

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS

Thursday, February 23, 2017

5:30 PM

I. Meeting Called to Order

Chairperson Michelle Wietek-Stephens called the meeting to order at 5:32 PM.

II. Roll Call

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

Members Absent: None

Staff Present: Dale Throenle, Planning Director/Zoning Administrator; Suzanne Sundell, Administrative Assistant

III. Approval of Agenda

Moved by Alholm and seconded by Angeli, to approve the agenda for February 23, 2017 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of March 17, 2016 Minutes

Moved by Milton, and seconded by Maki, to approve the minutes for March 17, 2016 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

Michael Cain, resides at 1603 Division St., Marquette – has property at 104 Railroad in Chocoday Township which was bought 20 years ago. At the time, he was told that the property was grandfathered in. He decided to put up a garage, so when the contractor came in to get the permits, he was told that it was not allowed because of setbacks. He only has a quarter of an acre in the AF district, so he cannot build anything. Also, if his place burns down, it cannot be rebuilt. He was wondering if there is some type of “grandfather act” that would cover this.

VI. Unfinished Business

None

VII. New Business

A. Appointment of Officers

Throenle indicated that they should elect officers in order of Chair, Vice-Chair, and Secretary.

Maki moved, Alholm seconded to nominate Wietek-Stephens as Chair.

AYES: 5 NAYS: 0 MOTION CARRIED

Wietek-Stephens moved, Milton seconded to nominate Alholm as Vice-Chair.

AYES: 5 NAYS: 0 MOTION CARRIED

Alholm moved, Maki seconded to nominate Milton as Secretary.

AYES: 5 NAYS: 0 MOTION CARRIED

It was recommended that staff should pull existing applications to consider a second alternate.

B. Review of 2017 Calendar

Alholm moved, Wietek-Stephens seconded to approve the 2017 Meeting Calendar as presented.

AYES: 5 NAYS: 0 MOTION CARRIED

C. Variance Questions

Throenle indicated that he had included this for guidance. There are quite a few non-conforming parcels in the Township that are basically not able to do anything on their property. Throenle was asking for guidance on how to handle these situations, short of taking each case before the Zoning Board of Appeals.

Angeli pointed out that consideration of those types of cases is a job for the Zoning Board of Appeals. Maki indicated that is the case. Wietek-Stephens stated there are no guarantees, and the ZBA looks at the facts on a case by case basis. The Planning Commission are the ones that would set up the zoning regulations. One of the purposes of the ZBA is to give relief, especially when it is not the fault of the landowner. The ZBA and the Zoning Administrator cannot offer people blanket relief from the zoning ordinance – that would have to come from the Planning Commission and the Township Board.

Maki stated the only option would be to take this back to the Planning Commission to review the setbacks.

Throenle indicated that he is starting to get requests from people that bought the property 30 – 40 years ago, and are now looking at retiring and would like to update the existing house. He also has an elderly woman who would like to make some improvements, but would not be able to travel to Chocolay Township for the ZBA Hearing. Wietek-Stephens indicated that there have been cases where the owner's contractor has represented them.

Throenle also asked about the selling of property and the non-conformance or variance. Maki indicated that the non-conformity or a granted variance runs with the land.

Wietek-Stephens and Maki reminded Throenle that he should get everything in writing – it makes it much easier for everyone involved. Wietek-Stephens also indicated that if there is a pattern of issues, it should be taken to the Planning Commission.

Milton asked about the acreage breakdown that had been provided by Throenle, which indicated on some parcels that there was no district assigned. Throenle indicated that this was taken off the assessing database, and some had not been updated.

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comment

Milton (Planning Commission) – none

Maki (Board Member) – updated the ZBA on the KBIC Casino expansion and the water supply at Kawbawgam (high iron, lack of water). KBIC also came to the Board in January to request comments on their application to Bureau of Indian Affairs for Trust Status. The Board finally approved a motion to not oppose the process for Trust application but asked that it not be put into Trust until the current project is complete.

Maki was also concerned about a sign on a trailer at Lakenland, which may have just been there because of the Dog Sled races.

Wietek-Stephens asked that Board Member comment be added back to the agenda.

X. Informational

Throenle indicated that there is a Joint Meeting with the Planning Commission and Township Board on March 20, 2017 starting at 5:30 PM.

XI. Adjournment

Wietek-Stephens adjourned the meeting at 6:14 PM

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS

Thursday, May 25, 2017

7:00 PM

I. Meeting Called to Order

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

II. Roll Call

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

Members Absent: None

Staff Present: Dale Throenle, Planning Director/Zoning Administrator; Suzanne Sundell, Community Development Coordinator

III. Approval of Agenda

Moved by Milton and seconded by Alholm, to approve the agenda for May 25, 2017 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of February 23, 2017 Minutes

Moved by Maki, and seconded by Wietek Stephens, to approve the minutes for February 23, 2017 as corrected. *(Maki indicated that even though there were six members present, which included the alternate, only five members would be allowed to vote. The alternate would not be allowed to vote unless filling in for one of the regular members. Votes on all motions should be changed from 6 to 5.)*

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

June Rydholm, 221 Lakewood Lane – they live two camps over from the applicant for the variance. She has lived in this neighborhood since 1954, and has known all the owners of the property and has observed how the properties have changed over the years. At the beginning they were “fish camps” with the bathroom being an outhouse and the septic being a pipe from the house running to a tin in the woods. In order to keep children interested, they would make improvements to these “fish camps”. The body of water (bayou) was alive, and began at Lakewood Lane. A couple of residents did not like having to row a mile to get to the lake, so they made a new “mouth” and blocked the river, which resulted in no moving water, with more swamp with vegetation. She feels that the measurement should be from Lake Superior. She is in support of Gray-Ritchie’s addition to her property. She feels the Township needs to encourage people to make improvements to their property.

Deborah Mulcahey, 633 Lakewood Lane – Mulcahey indicated she has a different perspective as she worked with Natural Resources for 30+ years, and during that time one of her responsibilities was the protection of our resources and wetlands. She does not see anything that is proposed for 209 Lakewood Lane that would be endangering our natural resources. One concern for her is why this is even coming before the ZBA. The correspondence that was in the materials from Ryan McConnell (DEQ) was that he would consider the open portion of water as a body of water, but the vegetative growth surrounding the pond would be a wetland. She feels there needs to be some common sense used. She is in 100% support of a bedroom being added, but is questioning the plans that seem to show two separate units, so she has concern about short term rentals on this property. She questioned the redacting of certain phone numbers and emails in the packet.

VI. Unfinished Business

None

VII. New Business

A. Variance Application ZB 17-01

Staff Introduction

Throenle indicated that there were new maps on the Board table – the map included in the packet identified the wrong portion of the Bayou. Also on the table was a piece of correspondence in support of the project, which was received after the distribution of the packets.

Throenle introduced the applicant, Joyce Gray-Ritchie. She would like to add an extension onto her property, which would consist of a bedroom. All comments received have been in support of her project. Gray-Ritchie is in WFR, with 107' of frontage. Total lot size is 2.08 acres, which is conforming according to the ordinance. The existing dwelling was built in 1905, with an addition added in 1974, which was prior to the enactment of the zoning ordinance. The waterfront setback was established in the 1977 ordinance. Distance from the closest corner of the house to the bayou is 51', with the distance across the bayou being 100'. The dwelling edge to Lake Superior is 353'. There are three non-conformances that exist on the property – setback from the nearest body of water, lot width measurements, and existing structure is below minimum floor area for dwelling units. The addition of the bedroom will be attached to the house by the porch. This will then take care of the non-conformance of minimum floor area for dwelling units.

DEQ has provided information that there is not a state regulation on setback for a body of water – the Township is the one that sets this.

Throenle brought up a map to show alternate locations for the addition, and provided information on why these locations would not be feasible. Throenle also did not feel that the structure could be moved because of its age.

Throenle then went over the condition requirements that the ZBA should consider when deciding on granting the variance.

Board Discussion

Alholm questioned if the addition would negate one of the non-conformities. Throenle indicated that it would make the minimum floor area conforming. Alholm also questioned who the actual owner was, as information provided showed Gray Family Camp LLC as owner with Joyce Gray-Ritchie as additional. Gray-Ritchie indicated that she was half owner, and that she did not understand why it was listed as an LLC. Throenle indicated that it was actually a trust, with all the correspondence going to Joyce Gray-Ritchie.

Wietek Stephens asked if Gray-Ritchie would like to make a statement. Gray-Ritchie indicated that she had married into the family, and they came to the Lakewood Lane property on their honeymoon in 1951. At that time, they noticed the roof was leaking and made repairs, and continued to make repairs on the property on subsequent visits. In 1965, they became owners of the property, and no matter where life took them, they would come back to the property every year. In the beginning, the place was declared uninhabitable. Every summer on their vacation of three weeks, they would come to the property and do repairs. She has four children that spent their vacations on Lakewood Lane.

Throenle indicated that Gray-Ritchie is requesting this addition, as she lives in Oklahoma, but prefers to spend her summers in Marquette due to the heat. This would give her the additional space needed to be able to spend time with family and not feel overcrowded.

Alholm questioned the blueprint and where the addition would be attached. Throenle indicated that all the addition was going to be was a bedroom, with no bathroom. These blueprints have been modified. Throenle directed the ZBA to look at Item VII.A.2. Maki indicated that this was a foundation and footing plan. Throenle stated that all that was proposed was a bedroom on this.

Wietek-Stephens asked if the Township would inspect to see if it was being constructed as a bedroom, and not the full dwelling depicted. Throenle indicated that we do. In order to get the building permit from the County, the landowner needs a zoning compliance permit from the Township.

Maki asked about the size of the proposed addition. Throenle indicated that it is 20' x 24' bedroom. Maki asked why this was not shown in the packet material. Throenle indicated he had stated it changed in the narrative. Maki was concerned that in the light of short term rentals, we need to be careful on what is being approved. Maki questioned there had not been updated plans showing what is actually being considered. Maki also questioned the setbacks which were different in the texts from the diagrams, and questioned the actual lot width. After discussion, it was decided that the shed was actually on the lot line, not as shown on the

diagram. Maki also questioned the distance between the addition and the Bayou. Throenle indicated that this information was given to the ZBA in the staff report. Maki indicated that going forward it may be advisable to also provide a map showing the actual measurements that are consistent with the staff report.

Throenle explained the measurement process from the existing structure to the Bayou, and then going to Lake Superior.

Wietek Stephens indicated that pictures are worth a thousand words in the packet, so in the future if there are inaccurate pictures, they should be flagged somehow to indicate they are original application material, and that they are no longer pertinent. Throenle indicated that his understanding was that the entire application needed to be submitted to the ZBA.

Wietek Stephens asked about the connection between the house and bedroom. Gray-Ritchie indicated it would be through the existing porch. Wietek Stephens also asked about the age of the septic system. Gray-Ritchie indicated that it is approximately 20 years old, with regulations for use by three bedrooms.

Wietek Stephens acknowledged a comment from the audience:

Deborah Mulcahey, 633 Lakewood Lane – wondered if there was some restriction on putting a bathroom in the bedroom. Throenle indicated there were restrictions.

Wietek Stephens asked why the addition was not being attached more securely to the house, rather than using the porch. Gray-Ritchie indicated that she had done it that way, so as not to obscure the view of the lake from the neighbors, and the fact that it would also take out some of the windows. Maki wondered why she would not be able to have a master bath on the bedroom. Throenle indicated he was trying to avoid the requirements of an accessory structure. Alholm asked if it would be permissible if the bedroom was built as a suite. Throenle indicated that this would be something that should be decided by the ZBA.

Alholm asked what the size of the bathroom would be. Gray-Ritchie indicated that it would just be small bathroom. There was discussion on what was considered a separate dwelling. Wietek Stephens stressed that there would need to be caution taken in this case, as it could appear as a separate dwelling due to where it is situated.

Wietek Stephens moved, Angeli seconded that after conducting a public hearing and review of the Staff Review and Analysis for Variance Request ZB 17-01 for parcel 52-02-300-013-00 at 209 Lakewood Lane, Marquette, MI, the Zoning Board of Appeals finds that the request demonstrates the standards pertaining to the granting of non-use variances, and hereby approves Variance Request ZB 17-01 with the following findings of fact:

- (a) Strict enforcement of the Zoning Ordinance would cause practical difficulty because purchases of neighboring properties to widen the lot is not practical because it would create other non-conformities on adjacent*

parcels. Relocating the existing dwelling elsewhere on the lot to remove the waterfront setback requirement would prove to be an unreasonable hardship,

- (b) Granting the variance would not be contrary to the public interest because direct neighbors are in support of this project, indicate no adverse effect of the addition to the dwelling would occur and lake views and neighbor property access would not be disturbed. The setbacks as described are consistent with the existing structure and with the neighboring property use,*
- (c) There are circumstances unique to this property, including the dwelling was built before any zoning regulations, and the property will never be compliant with the 125' width requirement unless additional property is purchased which creates other non-conforming parcels and there are two different waterfront distances within the parcel,*
- (d) The variance request is not due to actions of the applicant, but is a result of subsequently adopted government regulation after the property was purchased and the dwelling was built. In addition, the enlargement of the structure removes one of the non-conformities from the parcel, namely the issue of inadequate square footage for a dwelling.*

Approval of this variance request is contingent upon meeting the following conditions:

- (a) Staff will be diligent in following up to inspect for plumbing during construction to ensure that there is not plumbing and that this will not be a standalone dwelling, and*
- (b) The addition will be a 20' x 24' bedroom / sitting area, with an 8' porch as described in the text, not the diagram.*

AYES: 5 NAYS: 0 MOTION CARRIED

Additional comment by Milton clarified that a bathroom is not part of the variance approval. Wietek Stephens commented that the applicant can come back in the future with a variance request if she wants to put a bathroom in that addition.

Gray-Ritchie thanked the ZBA for their approval of her variance.

VIII. Public Comment

June Rydholm, 221 Lakewood Lane – feels that Choccolay Township wants to increase the tax base. The Township needs to satisfy the needs of the next generation.

Deborah Mulcahey, 633 Lakewood Lane – cannot believe it took 1 ½ hours to make a decision on this issue. Feels it is dangerous for people to take waterfront / wetland measurements that don't know what they are doing.

IX. Township Board Member/Planning Commission Member Comment

Maki (Board Member) – has been on the Board for 8 years, was the Zoning Administrator at the Township for 25 years, retiring in 2002. Maki feels like he is still the Zoning Administrator, constantly trying to get the Township to enforce the ordinance. No one wants to deal with the issues. Since the 2008 Zoning Ordinance rewrite, there have been approximately 26 amendments. There are still issues with short term rentals, outside storage, and signs. Also talked about public concern in the Kawbawgam area in connection with the KBIC casino expansion.

Milton (Planning Commission member) - None

X. Informational

Throenle indicated that there is a new Assessor starting on June 1 – Sam Gerber. The new Community Development Coordinator is Suzanne Sundell. There is a new Administrative Assistant who started on May 14 – Kristin Cannoot.

Throenle addressed Maki’s concerns on enforcement – there has been a significant increase in the number of calls and complaints. There are also a variety of projects coming up that are taking a majority of his time to prepare for site plan reviews. The Zoning Ordinance is very hard to interpret at times, and at the last meeting of the Planning Commission, it was decided to forward information to the Board to find funds in the current budget to submit an RFP for a complete rewrite of the Zoning Ordinance. He indicated that the issues are being addressed, just slowly.

Regarding short term rentals, there is State legislation being reviewed, which if approved, would create a different language for the short term rental concept. This would open up short term rentals to all districts. Townships would still have control on issues in the Zoning Ordinance, such as noise, etc.

XI. Adjournment

Wietek-Stephens adjourned the meeting at 8:40 PM

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS

Thursday, June 22, 2017

7:00 PM

I. Meeting Called to Order

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

II. Roll Call

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

Members Absent: None

Staff Present: Dale Throenle, Planning Director/Zoning Administrator; Suzanne Sundell, Community Development Coordinator, Kristin Cannoot, Administrative Assistant

III. Approval of Agenda

Moved by Alholm and seconded by Milton, to approve the agenda for May 25, 2017 as written.

Vote Ayes: 5 Nays: 0 Motion Carried

IV. Approval of May 25, 2017 Minutes Maki wants reference to the original issue/topic.

Wietek-Stephens directed the members to page two of the minutes, item VII.A second paragraph, (“...add an extension onto her ~~property~~ **dwelling**...”).

Page three, second to last paragraph, Wietek-Stephens suggested, (“...constructed as a bedroom, **and not the full dwelling depicted...**”)

Page three, last paragraph, (“...Maki also questioned the setbacks, **which were different in the text from the diagrams,**..”). (“...After discussion, it was decided that the shed was actually on the lot line, **not as shown on the diagram...**”)

Wietek-Stephens questioned her use of the word “and” in the motion because the motion is four paragraphs that are one sentence; she meant to use some periods.

*(a) Strict enforcement of the Zoning Ordinance would cause practical difficulty because purchases of neighboring properties to widen the lot is not practical ~~and~~ because it would create other non-conformities on **adjacent** parcels. Relocating the existing dwelling elsewhere on the lot to remove the waterfront setback requirement would prove to be an unreasonable hardship, ~~and~~*

(b) Granting the variance would not be contrary to the public interest because direct neighbors are in support of this project, indicate no adverse effect of the addition to the dwelling would occur and lake views and neighbor property access would not

be disturbed. The setbacks as described are consistent with the existing structure and with the neighboring property use, ~~and~~

- (c) There are circumstances unique to this property, including the dwelling was built before any zoning regulations. ~~and~~ The property will never be compliant with the 125' width requirement unless additional property is purchased which creates other non-conforming parcels and there are two different waterfront distances within the parcel, ~~and~~*
- (d) The variance request is not due to actions of the applicant, but is a result of subsequently adopted government regulation after the property was purchased and the dwelling was built. In addition, the enlargement of the structure removes one of the non-conformities from the parcel, **namely the issue of inadequate square footage for a dwelling.***

Approval of this variance request is contingent upon meeting the following conditions:

- (a) Staff will be diligent in following up to inspect for plumbing during construction to ensure that there is not plumbing and that this will not be a standalone dwelling, and*
- (b) The addition will be a 20' x 24' bedroom / sitting area, with an 8' porch as **described in the text, not the diagram.**"*)

Page five, last paragraph should read, ("*...dangerous for people to take **waterfront / wetland** measurements ...*")

Moved by Maki, and seconded by Alholm, to approve the minutes for February 23, 2017 as corrected.

Vote Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

Tony Retaskie – believes this project will be good for jobs and building trades.

John Waldo – 1943 State Hwy M-28 – widening of M-28 he wants encroachment limited to the land side, not lake side. He also asked about color / graphics on the water tower.

Paul Angeloni – likes the work possibilities from this project

Deborah Mulcahey – 633 Lakewood Lane – concerned about agenda – lack of the word casino on the agenda, driveways, sewer, water and roads; demanded eight foot shoulders on M-28; mentioned three story building and water tank, set back, lighting and that casino created this problem

Rory Rankinen – Local 1329 – doesn't get what Mulcahey was trying to say about towers and blinking lights – why would she not want jobs created

Andy Olsen – 1195 Ortman Road – project is beneficial, good for jobs, long term growth, and community

Rick Stoll – 1927 M-28 – variance for neighborhood, Township took non-complying property and rezoned it commercial and now have to live with the various exceptions being asked for, not due to hardship, redesign is a choice, water tower should be shorter, variance doesn't limit later addition

Wietek-Stephens interjected that there is a limit, variance is granted for a thing, not anything

Dennis Tryan – 135 Kawbawgam Rd. – in favor of project, good neighbors, height of structures not a problem, feels it is good for property values, likes the commercial road

Roger Anderson – Gwinn – In favor, good for trades, jobs, good tourist attraction, wants the variance granted

Public Comment Closed at 7:30 p.m.

VI. Unfinished Business

None

VII. New Business

A. Variance Application ZB 17-02

Karen Alholm recused herself from participating and voting on this issue due to a conflict of interest. She is on the Alger-Delta Co-op Electric Board, which is the utility provider for the casino.

Wietek-Stephens motioned and Milton seconded to approve her recusal.

Vote Ayes: 4 Nays: 0 Motion Carried

Alternate Paul Charboneau joined the Board.

Throenle introduced the Variance Application for hotel and water tower, unique as KBIC was asking for a variance prior to the construction of the items being attached to the existing casino. Throenle read section 3.2 under Exemptions of the Zoning Ordinance for the record. In his opinion, the water tower should be considered a public utility.

Board Discussion

Wietek-Stephens asked the height of the tower, Throenle responded 186 feet.

Maki commented about the history of the zoning of the property and questioned the zoning. Wietek-Stephens asked Maki if his questions address tonight's issue. Maki responded that it pertains to history. He then asked about the four residential homes.

Throenle discussed the lot split record for four residential houses. They are not on commercial land. He then showed a graphic of the plan per Maki's request. Maki questioned variances for two other towers in the Township and talked about towers in general.

Maki asked if there was a reason we did not proceed to develop this under a planned unit

development. Throenle responded that they did, but it was looked at from the standpoint of what was already there. Maki is stating they didn't do a planned unit development does Dale have clarification? Wietek's understanding is KBIC did look at it. KBIC did look at a PUD but it was not pursued due to the development that was already there".

Peter Dupuis – Gundlach Champion Project Manager – He stated that the water tank is needed to provide adequate water pressure to the proposed buildings. The Township Fire Department has access to the water tank and the access road (Acorn Trail) that the fire department requested has been included in the plans. The height of the hotel is requested is a standard Choice Hotel design.

Wietek-Stephens asked which section is hiding the elevator shaft. Dupuis indicated the middle parapet. Wietek-Stephens asked if there will be lighting on the roof. Dupuis indicated there will be soft sconce lighting. Wietek-Stephens asked what options were considered for a shorter water tower. Dupuis responded that anything under this height is not good for water pressure. Wietek-Stephens asked how tall an adequate ground water tower would be. Dupuis responded that has not been looked at. Wietek-Stephens asked if the hotel would be two stories would it lower the height of the water tank. Dupuis did not have an exact answer. Dupuis thought it would but not sure how much, guessed it would mean lowering the hotel by 8' and maybe the tower would be lowered by 10". Wietek-Stephens requested more information on building a two story hotel and lowering the water tank height as it doesn't seem 10' of tower doesn't equal 10' of hotel. You would about 60' for hotel and elevation. Dupuis didn't have the information but thought it would still need to be somewhat lower but still pretty tall. Doesn't want to just throw numbers out.

Milton commented that the State of Michigan would have standards for a public water system, and stated water tanks are part of our master plan as we want to provide water and fire protection for our community. He was glad to see that there is a public / private component to this water system that is available to the community.

Wietek-Stephens interjected, that is good and the fire department usage is good, but the water tank height is correlated to the hotel. Milton commented that the height is not the issue, it is the pressure. Pressure and sprinklers were discussed. Maki asked Dupuis if they have done a water tank before. Dupuis responded no.

Dupuis pointed out the Township Fire Department requirements. The fire department will be provided a ships ladder, roof top hatch to access the roof, stand pipes at the end of each floor's hallways so the firemen do not have to haul so much hose up the stairs, and an access road, all of which have all been provided in the design.

Maki asked why the building is not subterranean, below grade. Dupuis responded that they did not consider that. Maki asked about 30' ladder height. Fire Chief Johnson responded that Township ladders are 35'; however, Johnson is more concerned about rooftop access. He pointed out that the Township has mutual aid agreements with Marquette Township and the City of Marquette fire departments. Johnson asked about

the roof top hatch; he was concerned with snow removal in the winter. Dupuis responded that staff will keep them clear. Johnson stated that the stairwell with direct rooftop access is the fire department's preference; however, the option presented is OK. The water tower is a benefit as there is not a close water source out there other than Lake LeVasseur.

Wietek-Stephens asked if the fire department has any concerns or comments. Johnson responded, the stand pipes are important so we do not have to drag 1000 feet of hose, sprinklers, access road are all good. Wietek-Stephens asked Dupuis if they were to provide stairwell, where would it be. Dupuis explained where and that it would require a higher parapet and that they would be willing to do that.

KBIC representative Don Wren interjected about the project and the benefit to the community. Wietek-Stephens asked if he missed public comment earlier. Wietek-Stephens directed Dupuis back to the discussion of a stairwell to the roof.

Maki asked how the sewer issues come in to play with the project and what happens if that portion of the project falls apart. Dupuis responded that approvals are in the pipeline and they are confident they will all be approved. Maki stated that the sewer would be built by KBIC and then turned over to the Township, and asked how the Township was going to fund maintenance. Dupuis stated that he could not answer that. Jason Ayres, real estate officer for KBIC, stated that fees would cover that. Maki stated that the Township has been unwilling to raise rates in order to fund these in the past. Ayres stated that KBIC will pay a fee as well. Ayres went on to discuss why a two story hotel is not competitive.

Jennifer Misegan – VP KBIC – thanked everyone for their time and discussed that KBIC originally wanted to go to the old airport, and the Governor would not allow it because of tax issues. KBIC enjoys being in Chocolay.

Wietek-Stephens understands the need to compete with Marquette hotels; she felt the hotel on the corner of 28 and 41 would not be able to compete.

Nicole Young – Marquette County Convention and Visitors Bureau – commented that she is excited for the project and complimented KBIC on being good neighbors.

Wietek-Stephens asked if anyone else wanted to comment.

Rick Stoll – commented about waste water and quality and quantity of water and what studies have been done.

Ayres described tests that had been done, how quickly wells came back, and that they expect to see no effect to other wells.

Wietek-Stephens asked if there would be lights on the tower. Throenle responded no, as there was no FAA requirement to do so. KBIC representatives responded that there would be no lights on the tower, no branding, no advertising and that they want it to fit

into the environment.

Milton discussed the height of the hotel and the mutual aid agreements for the fire department and stated that the only thing that limits the size of the building is fire protection between the floors and that the sprinkler system adds height. He discussed the height of the water tank and PSI (pounds per square inch) of pressure, and indicated that the tank would partially freeze in the winter. He felt the proposed water tank should be as is as required by the state.

Maki asked Milton about the formula for the water tank and Maki confirmed that the state has worked all of that out. Milton confirmed that the state DEQ reviews this based on the required water usage.

Wietek-Stephens feels that it is difficult to word a variance when it says "it is not a problem created by the applicant." Milton feels they have mitigated everything. Wietek-Stephens was surprised that more people commented and were concerned with the water tower and not the hotel. She stated that in order to approve a variance the Board has to state why it was not a problem created by the applicant and that it will not alter the character of the neighborhood. She felt that those are difficult to argue because they will alter the character of the neighborhood as it is quite a tall structure. Milton stated that he did not see any opposition to the project, none from people who live near the proposed structures and that if there were any problems they would have brought them up. Wietek-Stephens asked if we received any written. Throenle responded no, we sent out seventy-nine letters and there were no letters, comments, emails or anything. Nothing came up in terms of the height of the hotel or the height of the water tower.

Wietek-Stephens allowed public comment.

Mike Angeli – 220 Kawbawgam – He talked about the casino being in his backyard, and stated he does not mind the height of the hotel or water tower. He wanted to know if someone will buy his house, as they are putting up a privacy fence.

John Waldo – claimed he sent an email today and that he made repeated phone calls and that he drafted a letter.

Maki asked Waldo if he made a public comment and that the Township did not receive it. Waldo stated that the phone call was returned after public comment.

Maki commented about water towers and their height. He asked about building a smaller tank. Dupuis responded that it is not practical and would be an additional cost upwards of \$200,000. Throenle explained that water towers are a public utility regulated by the DEQ and FAA.

Maki suggested to Wietek-Stephens that the Board should approach this variance in three different ways. One is the tower, one is the building and one is the parapet. Maki agreed that a three story hotel is marketable and is an attraction that draws people in. Maki wanted to do a motion; Wietek-Stephens wanted to discuss further because she felt that the burden of meeting the requirements of the motion have not been satisfied.

Wietek-Stephens stated that the Board is allowed to deviate from the zoning ordinance if the spirit of the zoning ordinance is observed, public safety is secured, and substantial justice is done. To grant a variance for the building, the roof of the building is only three feet above the zoning ordinance with the exception of the stair tower. Wietek-Stephens asked if anyone on the Board had any concerns with allowing the thirty-three foot variance for the height of the hotel. Milton commented that the parapet is beneficial to keep the fire from jumping. Wietek-Stephens redirected the Board to the fact that Maki wanted to talk about the parapet separately. Wietek-Stephens stated that the proposed roof is thirty-three feet, the elevator is thirty-eight feet, and the stairwell is thirty-seven feet. Maki asked how the elevator is hidden by the parapet. A KBIC representative showed how on a graphic. Maki asked Wietek-Stephens to confirm that they are discussing the heights of everything to satisfy the Fire Department. Chief Johnson stated he is OK with everything and reiterated that he is mostly concerned with the snow removal on the roof hatch. Wietek-Stephens asked if the stairwell could be lowered. Dupuis stated that he would have to ask the hotel. The parapets are part of the design to hide the necessary roof top items.

Wietek-Stephens asked again if the Board had any issues with the height of the roof. Maki made a motion that the Board accept the project plan for the building as proposed because the building is set back so far away from anything and will not be able to be seen from the road. Wietek-Stephens asked Maki if he was making a specific motion. Maki stated he is making a motion because he feels that KBIC has satisfied the fire issues, sprinkler system and that the parapets are designed to hide structures on the roof and give the building a nice design and provide for safety. Wietek-Stephens asked if the motion he was making covers the building and the parapets as shown. Maki said yes and went on to describe the way he would have preferred things to be done. Wietek-Stephens directed Maki to page eight of the packet and to go with that formal language because it is one variance request and needs to be one motion. Maki feels that they are separate issues and would like to discuss the water tower separately.

Wietek-Stephens opened a discussion about the water tower and stated her conditions for the water tower as follows: there are to be no lights, a requirement for subtle paint colors, no advertisements on the tower and for the building staff to keep the roof hatch clear of snow for the fire department. Wietek-Stephens asked Maki what he wanted to discuss about the tower. Maki stated there are no signs or lights proposed and that he thought it was common to have a municipal name on the water tower. Maki asked Throenle about the west lot line and the residential lots. Throenle addressed that if the tower were to drop that it would drop on the commercial property and would not reach the residential lots. Wietek-Stephens asked if the tower were to fall if the water would impact any residents. Throenle stated no.

Maki moved, Milton seconded that after conducting a public hearing and review of the Staff Review and Analysis for Variance Request ZB 17-02 for parcel 52-02-112-048-00 at 200 Zhooniyaa Milkana Trail, Marquette, MI, the Zoning Board of Appeals finds that

the request demonstrates the standards pertaining to the granting of non-use variances, and hereby approves Variance Request ZB 17-02 with the following findings of fact: (must prove all conditions a-d)

- (a) Strict enforcement of the Zoning Ordinance would cause practical difficulty because the building exceeds the height by only three feet based on the location of the site, the excess of setbacks from the road, the desire to make an attractive building with parapets functioning as a design on the front to hide the roof type utilities that are necessary for the project and*
- (b) Granting the variance would not be contrary to the public interest because the building will be sprinkled and is designed to satisfy setback issues, the height issue doesn't impede any view and the fire department issues have been resolved through mutual aid agreements and through the design changes to accommodate the roof top access and ships ladder. The water tower height is designed to accommodate the need to supply the water system and fire department and*
- (c) There are circumstances unique to this property including existing casino, development to accommodate that development and expansion and*
- (d) The variance request is not due to actions of the applicant, but is a result of trying to establish a modern facility.*

The conditions are as follows;

- 1. To provide the ships ladder with a latch to assist the fire department and that the water tower be accommodated with a fire hydrant to assist the fire department with fire suppression in the area and the immediate community;*
- 2. No lighting, logos or signage on the water tower, subtle colors to be used.*

Vote: AYES: 4 NAYS: 1 (Wietek-Stephens)

MOTION CARRIED

Recess at 9:30 p.m.

Wietek-Stephens called the meeting back in session at 9:35 p.m.

Alholm rejoined for substitute Paul Charboneau.

VIII. Public Comment

Nicole Young – Marquette County Convention and Visitor's Bureau – commented on being excited for the Township and appreciates the time the ZBA took to approve the motion.

IX. Township Board Member/Planning Commission Member Comment

Maki (Board Member) – discussed zoning enforcement and how they are dragging their feet on enforcement. He also commented on violations.

Milton (Planning Commission member) – no comments

Angeli - asked how zoning is enforced, and if citations are issued.

Wietek-Stephens – asked Maki if the Township Board has discussed getting Throenle an administrative assistant.

Throenle – discussed recent staff transitions and that he takes the enforcement comments seriously - he is still learning the job and feels he can improve his time management skills.

Kendell – likes the idea of a public/private water system and would like to see a 250,000 gallon water tank.

X. Informational

None

XI. Adjournment

Wietek-Stephens adjourned the meeting at 9:45 PM

Respectfully Submitted By:

Kendell Milton, Zoning Board of Appeals Secretary