT (Albert Denton)

No board member was present to provide comment.

Al Denton reported that there is nothing new to report as the November Planning Commission meeting was cancelled.

XI. INFORMATIONAL

Staff reported that there was a previous request pertaining to a home occupation that was denied by the Planning Commission earlier this year. This case went to Circuit Court and Judge Kangas granted the applicant's request due to his feeling that the language in the ordinance was vague. The Township of Chocolay appealed the decision and Judge Solka overturned the decision. The Township is waiting to see if the applicant is going to file an additional appeal.

Michelle Wietek-Stephens reported that she is due to have a baby in May of 2009 and wanted to let the Co-Chair (Al Denton) know that he may have to Chair a couple of meetings in the Spring of 2009.

XII. ADJOURNMENT

As there was no further business to discuss, Michelle Wietek-Stephens, motioned, Al Denton, seconded to adjourn the meeting. The meeting adjourned at 8:57 PM.

Michelle Wietek, Stephens, Chairperson

Recording Secretary