

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, May 28, 2015
7:00 PM**

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:00 P.M.

II. Roll Call

Members Present: Chairperson-Michelle Wietek-Stephens; Vice Chairperson – Karen Alholm; Secretary – Kendell Milton; Board Member-Mark Maki; Member-Sandra Page; Alternate Member – Geno Angeli; Alternate Member – Paul Charboneau

Members Absent:

Staff Present: Kelly Drake Woodward, Planning Director/Zoning Administrator; Suzanne Sundell, Administrative Assistant

III. Approval of Agenda

Moved by Milton, and seconded by Alholm, to approve the agenda for May 28 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of December 18, 2014 Minutes

Moved by Maki, and seconded by Wietek-Stephens, to approve the December 18, 2014 minutes as written.

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Variance Request #ZB15-02, St. Onge, PID #52-02-204-007-00, 105 Lakewood Lane

Planning Director Comments

Woodward stated this is a request to extend or enlarge a home that is almost entirely contained in the waterfront setback. The three variances include waterfront setback, front setback, and a side setback. Proposed is a one story addition on the rear and on the side that is furthest from the river, as well as porches on the front and rear. In her memo, Woodward reviewed the proposal according to ordinance standards. The front and side variances would create new non-conformities. The additions would all have the effect of increasing the non-conformities in the waterfront setback.

Wietek-Stephens asked if the side setback is measured to the eave or to the wall. Woodward indicated it was to the drip line of the eave.

Maki asked for clarification on the porch encroaching on the front setback – he assumed it was an enclosed porch. Woodward indicated that it was an open deck. Maki pointed out an additional variance posed by the steps to the back deck, which encroach on the

required natural area within 30 feet of the water's edge. If he is reading the sketches right, the proposed deck is 30 feet from the water's edge, but the steps are within 30 feet of the water's edge. This was confirmed by John Larson, architect for St. Onge. Maki indicated "that part of the setback which lies within 30 feet of the water's edge shall be maintained in its natural condition" per the Zoning Ordinance. Woodward asked if he wants this processed as an additional variance. Maki indicated the applicant could revise the deck design so that there is no encroachment on the waterfront natural area requirement. Woodward indicated that could be made a condition of approval.

Maki also asked if there are different setback requirements for open decks, as opposed to a one-story addition. Woodward indicated the setback requirements are the same for any structure – but some things are exempt from the definition of structure. Maki asked what would happen if a future owner decided they didn't want the deck, but wanted a one-story addition to the house. Woodward indicated the owner would have to come back to the ZBA in order to extend or expand a non-conforming structure. Maki stated that he was just trying to clarify that if the deck is put there, if it becomes a new boundary line for any structure. Maki asked Woodward if there would be any distinction in terms of her review of a deck vs. a one-story addition. Woodward indicated that the one-story addition would impart a greater sense of mass near the waterfront, which is something the ZBA has considered in the past. Maki asked if enclosure of the deck accessing the porch would require additional approvals – Woodward indicated yes.

Wietek-Stephens asked if there are any other questions pertaining to the Planning Director's comments. Alholm asked what adjustment would have to be made so the front deck would not require a variance. Woodward indicated that she believes, but the architect could confirm, that 1 foot would need to be removed from the deck and the steps would have to be reconfigured so that the deck would not extend more than 6 feet into the front setback. Larson confirmed. Woodward explained that the definition of structure excludes open, unenclosed porches that don't extend more than 6 feet into the front setback, so if the porch did not extend more than 6 feet into the front setback, it wouldn't be defined as a structure, and therefore would not need a variance.

Maki explained the history of the zoning provision. People would get a permit for a building that met setback requirements, and later add steps or a deck in front of it, so the language was changed some years ago to allow the person to have an open porch without a variance.

Wietek-Stephens opened the meeting for public comments.

David & Kristine St. Onge – the structure at 105 Lakewood Lane has been in existence since 1935. This property was known as White's Circle – at one point in time the White family owned all the houses in that circle. This is the last residence that is still in the family. Kristine is a White, and grew up in that house. The house has been unoccupied for at least three years – his mother-in-law is at Snowberry. They have been trying to figure out what to do with her residence for quite some time. The structure is a story and a half, with 2 bedrooms and 1 bathroom. Much work is needed to comply with current building codes. With the help of Woodward and his architect, John Larson, they have worked out a plan that will not overbuild the property and not take away from the ambience of the Circle and the view of the river or lake. St. Onge feels they have put in a very modest request for the three variances which are necessary because of ordinance changes that occurred after it was built. To be able to meet building codes, they have to add on to the structure to accommodate the modified staircases. At this time, this is the

only residence on the Circle that does not have a garage. The neighbor to the South is a seasonal resident. The neighbor to the east has told him that she has no problem. He asks that all things be considered when looking at the request, he feels that it is straightforward, they are not over building, and they need to do something soon before it decays or falls apart. St. Onge stated that the drawings that he has brought to the ZBA are preliminary drawings, but they are the maximum request of what they would consider doing.

Maki commented on the garage design. He said the proposed garage is 24 feet wide and even if it was 20 feet wide, there would still be a little encroachment on the north side which he assumes is for storage. St. Onge said they brought in the width of the garage storage area, which makes the design most costly, but they were trying to be very cognizant of the design in relation to the nonconformity and odd lot shape. But the basement is not functional for storage.

Maki asked about the existing breezeway connecting the house to the proposed garage, and confirmed they are not extending the length (east-west), only the width (north-south). Larson confirmed.

St. Onge indicated that there used to be a storage building at the location of the proposed garage – there is still a concrete knee wall there.

Maki was ready to make motion, but Wietek-Stephens indicated there should be some further discussion on the decks.

St. Onge stated that if the steps are a problem on the north deck, he would rather just have steps on the north side of the deck anyway (they could be removed from the plan).

Maki indicated that it does appear that there are a couple of steps already going down to the north, and wondered if they could just eliminate the side steps. St. Onge indicated that would not be a problem. Wietek-Stephens clarified that would eliminate the problem meeting the 30 foot natural setback from the water.

Wietek-Stephens then asked about the feasibility of making the front deck smaller to eliminate the need for a variance. St. Onge indicated they are still playing around with the final design, and were now considering a small windbreak there. He also does not like the idea of putting the stairs right by the windows in order to get to the front door – it's more aesthetic to have the separation of a planted area. He doesn't think the current design will negatively impact the neighbor.

Wietek-Stephens stated that if St. Onge is planning on enclosing it, then it becomes moot because it is an addition to the structure. Woodward stated that if it is enclosed, it is considered a structure which would require a different size variance.

Wietek-Stephens indicated that it looks like there is an entry into a porch now. St. Onge indicated they hope to keep it as a 3-season porch. He feels that the front entry is the best ingress/egress into the house based on the floor plan. Currently, you walk into the kitchen through the breezeway, which he thinks is odd. There is currently also a door on the river side, but it's odd to have to walk all the way around the house to get in the front door. Wietek-Stephens asked if he stuck with the plan to enter into the existing porch, then would there be a need to enclose the new porch? St. Onge indicated that they had considered the possibility of enclosing it for an unheated windbreak – it wouldn't be substantial, just something to walk into to get out of the snow. Woodward indicated that the plans show there would be 3 feet of the open deck/porch that would be behind the

front setback line, which could possibly be enclosed. St. Onge indicated that they might do it just the way it is laid out on the plan – they may be back – it’s hard to figure all the details in advance.

Moved by Maki, and seconded by Milton, that after conducting a public hearing and review of STAFF REVIEW/ANALYSIS for Variance request #ZB15-02 for parcel #52-02-204-007-00 at 105 Lakewood Lane, Marquette, MI, the Zoning Board of Appeals finds that the request demonstrates the standards pertaining to the granting of nonuse variances, and hereby approves Variance request #ZB15-02 with the following findings of fact:

- 1. Strict enforcement of the Zoning Ordinance would cause practical difficulty;*
- 2. Granting the variance would not be contrary to the public interest because 1) the setback is measured from the drip line of the eave, but essentially the garage encroachment on the required setback, if measured from the garage wall, is only about 2 ½ feet in that one small section due to the relationship of the house to the lot line; 2) the encroachment of the front porch will not be apparent to others on the street because this house is the end of the line; 3) the addition is for modernization; they have done the best they can to be reasonable;*
- 3. There are circumstances unique to this property, being that the building lot is almost entirely within the waterfront setback area with only a tiny portion considered buildable.*

And with the following conditions:

- 1. The west steps on the rear deck that are within the 30 foot natural setback would not be developed.*

Vote Ayes: 5 Nays: 0 Motion Carried

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comment

Township Board Member – Maki indicated that the Planning Commission is working on the Master Plan – all are encouraged to read it. He is also concerned about the enforcement of the sign ordinance - he says there are some flashing signs in the Township that are not allowed.

Planning Commission Member – Milton had none.

X. Informational

Woodward indicated that the Planning Commission did adopt the Master Plan at their last meeting, so everyone will be getting a copy.

Wietek-Stephens asked for a date of the next meeting – Woodward indicated it would be June 25.

Maki asked if the application that they had received for an April meeting, which was cancelled, had ever rescheduled. Woodward indicated that the June meeting was the rescheduled meeting for that application. Maki asked if they had ever clarified the type of retail that is proposed – Woodward indicated that the applicant had stated they would

reveal that at the meeting on June 25. Maki asked Woodward if it would be an issue if someone would not reveal the type of store going in. Woodward indicated that confidentiality is honored, but she had advised the applicant that it is somewhat necessary information in order to consider a possible parking variance.

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:38 p.m.

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, June 25, 2015
7:00 PM

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:00 P.M.

II. Roll Call

Members Present: Chairperson-Michelle Wietek-Stephens; Vice Chairperson-Karen Alholm; Secretary-Kendell Milton; Board Member-Mark Maki; Member-Sandra Page; Alternate-Paul Charboneau.

Staff Present: Kelly Drake Woodward, Planning Director/Zoning Administrator; Suzanne Sundell, Administrative Assistant

III. Approval of Agenda

Moved by Alholm, and seconded by Page, to approve the agenda for June 25, 2015 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of May 28, 2015 Minutes

Wietek-Stephens questioned page 4 of the minutes – when the motion was made, was any rationale provided for Findings of Fact, No. 1, “Strict enforcement of the Zoning Ordinance would cause practical difficulty”? Woodward stated she had not heard any. Maki indicated he remembered having a discussion that the entire house was within the 100’ waterfront setback, which made any development impossible. Woodward and Wietek-Stephens indicated that this was covered in Findings of Fact, No. 3.

Wietek-Stephens indicated that there had been rationale, but it did not make it into the motion. Woodward stated that she did not think it could be added to the motion now. Wietek-Stephens agreed, since it wasn’t specifically called out in the motion. She did recall a discussion about modernization and bring the house up to code. Maki indicated that strict enforcement would not have allowed them to do anything, and they weren’t asking for a lot – a little front porch which encroached on the front setback; but the road ends quite a bit before, and if it would have been a few feet smaller, it would have been exempt; plus the addition to the house wasn’t pushing toward the water.

Moved by Maki, and seconded by Milton, to approve the minutes for May 28, 2015 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Variance Request #ZB15-01, Freeman / Halvorson, PID #52-02-106-044-00, 4067 US 41 South

Woodward indicated this was an application requesting a variance from Section 8.1 Off-Street Parking Requirements to include six fewer parking spaces than required for this proposed retail use. The new site plans are for a Dollar General store, and Woodward distributed a letter from them regarding their parking needs.

Woodward explained that this is a non-conforming residential structure in a commercial zone that cannot be reoccupied for residential use because the use has been discontinued for 12 months or more. It can only be used for commercial use under the current zoning ordinance. In her staff report, she had discussed the conformance to the setback requirements. Also included were examples of parking requirements for City of Marquette, Sands Township, and what is suggested in the publication, "Dimensions of Parking". Chocolay Township requirements come in at the low end of their recommendation. Woodward has also included a review and analysis regarding the standards for granting non-use variances.

Applicant Comments

Andrew Rossell with AR Engineering – he is representing both the seller and the buyer. Also present from Midwest V, LLC, buyer, are Peter Oleszczuk and Gregory Oleszczuk. Rossell stated that they propose to construct a Dollar General. It is a 9100 sq. ft. building, with 30 parking spaces. Rossell indicated that they had submitted this to the Corridor review committee and MDOT to come up with an acceptable plan. He referenced the preliminary civil engineering drawings showing the site layout. Some of the features, such as sidewalks and access point, have been pushed as far south as possible – they are further south than the existing drive. The drive was reduced from 36 ft. to 30 ft.– two lanes, one ingress, one egress, 15 ft. wide each.

Rossell indicated that the intersection was approximately 50 feet from their drive. MDOT requested that the left turn center turn arrow be moved south as far as possible to avoid any confusion with the northbound left turn lane. Rossell indicated that even in the busiest urban settings, Dollar General only requires 30 parking spaces. This works well for them in rural and urban communities as stated in the letter from Dollar General.

Milton asked if the Corridor committee discussed anything about a shared drive with Blondeau Trucking. Rossell stated they had – he indicated that they originally had the broker attempt to approach the adjacent landowner (Blondeau) to discuss a shared drive. In the broker's investigation, the restaurant next door indicated that they were having some issues with the shared drive with the trucking company ... Dollar General requires that they own their own access point so they can control it. In order to share the drive, Dollar General would need to purchase it, and then grant an easement back to Blondeau Trucking. Rossell indicated that the attempt was made, and then they went back to the Corridor committee with options, and at that time, MDOT approved this plan.

Wietek-Stephens indicated that there appears to be room for six parking spaces to the west and south – why not add 6 parking spaces? Rossell said they could cram some more spaces in there, but the retailer’s experience is that they would not be used. If needs change, the additional spaces could be created. Rossell indicated that Dollar General would be the first to construct needed spaces to satisfy their patrons, but they could show them as “banked” spaces for the future.

Wietek-Stephens asked Woodward if there was a change in ownership, would the new user have to come back to the Township for permission to use the site as is. Woodward stated it may be a moot point, as the access management standards say that there is no parking or display of vehicles within 50 ft. of the road right-of-way. Wietek-Stephens asked if that is what the dotted line was – Rossell indicated that was the building setback of 30 ft. It is a compact site, but they don’t want to create a sea of asphalt that won’t get used. They are trying to balance environmental concerns and needs of the tenants.

Wietek-Stephens asked what sort of data the letter was based on. Rossell indicated that it was based on Dollar General’s retail experience – they have over 12,000 stores, and have done market studies, and very rarely do they ever design for more than 30 spaces. He isn’t aware of any problems created by this. Oleszczuk indicated that they have constructed stores in multiple towns in Michigan, and have never had to come back to put in additional spaces. Dollar General has stores in Negaunee and Manistique, and this is the standard. Typically, all their developments have to go for a variance for reduced parking. It provides room for more landscaping, green space, and snow storage.

Wietek-Stephens asked how many parking spaces are at the Negaunee Dollar General. Oleszczuk stated he believed there were 30 parking spaces. Maki asked if the store in Negaunee was the same size as the one being proposed for the Township.

Maki wanted clarification on the 50 ft. corridor setback. Woodward stated that in Section 5.3(Q)3 of our Zoning Ordinance it says, “No parking or display of vehicles, goods, or other materials for sale, shall be located with 50 feet of the road right-of-way. This setback shall be planted in grass and landscaped ...” There was a question how this works with our 30 ft. building setback.

Maki wondered if the setback line on the site plan, which runs parallel to the roadway, was a building setback or the corridor setback. Rossell indicated the dotted line was the 30 foot building setback. Maki stated it seem unrealistic that you would not be able to have your parking within 50 ft. of the road right-of-way. Woodward indicated that there are provisions for waivers for access management standards that the Planning Commission will address when they approve the site plan.

Maki asked Woodward if she knew how big the Family Dollar store was and how many parking spaces they have. Woodward could not recall. Wietek-Stephens did not recall Family Dollar asking for a variance. Maki said their store is smaller.

Other Oleszczuk stated that in comparing Dollar General with Family Dollar – their format is the same, but Family Dollar prototypes have a wide spectrum of sizes, so it is

hard to compare to a Dollar General. Dollar General has built 150 stores in the state of Michigan, and most of the stores are 9100 sq. ft. Approximately 90% of the existing stores have been done with a parking variance because additional spaces are not needed for the operation of their store.

Wietek-Stephens asked if there is any method for requiring a future user to comply with the ordinance after allowing a commercial development with fewer spaces. Woodward stated this would depend on if it was a change in use – if it is another retail store that is the same size for parking calculation purposes - she doesn't think they would have to come back for a site plan review. Maki indicated that if you grant a variance for a particular retail store to have 30 parking spaces, and a different retailer comes in, you probably would not be able to tell them to add the six spaces. If a different use, such as a restaurant, would come in, they would have to meet their requirements. Maki stated that a condition could be put into the motion for banked spaces to be invoked at a later time, if needed.

Alholm stated that it would seem the business owner would want to have as many parking spaces as they could – you wouldn't want customers leaving because of parking – but she prefers the green space. Maki stated that 10% green space is required, and wondered if Rossell knew how much green space they would have. Rossell indicated that he didn't know for sure, but it was in excess of that – he would guess they were at 30%. Woodward indicated that the requirement within the front yard setback is 2.5% landscaped open space, with a minimum of 10% landscaped open space on the entire site. Woodward indicated the maximum floor area ratio is 80% and a maximum ground cover ratio is 40% in the commercial district.

Maki asked who would be the owner – does someone own it and lease it to Dollar General? Oleszczuk indicated they would be the owner leasing to Dollar General.

Maki asked when the house was built – Freeman indicated that their family moved in in 1953, and it was old then.

Wietek-Stephens asked if there was more public comment.

Lee Blondeau, North Traci Lane – he has the adjoining property to the driveway. He wanted the Board to know that he had not been approached by anyone regarding the driveway. Blondeau said he felt that it was a nice fit for Dollar General, although a little bit tight, and he is a little concerned about the intersection and the driveway.

Laurie Freeman – wondered if it would be possible to have people come in one way, and exit out by the light. Milton indicated that there would not be enough of a turn radius. Freeman wondered if it would take away, or put in more area for parking spaces. Rossell indicated that from an engineering prospective being that close to an intersection would not be ideal, because it would create another conflict close to an intersection.

Rossell clarified to Blondeau, that he had said that the attempt was made, but he does not know how it was made. He apologized that it came across that they contacted him.

Wietek-Stephens indicated that her main concern is that by allowing less than the required number of parking spaces, they would be setting up that same condition for future retail development which might need additional parking spaces, but would be unlikely to be able to acquire them.

Maki stated that his question is whether they have land available to do it – usually if someone is looking for a variance, they either have to move on parking or the building. In this case, they could create the parking on the west side, which is complicated by the corridor issue, but the Planning Commission would make that decision at site plan review. Maki feels that a condition could be put in the motion that if future parking becomes a problem, they would have to create parking spaces. Maki cited examples within the Township of under-utilized parking lots (Snyder, Ace, Family Dollar). He has never seen parking on the road due to excess demand. He felt it would be a concern if Dollar General did not have the land area to create the parking, if needed. Maki asked what the size of the parking spaces were – Rossell stated they were 10' x 20'. They had a former plan with 9' wide spaces, but the Ordinance requires 10' wide. Maki asked how many spaces they were able to provide at 9' width? Rossell said he thought they were able to have 3 more spaces.

Wietek-Stephens asked about the public comment from the owner of the former Wahlstrom property, Jim and Andrea Beckman, discussing parking issues with Dry Dock. Wietek-Stephens read aloud the comment submitted. Maki indicated that Beckman is not an adjacent property owner, that he is located on the other side of the Dry Dock Bar. Maki indicated that he is not sure where the property line is, or if Dry Dock customers are encroaching on Beckman's property, but that's not an issue here.

Maki indicated that there are some turning issues onto the highway. Cars coming from the north, turning left into the Dollar General will be competing with cars going north and turning left onto Silver Creek Road. This will be a Planning Commission issue in their site plan review. There are even problems with the driveway used by the Trucking Company, but they only use it at particular times of the day and it is further south. Rossell indicated the distance from Dollar General's proposed drive to the Blondeau driveway is approximately 80 ft. Woodward estimated from the white line (stop line) of the intersection to the edge of the Blondeau driveway is 225 ft.

Rossell indicated that as part of the site plan review, they will still have to secure a permit from MDOT.

Maki asked what type of trees are on the site – Freeman replied they were willows. Maki wondered if any of the trees will be retained – Rossell indicated that there were several on the north property line, and some in the front that were saved because they didn't put parking in. There are also some maples on the south that would remain.

Maki asked for visuals on what the store would look like. Oleszczuk indicated that since it is angled with a corner entry, it would be a nicer layout than the one in Negaunee, with a little more masonry.

Wietek-Stephens proceeded to go over the standards for variances. “To obtain a nonuse variance, the applicant must show practical difficulty by demonstrating that:

- Strict compliance would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome. *(Wietek-Stephens does not feel that this claim can be made, as they have the room for strict compliance)*
- A variance would do substantial justice to the applicant as well as to other property owners in the district, and that a lesser relaxation would not give substantial relief and be more consistent with justice to others. *(Wietek-Stephens indicated that this one is arguable, as no one needs excessive pavement)*
- The plight of the owner is due to unique circumstances of the property. *(Wietek-Stephens indicated that this was not true, as there is room for the parking spaces)*
- The problem was not self-created. *(Wietek-Stephens indicated that this was not true, as the problem is self-created)*

Wietek-Stephens indicated that she was torn, as she likes green space and does not like unused parking spaces, but is not sure the ZBA has grounds to grant the variance, and she is concerned about the future use of the property.

Alholm likes the idea of a condition that in the future the spaces might have to be added as suggested by Maki. Maki said a condition could invoke the six additional parking spaces if there was ever an issue with people having to park off-site. Maki feels the key is having the space available, but not building the spaces unless they are needed. If they build extra spaces on the west side, there will be reduced landscaping and fewer trees for no other purpose than to meet the requirement. He would prefer to see it stay green space. Maki wondered about the impact of design options. Oleszczuk indicated that the entry orientation comes from the parking and access orientation. This is their most desirable prototype, with the masonry and amount of glass that comes with it.

Maki asked about the crosshatch area on the plan – Rossell indicated that this is the loading area at the rear of the store. Maki asked about other crosshatches – Rossell indicated it was concrete loading pad and the dumpster area.

Wietek-Stephens asked where banked parking spaces would be put, if needed. Rossell indicated they might be able to bank 3 parking spaces on the south side and 4 on the west. Oleszczuk stated that they are willing to work with the Township to bank spaces.

Maki indicated that he would like to make a motion that the variance be granted from the 36 parking spaces to 30 parking spaces, with the idea that they bank 3 parking spaces on the south side in the event they would need them. Maki would like to keep the northern area the way it is planned without parking there. Maki indicated they should make some notation on the site plan that the 3 spaces were not required now but could be in the future. Site plan notation was discussed.

Maki moved, Alholm seconded, that after conducting a public hearing and review of STAFF REVIEW/ANALYSIS for Variance request #ZB15-01 for parcel #52-02-06-044-00 at 4067 US 41 South, the Zoning Board of Appeals hereby approves Variance request #ZB15-01 with the following findings of fact:

1. Strict enforcement of the Zoning Ordinance would cause practical difficulty because the parking spaces are not deemed to be necessary at this time, but are planned for the future.
2. Granting the variance would not be contrary to the public interest because this plan retains useable green area, while still providing future parking, if necessary.
3. There are circumstances unique to this property; their parking layout and building orientation is due to the property location near the intersection.
4. The variance request is not due to actions of the applicant, but is a result of trying to keep an aesthetic plan based on the property retaining green area, and not requiring large parking lots unnecessarily.

Vote Ayes: 5 Nays: 0 Motion Carried

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comment

None

X. Informational

None

XI. Adjournment

Wietek-Stephens adjourned the meeting at 8:00 p.m.

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS**

Thursday, July 23, 2015

7:00 PM

I. Meeting Called to Order

Vice-Chairperson Karen Alholm called the meeting to order at 7:05 P.M.

II. Roll Call

Members Present: Vice Chairperson - Karen Alholm; Secretary - Kendell Milton; Alternate - Geno Angeli; Alternate – Paul Charboneau; Chairperson - Michelle Wietek-Stephens (arrived at 7:07 PM and took over as Chair)

Members Absent: Board Member – Mark Maki (excused); Member – Sandra Page (excused)

Staff Present: Kelly Drake Woodward, Planning Director/Zoning Administrator; Suzanne Sundell, Administrative Assistant

III. Approval of Agenda

Moved by Milton and seconded by Charboneau, to approve the agenda for July 23 as written.

Vote Ayes: 4 Nays: 0 Motion Carried

IV. Approval of June 25, 2015 Minutes

Moved by Alholm, and seconded by Milton, to approve the minutes for June 25, 2015 as corrected. **(Page 6 of 7, second bullet point, last sentence to read “...as no one needs excessive payment pavement.”)**

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Variance Request #ZB15-03, Vashaw, PID #52-02-899-025-10, 268 Kawbawgam Road

Planning Director Comments

Woodward stated that Mr. Vashaw wishes to build a detached garage and also plans to expand his cottage. He wishes to construct the garage first, therefore being in temporary

non-compliance with Section 6.1, which states “no detached building shall ... exceed the exterior perimeter dimensions of the principal structures on the lot.” Washaw has filed for a Zoning Compliance permit for both structures, and the site plans would be valid for one year.

Wietek-Stephens asked if there is currently a garage on the site. There is not.

Public Hearing & Applicant Comments

There were no public comments.

Scott Washaw, 268 Kawbawgam Road – they have owned the cottage for 9 years. He and his wife are both retiring this year and plan to make this their primary residence. He currently rents a 10’ x 20’ storage building in Grand Rapids for \$110 / month and 10’ x 14’ storage building in Beaver Grove for \$65 / month. Both are filled with things that have been purchased in anticipation of adding a master bedroom to the cottage and building a garage (dining table, sofa, light fixtures, vanity, kitchen sink, garage doors). Last week, Washaw purchased the subfloor for the cottage addition. He currently has no place on-site to stage the building material for the contractor. When the project is complete, the cottage will be bigger than the garage. Washaw stated the reason he needs a 28’ x 36’ garage is to store his pontoon boat. The size of the garage doors he purchased (18’ and 9’ wide) influenced the size of the garage. The cottage currently has one 8’ x 10’ bedroom with no closet. Washaw said this shortage of closet space is evidence that he will carry through with the cottage addition.

Board/Applicant Discussion

Alholm asked about the planned size of the addition. Washaw said he would like to extend the existing structure to the east to cover and insulate the well. He and his neighbor share a well, and they just had it improved with 52” of gravel and 4” of Styrofoam, but near the house it is subject to freezing. The addition will be 20’ x 24’ with a bedroom, bath, and closet. Carol Hicks has already completed the draft plans.

Wietek-Stephens asked about Washaw’s time frame for completion. Washaw indicated his Grand Rapids house is for sale – he retired at the end of June and his wife is retiring at the end of December. He would like to have the garage done and house framed in before the snow. Alholm asked if he was planning on doing the construction simultaneously. Wietek-Stephens asked about the fee for the Zoning Compliance permit and whether the permit could include both structures. Woodward indicated that Washaw applied for a permit covering both structures. Wietek-Stephens asked Woodward what would happen if Washaw gets the permit but doesn’t complete the project. Woodward indicated that would involve either applying to the ZBA for a variance, or possibly legal action. Wietek-Stephens stated that there could be a condition on the house being completed within a time frame, but the Township has a long history of granting these types of requests and people not following through. For example, there have been a number of garages that have been built before the principal structure and then the principal structure was never built – leaving a noncompliant accessory structure, and there was not much that could be done to remedy the situation. Wietek-Stephens

indicated that this one is slightly different, as there is already a house there, and a garage in the U.P. is not unusual. Alholm asked Vashaw if he anticipates constructing the foundation for the house addition and the garage at the same time. Vashaw said he would have to ask the cement guy if it would make sense to do all the work at once. Milton said that given the neighbor support as indicated from the signatures, and given the location of the building, he would be in favor of granting the variance for the garage without any conditions. Vashaw discussed the proposed location of the detached garage between two driveways, one of which leads to common facilities and the other which leads to Vashaw's cabin. The site is unusable for any other purpose, and is high and sandy. Vashaw discussed photos he provided of the open area with a few small pines. He would be running electricity to the garage, but no water. Woodward wanted clarification that the building site is on Vashaw's property – Vashaw indicated that there are issues with surveying this property as the entire property used to be in shared use. However, now everyone owns their own lot along with 1/8 of each of the other lots. This is the reason that he obtained the signatures on the petition. Wietek-Stephens asked about the two signatures that he was not able to obtain. Vashaw indicated that he had received a text message of support from one of the two – Tim Quinnell – which he had shown to Woodward earlier. The other neighbor – Hotchkiss – is unavailable. He has obtained nine out of ten signatures, and the rules of the Association are democratic.

Alholm asked if there are other cabins with garages of similar size. Vashaw said that there are. Garages are becoming more common as people become full time instead of seasonal tenants.

Wietek-Stephens asked Vashaw what would happen if he does not get to build the garage first. Vashaw said maybe he would apply for multiple smaller structures. He has things he is paying to store and he hasn't really thought about Plan B.

Wietek-Stephens asked about the completion status of the floor plans. Vashaw indicated the significant part is complete. Wietek-Stephens asked if the house plans need to be submitted to Woodward when Vashaw applies for his Zoning Compliance Permit. Woodward indicated they do.

Charboneau asked if the building of the cottage addition is dependant on Vashaw's selling of his house in Grand Rapids. Vashaw indicated this deal is not contingent upon that sale.

Milton asked if Wietek-Stephens would entertain a motion. Wietek-Stephens said she would personally like to include the condition as suggested by Woodward.

Moved by Alholm, seconded by Milton, that after conducting a public hearing and review of STAFF REVIEW/ANALYSIS for Variance request #ZB15-03 for parcel #899-025-10, 268 Kawbawgam Road, the Zoning Board of Appeals finds that the request demonstrates the standards pertaining to the granting of nonuse variances, and hereby approves Variance request #ZB15-03 with the following findings of fact:

1. *Strict enforcement of the Zoning Ordinance would cause practical difficulty because strict compliance is unnecessarily burdensome because the applicant proposes to create a temporary nonconformity, dependent on subsequent approved additions to the principal structure;*
2. *Granting the variance would not be contrary to the public interest because the proposed structure will not negatively impact the character of the neighborhood as indicated by the property owner petition submitted by the applicant and information provided by the applicant at this hearing;*
3. *There are circumstances unique to this property, such as the size of the cabin is smaller than a typical residence.*
4. *The variance request is not due to actions of the applicant, as there is no existing garage.*

And with the following conditions:

1. *That the variance will not be granted until the Zoning Compliance Permit for both structures is approved, indicating the garage will ultimately be in compliance at completion of construction of both the garage and the addition to the cabin.*

Vote Ayes: 5 Nays: 0 Motion Carried

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comment

None

X. Informational

Woodward indicated that at this point, there had not been any applications received for next month's meeting.

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:40 p.m.

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS**

Thursday, August 27, 2015

7:00 PM

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:03 P.M.

II. Roll Call

Members Present: Chairperson – Michelle Wietek-Stephens; Vice Chairperson - Karen Alholm; Secretary - Kendell Milton; Board Member – Mark Maki; Member – Sandra Page; Alternate - Geno Angeli

Members Absent: None

Staff Present: Kelly Drake Woodward, Planning Director/Zoning Administrator; Suzanne Sundell, Administrative Assistant

III. Approval of Agenda

Moved by Milton and seconded by Alholm, to approve the agenda for August 27 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of July 23, 2015 Minutes

Moved by Wietek-Stephens, and seconded by Page, to approve the minutes for July 23, 2015 as corrected. (*Page 2, first long paragraph, last line, “Vashaw said this shortage of ~~closest~~ closet space is”*)

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Variance Request #ZB15-04, Donckers, PID #52-02-315-015-00, 417 Lakewood Lane

Planning Director Comments

Woodward explained that this application originated from applicants Doug and Dorothy Vanerka, who live in Illinois and own a home here. They were in negotiations to purchase this property from Nancy Donckers. Before the purchase, the Vanerkas had filed and paid for a variance application to put an addition onto this legal nonconforming residence that does not meet current side setback requirement. The residence was built

before the applicable zoning requirements were in effect. As the owner, Mrs. Donckers had signed the application, along with the Vanerkas.

This is presented to the ZBA for potential expansion of the nonconforming structure, to consist of a 28' x 41.5' attached garage with rear storage bay and breezeway between the house and garage, and also the addition of a Bilco door for basement access on the front of the house near the nonconforming side. After the notices had been sent, Mrs. Vanerka indicated that they would not be purchasing the property, and requested cancellation of the hearing. However, Mrs. Donckers wanted to proceed with the request, as the fee and notifications had already occurred and the fee could not be refunded.

Public Hearing & Applicant Comments

There were no public comments.

Board/Applicant Discussion

Maki asked if the item titled as a location map was a survey or a sketch. It was determined a survey was performed in the creation of the location sketch. Maki was trying to determine if it was a mortgage survey, which is not a survey.

Wietek-Stephens asked about the side that has the one foot setback – she wondered if the Bilco door would open onto the adjacent property. Woodward thought that a Bilco door usually opens with the doors standing straight up instead of folding down. Alholm asked for clarification on the nature of the Bilco door – her understanding is that it is an “old fashioned” type of cellar door, where you walk down into the cellar.

Wietek-Stephens asked Donckers if she had any comments on the variance application. Donckers stated that she was planning to sell the property, and wanted to know if a buyer can add a standard two-car garage to the home. Wietek-Stephens asked if Donckers was planning to build the addition. Donckers said she intended to leave that up to the purchaser. Wietek-Stephens said that was one of her concerns; the ZBA could grant a variance, and then the purchaser might want to build something different, and then the ZBA would have to address this again. She thought it might make sense to address this when there is a purchaser. Woodward felt that as long as the future proposed addition doesn't exceed the dimensions as approved by the ZBA, the purchaser would not have to come back for another approval. If the purchaser wanted to build something with a larger footprint, or greater expansion, they would have to come back. Alholm questioned how long this approval would be valid – Woodward indicated it was a variance, so there is no expiration. Wietek-Stephens pointed out there was language in the motion stating that if the variance is granted, it would be transferrable to the new landowner.

Maki stated he was aware of two issues – the first is the Bilco door, and the other is whether the applicant should be able to expand a nonconforming structure. Maki does not have a problem with the garage addition. But he wondered if there is a fence line or a natural tree buffer to the east of the property. Donckers indicated that there is a natural

tree buffer on the west side. On the east side, the adjacent property owners have a fence. Maki asked if this fence blocks the view of the houses. Donckers indicated it did not – it is a fence to keep the dogs in – probably 3-4 feet high. Wietek-Stephens clarified that it is not a privacy fence. Maki wondered if the natural buffer will be maintained when a garage is built on that side. He was concerned about losing the trees between adjacent properties, which would make the houses feel closer to each other. Donckers indicated that the trees in that area are dead – they are marked for removal. No live trees would be removed.

Wietek-Stephens stated for the record that the garage addition would meet the setback requirements, so the only reason this is coming to the Board is because it is a proposed expansion of a nonconforming structure, based on a nonconformity on the opposite side from the garage addition.

Maki asked if the Bilco door could be moved so it is not within the required setback. It looks like there have been multiple additions to the house, so he wondered if the Bilco door could be moved to a different addition. Angeli said only one portion is a basement – the rest is crawl space. Maki then asked if the Bilco door could be moved closer to the crawl space, which would then make it approximately 8 feet from the property line. Angeli indicated that it might be hard to excavate a hole there without caving something in, because buildings are stronger at the corner. The potential for the Bilco door to open onto the adjoining property was again discussed. Donckers discussed the location of the gas line on the west side of the house.

Wietek-Stephens asked why the basement door was needed. Donckers indicated that right now there is a trap door in the kitchen, and there are narrow steps going down into the basement. The electrical systems have been moved upstairs, to eliminate the need to go downstairs. Maki asked if it was something Donckers wanted to do, or was this something that the original applicant had wanted. Donckers indicated that the original applicant had come up with the idea. Maki did not think the Bilco door would be a big issue. Milton indicated that the future purchaser would probably need a maintenance easement on the west side because it is so close to the lot line. Wietek-Stephens was not in favor of the Bilco door, as it is so close to the lot line. Donckers said the Bilco door would not be very visible as it is behind the porch. The basement would just need to be accessed to change the furnace filter.

Maki stated that if the neighbor wanted to build a detached garage, it could be 6 feet from the property line. Woodward clarified the 6' side setback pertains to garages under a certain size. Maki said a variance would not be needed for a detached garage. Maki stated that the garage that Donckers is asking for is in compliance with the 10' side setback. Milton asked if the breezeway is creating the nonconformity. Woodward said that is not the only attachment – it is directly attached at the rear.

Wietek-Stephens asked if the variance is granted for the garage, but not for the Bilco door at this time, would the future purchaser be able to come back to the ZBA with a plan for a similar door, or would denying it now prevent any kind of door in the future.

Woodward indicated that it would depend on if it was placed in the same location. Maki indicated that if the ZBA is not willing to grant the variance on the Bilco door, it may be best if Donckers withdrew that portion of the variance. Wietek-Stephens indicated that she would not be comfortable granting the Bilco door portion without seeing design specifications relating to the open doors and whether they'd extend onto the adjacent property. She would like to know if it could be located further from the property line. She asked if it would be possible to remove the Bilco door from the application, so they wouldn't have to rule on it and preclude a future owner from asking for one. Woodward said that would be possible, since there wouldn't be a formal ruling on it.

Maki explained to Donckers that if the ZBA makes a ruling on the Bilco door and denies it, then a future purchaser would not be able to apply, because the ZBA would have already ruled on it. It would be better for the ZBA not to act on it, so it could be brought forward on a different application at a later date. Wietek-Stephens indicated to Donckers that the ZBA would only be excluding the door portion, and asked what she would like to do. Implications were further discussed. Wietek-Stephens asked if Donckers was formally requesting that the Bilco door portion of the variance request be removed, and that the ZBA proceed with the variance request for the garage addition to the nonconforming structure. Donckers indicated that she was, as long as the purchaser was able to come back for the Bilco door portion, if needed.

Moved by Wietek-Stephens, seconded by Page, that after conducting a public hearing and review of STAFF REVIEW/ANALYSIS for Variance request #ZB15-04 for parcel #52-02-315-015-00 at 417 Lakewood Lane, Marquette, MI, the Zoning Board of Appeals finds that the request demonstrates the standards pertaining to the granting of nonuse variances, and hereby approves Variance request #ZB15-04, as amended by the applicant to remove the Bilco door request, with the following findings of fact :

- 1. Strict enforcement of the Zoning Ordinance would cause practical difficulty because conformance is unnecessarily burdensome because it would prevent the improvement and typical expansion of the preferred development type in this zoning district, specifically a garage addition;*
- 2. Granting the variance would not be contrary to the public interest because most homes in this neighborhood have at least one garage, so the addition would not alter the essential character of the neighborhood, and the addition is located on the conforming side of the structure, and will conform to all ordinance requirements;*
- 3. There are circumstances unique to this property, including this residence was built before zoning regulations, and therefore has never been, and can never be, compliant with the 10' side setback;*
- 4. The variance request is not due to actions of the applicant, but is a result of subsequently adopted government regulation. In addition, it is consistent with many actions done in the Lakewood Lane area because of the narrowness of the lots.*

And with the following conditions:

- 1. The addition is consistent with that presented in the submitted diagrams, and shall not exceed the dimensions or change the location of the approved addition.*

Before seconding the motion, Maki indicated that the applicant could build a detached garage without getting a variance. Wietek-Stephens asked if Maki was just pointing this out. Maki indicated that a variance was needed for an attached structure, however the purchaser could build a detached garage without a variance. This was not included as a condition to the motion.

Donckers asked if the purchaser would be able to amend the plans. Maki indicated that they would need to stay within the same footprint. Wietek-Stephens indicated that she was not interested in ruling on some random addition, she is only interested in ruling on the addition as presented. If the purchaser wants something different, they would need to come back to the ZBA. Wietek-Stephens indicated that the motion that she is making is for the drawing as presented, dated 7/15/15.

Vote Ayes: 5 Nays: 0 Motion Carried

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comment

Maki discussed the 2016 Budget. Discussions were related to the 2% money from the KBIC, and “dark stores” issues. Alholm asked about the “Bayou property” and the status of the purchase. Maki discussed potential legal issues, the pending appraisal, and potential ownership.

There was no Planning Commission member comment.

X. Informational

Woodward discussed the 2015 budget item allowing for three webcasts per member through the Michigan Township Association. All members are to let Woodward know of their interest, and whether they want to do the webcasts individually, or as a group. Group viewing would save money. Wietek-Stephens indicated that she would do this from home. Maki asked to include the webcasts with a meeting. The webcasts will be 75 minutes or less. It was suggested that “Decision-Making and Documentation” be viewed as a group.

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:54 p.m.

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS**

Thursday, December 17, 2015

5:30 PM

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 5:33 P.M.

II. Roll Call

Members Present: Chairperson – Michelle Wietek-Stephens; Vice Chairperson - Karen Alholm; Secretary - Kendell Milton; Alternate - Geno Angeli; Alternate – Paul Charboneau

Members Absent: Board Member – Mark Maki (excused); Member – Sandra Page (excused)

Staff Present: Thomas Murray, Planning Director/Zoning Administrator; Suzanne Sundell, Administrative Assistant

III. Approval of Agenda

Moved by Milton and seconded by Alholm, to approve the agenda for December 17, 2015 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of August 27, 2015 Minutes

Moved by Alholm, and seconded by Milton, to approve the minutes for August 27, 2015 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Review and approval of the 2016 Meeting Schedule

The Board discussed the presented 2016 Meeting schedule. Wietek-Stephens indicated that she would prefer the December 22, 2016 meeting date be moved to December 15, 2016. The March 24, 2016 date was also a conflict and there was discussion of moving this to March 17, 2016.

Wietek-Stephens moved, and seconded by Milton, to approve the 2016 Meeting schedule for the Zoning Board of Appeal to include changes of moving the meeting date in March from March 24, 2016 to March 17, 2016, and the meeting date in December from December 22, 2016 to December 15, 2016.

Vote Ayes: 5 Nays: 0 Motion Carried

B. Election of Officers for 2016. (Chair, Vice-Chair, Secretary)

Moved by Alholm, and seconded by Charboneau to nominate Wietek-Stephens for another term as Chair.

Vote Ayes: 5 Nays: 0 Motion Carried

Moved by Milton, and seconded by Charboneau to nominate Alholm for another term as Vice-Chair.

Vote Ayes: 5 Nays: 0 Motion Carried

Moved by Alholm, and seconded by Wietek-Stephens to nominate Milton for another term as Secretary.

Vote Ayes: 5 Nays: 0 Motion Carried

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comment

None

X. Informational

Angeli inquired about what was happening with the Dollar General store. Murray indicated that they had withdrawn their Site Plan review. Dollar General had come back with an alternate entry, which was taken back to the Corridor Advisory group, and it was approved with restrictions on left-hand turns heading south on US 41 from Silver Creek Road, and on exit there would be right-turn only. Alholm asked if Dollar General had withdrawn after the decision by the Corridor Advisory. Murray indicated they had, and the restrictions would be there for anyone wanting to build on that corner. Milton asked about the easement across the former Blondeau property (now Hendrickson). Murray indicated that the cost of the easement was high, and did not go along with the Dollar General guidelines. Alholm asked if there was any chance of entering the property from Corning Avenue. Murray stated that they would still need an easement across the Quiznos property, and the Corridor Advisory would still have a problem with the access being so close to the highway. Milton asked if the Corridor Advisory committee was a State committee. Murray indicated that it was a group formed by MDOT, along with municipalities along US 41. The committee is also part of our Zoning Ordinance.

Murray also indicated that the Planning Commission will be working on a revised Firearms Ordinance. The ordinance refers back to the old zoning districts of R1 thru R4, C1 thru C3, and LSR (Lake Superior Residential). LSR will be replaced by WFR (Waterfront Residential), which also includes the residential areas around Kawbawgam Lake. This ordinance would restrict firearms discharge in these areas, and would also include pneumatics with CO₂ cartridges. Angeli asked what brought this change on. Murray indicated that it was partly because of the zoning districts, and that the police

had brought up the subject of pneumatics. There have also been people trying to duck hunt along the shores of Lake Superior near the Bayou. Charboneau asked if you can currently discharge firearms in these areas. Murray indicated that you can currently discharge firearms in the AF district, or anything more than 500' from a residence. Wietek-Stephens stated there should be notification of homeowners around Kawbawgam Lake, especially if they are used to hunting there.

Murray indicated that the interviews for Planning Director / Zoning Administrator would be on Friday, December 18.

XI. Adjournment

Wietek-Stephens adjourned the meeting at 5:48 p.m.

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary