

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING
WEDNESDAY, FEBRUARY 26, 2014
ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING**

Members Present: Charles Freese, Ralph Hemmer, Mary Street

Members Absent: John Moore, Chris Brown

Others Present: Scott McNeil, Tony Matelski, Russell Crawford, Cheryl Crawford

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. Hemmer, seconded by Ms. Street, to accept the agenda as presented. Motion carried unanimously.

APPROVAL OF MINUTES

Minutes from the January 22, 2014 Zoning Board of Appeals meeting were presented. **Motion** by Mr. Hemmer, seconded by Ms. Street, to approve the minutes as presented. Motion carried unanimously.

PUBLIC HEARING & ACTION ON REQUESTS

Eric Freedman/Thomas Preston - Requests a 5.2ft. side setback variance for a power lift/elevator in a Lake and Stream Protection (P-LS) zoning district. The property is located at 7604 W. M-68, Tuscarora Township, Section 26, parcel #161-M60-000-003-00. An 8 ft. side setback is required in this zoning district.

Mr. McNeil explained that the request is to place a power lift/elevator 2.8ft. from the side property line where there is an 8ft. side setback requirement in the Lake and Stream District.

Mr. Preston presented pictures of the site and the retaining wall. Mr. Preston stated the elevator will slope down the hill in a northwesterly direction which will bring it out of the 8ft. setback area after approximately 10ft. Mr. Preston stated the elevator will not be located in the setback area all of the way down the hill. Mr. Preston stated topography (the bluff) is the physical condition necessitating the variance request. Mr. Preston stated the elevator will be for a mother and a mother-in-law who have had knee and hip replacements and for a son in law who is a leg amputee. Mr. Preston referred to the question on the application asking if this is a self-created variance. Mr. Preston stated the need for the variance is to put the elevator in the only location on the bluff where there is not a retaining wall. Mr. Preston stated the other side of the property is used for the stairway. Mr. Preston stated the retaining wall was put in while the home was being constructed to prevent the bank from eroding away from the foundation. Mr. Preston stated that he does not want to jeopardize the integrity of the wall by building a deck or landing over the top of it or by digging a foundation to support the elevator. Mr. Preston stated compliance with the side setback at the top of the bluff would require the removal of three large trees and this would jeopardize the integrity of the retaining wall due to the root base that has been established. Mr. Preston referred to the question on the application asking if the request will have an adverse impact on the surrounding properties or area and stated that these types of elevators are very eye appealing and are constructed with a skeleton like appearance lying very close to the ground. Mr. Preston stated the elevator will be less visible by the neighbors on the east side of the property. Mr. Preston presented a picture of a completed project in Grand Haven.

Ms. Street asked if the Zoning Board of Appeals members can depend on a drawing and photos to make a decision when they are not able to inspect the site due to weather. Ms. Street questioned if this will set a precedent for the future. Mr. Preston stated an engineering company surveyed the property and prepared the site plan. Mr. Preston stated the engineering company found the rebar marking the property line and this is an accurate drawing. Ms. Street asked if the Zoning Board of Appeals should do site visits or should they depend on the applicant to provide all of the evidence. Ms. Street asked if the Zoning Board of Appeals has made a decision on a request when they were not able to inspect the site. Mr. McNeil stated the Zoning Board of Appeals can make a decision based on the evidence presented or there is the option to table for further information if necessary. Mr. Freese stated this will not set a precedent for anything in the future. Mr. Freese stated if this was a hand drawn site plan he would be opposed to making a decision tonight, however,

there is a registered land surveyor's drawing that should accurately reflect the site. Mr. Freese stated the applicant has also presented pictures showing the retaining wall. Mr. Freese stated the Disability Act is also a consideration in this decision. Ms. Street asked if there was any correspondence. Mr. McNeil stated no. Discussion was held. There were no public comments.

Mr. Hemmer stated there was a previous request that was similar to this request. Mr. Freese stated the parcel was located to the west of this site. Mr. Freese stated at the time there was a discussion on reviewing the regulations regarding lifts of this type. Mr. McNeil stated they are allowed in the front setback area and this is the variance request for the side setback.

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

7. Location of the lift is dependent on its location to trees already established and the desire to not remove the trees due to the stability of the bank.
8. The lift is considered necessary under Americans with Disabilities Act.
9. Decisions made are based and dependent on the accuracy of the engineered drawings furnished with the application.

The Zoning Board of Appeals reviewed and approved the Specific Findings of Fact under Section 23.5.4. **Motion** by Ms. Street, seconded by Mr. Hemmer, to approve the variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried. 3 Ayes (Street, Hemmer, Freese), 0 Nays, 2 Absent (Brown, Moore)

UNFINISHED BUSINESS

No comments.

NEW BUSINESS

No comments.

ZBA COMMENTS

No comments.

PUBLIC COMMENTS

No comments.

ADJOURN

Motion by Mr. Hemmer, to adjourn. Motion carried. Meeting adjourned at 7:29pm.

Mary Street

Mary Street, Secretary