



**Zoning Board of Appeals
Charter Township of Chocolay**

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on January 28, 2021.

The meeting was cancelled.

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, February 25, 2021

I. Meeting Called to Order

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

II. Roll Call

Members Present:

Michelle Wietek-Stephens (Chair)

Geno Angeli

Paul Charboneau

Anthony Giorgianni, alternate

Members Absent:

Kendell Milton (Secretary)

Staff Present:

Dale Throenle, Planning Director / Zoning Administrator

III. Approval of Agenda

Moved by Angeli, seconded by Wietek-Stephens, to approve the agenda as written.

Vote: Ayes: 4 Nays: 0 Motion Carried

IV. Approval of Minutes

A. November 1, 2019 Zoning Board of Appeals meeting minutes

Wietek-Stephens asked staff if a review of the minutes had been completed. Throenle read quotes taken from the recording of November 1 meeting that supported the minutes as written.

Moved by Wietek-Stephens, seconded by Charboneau, to approve the minutes as written.

Vote: Ayes: 3 Nays: 0 Motion Carried

B. October 22, 2020 Zoning Board of Appeals meeting minutes

Wietek-Stephens stated one change from “fi” to “if” in the last paragraph on page two of the minutes.

Moved by Angeli, seconded by Wietek-Stephens, to approve the minutes as amended.

Vote: Ayes: 3 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Appointment of Officers

Moved by Wietek-Stephens, seconded by Angeli, to appoint Giorgianni as a member of the Zoning Board of Appeals.

Vote: Ayes: 3 Nays: 0 Motion Carried

Moved by Wietek-Stephens, seconded by Angeli, to appoint Milton as the Secretary.

Vote: Ayes: 4 Nays: 0 Motion Carried

Moved by Angeli, seconded by Wietek-Stephens, to appoint Wietek-Stephens as Chair.

Vote: Ayes: 4 Nays: 0 Motion Carried

Moved by Wietek-Stephens, seconded by Angeli, to appoint Charboneau as Vice Chair.

Vote: Ayes: 4 Nays: 0 Motion Carried

B. Variance Application ZV 21-02

Staff Introduction

Throenle stated Ron Lieno, who resides at 749 Lakewood Lane, wished to add an addition on northern part of his home. The addition will replace a portion of the deck on the rear of the home. Lieno is at the meeting to request a variance on the east side of the property to allow for the project to be built.

Throenle gave an overview of the information in the packet, indicating the home was built in 1955. Throenle showed a presentation that showed pictures of the property with measurements and distances from the neighbors and Lake Superior. Throenle stated he received one comment from the neighbor to the east in support of the project. No other comments were received.

Board Discussion

Wietek-Stephens asked Throenle if the 1998 variance created the non-conformance on the structure. Throenle replied it did not, as the structure was built originally one foot, eight inches from the property line.

Wietek-Stephens stated she did not have problems with the variance request. Wietek-Stephens asked Board members for reasons that strict enforcement of the zoning ordinance would cause practical difficulty for the addition. There were no reasons provided.

Wietek-Stephens asked Board members if there were reasons that granting the variance would be contrary to public interest. There were no reasons provided.

Wietek-Stephens asked Board members for circumstances unique to the property that would prevent the approval of the variance. None was provided.

Wietek-Stephens asked Board members if the variance request is the fault of the applicant. All Board members responded with a no.

Board Decision

Wietek-Stephens motioned, Angeli seconded, that after conducting a public hearing and review of Variance Request ZV 21-02 for parcel 52-02-110-012-00 at 749 Lakewood Lane, Marquette Michigan, the Zoning Board of Appeals approves the Variance Request

ZV 21-02 with the following findings of fact:

- a) *Strict enforcement of the Zoning Ordinance would cause practical difficulty because the lot is non-conforming and the house was non-conforming prior to the purchase by the owner, and the expansion would be less non-conforming than the rest of the house is*
- b) *Granting the variance would not be contrary to the public interest because it will not increase the non-conformity or the impact of the non-conformity. The structure is set well back from the neighbors, and the expansion is not likely to increase noise or block views, plus the neighbor most likely to be impacted by the expansion has indicated approval of the expansion*
- c) *There are circumstances unique to the property being the excessively narrow lot which was a historical feature and a structure that was constructed prior to any zoning ordinances*
- d) *The variance request is not due to the actions of the applicant but is rather the building that occurred prior to regulations.*

Wietek-Stephens stated she did not see any conditions that had to be added.

Vote: Ayes: 5 Nays: 0 *Motion Carried (Milton joined the meeting prior to the vote)*

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comments

Kendall Milton (Planning Commission representative)

Milton stated he had no report.

Dale Throenle (Zoning Director)

Throenle stated there would be a meeting in March.

X. Informational Items and Correspondence

A. Township Board Minutes – 01.11.21

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:24 PM.

Respectfully Submitted

Kendell Milton, Zoning Board of Appeals Secretary

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, March 25, 2021

I. Meeting Called to Order

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

II. Roll Call

Members Present:

Michelle Wietek-Stephens (Chair)

Kendell Milton (Secretary)

Geno Angeli

Paul Charboneau

Anthony Giorgianni

Staff Present:

Dale Throenle, Planning Director / Zoning Administrator

III. Approval of Agenda

Moved by Charboneau, seconded by Angeli, to approve the agenda as written.

Vote: Ayes: 5 Nays: 0 Motion Carried

IV. Approval of Minutes

A. February 25, 2021 Zoning Board of Appeals meeting minutes

Moved by Wietek-Stephens, seconded by Giorgianni, to approve the minutes as written.

Vote: Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Variance Application ZV 21-05

Staff Introduction

Throenle stated that Dorothy and Bruce Peterson, who own the property at 289 Lakewood Lane, wished to add an addition on the northeastern portion of the home. He mentioned that the Petersons and the designer, Carol Hicks, had joined the meeting via teleconference.

Throenle gave an overview of the information supplied to the Board that was in the meeting packet. He indicated EGLE had determined the bayou a "body of water" in a 2017 email, which, because of the house location, would require a variance from the waterfront setback of 100 feet. Throenle stated he sent out 29 notices to the neighbors; he received four comments from the neighbors – one which was received after the submission deadline – that supported the project. He stated no other comments were

received. He indicated that all deadlines for publishing in the newspaper and posting on the Township web site were met. Throenle stated that there were two conditions for the Board to consider: 1) the southwestern corner of the house was 8.5 feet from the western lot line, and 2) the house was within the setback of 100 feet from the bayou. He added that the lot was considered non-conforming based on the lot width, but that non-conformance was not a factor as the lot dimension was sufficient to meet lot setbacks.

He stated the house was built in 1930, and added the lot was part of a platted subdivision in 1908, but there are no known covenants for the subdivision. He stated that the current zoning for the property is Waterfront Residential.

Throenle stated he took two sets of measurements; one set was taken from the principle structure, and the other was taken from the proposed project site.

Charboneau asked Throenle to repeat the non-conforming lot specification. Throenle stated that as long as a lot provided the correct setbacks for a zoning district, building could occur on that lot.

Throenle opened a presentation that showed pictures of the property with measurements and distances from the neighbors and Lake Superior. He stated staff did not have issues with the applicant's request.

Board Discussion

Wietek-Stephens asked Throenle if the addition created any side setback non-conformity. Throenle stated that there would not be. Wietek-Stephens stated the project would increase the non-conformity to the bayou in the waterfront setback; Throenle concurred that it would and stated that it would be about ten feet closer to the water. He also pointed out that the application referenced an addition in 1980, but there were no Township or County records available regarding that addition. He stated the structure as built was there when the applicants purchased the property.

Wietek-Stephens asked about a deck on the addition. Throenle stated the existing deck would not be expanded.

Milton asked for the location of the septic field. Throenle stated the septic field was on the south side of the house; Dorothy Peterson confirmed this. Bruce Peterson added that the septic system was originally located on the east side of the house near the bayou, and they moved it to the south side of the house.

Wietek-Stephens asked the Board for additional questions. Charbonneau asked about the first floor drawing and the deck. Hicks pointed out that the deck would be extended to the east as part of the project. Wietek-Stephens asked if the deck increased the addition to the east; Hicks responded that it did as there would be a door exit from the addition onto the deck. Throenle asked Hicks if the deck was included in the dimensions that were provided with the application; Hicks responded that they were. Wietek-Stephens asked the distance of 41 feet to the water included the deck; Hicks responded that it did.

Wietek-Stephens asked the Board if there was a practical difficulty for the owners if the zoning ordinance was strictly enforced.

Bruce Peters interjected with a brief statement regarding the project. He pointed out that the west side of the house would be a problem for the addition as that was in the setback and that was the location of the septic field. He stated the neighbors had seen the plans and were in support of the project. He indicated there would be no flooding from the

bayou, and that the project would not cause additional environmental impacts. He indicated that the problems were not created by their ownership over the 16 years of ownership, and he restated that they moved the septic system from a location near the bayou to the south side of the house.

Wietek-Stephens asked the Board if anyone had any arguments with Bruce Peterson's statements; Board members indicated they did not. Charbonneau stated he felt that if they did not do the project, the Petersons would have to move, which would create a practical difficulty.

Board Decision

Wietek-Stephens motioned, Milton seconded, that after conducting a public hearing and review of Variance Request ZV 21-05 for parcel 52-02-310-009-00 at 289 Lakewood Lane, Marquette Michigan, the Zoning Board of Appeals approves the Variance Request ZV 21-05 with the following findings of fact:

- a) Strict enforcement of the Zoning Ordinance would cause practical difficulty because the structure was built on a 1908 lot in the 1930s and any modification would require a variance. Denying a variance as strict enforcement of the zoning ordinance would essentially lock the structure into a 1980s configuration at best.*
- b) Granting the variance would not be contrary to the public interest because it does not create any new non-conformities and it does not appear that it would create any aesthetic or practical impact on the neighbors which is supported by letters of support received from several neighbors.*
- c) There are circumstances unique to this property including the fact that it is a very narrow lot and it was a house that was built far before there were anything like wetland protections or even side setbacks.*
- d) The variance request is not due to the actions of the applicant but is the result of zoning placed on pre-existing situations and the applicant appears to have selected the least offensive location for the project.*

Wietek-Stephens stated she did not see any conditions that had to be added.

Vote: Ayes: 5 Nays: 0 Motion Carried

Bruce Peterson thanked the Board for their decision. Hicks also thanked the Board for their decision.

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comments

Kendall Milton (Planning Commission representative)

Milton stated he had no report.

Wietek-Stephens stated that Township Board member comments item should be removed from the agenda. She added that if a Board member were added in the future, she would recommend the Board consider Kendra Symbal for the position.

Dale Throenle (Zoning Director)

Throenle stated there would no meeting in April.

Charbonneau asked Throenle if there was a record added to the Assessing records regarding the addition. Throenle stated the Assessing folder did not contain anything. Wietek-Stephens stated that she did not see where there was an addition added to the property; Throenle stated he had reached the same conclusion.

X. Informational Items and Correspondence

A. Township Board Minutes – 03.08.21 draft

B. Minutes – Planning Commission 03.02.21

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:29 PM.

Respectfully Submitted

Kendell Milton, Zoning Board of Appeals Secretary



**Zoning Board of Appeals
Charter Township of Chocolay**

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on April 22, 2021.

The meeting was cancelled.



Zoning Board of Appeals
Charter Township of Chocolay

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on May 27, 2021.

The meeting was cancelled.



**Zoning Board of Appeals
Charter Township of Chocolay**

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on June 24, 2021.

The meeting was cancelled.

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, July 22, 2021

I. Meeting Called to Order

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

II. Roll Call

Members Present:

Michelle Wietek-Stephens (Chair)

Kendell Milton (Secretary)

Geno Angeli

Paul Charboneau

Members Absent:

Anthony Giorgianni

Staff Present:

Dale Throenle, Planning Director / Zoning Administrator

III. Approval of Agenda

Moved by Milton, seconded by Wietek-Stephens, to approve the agenda as written.

Vote: Ayes: 4 Nays: 0 Motion Carried

IV. Approval of Minutes

A. March 25, 2021 Zoning Board of Appeals meeting minutes

Moved by Wietek-Stephens, seconded by Charboneau, to approve the minutes as written.

Vote: Ayes: 4 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Variance Application ZV 21-42

Staff Introduction

Throenle stated that Sally Jacob and Edward "Ted" Lorsbach, who own the property at 160 Bayou Road, wished to add an addition to the existing structure.

Throenle gave an overview of the information supplied to the Board that was in the meeting packet. He indicated that all deadlines for publishing in the newspaper and posting on the Township web site were met.

Throenle stated he sent out 11 notices to the neighbors; he received five comments from the neighbors – one which was received after the submission deadline – that supported

the project. He stated no other comments were received.

He stated the lot is part of the Agate Beach subdivision that was platted in 1965, and he said the house was built in 1965. He said the current zoning for the property is Waterfront Residential.

He indicated the addition to the house would require a variance because the house is located in the setback of 100 feet from Lake Superior.

Throenle opened a presentation that showed pictures of the property with measurements and distances from Lake Superior and Bayou Road that showed no visual impact to the neighbors. He further indicated the property was partially located in a FEMA-mapped flood plain with a flood map zoning of AE. He said no elevation certificates were submitted to indicate if the structures on the property were out of the flood plain. He stated the garage on the property was at a lower elevation than the principal structure.

He mentioned that George Bennett and one of the applicants, Sally Jacob, had joined the meeting via teleconference.

Board Discussion

Wietek-Stephens asked for clarification if the footprint would be changed with the second floor addition; she further asked what the purpose of the addition would be. Bennett explained that the primary purpose was to provide larger living space on the second floor.

Wietek-Stephens asked if the grade of the site would be changed. Bennett explained that between the house and the garage was a connection that existed to provide access to and from the garage, and that the space between the retaining walls on the northwest side of the house was currently filled in. He stated the purpose of the excavation was to return to the original connection between the house and the garage.

Wietek-Stephens stated she saw in the Township-provided materials that the Bayou Road area had flooded due to ice dams at the mouth of the river. She asked Throenle if the basement of the residence was ever flooded. Throenle stated it was his understanding that there was no flooding in the residence, but that flooding had occurred in the garage.

Wietek-Stephens asked Bennett if flooding would occur if the excavation was completed. Bennett replied that the elevation per his measurements was high enough that flooding should not occur. Wietek-Stephens asked if the connection between the house and the garage would be enclosed; Bennett replied it would.

Frank Lorsbach, Ted's father, spoke from the audience, and gave a brief history of flooding and related corrections on Bayou Road. He indicated that there may have been water in the garage in the past, but it would have been no more than an inch or two.

Bennett stated the residence was elevated on higher ground than the garage, and that the elevation was not mentioned in the original application. He stated the desire was to keep the residence on the higher portion of the property that was located in the setback instead of moving the structure outside the setback which would put the structure into a lower elevation.

Wietek-Stephens stated she did not have any issues with the second floor addition as it did not encroach further into the setback or cause issues with the neighbor's sight lines.

She expressed concerns with the connection between the garage and the basement.

She requested comments from the public in attendance regarding the project. Frank Lorsbach responded that the majority of the garage connection was outside the setback; Bennett further emphasized that the intent for the design of the connection was to maintain that majority.

Wietek-Stephens questioned the excavation timing regarding the increase in severe weather conditions that have occurred over the last several years.

Charboneau asked Throenle the distance from the bayou to the property. Using measurements with an online aerial view, Throenle gave an approximate distance of 450 feet from the bayou. Wietek-Stephens asked the distance from the house to the low area where the bayou would flow into; Throenle responded the distance was approximately 102 feet.

Throenle indicated the biggest staff concern was whether the garage was in or above the flood plain. Wietek-Stephens asked who would be responsible for allowing the construction; Throenle stated it would be the Marquette County building code department.

Throenle explained the flood plain determination based on elevation. He stated that the Township could not issue permits until the County determined the garage was out of the flood plain.

Wietek-Stephens asked the Board if they had concerns with the project; none were expressed.

Charboneau asked Bennett if the connection between the garage and the house was depicted on the site plan; Bennett indicated it was. Charboneau asked if the excavation intent was to put a door on the house to access the path to the garage; Bennett stated that was the intent. Bennett further clarified that the excavation would be further north on the structure.

Milton expressed that he did not have any problem with either project addition.

Charboneau asked for additional clarification on what the structural connection was between the house and garage. Bennet showed 3-D renderings and photos of the project to the Board that explained the connection.

Wietek-Stephens, Charboneau and Throenle discussed how the addition between the garage and the house was considered if a portion of the addition was outside the setback. Throenle stated that if any portion of a structure is outside the setback, the entire structure and related additions would be considered non-conforming.

Wietek-Stephens stated that a condition for the variance should be a submittal of drawings showing the dimensions of the connection between the house and garage. Bennett stated he had drawings and references for the addition that could be submitted.

Charboneau asked for the dimensions of the connection between the house and the garage; Bennett provided those verbally to the Board.

Board Decision

Wietek-Stephens motioned, Milton seconded, that after conducting a public hearing and review of Variance Request ZV 21-42 for parcel 52-02-330-004-00 at 160 Bayou Road, Marquette Michigan, the Zoning Board of Appeals approves with conditions Variance Request ZV 21-42 with the following findings of fact:

- a) *Strict enforcement of the Zoning Ordinance would cause practical difficulty because the proposed alteration does not significantly increase the nonconformity and the structure appears to be adequately useful as a dwelling and is not a candidate for tear down.*
- b) *Granting the variance would not be contrary to the public interest because it does not impact the functionality of the neighbor's properties or the aesthetics of the neighborhood in a negative manner.*
- c) *There are circumstances unique to this property including the fact that the lot lines and the development occurred prior to any zoning ordinance or waterfront setbacks in particular. The property is shallow in terms of distance from the lake to the road and a rebuild beyond the 100 foot setback might be difficult given the front line setback. Also moving the building towards the road would lower the elevation of the structure further into the flood plain and create additional concerns there. An additional circumstance unique to the property is that the flood plain regulations do impact the site and County approval will be needed in order to continue with the project.*
- d) *The variance request is not due to the actions of the applicant but is a result of the zoning and environmental protections implemented after the structure was built and well prior to their ownership of it.*

Additional conditions

- 1) *Not to extend the footprint of the existing dwelling within the waterfront setback with the exception of a small portion of the hallway from the garage to the house*
- 2) *The architect shall submit more detailed 3-D site plans for inclusion into the record with dimensions calculated to date including the dimensions provided verbally that the hallway is approximately 31 and one-half feet in length by 6 feet 3 inches wide with an 8 foot ceiling which would give it an approximate height depending on the grade of 9 feet on the exterior.*

Vote: Ayes: 4 Nays: 0 Motion Carried

Bennett and Jacob thanked the Board for their decision.

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comments

Kendall Milton (Planning Commission representative); he stated that he had no report.

Throenle provided general information from the Board meeting that construction for Lakewood Lane would begin the following week or week after. He also stated that in the future the Township will be moving from cable to fiber for internet services.

Dale Throenle (Zoning Director)

Throenle stated there would no meeting in August.

X. Informational Items and Correspondence

A. Township Board Minutes – 06.14.21 draft

B. Minutes – Planning Commission 06.21.21 draft

C. Township newsletter – June 2021

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:58 PM.

Respectfully Submitted

Kendell Milton, Zoning Board of Appeals Secretary



**Zoning Board of Appeals
Charter Township of Chocolay**

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on August 26, 2021.

The meeting was cancelled.

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Tuesday, October 5, 2021

I. Meeting Called to Order

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

II. Roll Call

Members Present:

Michelle Wietek-Stephens (Chair)

Geno Angeli

Paul Charboneau

Anthony Giorgianni

Members Absent:

Kendell Milton (Secretary)

Staff Present:

Dale Throenle, Planning Director / Zoning Administrator

III. Approval of Agenda

Moved by Angeli, seconded by Charboneau, to approve the agenda as written.

Vote: Ayes: 4 Nays: 0 Motion Carried

IV. Approval of Minutes

A. July 22, 2021 Zoning Board of Appeals meeting minutes

Moved by Wietek-Stephens, seconded by Angeli, to approve the minutes as written.

Vote: Ayes: 4 Nays: 0 Motion Carried

V. Public Comment

None

VI. Unfinished Business

None

VII. New Business

A. Variance Application ZV 21-61

Staff Introduction

Throenle stated that Richard and Kristin Overbey, who own the property at 408 Shot Point Drive, wished to replace a second floor deck on their existing home that would extend into the waterfront setback.

Throenle gave an overview of the information supplied to the Board that was in the meeting packet. He indicated that all deadlines for publishing in the newspaper and posting on the Township web site were met.

Throenle stated he sent out eight notices to the neighbors; he received no comments from the neighbors or others regarding the project. He stated the property is somewhat

isolated, with Lake Superior to the northwest and undeveloped properties on either side of the lot. He indicated that the house was built in 1981, which placed the house under the 1977 ordinance; the property was zoned Lakeshore Residential at that time and is now zoned as Waterfront Residential. He stated that there was one zoning compliance permit approved in 1990 for an addition to the main structure.

Throenle opened a presentation that showed pictures of the property with measurements and distances from Lake Superior. He further indicated the property in 1990 was approximately 112 feet from Lake Superior, making a conforming property at the time the permit was issued. He pointed out that the current property is 72 feet from the water, showing that the water line had changed by 40 feet, which made the current structure non-conforming. He showed the measurements from the sides of the lots and stated that there were no other non-conformances on the lot. He stated that neighbors would not see an impact from the proposed project.

He stated that there were two sets of measurements regarding the variance; the first set was taken at the time of denial, and the second was taken just prior to the meeting. The difference between the two sets was that the deck was removed from the rear of the structure after the first set of measurements was recorded. The new measurements indicated that the new deck as proposed would be less encroaching on the waterfront setback.

Board Discussion

Charboneau asked Overbey if he would like to address the Board. Overbey stated they bought the house in 2017 and began improvements from the inside out for safety issues related to the structure. He stated the deck was removed as it was not considered safe based on its construction. He requested that the Board approve the extension from the structure to go from the original deck width of six to twelve feet.

Wietek-Stephens asked if there would be a covering or roof on the deck; Overbey stated there would not be a covering.

Wietek-Stephens asked Throenle what setbacks were in place when the property was conforming; Throenle stated the 1977 ordinance put the setback at 100 feet. He also stated that the structure, when built in 1981, was conforming due to the water level of the lake.

Charboneau asked Throenle if there was any record showing when the deck was added; Throenle stated that there were no zoning compliance records indicating when the deck was added; only the zoning compliance record for the addition was in the records.

Wietek-Stephens asked Overbey if he knew when the original deck was added; Overbey stated he did not know.

Wietek-Stephens stated she did not see a particular issue with this change, as the deck did not extend closer to the lake than the existing structure.

Charboneau stated that the overall change did not extend the structure toward the lake, and improved the setback from the lake. Throenle stated that the deck was removed, but it did not change the encroachment. Wietek-Stephens pointed out that the deck at the time of the application was the consideration, and it appeared that the change would not cause an impact.

Charboneau asked for a clarification regarding the lot at 412 Shot Point Drive; he asked

if the lot was vacant. Throenle stated it was.

Wietek-Stephens asked what type of materials would be used in construction of the deck; Overbey stated the deck would be built using Trex materials (wood composite) to prepare the deck for winter weather.

Charboneau asked about the look of the deck; Overbey stated the deck would look the same as the previous deck.

Board Decision

Charboneau motioned, Wietek-Stephens seconded, that after conducting a public hearing and review of Variance Request ZV 21-61 for parcel 52-02-003-032-70 at 408 Shot Point Drive, Marquette Michigan, the Zoning Board of Appeals approves with conditions Variance Request ZV 21-61 with the following findings of fact:

- a) Strict enforcement of the Zoning Ordinance would cause difficulty because the structure was existing and was taken down in order to address structure issues for the primary residence, and the reconstruction would cause difficulty because there's no other way to reconstruct that feature of the home.*
- b) Granting the variance would not be contrary to the public interest because it doesn't pose any safety issues, sanitary or otherwise, and the circumstances unique to this property include the fact that the structure existed and reconstituting the structure will actually improve the non-conformance because of the elimination of the staircase and the expansion of the deck will still be within the footprint of the structure.*
- c) The variance request is not really due to the actions of the applicant, but is a result of structural issues that need to be addressed to the primary residence.*

Additional conditions

- 1) The deck include a traditional railing and no overhead structure.*

Vote: Ayes: 4 Nays: 0 Motion Carried

Overbey thanked the Board for their decision.

VIII. Public Comment

Richard Dummer, 396 Shot Point Drive

Asked what the reason was for the setback from the water.

Wietek-Stephens stated the reason was to protect the property structures from erosion, to protect sensitive habitats such as the dunes, and to protect the aesthetics of the lakeshore.

IX. Township Board Member/Planning Commission Member Comments

Dale Throenle (Zoning Director)

He stated the Planning Commission had finished the draft of the Township master plan, and pending approval from the Board on October 11, the plan would be put out for public comment for 63 days.

Wietek-Stephens asked Throenle what the most exciting change that could be found in the new plan. Throenle stated the proposal for a water system that would be installed. Charboneau asked if that would be a system bringing public supply to the Township;

Throenle stated that was the intent. Charboneau asked if those that have wells would have to give them up; Throenle stated that the final details of the proposed system are still under discussion. He added that the corridor and Kawbawgam Road would be part of the discussion.

Charboneau asked about the resurfacing of Lakewood Lane. Throenle stated he was under the impression that the resurfacing was scheduled to be completed this year.

Wietek-Stephens asked about Board-related projects. Throenle stated a new sewer ordinance was adopted, the sign portion of the Zoning Ordinance has been updated, and the Board's direction will be a new zoning ordinance update in 2022.

Charboneau asked about the general direction for the new zoning ordinance. Throenle stated the primary goal was to match the new zoning ordinance to the new master plan so that the recommendations and direction were in synch. The primary direction for the zoning ordinance discussion was to relook at the non-conformances in the agricultural / forestry (AF) district, and to look at issues the Zoning Board of Appeals has addressed in the past to see if those can be addressed in the zoning ordinance. He also stated that the public would be involved in the zoning ordinance process.

Charboneau asked if there would be changes with regards to structures within the setback. Throenle stated that there was none at this time, but that accessory structure height has been modified in the current zoning ordinance to allow for 30 feet on an accessory structure to match the maximum height on the primary residence.

Wietek-Stephens asked if anything had changed for signs in the agricultural district. Throenle stated no, and added that each public entity (Road Commission, MDOT and the Township) would be responsible for ensuring that signs were placed properly. He stated that the placement of political signs and the timing for signs prior to an election were changed as well.

Angeli asked about activity in the business corridor. Throenle stated the former Quiznos restaurant was now a plumbing contractor, that the former Hudson property was now an electrical contractor, and the storage units on Carmen Drive were almost completed. There is a Subway and a doctor's office coming to the Moyle Center, and a new development will be coming online behind the Moyle center. He also told the Board about the new residential development near the dog kennel on US 41 South.

Charboneau asked about low income housing. Throenle stated that there were housing comments in the master plan, with a large concern regarding the aging of the population in the Township. He stated the plan is looking at a balance between economic development and housing, and that there are considerations in the plan for tiny homes.

Throenle pointed out that the new lift stations for the sewer system are in place and should be online by the end of the year.

Charboneau asked about the hotel for the casino. Throenle stated there has been no updates on any casino projects. He also stated that the hotel across from the Township was up for sale.

Throenle stated the official meeting Zoning Board of Appeals meeting for October was cancelled and apologized for the change in meeting date for tonight's meeting.

X. Informational Items and Correspondence

A. Township Board Minutes – 09.13.21 draft

B. Minutes – Planning Commission 08.16.21

C. Township newsletter – August 2021

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:41 PM.

Respectfully Submitted

Kendell Milton, Zoning Board of Appeals Secretary



**Zoning Board of Appeals
Charter Township of Chocolay**

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on October 28, 2021.

The meeting was cancelled.



**Zoning Board of Appeals
Charter Township of Chocolay**

5010 US 41 South
Marquette, MI 49855
Phone: 906-249-1448 Fax: 906-249-1313

There are no minutes for the meeting on November 18, 2021.

The meeting was cancelled.

**CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, December 16, 2021**

I. Meeting Called to Order

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

II. Roll Call

Members Present:

Michelle Wietek-Stephens (Chair)

Kendell Milton (Secretary)

Geno Angeli

Paul Charboneau

Anthony Giorgianni

Staff Present:

Dale Throenle, Planning Director / Zoning Administrator

III. Approval of Agenda

Moved by Angeli, seconded by Charboneau, to approve the agenda as written.

Vote: Ayes: 5 Nays: 0 Motion Carried

IV. Approval of Minutes

A. October 5, 2021 Zoning Board of Appeals meeting minutes

Wietek-Stephens requested that the original deck structure be included in the minutes to further back up the decision process for the deck variance approval. She requested the changes be included in paragraph 3 on page 2. She also requested a minor typographic correction on page 3 in the top paragraph to change from "to prepared the deck" to "to prepare the deck".

Moved by Wietek-Stephens, seconded by Giorgianni, to approve the minutes with the additional text and requested as changed.

Vote: Ayes: 5 Nays: 0 Motion Carried

V. Public Comment

Eileen Becker, 205 Judy Street

Expressed concerns that the structure at 204 Judy was too close to the road and should be aligned with other structures in the neighborhood. She also expressed concern that the structure that is on the property does not match the structure as it was permitted.

Throenle read into the record the following comments received prior to the meeting but after the submission deadline from Dan Clement, 208 Judy Street:

"Dear Zoning Board of Appeals members, I am a property owner located within 500 feet of Mister Beyers property he is seeking a variance on. I feel he should be granted the variance under one condition only. If his building application was approved with his proposed house located where it currently sits, however I believe he put it where it is because of the odd shape of his property. If he were to put the house with the proper

offset from the roadway it would encroach on the properties on either side of him. His house is in the only place on the property where it will fit. His choices were to build it where it is in the current size it is and encroach on the 30 roadway offset, or to reduce the size of the house and comply with all zoning regulations. As a result of his decision here we are now. He is asking for a variance once the foundation is built thinking it is easier to ask for forgiveness [sic] than permission. Again if he was granted a building permit with his house located where it currently sits his appeal should be granted, under no other circumstances should this appeal be granted.

Thank you”

VI. Unfinished Business

None

VII. New Business

A. Variance Application ZV 21-82

Staff Introduction

Throenle stated that Pat Beyer, Sr. who own the property at 204 Judy Street, wished to gain a variance of 11 feet from the front setback for a structure that has already been partially built on his property.

Throenle gave an overview of the information supplied to the Board that was in the meeting packet. He indicated that all deadlines for publishing in the newspaper and posting on the Township web site were met.

Throenle stated he sent out forty-seven notices to the neighbors; he received one comment via telephone to the Township Manager and one email that came in after the deadline, both of which were opposed to the project.

He stated the parcel is lot 55 of the Ewing Park Subdivision, which was platted in March of 1977, two months prior to adoption of the 1977 Township zoning ordinance. He stated that a covenant was issued with the plat; the covenant was updated in 1984 to reduce the minimum size requirement of primary structures on a property. He stated that a zoning compliance permit had been issued for the build on the property.

Throenle pointed out that a letter was received from Sam Elder, signer of the covenant, that gave Mr. Beyer relief from the required setback in the covenant prior to the approval of the zoning compliance permit. Throenle stated the covenant measured setbacks from the center of the road, as opposed to the Township *Zoning Ordinance* which measures setbacks from the property line. He stated the covenant indicated that the measurements were a minimum of 58 feet to a maximum of 70 feet from the center of the road. Throenle stated the road in the front of the project site was 30 feet in width, which meant that the road was 15 feet wide from the center line.

Throenle referred to *Zoning Compliance Permit* ZC 21-04 that was issued for the project. He pointed out that the approved orientation of the project did not match the partial structure on the site; he stated the structure was rotated 90 degrees. He stated that Marquette County Building Codes approved permits based on the new orientation, as those were the plans that Mr. Beyer gave to the County.

Wietek-Stephens asked if attachment VII.A.5 in the packet was the original site plan for the site; Throenle stated it was. He pointed to the site plan within the application that showed the original orientation of the project, which indicated the house was to be built

perpendicular to the road, not parallel. Throenle stated that when Mr. Beyer was asked about the change when staff visited the site, Mr. Beyer stated he changed the orientation due to concerns from the neighbors, and stated he was not aware that he had to tell the Township that his plans had been modified. Throenle also pointed out that Mr. Beyer misinterpreted the measurement instructions for the front setback; Mr. Beyer assumed that the measurements were front the edge of the road and not the front property line.

Throenle added that Mr. Beyer stated he believed the stakes for the basement and pad were moved without his knowledge prior to pouring the concrete, and that caused the structure to be closer to the front than measured.

Staff visited the site after a complaint was received. After discussion, staff issued a stop work order with instructions to Mr. Beyer to file a *Zoning Variance Application*.

Throenle stated that he missed section 28 of the covenant which stated that a vote of three fourths of the owners of the platted subdivision were required to approve the change in setback; Throenle indicated that the original zoning compliance permit would not have been issued if he had seen that section of the covenant.

Throenle opened a presentation that showed pictures of the property with measurements and distances from Judy Street.

Wietek-Stephens asked for clarification about the covenant for the subdivision, and if there was a statement in the Township *Zoning Ordinance* about covenants being enforced; Throenle said there was no statement in the ordinance for required enforcement. Throenle further indicated that between the zoning ordinance and the covenant, which ever was more restrictive, that was the restriction would be followed.

Throenle stated the original application showed that the structure would be placed 40 feet from the curb (55 feet from the center line); he stated the measurements changed after the structure was reoriented. Throenle added that the Township did not perform stake surveys to determine if the applicant was putting the structure in the correct place. He stated it was up to the applicant to follow the placement of the structure as it was approved on the zoning compliance permit. He also stated that Marquette County Building Codes did not verify the orientation shown on the original zoning compliance permit.

Charbonneau asked about development approvals and what the processes are. Throenle stated the approvals generally go through the Planning Commission; however, there was no requirement at the time as the subdivision was created prior to the 1977 ordinance. Throenle also indicated there were several other subdivisions developed prior to 1977.

Wietek-Stephens asked about the orientation and approval of the original zoning compliance permit. Throenle stated the letter from Mr. Elder was used for the permit approval, and the orientation of the project was approved as submitted. Throenle further stated the project problems began when the project was reoriented, which caused further encroachment into the front yard setback.

Throenle continued the presentation showing conformance to side setbacks and fill locations at the rear of the property, with a drop off approximately six feet to the neighbor's lot in the rear.

Board Discussion

Wietek-Stephens asked Mr. Beyer if he wished to comment. Mr. Beyer indicated there were several missteps that were part of the problem, including possible moving of stakes

that provided further problems for the location of the structure.

Milton asked how the non-compliance was discovered. Throenle stated a call was received concerning the project; Throenle stated that he and the Township Manager went out to the project and completed measurements that showed the project was not compliant with the original zoning compliance permit.

Charbonneau asked if there was an indication as to how far the property line was from the curb. Throenle pointed out that site surveys are not required for zoning compliance permits; he stated staff assumed the property owner knows where the property lines are.

Wietek-Stephens asked if staff was sure the front of the house did not meet the front setback. Throenle indicated that the measurement, if taken from the center of the road would be 63 feet; the measurements taken were well within the 63 feet, making the structure non-conforming.

Milton pointed out that the monument points for the curb are well established and should be easy to find.

Charbonneau asked about the covenant; Throenle stated that Mr. Elder believed that the covenant had expired and was no longer in effect; Mr. Elder wrote the letter because of Throenle stating the covenant was still in effect.

Wietek-Stephens asked if there any additional Board or staff comments; none were given.

Wietek-Stephens asked if there any additional public comment. Becker stated she had not received a letter from Lee Elder regarding the covenant. She stated that Elder stated he would have to go door-to-door for signatures.

Board Decision

Wietek-Stephens motioned, seconded by Milton, that after conducting a public hearing and review of Variance Request ZV 21-82 for parcel 52-02-455-005-00 at 204 Judy Street, Marquette Michigan, the Zoning Board of Appeals denies Variance Request ZV 21-82 with the following findings of fact:

- a) Strict enforcement of the Zoning Ordinance would not cause practical difficulty because there were options that were more in compliance with both the zoning ordinance and the covenant as demonstrated by the original application of February 2021.*
- b) Granting the variance would be contrary to the public interest because it obstructs the neighborhood sight lines and the character of the neighborhood and violates the covenant with which all the other residents complied in a significant way as evidenced by several neighborhood complaints.*
- c) There are circumstances unique to this property. It is a small site with a drop off but a more compliant structure was already planned as evidenced by the original application, so the circumstances of the site did not affect the ability to build a functional structure.*
- d) The variance request is due to the actions of the applicant by not following the submitted building plans and not overseeing his contractor.*

Vote: Ayes: 5 Nays: 0 Motion Carried, Variance Denied.

VIII. Public Comment

Pat Byer, applicant

Asked why he had to put a floor on his project if the variance would not have been granted. He also asked what his options were; Wietek-Stephens stated he should meet with the Township for further direction.

IX. Township Board Member/Planning Commission Member Comments

Kendall Milton

Had no comments

Dale Throenle (Zoning Director)

Gave a brief update on projects the Board was considering.

He stated that there was no meeting scheduled for January.

X. Informational Items and Correspondence

A. Township Board Minutes – 09.13.21 draft

B. Minutes – Planning Commission 08.16.21

C. Township newsletter – August 2021

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:59 PM.

Respectfully Submitted

Kendell Milton, Zoning Board of Appeals Secretary