



**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 27, 2022.

The meeting was cancelled.

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, February 24, 2022

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
Dave Lynch (Township Board Representative)
Anthony Giorgianni

Members absent:

Kendell Milton (Secretary)

Staff present:

Dale Throenle, Planning Director / Zoning Administrator

III. Approval of Agenda

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

Vote: Ayes: 4 Nays: 0 Motion Carried

IV. Approval of Minutes

A. December 16, 2021 Zoning Board of Appeals meeting minutes

Moved by Wietek-Stephens, seconded by Lynch, 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. Election of Officers

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

Vote: Ayes: 4 Nays: 0 Motion Carried

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

Vote: Ayes: 4 Nays: 0 Motion Carried

B. Variance Application ZV 22-03

Prior to introduction, Giorgianni stated that he played pool with the applicant on the applicant's team in a local league, and wanted to know if that was considered a conflict of interest. Wietek-Stephens asked him if he received any monetary compensation from

this activity from the applicant; Giorgianni stated he did not

Moved by Wietek-Stephens, seconded by Angeli, that there was no conflict and Giorgianni did not need to recuse himself.

Vote: Ayes: 4 Nays: 0 Motion Carried

Staff Introduction

Throenle stated that Gents, who own the property at 5029 US 41 South, wished to attach a cooler addition to the rear of his existing building. He stated the applicants had received a previous Zoning Compliance permit to build the cooler detached from the structure; however, the applicant discovered utility and building issues during construction that would require the cooler to be attached to the structure. Throenle stated the current structure was 14 feet from the front property line, which made the structure non-conforming. He stated that the structure was built in 1930 and became non-conforming after the 1977 zoning ordinance went into effect.

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 twenty-five notices to the neighbors; he received one question concerning the application, but did not receive any comments via telephone, email or at the counter regarding the project.

Throenle opened a presentation that showed pictures of the property with measurements and distances from US 41 South and the surrounding properties. He indicated that the primary reason for the variance request was due to the setback of 14 feet at the southwest corner of the structure.

He asked the Gents to explain the included pictures showing the gas lines and trusses that caused the problem for the detached project. Charlie Gentz explained the difficulty for keeping the cooler detached from the building.

Board Discussion

Wietek-Stephens asked Board members if they had any concerns about the addition. Angeli asked about the footings for the structure. Gentz stated that the structure would be on the existing piers that were put in for the detached project.

Board Decision

Wietek-Stephens motioned, seconded by Lynch, that after conducting a public hearing and review of Variance Request ZV 22-03 for parcel 52-02-107-008-00 at 5029 US 41 South, Marquette Michigan, the Zoning Board of Appeals approves Variance Request ZV 22-03 with the following findings of fact:

- a) Strict enforcement of the Zoning Ordinance would cause practical difficulty because of the construction of the historical structure.*
- b) Granting the variance would not be contrary to the public interest because it does not affect the sight lines. No public comment was received opposing the project, and it does not significantly increase the footprint of the operation and also does not affect parking or traffic flow.*

- c) *There are circumstances unique to the property such that the building was constructed well before any zoning ordinances were in effect, and the highway has likely expanded to encroach on the front space of the property.*
- d) *The variance request is not due to the actions of the applicant but is a result of the age of the structure.*

Vote: Ayes: 4 Nays: 0 Motion Carried, Variance Approved.

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comments

Planning Commission Comments (Throenle)

Throenle stated the Planning Commission was putting the final touches on the Master Plan.

Board Comments (Dave Lynch)

Had no comments

Angeli welcomed Lynch to the Zoning Board of Appeals.

X. Informational Items and Correspondence

- A. Township Board Minutes – 01.22.22
- B. Minutes – Planning Commission 01.17.22 draft
- C. Township newsletter – January 2022

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:15 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 March 24, 2022.

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 April 28, 2022.

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 26, 2022.

The meeting was cancelled.

CHOCOLAY TOWNSHIP
ZONING BOARD OF APPEALS
Thursday, June 23, 2022

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
Dave Lynch (Township Board Representative)
Kendell Milton (Secretary)

Members absent:

Anthony Giorgianni

Staff present:

Dale Throenle, Planning Director / Zoning Administrator

III. Approval of Agenda

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

Vote: Ayes: 4 Nays: 0 Motion Carried

IV. Approval of Minutes

A. February 24, 2022 Zoning Board of Appeals meeting minutes

Moved by Wietek-Stephens, seconded by Lynch, 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 22-28

Applicants

Thomas Guillot and Meghan McGee, applicants, via Zoom
Carol Hicks, architect

Staff Introduction

Throenle stated that Thomas Guillot and Meghan McGee, who own the property at 2501 M-28 East, wished to add an addition on to the existing home on the property. Throenle stated the reason for the appeal was that the current structure was located within the waterfront setback along Lake Superior.

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.

He stated that the notification process was expanded to include additional residents, as the parcel in question was quite large, and he indicated that no negative comments were received regarding the project.

He stated that the project area was surrounded by a conservation easement. He noted that the original house was built as a conforming structure located 110 feet from the lake, but the deck that was added and the rise in water in the lake made the structure non-conforming.

Throenle opened a presentation that showed pictures of the property with measurements and distances from Lake Superior and the surrounding wetlands.

Board Discussion

Wietek-Stephens asked about the site diagrams in the packet. She asked how she was going to compare the project to the house, as no floor plan was provided for the house, and that the documents in the packet were not legible. She asked staff to correct that in the future with future applicants.

Wietek-Stephens asked what the square footage of the existing house is. Throenle responded that it is 1,094 square feet. He asked Hicks to describe the house as Hicks was the original architect of the house.

Hicks described the house as a five-story, one bedroom single person dwelling. He stated the owners want to add bedrooms to the house with the proposed addition. He stated that a survey of the property showed the house at 110 feet from water's edge; however, that measurement was to the face of the house and did not include the deck. He emphasized that the construction project would be approximately 150 feet from water's edge.

Wietek-Stephens asked about the square footage and what it included. Hicks stated that the square footage included all of the extensions and floors. Throenle provided a sketch from the assessing software that showed the footprint.

Wietek-Stephens asked about walking around the addition after it is added. Hicks detailed the location for the addition and showed it would leave distance to walk around the addition without being in the wetland.

Wietek-Stephens asked for comments from the Board. Angeli stated he had no issues with the project.

Wietek-Stephens asked if the only change to the project was in the rear of the house. Throenle stated that it was the only change and added that if the deck was disconnected from the main house, there would be no encroachment on the waterfront setback. He added that because the deck is connected as it wraps around the house, it had to be considered as part of the structure.

Milton asked if the water setback issue was Lake Superior. Throenle stated that it was. Milton asked if the conservation easement was considered swamp / wetland. Throenle stated that it was designated as wetland under the Michigan Department of Environment, Great Lakes, and Energy (EGLE) guidelines.

Milton stated he had no issue with the project as it was away from the lake. Lynch added that the addition did not present any issues for him.

Board Decision

Wietek-Stephens motioned, seconded by Angeli, that after conducting a public hearing and review of Variance Request ZV 22-28 for parcel 52-02-004-001-00 at 2501 M-28 East in Marquette Michigan, the Zoning Board of Appeals approves Variance Request ZV 22-28 with the following findings of fact:

- a) Strict enforcement of the Zoning Ordinance would cause practical difficulty because there is no other buildable area due to the conservation easements and the house is oddly constructed making internal renovations to allow it to suit the family structure unlikely.*
- b) Granting the variance would not be contrary to the public interest because there are no visible neighbors. The construction and project is located away from the lake so it would not be creating any additional encroachments on the lake or putting the house more at risk of future erosion issues, and the lake has encroached towards the house. However, the addition would not increase the risk of erosion already presented by the higher lake levels.*
- c) There are circumstances unique to this property including that only the deck encroaches on the lake setback; the house and structure that is being enlarged itself does not. The neighbors are located very far away, there is a large conservation easement on the property, and it is an odd one bedroom construction that limits the future use of the house.*
- d) The variance request is not due to the applications of the applicant but is a result of the placement of the house on the site by the original owner, the encroachment of the lake and the conservation easements put in place by the previous owner.*

Vote: Ayes: 4 Nays: 0 Motion Carried, Variance Approved.

Hicks thanked the Board for their consideration. Guillot thanked the Board as well.

B. Variance Application ZV 22-30

Applicants and Others in Attendance

Theresa Johnson
Eric Keough, builder

Public Hearing

Theresa Johnson, 112 Vista Hills Trail, Marquette Michigan

She stated that at the time of purchase of the property, she and Keough determined that there was a patio door exit from the rear of the structure that did not go out onto a deck. She stated that she assumed that since a deck had been there in the past, that it would be OK to replace the deck.

Wietek-Stephens asked if the deck was already built; Johnson stated that it was.

Wietek-Stephens who Johnson used as the builder. Johnson indicated that the builder was Keough. Wietek-Stephens asked Keough if he made the same assumption about replacing the deck. Keough stated he did.

Wietek-Stephens asked Keough if he was aware of local zoning regulations. He stated that he was.

Keough added that he was aware of multiple decks added to properties along the

river.

Angeli asked to see a picture of the new deck. Keough provided a picture.

Staff Introduction

Throenle stated he sent out twenty-seven notices to the neighbors; he received one comment in favor of the project via email, and another that was dropped off at the Township office just prior to the meeting; he stated he placed a copy for the Board members at the Board table prior to the meeting for their review.

Throenle opened a presentation that showed pictures of the property, with pictures that indicated that no deck existed in 2014. He continued with additional pictures, measurements and distances from M-28 East and the surrounding properties. He indicated that the primary reason for the variance request was that the house and added deck were within the waterfront setback from the Chocolay River.

Throenle added that a zoning compliance permit was requested after the deck was already completed. He stated the Township police department reported to staff that the deck had been added, and that no County permits were on file for the deck. He stated he contacted the County, and that the County indicated that the deck was not a requirement for exit from the building as the door in the front of the structure covered that requirement.

Throenle stated that the deck did not exist in 2014, but that the patio door was there. He added that the new deck dimensions were 10 feet by 14 feet, that the entire structure is located in the flood plain, and that the new deck increased the encroachment on the river by ten feet as the new deck is located approximately 44 feet from water's edge.

Throenle continued with an overview of the information in the presentation. He further stated that the downriver deck that Keough referred to was, in his opinion, an old deck and he showed pictures related to that deck.

Board Discussion

Wietek-Stephens asked Throenle if a permit would have been required to replace the deck. Throenle answered that if the deck was the same size or less, and parts of it still existed, no permit would have been required. He stated that if the deck was removed or destroyed beyond repair, then a permit would have to be obtained to replace it.

Angeli asked how high the water rise was in the area. Throenle answered he would have to research that information.

Angeli asked if there were any neighborhood issues with the deck. Throenle stated that no neighbors complained. Throenle added an outline of the process required to add the deck to the structure, which included the requirement for a variance.

Wietek-Stephens asked what the elevations were on the footings above the river. Throenle stated he did not take that measurement, but he provided a picture of the elevation to show the slope. Keough stated the house did not need flood insurance due to the height above the river.

Angeli stated he had no issue with the deck other than the deck was built before a permit was properly obtained.

Wietek-Stephens stated she had an issue with the footings, especially if higher flooding occurred.

Keough stated he would be willing to get a surveyor to provide elevation numbers if

necessary.

Wietek-Stephens stated she was torn as to whether the deck existed prior to construction, especially since a patio door existed. She asked the other Board members if a deck would have been approved if the process had been followed. Milton, Lynch and Angeli stated that it probably would have been.

Board Decision

Milton motioned, seconded by Angeli, that after conducting a public hearing and review of Variance Request ZV 22-30 for parcel 52-02-335-001-00 at 110 Greenwood Road, Marquette Michigan, the Zoning Board of Appeals approves the Variance Request ZV 22-30 with the following findings of fact:

- a) Strict enforcement of the Zoning Ordinance would not cause practical difficulty because if we had had been notified of the zoning variance, we would probably would have approved the structure.*
- b) Granting the variance would not be contrary to the public interest because of the fact that all the neighbors along the river have decks that are facing the river and it is not as close as some.*
- c) There are circumstances unique to the property including the slope to the river is greater than the common spring time flooding.*
- d) The variance request is not due to the actions of the applicant because as a result of the way that the structure was created it did not fit the proper conditions for the issuance of a building permit in the first place and there should be some restitution to the County for the continued building without the proper documents.*

Wietek-Stephens asked Milton if he was aware that all four conditions had to be true before a variance can be approved and that it cannot be the fault of the applicant. Milton stated he was aware of that.

Milton stated the owner was not informed of the proper process that was supposed to be followed prior to the construction. The owner added that she was not aware that she could not do what she did when making the decision about the construction.

Angeli asked Milton if the motion was finished; Milton stated that it was.

Vote: Ayes: 3 Nays: 1 (Wietek-Stephens) Motion Carried, Variance Approved.

VIII. Public Comment

None

IX. Township Board Member/Planning Commission Member Comments

Planning Commission Comments (Milton)

Stated the Planning Commission was in the process of rewriting the zoning ordinance. Angeli asked if the Zoning Board of Appeals would be represented. Wietek-Stephens asked Milton if he was considered the representative.

Milton added that there were going to be major changes in the zoning ordinance. Angeli asked what the major concerns were regarding the ordinance. Milton stated that the non-conforming lots in the zoning districts, especially AF, was a primary consideration. He

added that the overlay districts, especially in the business and high population area, and home occupations would be looked at. He added that the Zoning Board of Appeals should have some input into the process.

Board Comments (Dave Lynch)

No comments

Angeli

No comments

Wietek-Stephens

Requested that Throenle change the order on the agenda to move the staff comments ahead of the public hearing. She felt this would provide a framework for subsequent applicant and public comments.

X. Informational Items and Correspondence

A. Township Board Minutes – 05.09.22 draft

B. Minutes – Planning Commission 04.18.22 draft

C. Township newsletter – April 2022

XI. Adjournment

Wietek-Stephens adjourned the meeting at 7:54 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 July 28, 2022.

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 August 25, 2022.

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 September 22, 2022.

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 October 27, 2022.

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 17, 2022.

The meeting was cancelled.