

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING
WEDNESDAY, JANUARY 24, 2018 AT 7:00PM
ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

Members Present: Charles Freese, Ralph Hemmer, John Moore, John Thompson, Nini Sherwood
Members Absent: None
Others Present: Scott McNeil, Eric Boyd, Carl Muscott, Russell Crawford, Cheryl Crawford, Karen Johnson, Cal Gouine, A. Savenkoff, Stuart Gage, Pat Gage, Michelle Durst, Terry Jo Ayotte, Matthew Berg, Alisha Berg, Cam Cavitt, Jeanette Mateer, Mike Sova

The meeting was called to order by Chairperson Freese at 7:00pm.

PLEDGE OF ALLEGIANCE

Chairperson Freese led the Pledge of Allegiance.

APPROVAL OF AGENDA

The agenda was presented. **Motion** by Mr. Moore, seconded by Ms. Sherwood, to accept the agenda as presented. Motion carried unanimously.

APPROVAL OF MINUTES

Minutes from the Wednesday, November 22, 2017 Zoning Board of Appeals meeting were presented. **Motion** by Mr. Moore, seconded by Mr. Thompson, to approve the minutes as presented. Motion carried unanimously.

PUBLIC HEARING & ACTION ON REQUESTS

Larry Brown – Requests a 160 square foot minimum floor area variance for a dwelling in an Agriculture and Forestry Management (M-AF) zoning district. The property is located at 9365 Brudy Road, Ellis Township, Section 19, parcel #210-019-200-001-08. A 720 square foot minimum floor area is required for a dwelling in this zoning district.

Mr. McNeil stated that Mr. Brown is requesting a 160 square foot minimum floor area variance for a dwelling in an Agriculture and Forestry Management zoning district. Mr. McNeil stated that the minimum floor area requirement for a dwelling is 720sf and the dwelling that Mr. Brown is proposing is 560sf thus requiring a 160sf variance.

Mr. Brown stated that this tiny home is all that he and his wife need. Mrs. Brown explained that this is what they could afford for a dwelling. Mrs. Brown explained that they did not know that there is a minimum dwelling size requirement in the Zoning Ordinance.

Mr. Freese asked for public comments. Mr. Muscott stated that he has been an advocate for smaller tiny homes for two years. Mr. Muscott stated that the Department of Building Safety will allow a smaller square footage and it will be based on room size. Mr. Muscott read from the Joint Statement Of The Department Of Housing And Urban Development And The Department Of Justice regarding State And Local Land Use Laws And Practices And The Application Of The Fair Housing Act dated November 10, 2016, “Examples of land use practices that violate the Fair Housing Act under a discriminatory effects standard include minimum floor space or lot size requirements that increase the size and cost of housing if such an increase has the effect of excluding persons from a locality or neighborhood because of their membership in a protected class, without a legally sufficient justification. Similarly, prohibiting low-income or multifamily housing may have a discriminatory effect on persons because of their membership in a protected class and, if so, would violate the Act absent a legally sufficient justification.” Mr. Muscott stated that we have to be aware within the county of the median home price. Mr. Muscott stated that Emmet County’s median home price was just published and it was \$238,000. Mr. Muscott stated that Otego County’s median home price last year was \$129,000. Mr. Muscott stated that excludes a lot of our houses from affordable housing. Mr. Brown stated that he believes Cheboygan County’s median home price was \$160,000.

Mr. Cavitt stated that he is a realtor and works in the housing industry. Mr. Cavitt stated that there is not enough affordable housing in Cheboygan County. Mr. Cavitt stated that it may not be at a crisis level but some people would say it is if they do not have a place to live. Mr. Cavitt stated that eliminating the 720sf requirement would be a tool to help smaller homes. Mr. Cavitt stated that Cheboygan County was approached before for a smaller home site condo and was unable to do so because of the 720sf requirement. Mr. Cavitt stated that he knows that there are apartments and homes within the City of Cheboygan that have less than 720sf.

Mr. Berg stated that he created a Facebook page for this cause and there were 138 comments and 20,000 views. Mr. Berg stated that the residents in Cheboygan County believe that the applicant should be allowed to stay in the home.

Public comment closed.

Mr. Freese stated that he is also on the Cheboygan County Planning Commission. Mr. Freese stated that this topic has been discussed at a recent Board of Commissioners and Planning Commission joint meeting. Mr. Freese stated that the Board of Commissioners requested that the Planning Commission go ahead and look at smaller homes. Mr. Freese stated that he does not know what this will result in but this subject will be discussed by the Planning Commission in the future. Mr. Freese stated that the Zoning Board of Appeals is faced with the regulation as it is currently written.

Mr. Moore stated that guest houses are allowed on properties with other dwellings and they have to be under 600sf. Mr. Moore stated that there is an understanding that under 600sf is a livable size, but the Zoning Board of Appeals is not faced with that situation.

Mr. Thompson stated he owns property in Indian River and at the back of the property there is a 480sf cabin. Mr. Thompson stated that this cabin does not connect to the rest of the lodge, but in the past, people lived in cabins that were anywhere from 300sf – 600sf. Mr. Freese noted that when M-27 was the primary north/south route to the Straits, there were a lot of cabins that were less than 720sf and rental cabin colonies. Mr. Freese believes that some of these cabins are being used for permanent housing today.

Mr. Freese asked for public comments. An audience member stated her concerns that the variance request would be denied and that the applicant would be homeless. The audience member stated that the applicant's home is cute and functional. The audience member suggested tabling the variance request until summer so that the applicant will not be homeless in the winter. Discussion was held.

An audience member stated that he is a builder from Presque Isle County and questioned what year the 720sf minimum comes from in the building code. Mr. Freese stated that it is in the Cheboygan County Zoning Ordinance #200. Discussion was held regarding the Planning Commission discussing smaller homes in the future. Public comment closed.

The Zoning Board of Appeals added the following to the General Findings #4, "A structure 11.43ft. longer or 3.43ft. wider would have satisfied the 720sf minimum requirement.". The Zoning Board of Appeals reviewed the Findings of Fact under Section 23.5.4. **Motion** by Mr. Moore, seconded by Mr. Hemmer, to deny the variance request based on the General Findings and the Findings of Fact under Section 23.5.4. Motion carried unanimously.

Cherry Capital Connection, LLC and Wallace and Anne Savenkoff – Requests a use variance to place a 107 ft. tall communication tower in a Lake and Stream Protection (P-LS) zoning district. The property is located at 5339 Twin Trail Road, Grant Township, Section 2, parcel 151-002-300-001-00. Communication towers are not permitted in this zoning district.

Mr. McNeil stated that this is a use variance request for a communication tower in a Lake and Stream Protection Zoning District. Mr. McNeil stated that communication towers are not permitted in this zoning district.

Mr. Maylone explained that he is representing Cherry Capital Connection. Mr. Maylone stated that he has two towers that were approved for the Ridge Run area which is successfully bringing high-speed internet and telephone service to an underserved area. Mr. Maylone stated that during the process they were approached by many Grant Township residents regarding high-speed internet and telephone service. Mr. Maylone stated at the last Grant Township meeting the township agreed to lease Cherry Capital Connection land at the township hall for a tower. Mr. Maylone stated that 40 reservation forms have been submitted, and they are all from residents in the Twin Lakes area which is heavily forested and difficult to access. Mr. Maylone stated that there is a large mountain in the way which makes it difficult to get to the area. Mr. Maylone stated that the tower will sit on one acre and will be triangular, 12 inches on a side. Mr. Maylone stated that the Wallace and Ann Savenkoff have offered their property which is 12.68 acres but is in a zoning district that does not allow towers. Mr. Maylone stated that this parcel is uniquely positioned at the end of the lake so it is in a good line of sight to the residents who are not currently able to get service. Mr. Maylone stated that he has not received any complaints from the neighbors. Mr. Maylone stated that they try to use land that does not require a variance but this is a unique area that is underserved and is surrounded by state land which further reduces the options. Mr. Maylone stated that many of the lots are too small to hold any type of structure. Mr. Maylone stated that there are a number of unique qualities. Mr. Maylone stated that he believes this parcel has many of the characteristics that the Zoning Board of Appeals is looking for in granting the variance. Mr. Maylone stated that the tower is 107ft. and based on the structural analysis, it

could move 40% closer to the property line if required. Mr. Maylone stated that they already have gone through FAA and MDOT. Mr. Maylone stated that there is an airport in the area so there are no barriers from the federal or state level. Mr. Maylone asked the Zoning Board of Appeals to consider granting the variance to continue their efforts to bring good high-speed internet and telephone service to Cheboygan County.

Mr. Freese asked for public comments. Ms. Mateer stated that she lives on Twin Lakes and stated that she currently has internet through Hughes Net which offers satellite internet. Ms. Mateer stated that she needed internet in 2003 for her work. Ms. Mateer stated that she survived with internet through HughesNet, but she has been working with Connect Michigan to secure better service. Ms. Mateer stated that the township surveyed the residents a couple of years ago and found that 160 of 900 homes wanted a better internet. Ms. Mateer stated that Connect Michigan has brought many vendors to the township to discuss possible options. Ms. Mateer stated that she contacted Cherry Capital Connection to discuss bringing internet to Grant Township. Ms. Mateer stated that this tower will enable the township to have better service, and she is hoping that the Zoning Board of Appeals will grant this variance request.

Mr. Gage stated that he is from Twin Lakes and is also a HughesNet user as well. Mr. Gage stated that he is not able to connect to a server down south to access the files that he needs. Mr. Gage stated that he has to drive four hours down and four hours back to get the data that he needs. Mr. Gage stated that he is a researcher and it is a huge inconvenience. Mr. Gage stated that he looking forward to better internet service.

Mr. Sova stated that he was the one who originally contacted Mr. Maylone for internet service. Mr. Sova stated that the business is solid and the internet runs great with no outages. Mr. Sova stated that this is a huge benefit for Cheboygan County.

Public comment closed.

The Zoning Board of Appeals added the following to the General Findings:

5. This tower would provide the opportunity for wireless communications for all other parcels within its transmission radius.
6. State land on the south and west preclude location of the tower further from Twin Lakes.
7. Provision of wireless communications to all residents of Cheboygan County is one of the major goals stated in the Cheboygan County Master Plan.

The Zoning Board of Appeals reviewed and approved the Findings of Fact under Section 23.5.3. **Motion** by Mr. Moore, seconded by Mr. Hemmer, to approve the variance request based on the General Findings and the Findings of Fact under Section 23.5.3. Motion carried unanimously.

UNFINISHED BUSINESS

No comments.

NEW BUSINESS

Annual Meeting

Mr. McNeil stated that as required in the by-laws, the Zoning Board of Appeals is to have an annual meeting once a year which requires the election of officers and setting of the regular meeting schedule for the year. Mr. McNeil stated that there are no conflicts with the regular meeting schedule. **Motion** by Mr. Moore, seconded by Ms. Sherwood, to nominate Mr. Freese as chairperson. Motion carried unanimously. **Motion** by Mr. Moore, seconded by Ms. Freese, to nominate Mr. Moore as vice-chairperson. Motion carried unanimously. **Motion** by Mr. Moore, seconded by Ms. Hemmer, to nominate Mr. Thompson as secretary. Motion carried unanimously. **Motion** by Mr. Moore, seconded by Ms. Sherwood, to maintain the existing meeting schedule (fourth Wednesday of each month) for 2017. Motion carried unanimously.

ZBA COMMENTS

Discussion was held regarding the Planning Commission moving forward with a discussion regarding smaller homes. Mr. McNeil stated that this will be a discussion at the next Planning Commission meeting. Mr. Moore stated that the Brown's home is very attractive, and he would be happy to have it next to his house in the Lake and Stream Protection zoning district. Mr. Freese stated that the Planning Commission should also be considering towers in the Lake and Stream Protection zoning district. Discussion was held.

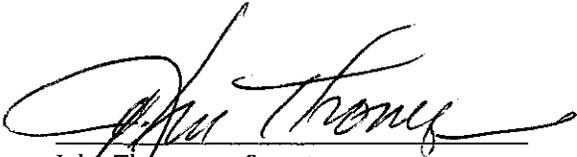
Mr. Freese stated that it has been a pleasure working with Mr. McNeil. Mr. McNeil stated it has been his honor to be the staff person for the Zoning Board of Appeals and is proud of the work that has been done. Discussion was held.

PUBLIC COMMENTS

Mr. Muscott stated he appreciates the good service that Cherry Capital Connection is providing for Cheboygan County. Mr. Muscott stated he is not aware of state land regulations that will not allow towers. Mr. Muscott asked if the county will look into this regulation. Mr. Muscott stated that he looked at the smaller home and it is an Amish built shed which is a fine looking building. Mr. Muscott stated that a 12ft. addition could be added to the smaller home.

ADIURN

Motion by Mr. Moore to adjourn. Motion carried. Meeting adjourned at 7:40pm.



John Thompson, Secretary