

# CHOCOLAY TOWNSHIP ZONING BOARD OF APPEALS

## MEETING MINUTES

THURSDAY, FEBRUARY, 25, 2010

### I. Meeting Called to Order

The meeting was called to order by Ms. Karen Alholm, Vice Chairperson at 7:34PM.

### II. Roll Call

Present: Wayne Dees, Karen Alholm, John Trudeau, and Kendell Milton

Absent: Michelle Wietek-Stephens

Staff: Jennifer Thum, Planner/Zoning Administrator

### III. Approval of Agenda

John Trudeau, motion, Wayne Dees, seconded to approve the February 25, 2010 agenda.

Ayes 4      Nays 0      Absent 1      Motion Approved

### IV. Approval of the October 22, 2009 Meeting Minutes

Wayne Dees, motioned, Karen Alholm, seconded to approve the October 22, 2009 minutes as presented.

Ayes 4      Nays 0      Absent 1      Motion Approved

### V. Public Comment

No public comment was provided.

### VI. Public Hearing

No public hearing scheduled.

### VII. Unfinished Business

None.

### VIII. New Business

#### A. Zoning and planning update from staff.

Jennifer Thum, Zoning Administrator, stated that she was requested by the Township Board, to create a list of the outgoing projects and issues that have been ongoing for a couple of years. Ms. Thum went over each item and the Board members gave comments.

	Background Information and staff comments.	Planning Commission	ZBA
Issue			
Mini-Warehouses	There was some concern raised about how Ace Hardware was allowed to construct storage units. After research they divided the lot so the store is on one lot and storage units are on another.	No comment on Ace.	At their 2-25-10 meeting, the board did not have any objections to storage units being placed in the General Commercial District. There was a question concerning Ace Storage and if it was located on a different lot. Ace hardware and the storage units are on two different lots.
	The Township has not received any complaints/concerns about storage units being allowed in the General Commercial District.	At their 2-1-10 meeting the commissioners felt that they had discussed this issue enough when they were updating the Zoning Ordinance in 2008. They don't feel that we need to revisit this issue.	
Lakeland	Sent a letter on 1-31-10 stating the need for a CUP and that the Township was revoking the Zoning Compliance Permit.	They understand why we were asking for a Conditional Use Permit.	At their 2-15-10 meeting the board inquired what permit they needed and some more background on this issue. Staff will continue to keep them posted.
	On 2-2-10 received a letter back from Tom stating that he should be grandfathered in under the old ordinance. Will send a follow up letter on 2-4-10.	Will keep them posted. No comment was received.	
Holiday Gas Station	Found a violation letter that was sent by Randy to Holiday Signs stating that everything was in compliance.		The Board wanted information on the permit for the sign to be placed in the right-of-way.
	Sent a follow up letter to Holiday stating that their sign was in violation of the Township Ordinance.	Will keep them posted.	Will keep them posted.
	Received a phone call from their sign company wanting to know what was going on.	Will keep them posted.	Will keep them posted.

	Discovered that this issue of sign illumination was brought to the ZBA in 2001. The ZBA ruled that the Ordinance does not allow for electronic message signs.	No comment	No comment
	Writing a new sign ordinance that could be separate from the Zoning Ordinance.	The Planning Commission made updating the Township Sign Ordinance a top priority for this year.	At their 2-25-10 meeting the Board inquired about the new ordinance. Staff stated that the Planning Commission wanted to work on a whole new document. The board spoke about electronic signs and that some of them were not opposed to them.
McDonalds -signage	This was answered in a letter to you dated 12-2-09	They will look at off-premise and directional signs when they review the new sign ordinance draft.	No comment
Waselesky	I believe that Trustee Maki wanted to know the status of the Waselesky Junk yard. There was an agreement between Mr. Yelle and Mr. Waselesky last year to shut down the junk yard over a period of three years. According to the agreement, 75% of the vehicles were to be crushed. However, he spoke with Randy and asked for an extension on that percentage due to fall in scrap metal prices.	Just want Mr. Waselesky to follow the agreement and to make sure everything is behind the fence.	The Board would like a copy of the agreement provided to them. John Trudeau stated that Mr. Waselesky junk yard was in existence before the zoning ordinance came into effect, so the Township should not force him to shut down.
	Plan on contacting him to conduct a site visit and see what his plans are for closing the site.	Want to be informed.	Wants to be kept informed.
Spodeck	From what I could retrieve from Randy's files, an issue was raised by Dick Arnold. Mr. Arnold made a complaint that Mr. Spodeck was operating a mining operation at 6884 US 41S.	The Planning Commission will look into this with staff in the Spring.	Board member Dees stated that Trustee's Maki concerns were that Mr. Spodeck removed too much soil, and there was concern that he has a commercial operation in a barn that he may or may not own.

Illegal Signs	Sent violation notices to the Insurance company on US 41S, Holiday Gas Station and Northern Meats.	At their 2-1-10 meeting the Planning Commission made updating the Township Sign Ordinance a top priority for this year.	No comment, would just like to review the sign ordinance.
Keough	Spoke with Sheila Meire from the MDEQ, she stated that she did approve a permit for 525 N. Big Creek for a patio area. She informed that she thought he was working on a garage. I went to the house and did not see anything. Will keep on an eye on this property.	No input, just wanted to remain informed.	The Board just wanted to make sure we keep in contact with the MDEQ and let them know of our rules and regulations. Also that the Township is opposed to any permit being issued for any structures within a 100ft of the river.
Sommers	There was a court stipulation that the front half of 208 Timber Lane was to be cleaned up by January 31, 2010. I inspected the site on February 1, 2010 and the front half was in the same condition as in 2009. Wrote a letter to our attorney and copied Mr. Sommers attorney.	The Planning Commission just asked to be kept informed.	The Board asked about the injunction and when the Township can send somebody in there to clean up the lots.
Home Occupation	Upon reviewing our records, the home occupations were supposed to be renewed every three years. As a result, I mailed out a registration form to everyone we had on file that listed a home occupation. We are getting a better response than I anticipated.	No comment	No comment
Lighting	I believe that the Township has gone over this topic in detail last year, when we did a zoning amendment.	At their 2-1-10 meeting, the Planning Commission felt that we had discussed this topic enough last year.	The Board inquired about residential neighborhoods.

Private Roads	There were some concerns about the difference in what the Comp plan states and what our Zoning Ordinance allows. I believe that some people want to see no private roads permitted in our Township.	The Planning Commission felt that we had discussed this enough in 2008, when we updated the Zoning Ordinance.	At their 2-25-10 meeting the Board discussed the 66ft ROW and maintenance agreement. Member Trudeau brought up that we discussed this a while ago and feels that for small development, private roads are good options and they are affordable.
Nonconforming Uses	It was brought up that we should include Class A and B designations for non-conforming uses. I have not taken any action.	The Planning Commission felt that they had discussed this enough in 2008, when we updated the Zoning Ordinance.	At their 2-25-10 meeting, the Board discussed the Class A and Class B designations.
Planned Unit Devel.	There were some concerns about the Township's PUD language in our Ordinance. Once we get the Sign Ordinance through, I will start working on some new language.	The Planning Commission felt that we did need to address the PUD section in our Ordinance. They made this a priority for 2010.	At their 2-25-10 meeting the Board discussed the possible acreage requirement changes to the Zoning Ordinance.
Contractors Yards	There was a concern about allowing contractors yards as a Conditional Use in the Commercial district. I have not taken any action.	The Planning Commission felt that that we had discussed this enough in 2008, when we updated the Zoning Ordinance.	At their 2-25-10 meeting, the Board did discuss contractor's yard. No conclusion was reached concerning their placement in our Zoning Ordinance.

**IX. Public Comment**

No Public Comment

**X. Township Board Members' Comment (John Trudeau)**

No Board Member comment

**Planning Commission Member's Comment (Kendell Milton)**

No Commissioners Comment

**XI. Informational**

**A. ZBA Sign Illumination decision 2001**

Wayne Dees inquired about what this now means for the Holiday Sign. Jennifer Thum, Zoning Administrator, stated that she is in the process of sending them another violation letter citing the ZBA decision. She still has to get with the Township Supervisor and attorney to see what would be acceptable for compliance.

**B. Proposed Zoning Amendment 34-10-02**

Jennifer Thum, Zoning Administrator, stated that this proposed Zoning Ordinance Amendment would be brought before the Planning Commission at their March, 1, 2010 meeting. The Board discussed that square feet and parking lot should be considered when deciding if Nursing Homes should be added as a Conditional Use in the R-2 District. Also, that General Office, if approved, should be looked at on a case by case basis.

**II. Adjournment**

As there was no further business to discuss, Kendell Milton, Motioned; John Trudeau, Seconded to adjourn the meeting. The meeting was adjourned at 7:50pm.

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Ms. Karen Alholm  
Vice Chairperson

**CHOCOLAY TOWNSHIP**  
**ZONING BOARD OF APPEALS**

**MEETING MINUTES**

**THURSDAY, JULY 8, 2010**

**I. Meeting Called to Order**

The meeting was called to order by Ms. Michelle Wietek-Stephens Chairperson at 7:34PM.

**II. Roll Call**

Present: Michelle Wietek-Stephens, Lee Snooks (ALT), Karen Alholm, John Trudeau, and Kendell Milton  
Absent: None  
Staff: Jennifer Thum, Planner/Zoning Administrator

**III. Approval of Agenda**

John Trudeau, motioned, Kendell Milton, seconded to approve the February 25, 2010 agenda.

Ayes 5 Nays 0 Absent Motion Approved

**IV. Approval of the October 22, 2009 Meeting Minutes**

Karen Alholm, motioned, Lee Snooks, seconded to approve the February 25, 2010 minutes as presented.

Ayes 5 Nays 0 Absent Motion Approved

**V. Public Comment**

Mr. Santii asked to speak under the public hearing portion of the meeting to talk about his appeal.

**VI. Public Hearing**

ZBA 2010-01 (Santii)

190 Riverside Road, Mr. and Mrs. Santii are petitioning the Chocolay ZBA to grant a variance to construct a 16' x 20' addition to an existing home with a setback distance from the river of 66ft.

Mr. Jeff Santii 190 Riverside Road. Mr. Santii handed out an informational sheet to the Board members explaining his son's conditions and the hardship that they have. The board members read the material.

Ms. Alholm questioned the setback and the proposed addition. Were they going to build the structure 66ft from the river's edge? Did they amend the distance from the river? Mr. Santii stated that when Ms. Thum visited the site she thought that he could move the building up closer the front of the house. The problem though is that the door to the proposed addition building would be in their daughter's room. They did not want to interrupt her life, so they would like to keep the location as is, but if needed they would be willing to move the proposed addition up 8ft. If it would be moved 8ft, the proposed addition would then be 74ft from the river.

Ms. Wietek-Stephens question what room they were going to use to access the proposed addition.

Mr. Snooks asked if they could install a jet tub, or if their son had to have one of those like endless pools. Mr. Santii responded that his son could not get the exercise that he required in a tub and did need a pool.

Mr. Trudeau asked if the rest of the homes in the neighborhood and on the river side are set back the same distance.

There was a question about the erosion and Mr. Santii stated that if needed they would be willing to install retaining wall to stop the erosion.

Ms. Alholm asked what type of problem there would be if we required them to remove the addition if they were to move. Mr. Santii stated that they would not be in financial means to remove the addition.

Ms. Wietek asked are there any other locations where the house does not meet the setback. Mr. Santii responded that no, the house does meet the other required setbacks, except the waterfront front. The house was built prior to that part of the ordinance going into effect.

Ms. Alholm asked if we received any negative response from any property owners. Mr. Santii stated that Mr. Eric Keough did write a negative letter, but was willing to retract the letter once he found out the circumstances. Ms. Thum stated that was the only letter we received for ZBA 2010-01.

Ms. Wietek reiterated that the proposed addition would be at the same setback from the river that their home is now.

The board questioned if his house was in compliance before the Waterfront setback when into effect. Mr. Santii thought that it was, but he was not sure.

Ms. Thum stated that there used to be wording in the old ordinance that stated, "The parcel was exempt from the 100ft setback under the 1977 Ordinance, Section 403 Waterfront Setback: {excerpt}..... These provisions (i.e. the 100ft setback) do not apply to any nonconforming parcel of land or use on a recorded plat, or described in a deed or land contract executed and delivered prior to the effective date of this The Ordinance."

#### **The Findings of Fact:**

1. All fees, notifications and publication requirements of the ordinance have been met. The Township did receive a response from Eric Keough against the request.
2. Owners of record are Jeff and Jill Santii, Parcel #305-028-00
3. Subject property is located in an R-1 Zoning District and is approximately .9 acres.
4. The applicant is requesting a variance from the 100ft Waterfront setback, Section 6.8.
5. The applicants will construct a retaining wall if erosion problems start to occur due to the new addition on the home.
6. Special conditions and circumstances exist that are peculiar to 190 Riverside Dr, structure, which is not applicable to other lands, structures or buildings in the same district.

- a. Such as the family illness and the necessity of the pool,
- b. The neighboring residential dwellings are set approximately the same distance from the Chocolay River.
- c. The locations of the home in relationship to the river, in that the home is set up from the Chocolay River.

Karen Alholm moved Michelle Wietek seconded, for Zoning Appeal 2010-01 that the request for variance of the Townships Zoning Ordinance 100ft waterfront setback, Section 6.8 **be approved**, citing staff report and documents provided from applicant with the following condition.

- 1. The applicant will construct a retaining wall if erosion problems start to occur due to the new addition onto the home.

AYES: 5      NAYS:      0      Motion Carried  
 Roll Call:    All in favor

**VII. Unfinished Business**

A. None.

**VIII. New Business**

B. Concluded

**IX. Public Comment**

No Public Comment

**X. Township Board Members' Comment (John Trudeau)**

Asked how the Township verifies setbacks and that the Township should have some type of policy in place for confirming setbacks. The residents fill out the form and basically can state that they meet the setback requirements, but does anybody verify them. Mr. Trudeau asked if we should require a survey from the property owners before or after the construction.

Ms. Thum stated that she does visit sites, if on the plan they how the proposed structure within 3ft of the required setback distance.

There was further discussion on the waterfront setback and how the language in the previous ordinance dealing with existing homes closer to the water's edge than 100ft was omitted from the existing ordinance. Ms. Thum was not sure.

The reason that this appeal was before them was because that language was omitted. Should the township look at putting that language back into the ordinance? How did this get omitted, staff should check into this.

**Planning Commission Member's Comment (Kendell Milton)**

No Commissioners Comment

**XI. Informational**

Staff talked about the Comprehensive Plan update

**XII. Adjournment**

Meeting was adjourned at 7:40pm

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Michelle Wietek-Stephens  
 Chairperson

**CHOCOLAY TOWNSHIP  
ZONING BOARD OF APPEALS**

**Thursday, August 26, 2010  
7:00 P.M.**

**I. Meeting Called to Order**

The meeting was called to order by Ms. Michelle Wietek-Stephens, Chairperson at 7:04pm.

**II. Roll Call**

Present: Michelle Wietek-Stephens, Chairperson, John Trudeau, Kendell Milton, and Lee Snooks.

Absent: Karen Alholm

Staff: Jennifer Thum, Planner/Zoning Administrator

**III. Approval of Agenda**

John Trudeau, motioned, Kendell Milton, seconded to approve the August 26, 2010 agenda as presented.

Ayes: 4      Nays: 0      Motion Approved

**IV. Approval of July 8, 2010 Minutes**

Michelle Wietek-Stephens had one comment, there was a typo on Page 4, Section 10, second paragraph, "shall" be inserted. No additional comments.

Michelle Wietek-Stephens motioned, John Trudeau, seconded to accept the minutes for the July 8, 2010 meeting.

Ayes: 4      Nays: 0      Motion Approved

**V. Public Comment**

No public comment concerning general township issues

**VI. Public Hearing and New Business**

A. 2010-02

Mrs. Thum explained that the applicant is proposing a 19.5 front yard setback and the reason for the variance is that the location of the septic tank and drainfield are located in the front yard setback. Ms. Thum explained that the house potentially could be pushed back, but the house would be too close to the drainfield. Also the applicant most likely would have to drive over the drainfield to access their home.

Ms. Thum also explained that she researched the neighboring homes who received building permits during the 1970's and those homes were located about 20ft from their property line. Dr. Gerrish's house was built in 1969, which was prior to the Township keeping building records and the Township Zoning Ordinance. The neighboring lots are comparable with what the Gerrish's are proposing for a front yard setback.

Ms. Thum stated that the foundation walls need to be 5ft from the septic tank and the applicant explained that the foundation walls will be 5ft from the septic tank and 10ft from the drainfield.

Ms. Thum also mentioned that the setbacks are measured from the dripline, so the plan would have to be amended to that in order to receive a zoning compliance permit if their variance is approved.

There was discussion of the neighboring lots and what the setbacks were for their original home that was destroyed in a fire. Ms. Thum explained that the front yard setback for the original home was about 20ft from the edge of Riverside Drive. Ms. Thum stated that the neighboring lots are about the same distance from the edge of \ Riverside.

Chairperson, Wietek-Stephens asked what the purpose of setbacks are. Mr. Milton explained that the purpose of setbacks is to ensure that the use of a property does not infringe on the rights of neighbors, and to allow each neighbor their privacy. There was further discussion about when the house was torn down after the fire. The builder, Mr. Seppanen, explained that the hole would have to be filled in, if the variance was not approved, and the house would have to be located further back on the lot. Mr. Seppanen explained that they would have to fill the hole and extra fill would be required to ensure that their lot is level. As it's currently laid out, the back of the lot sits up higher than the front yard. Dr. Gerrish stated that the back of the lot is also reserved for the drainage and pushing the house that far back would have an impact on the overall drainage of their lot as well.

Further discussion commenced about the proposed house and the neighboring lots and the location of the house. Ms. Thum explained that there is one house further down the street that is pushed back. Ms. Thum stated that she did not get any positive or negative feedback from residents or neighbors. Dr. Gerrish stated that he has spoken with his neighbor and stated that they did not have any problems with having the house closer than the front yard setback allows.

Chairperson, Michelle Wietek-Stephens discussed that the impact of the reduced setback would not impact the overall character of the neighborhood, if the ZBA does allow them to build closer to the edge of Riverside Drive than the current zoning ordinance regulates.

Chairperson Michelle Wietek-Stephens read the following finding of fact:

1. All fees, notifications and publication requirements of the ordinance have been met.
2. The Township did not receive any responses against or for the request.
3. Owners of record are Dr. Paul Gerrish, Parcel #335-027-00
4. Subject property is located in an R-1 Zoning District and is approximately .69 acres.
5. The applicant is requesting a variance from the front yard setback. The applicant is requesting a front yard setback of 19.5.
6. Special conditions and circumstances exist that are peculiar to the 307 Riverside Dr, structure, which is not applicable to other lands, structures or buildings in the same district.
  - a. Such as the location of the septic tank and drain field,
  - b. The neighboring residential dwellings are set approximately the same distance from the front yard setback. (The ZBA discussed this in detail once more)
  - c. The original home was built prior in 1970 which was prior to the Township's Zoning Ordinance going into effect. That house burnt down in July of 2009 and was a total loss.

***RECOMMENDED MOTION***

John Trudeau, moved Kendell Milton, seconded, After conducting a public hearing and review of the STAFF FILE REVIEW/ANALYSIS for Variance request #10-02, the Zoning Board of Appeals (**find**/does not find) that the request (**demonstrates**/does not demonstrate) the standards found in Section XIV and XV of the Township Zoning Ordinance and hereby grants a 9.5ft front yard setback variance to permit the structure to be located 19.5ft from the front property line where 30ft is required.

**VII. Unfinished Business**

A. None

**VIII. New Business**

A. Discussed and voted on under Public Hearings.

**IX. Public Comment**

A. None

**X. Township Board Comment/Planning Commissioners Members Comment**

A. None

**XI. Informational**

Ms. Thum discussed the upcoming vision session to be held at Cherry Creek School to assist with the update of the Township's Comprehensive Plan. Ms. Thum stated that once the date is confirmed that she will post flyers and put the information on the Township website.

Ms. Thum also encouraged everyone to complete the Township survey that is available on our Township's website.

**XII. Adjournment**

Meeting was adjourned at 7:35pm

**CHOCOLAY TOWNSHIP  
ZONING BOARD OF APPEALS**

**Thursday, October 28, 2010  
7:00 P.M.**

I. Meeting Called to Order

Ms. Wietek-Stephens called the meeting to order at 7:00pm

II. Roll Call

Present: Chairperson, Michelle Wietek-Stephen; Vice Chairperson, Karen Alholm; Lee Snooks; John Trudeau; Kendell Milton; and Sandra Page (alternate)

Absent:

Staff: Jennifer Thum, Planner/Zoning Administrator

III. Approval of Agenda

Karen Alholm, moved, John Trudeau seconded to approve the October 28, 2010 agenda.

Ayes 5 Nays 0 Absent Motion Approved

IV. Approval of August 26, 2010 Minutes

Michelle Wietek-Stephens, moved, John Trudeau seconded to approve the August 26, 2010 minutes with the recommended changes.

Ayes 5 Nays 0 Absent Motion Approved

V. Public Comment

Mr. Gischia, Northern Michigan University

Mr. Gischia stated that he is present at tonight's meeting to represent Northern Michigan University along with Mr. Jim Thams and to answer any questions that the Board might have with regards to ZBA variance request #2010-03

Mr. George Voce, 192 Dana Lane

Mr. Voce spoke against the NMU Golf Course sign and had concerns with the current and proposed location and that it's located in the clear vision triangle and that it would obstruct the views of cars leaving the golf course and turning onto M-28E. He also did not understand why the golf course sign had to be lit at night when the course is not open at night.

Mr. Brain Pesola

Stated that he is present at the meeting on behalf of the Manosky's. His company Pesola builders will be demolishing the current home and constructing the proposed new one.

VI. Public Hearing

A. 2010-03 – Northern Michigan Foundation

Northern Michigan Foundation, 1401 Presque Isle Road, Marquette MI, for parcel 52-05-110-097-00, M-28 East, the lot fronts Eagle Pass and M-28. Northern Michigan Foundation is requesting Zoning Board of Appeals (10-03) approval to erect a sign located within the Michigan Department of Transportation Right-of-Way and 20ft from the edge of the front property line. The applicant is seeking a variance from Section 18.2 of the Chocolay Township Zoning Ordinance, which requires golf course signs to be located 5 feet from the front line.

B. 2010-04 – Mr. and Mrs. George Manosky

Mr. and Mrs. George Manosky, 2003 M-28E, parcel #52-02-007-027, is requesting the Zoning Board of Appeals (10-04) approval to construct a single-family dwelling with a 2ft side setback on the East side, whereas the Township Zoning District, in Section 18.6 for the WFR District, requires a 10ft side setback.

VII. Unfinished Business

A. None

VIII. New Business

**A. 2010-03**

Mrs. Thum stated that throughout this year she has been in contact with both Mr. Gischia and Mr. Thams concerning their current and proposed sign. Mrs. Thum has hoped that the Township Planning Commission would have been through the proposed new sign ordinance but they are still working on it. Mrs. Thum indicated that the reason that NMU has to go before the Zoning Board of Appeals is because when the original sign was put up there were no restrictions on where golf course signs could be located and the size that they could be. Now, the Zoning Ordinance states that golf course signs in residential districts have to be set 5ft from the property line and their current sign is located in the right-of-way with a maximum of 60 square feet. The current sign is 39.2 square feet and the proposed sign is approximately 60 square feet.

Mr. Jim Thams from NMU stated that the sign will be backlit and rectangle in shape so that the sign is getting a more uniform size. That is part of the reason for the size increase. The increase in square footage is being requested because NMU would like the sign to be more noticeable and it has been recommended by their sign consultant. MDOT approved the sign at its current location and they do look if the sign is in the clear vision triangle and if the sign was in the clear triangle, it would have not been approved by MDOT.

Michelle Wietek-Stephens stated that she does not have an issue with the lighting nor the location. Her concern is the increase in square footage. Also, that Mr. Voce has a valid concern with regards to the sight-triangle.

There was further discussion with regards to sight-triangle distance and MDOT's approval process.

Mrs. Alholm asked NMU if MDOT had the drawings that were part of the ZBA packet which indicated that the sign was going to be increased.

Mr. Jim Thams stated that MDOT has the plans, so they did see that NMU was proposing to increase the sign.

Mrs. Alholm moved, John Trudeau seconded, that following staff review of variance request #10-03 the Zoning Board of Appeals **finds** that the request with the dimensions that were provided as part of the application, and based on staff's review and all fees have been meeting, does **demonstrate** the standards found in Section Fourteen and Fifteen of the Township Zoning Ordinance.

#### Findings of Fact for 10-03

1. All fees, notifications and publication requirements of the ordinance have been met.
2. The Township did receive responses against the request. Mr. Voce from 192 Dana Lane. The Board felt that MDOT reviewed the sign and the clear distance triangle is their jurisdiction. The sign was approved by them so there were confident that the sign would not be hazardous to traffic entering and leaving the golf course.
3. Owners of record are Northern Michigan Foundation, Parcel #110-097-00
4. Subject property is located in an R-1 Zoning District and is approximately 219.2 acres.
5. The applicant is requesting a variance from Section 18.2 Signs in Residential Districts. The applicant has requested that their proposed sign be located 20ft from the edge of their property line and located in the MDOT right-of-way.
6. Special conditions and circumstances exist that are peculiar to the Northern Michigan Golf Course Sign and the lot which the current and proposed sign is placed on, which is not applicable to other lands, structures or buildings in the same district.
  - a. The original sign was located in its current location, prior to any regulations for golf course signage in a residential district.
  - b. The other golf course in our Township has a sign with similar size and is located in the county right-of-way.

Ayes: 4 Nays: 1 (Wietek-Stephens)

## **B. 2010-04**

Mrs. Thum stated that she has held numerous conversations with Mr. and Mrs. George Manosky about the current house and their plans to build a new single family residential unit. The current house was used as a rental unit and after the last tenants; the Manosky's noticed that there was black mold in the foundation of the house. As a result, they wanted to build a new home that would be used for a family member and would not be rented out. The Manosky's had a survey done of their property and they discovered that their well is not on their property, but on their neighbors to the East. The Manosky's have been trying to purchase about 20ft from their neighbor on that East side. If the applicant is able to purchase the 20ft then they will not need to request a side setback variance. The applicant is requesting a reduction to the East side setback requirement, whereas the setback required in the Waterfront Residential Zoning District is 10ft and the applicant is requesting a 2ft side setback. The reasoning behind requesting the 2ft side setback is to avoid having to cut into the dune on the west side and discovering that the easterly property line is not where the applicant thought it was.

If the Manosky's wanted to build the exact home and in the same location, the applicant would meet the 10ft on the east side, but they would like to build a larger home and avoid cutting into the dune.

Mrs. Alholm, if the issue is to avoid cutting down the dune, there are dunes on both sides so that is a moot point. She did speak with the neighbor on the east side and she showed her that she did have sales agreement for the Manosky's to purchase 25ft, so a variance would not be needed.

Mrs. Manosky said nothing has been agreed to yet; they are waiting to see if her ex-husband would agree to the purchase price. She has not seen the signed sale agreement of the 25ft. Mrs. Manosky did sign the agreement, but they are waiting to hear if her ex-husband has to agree to the sale because there is some clause in their divorce proceedings that any sale of the house has to be looked at by the ex-husband, as he is entitled to 25% of the sale. Mr. Brian Pesola stated that they are working with Mrs. Han realtor to Mr. Huffman and working with their own attorney to hammer out the details, but at this point they have not received a signed sales agreement.

Mrs. Alholm, we have a possible sales agreement and that the building won't take place until spring, so I am not sure we need to be here.

Mr. Pesola stated that he spoke to Jennifer about zoning before we tried to purchase property from the neighbors, and if we get the variance, great. If we are able to purchase the 25ft, then we won't need the variance. We paid the filling fee, and don't want to lose that, and we are still not sure about what will happen with the pending sales agreement.

Mrs. Alholm – not wise to look at a variance when it might not be needed. We need to wait and see if you are able to purchase the property and if Mr. Adamini is able to obtain an easement.

Ms. Wietek-Stephens, when is our next meeting? The meetings are scheduled, but we usually cancel them if we have no items to discuss. Can we table a motion until the issue is resolved?

Ms. Thum stated that you can table an item if it's to be brought to the next meeting, otherwise you have to postpone the issue if you are not sure when the item is going to be brought up again. Ms. Thum also stated that she would not create a non-conforming lot if she gave the Manosky's the 25 ft.

Mr. Snooks, is the timeline out of your hands?

Mr. Pesola, we are waiting for a phone call to write a check. So, yes, the timeline is out of our hands.

Mrs. Alholm moved and Weitek-Stephens seconded that for request 10-04, pending the understanding that there is a signed sales agreement, but its awaiting to get approved by an additional family member, ZBA Variance Request #10-04 is postponed to wait and see if a variance is needed.

Ayes: 5      Nays: 0

IX. Public Comment  
None

X. Township Board Comment/Planning Commissioners Members Comment  
None

XI. Informational  
Mrs. Thum introduced Mrs. Sandra Page as the alternate to the Zoning Board of Appeals. Mrs. Thum also stated that the other one is Geno Anglei.  
Mrs. Thum also checked to make sure the time and dates are ok with the Board. The dates tend to run into the Holidays at the end of the year.

XII. Adjournment

Mrs. Wietek -Stephens –adjourned the meeting.

**CHOCOLAY TOWNSHIP  
ZONING BOARD OF APPEALS**

**Thursday, November 18, 2010  
7:00 P.M.**

**I. Meeting Called to Order**

Ms. Wietek-Stephens called the meeting to order at 7:00pm

**II. Roll Call**

Present: Chairperson, Michelle Wietek-Stephen; Vice Chairperson, Karen Alholm; Lee Snooks; John Trudeau; and Kendell Milton

Absent:

Staff: Jennifer Thum, Planner/Zoning Administrator

**III. Approval of Agenda**

Karen Alholm, moved, Michelle Wietek-Stephens seconded to approve the November 18, 2010 agenda.

Ayes	5	Nays	0	Absent	Motion
Approved					

**IV. Approval of October 28, 2010 Minutes**

Michelle Wietek-Stephens, moved, Karen Alholm seconded to approve the October 28, 2010 with the recommended changes.

Ayes	5	Nays	0
Motion Approved			

**V. Public Comment**

None

**VI. Public Hearing**

A. None

**VII. Unfinished Business**

A. 2010-04 – Mr. and Mrs. George Manosky

Mr. and Mrs. George Manosky, 2003 M-28E, parcel #52-02-007-027, is requesting the Zoning Board of Appeals (10-04) approval to construct a single-family dwelling with a 2ft side setback on the East side, whereas the Township Zoning District, in Section 18.6 for the WFR District, requires a 10ft side

Mr. Brain Pesola- Stated that he is present at the meeting on behalf of the Manosky's. His company Pesola builders will be demolishing the current home and constructing the proposed new one.

Mrs. Thum stated that the purchase agreement that was signed by the neighbor had been taken back, so there is no purchase agreement. As a result, they have to move forward with the variance request. Mrs. Thum provided the background information once more.

Mrs. Thum stated that she has held numerous conversations with Mr. and Mrs. George Manosky about the current house and their plans to build a new single family residential unit. The current house was used as a rental unit and after the last tenants; the Manosky's noticed that there

was black mold in the foundation of the house. As a result, they wanted to build a new home that would be used for a family member and would not be rented out. The Manosky's had a survey done of their property and they discovered that their well is not on their property, but on their neighbors to the East. The Manosky's have been trying to purchase about 20ft from their neighbor on that East side. If the applicant is able to purchase the 20ft then they will not need to request a side setback variance. The applicant is requesting a reduction to the East side setback requirement, whereas the setback required in the Waterfront Residential Zoning District is 10ft and the applicant is requesting a 2ft side setback. The reasoning behind requesting the 2ft side setback is to avoid having to cut into the dune on the west side and discovering that the easterly property line is not where the applicant thought it was.

If the Manosky's wanted to build the exact home and in the same location, the applicant would meet the 10ft on the east side, but they would like to build a larger home and avoid cutting into the dune.

Mrs. Alholm asked about cutting into the dune on the west side and if a retaining wall would have to be built.

Mr. Pesola commented that they would have to cut into the dune about a foot and a retaining wall would be utilized.

The Board members discussed if a two-story house would fit better on the lot. Mr. Pesola commented that the Manosky's are building the house for their daughter, who is scheduled to have back surgery and a two story house is not really an option for them.

Mr. John Trudeau questioned why we are here tonight, we have setbacks in place for a reason and the 2ft side setback over the 10ft setback is not reasonable at all. There are fire codes that are in place as well, and I don't believe that 2ft will meet that, nor is that enough room for a ladder to be placed. Maybe if the applicant would have requested something more reasonable we could look at reducing the setback.

The Board commented that the existing house met the setback so they are not sure why a new one cannot meet the setback requirements. There was further comment about the setback variance and that the dune is really not a reason to request such a small side setback.

Mrs. Thum explained that the applicant wanted to build a larger family home and they did not want to cut into the dune for environmental reasons, so they felt that a reduced setback on the East side might be their answer.

John Trudeau stated that the lot does meet the required setbacks and therefore is a buildable lot, and that Brain can do something to make sure a house of the size they want will fit on the lot.

The Board went on to say that there are environmental concerns like wind erosion when a dune is cut down, but still not sure that is a hardship. Also, the 2ft is just too small of a side setback. While the neighbor does have a large lot, you cannot predict the future and another owner might want to place a structure right at the 10ft setback or a less than that depending on the size of the structure.

Mrs. Thum went over the Township Zoning Ordinance and the Lake Superior Dune Overlay and how that would play a part into this application.

John Trudeau moved and Karen Alholm seconded, that after conducting a public hearing and review of the staff file review/analysis for variance request #10-03, of the Zoning Board of Appeals **does not** find that the request **demonstrates** the standards found in Section XIV and XV of the Township Zoning Ordinance for the following reasons:

1. The owner can still build a home on the lot and meet the Township setback requirements.
2. Cutting into the dune is not a hardship.

**Ayes: 5      Nays: 0**

Members Lee Snooks and Michelle Wietek-Stephens asked that Mrs. Thum notify them when the Manosky's will go before the Planning Commission for their Conditional Use Permit to cut into the dunes. They would like to show their support for this item.

**VIII. New Business**

None

**IX. Public Comment**

None

**X. Township Board Comment/Planning Commissioners Members Comment**

None

**XI. Informational** – Mrs. Thum stated that part of their packet is the 2011 meeting calendar.

**XII. Adjournment**

Mrs. Wietek -Stephens –adjourned the meeting.

**CHOCOLAY TOWNSHIP**  
**ZONING BOARD OF APPEALS**

**Thursday, December 16, 2010**

**7:00 PM**

- I. Meeting Called to Order  
Ms. Alholm called the meeting to order at 7:00 pm
- II. Roll Call  
Present: Vice Chairperson, Karen Alholm; Geno Angeli; Kendal Milton;  
and Sandra Page (Alternate)
- Absent: Michele Wietek-Stephen, John Trudeau, Lee Snooks
- Staff: Jennifer Thum, Planner/Zoning Administrator
- III. **Approval of Agenda**  
Kendal Milton moved, Sandra Page second, to approve the December 16,  
2010 Agenda.
- Ayes 5      Nays 0      Absent      Motion Approved
- IV. **Approval of November 18, 2010 Minutes**  
Mrs. Alholm moved and Mr. Angeli seconded to approve the November 18,  
2010 minutes of with the suggested changes from the Board.
- Ayes 5      Nays 0      Absent      Motion Approved
- V. **Public Comment**
- Mr. Zarkowski 1982 Orchard Street, wanted to reserve sometime to speak  
under Item #VI.
- VI. **Public Hearing**
- A. **2010-05**  
Z and P Properties, 1982 Orchard St., Marquette 49855, County of  
Marquette, Michigan, for parcel number 52-02-253-107-00, Section 6,

47N-R24W, VILLAGE OF HARVEY VANNIER & HAGER'S RE-PLAT LOTS 1-6 AND 23-27, BLK 13 (commonly known as 425 Corning St) is requesting Zoning Board of Appeals (10-05) approval for a variance from the 5 acre requirement to authorize a Planned Unit Development (PUD) on an existing 2 acre site. The variance would allow for the development of a multiple use within an existing structure for the creation of a five- unit handicap accessible apartment with storage in the existing basement for Bell Medical patient records.

Mrs. Thum read a letter from a resident who was in favor of the proposed development.

Ms. Rachel Johnson – legal counsel for Bell Hospital – stated that the rezoning would be good for the Township as the property would be placed back on tax roll. Ms. Johnson stated that Bell Hospital is only intending to keep their records in the basement and will only need to get to the records about once a week. They are hoping that this can be a quick process.

Mrs. Alholm – asked if there were any further questions or comments from the public. Then hearing none, the public hearing was closed.

Mrs. Alholm wanted to state that she does not believe that she has a conflict with the proposed use. However she wanted to state that she volunteers to serve on the ALS Board, she has nothing to gain financially speaking if the proposed dimensional variance is approved.

The ZBA members did not feel that she had a conflict of interest.

Mrs. Alholm – wanted to know what state licensing if any did the applicant have to obtain and is this apartment focusing specifically on handicapped individuals? What percentage of the purchase is covered by Bell Hospital?

Mr. Cambsney the engineer for the project discussed the layout of the apartments and stated that the entire top floor will be barrier free. The current layout shows four apartments, but the owner would like to have five bedroom apartments. He also explained why they have to go through the PUD process.

Steven Zarkowski – the applicant stated that they are going to have to start from scratch on the top floor and explained that the money that he will obtain for Bell Hospital will be used as the down payment for the

project. He explained that he cannot do this project and keep the rent low without the money from Bell Hospital. That is why he needs the PUD status so he can keep the records in the basement and keep renting the space to the Hospital.

Mrs. Alhom asked if the proposed development will operate as an assisted living operates.

Mr. Zarkowski – explained that no, and he went over the plan again and the parking layout.

Mrs. Alholm reviewed the staffs report and that they applicant could apply for a Multi-Family Zoning District if we feel that the 1.7 acres is too far from the require 5 acres. Mrs. Alholm wanted to know why the applicant did not go that route.

Mr.Zarkowski – explained why that they need to keep the records in the basement to float the project and the top floor will be residential. That was the process that he was told he had to follow.

Mrs. Alholm – Explained that the staff's report stated that a variance request cannot be granted if the only reason has to do with financial reasons. It appears that the applicant is asking for a variance to develop a PUD only to keep the records in the basement. Not sure if it's agreeable to ask for a variance reason.

Mr. Milton stated that he did not believe that the money would make a difference if this project happened or not.

The board and staff had further discussion on the project and the financial feasible. The applicant stated that he needs the money from Bell Hospital to keep the rents low.

Mr. Angeli moved and Mr. Milton seconded that after conducting a public hearing and review of the STAFF FILE REVIEW/ANALYSIS for Variance request #10-05, the Zoning Board of Appeals **finds** that the request **demonstrates** that the standards found in Section XIV and XV of the Township Zoning Ordinance and hereby:

1. All fees, notifications and publication requirements of the ordinance have been met.
2. The Township did receive one responses for the request.

3. Owners of record are Bell Hospital, but they have stated that are permitting Z and P Properties to move forward with the rezoning request. The address is 425 Corning Avenue.
4. Subject property is located in an R-2 Zoning District and is approximately 1.7 acres.
5. The applicant is requesting a variance from Section 6.1 General Provisions, PUD minimum lot size. The applicant has requested to develop a PUD on a 1.7 acres, whereas a 5 acre site is the minimum requirement.
6. Special conditions and circumstances exist that are peculiar to the proposed lot for which a PUD is planned to be development one, which is not applicable to other lands, structures or buildings in the same district.
  - a. This is an infill development and will put the building back on the tax roll.
  - b. It will be a positive development for Chocolay Township

Ayes: 5      Nays: 0  
All in favor, motion approved

**VII. Unfinished Business**

None.

**VII. New Business**

None.

**IX. Public Comment**

**X. Township Board /Planning Commissioners Comment**

**XI. Informational-Zoning Administrator Comments**

**XII. Adjournment**