



# CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

870 SOUTH MAIN ST. ■ PO Box 70 ■ CHEBOYGAN, MI 49721  
PHONE: (231)627-8489 ■ FAX: (231)627-3646

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING  
WEDNESDAY, SEPTEMBER 26, 2018 AT 7:00 P.M.  
ROOM 135 – COMMISSIONERS ROOM  
CHEBOYGAN COUNTY BUILDING, 870 S. MAIN ST., CHEBOYGAN, MI 49721**

## AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES

PUBLIC HEARING AND ACTION ON REQUESTS

1. **Zoning Board of Appeals Interpretation** - A request for an interpretation by the Zoning Board of Appeals to determine if Gratiot St. in Tuscarora Township is a minor residential street for the purpose of serving a future proposed Special Use for a restaurant/bar. Per Section 18.7.f. of the Zoning Ordinance, minor residential streets shall not be used to serve as access to uses having larger area-wide patronage.
2. **Shorestone Custom Builders/Mansfield** – The applicant requests approval of an approximately 103-ft. front setback variance to construct a new porch on a waterfront property in a Natural Rivers (P-NR) zoning district. Per Section 17.1 of the Zoning Ordinance, a minimum of 200-ft. of front setback is required for waterfront lots in the P-NR zoning districts. The subject property is located at 4707 Big Sky Trail in Koehler Township, Parcel No. 172-P23-000-024-01 (Plat of Pigeon River Woods; Lot 24), Section 27.

UNFINISHED BUSINESS

NEW BUSINESS

ZBA COMMENTS

PUBLIC COMMENTS

ADJOURN

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING**  
**WEDNESDAY, AUGUST 22, 2018 AT 7:00PM**  
**ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING**

**Members Present:** Charles Freese, Ralph Hemmer, John Moore, Nini Sherwood

**Members Absent:** John Thompson

**Others Present:** Michael Turisk, Cal Gouine, Carl Muscott, Dian Praither, Ruth Wolf, Russell Crawford, Cheryl Crawford, Brenda Archambo, Art Archambo, Mark E. Markiewicz, Patricia Markiewicz

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. 4 Ayes (Freese, Moore, Hemmer, Sherwood), 0 Nays, 1 Absent (Thompson)

**APPROVAL OF MINUTES**

Minutes from the July 25, 2018 Zoning Board of Appeals meeting were presented. **Motion** by Mr. Moore, seconded by Mr. Hemmer, to approve the minutes as presented. Motion carried. 4 Ayes (Freese, Moore, Hemmer, Sherwood), 0 Nays, 1 Absent (Thompson)

**PUBLIC HEARING & ACTION ON REQUESTS**

**Gil Archambo** - Requests an approximately 3ft. front setback (at its closest) to construct a deck and lean-to in a Lake and Stream Protection (P-LS) zoning district. A 40ft. front setback is required in the Lake and Stream Protection zoning districts, per Section 17.1 of the Zoning Ordinance. The property is located at 6325 Arthur St., Tuscarora Township, Section 24, Parcel #161-024-200-007-00.

Mr. Turisk reviewed the information included in the staff report.

Mr. Archambo explained that the area in which he proposes for the construction previously was occupied by two large cedar trees which he had removed and the resulting depressions filled with sand and covered by indoor/outdoor carpet. He wished to place a covered deck over this area 9' x 22'.

Mr. Freese asked for public comments. There were no public comments. Public comment closed.

Mr. Freese explained that this is a situation with a legal nonconforming structure on a legal nonconforming lot and the applicant is requesting a variance to the 40ft. front setback from the water. Mr. Freese stated that with the water on three sides and a neighbor's dwelling on the remaining side, if no variance were granted, the total buildable area on the parcel would be approximately 95sf. The present building is approximately 525sf and allowing the variance for the addition would allow the dwelling to meet the 720sf minimum to be conforming. Mr. Freese stated that most parcels in the area have structures built close to or at the ordinary high water mark.

Mr. Freese added the following to the General Findings: 6. The addition of the lean to would bring the present dwelling of 595sf into compliance with the 720sf minimum for a dwelling. The Zoning Board of Appeals approved the Specific Findings of Fact under Section 23.5.4. **Motion** by Mr. Moore, seconded by Mr. Hemmer, to grant the variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried. 4 Ayes (Freese, Moore, Hemmer, Sherwood), 0 Nays, 1 Absent (Thompson)

**Ruth Wolf** – Requests a variance from the minimum lot width (150ft.) and lot size (1 acre) standards for properties zoned Agriculture and Forestry Management (M-AF), per Section 17.1 of the Zoning Ordinance. The applicant seeks to create a parcel with reduced a reduced lot width and lot size. The property is zoned Agriculture and Forestry Management and is located at 4359 Wilson Rd., Tuscarora Township, Section 25, Parcel #161-025-200-050-04.

Mr. Turisk reviewed the information included in the staff report.

Ms. Praither explained how the original parcel owned by her mother and father had three parcels split from the original parcel. Her father subsequently had one of the parcels closest to the original dwelling recombined into the original parcel and that it was no desired to reestablish this parcel.

Mr. Freese asked if other lot configurations had been considered to avoid the need for the variance. He explained how a lot could be configured with one acre, the dwelling on the lot and the necessary 150ft of frontage by splitting 50ft off the frontage from the main parcel or by establishing a rear lot of one acre with only a driveway easement to the road.

Ms. Praither asked whether the lot could be rezoned to Residential to eliminate the need for a variance. Ms. Praither stated she had talked of this possibility with Mr. Ridley, Tuscarora Township Supervisor, who had suggested this possibility. She indicated she would also like to consider a division of her parcel, which is adjacent to the main parcel in question in the future.

Mr. Freese stated that rezoning all the parcels involved could be considered if it were agreeable to all the property owners and formally requested. He asked if Ms. Praither would like to have the variance request tabled or whether she would rather have the variance request continued at this time. Ms. Praither conferred with Ms. Wolf and indicated she would like to have the variance request tabled until such time as action on possible rezoning could be taken.

**Motion** by Mr. Freese seconded by Mr. Moore, to table the variance request. Motion carried. 4 Ayes (Freese, Moore, Hemmer, Sherwood), 0 Nays, 1 Absent (Thompson)

**United Auto Workers Education Center** – Requests a variance from the maximum 18 sq.-ft. free-standing sign surface area standard in the Agriculture and Forestry Management (M-AF) zoning districts, per Section 17.19.8. of the Zoning Ordinance. The applicant requests an approximately 45 sq.-ft. free-standing sign surface area. The property is located at the northeast corner of Maxon Rd. and N. Allis Hwy., (addressed as 2000 Maxon Rd.), Waverly Township, Section 13, Parcel #182-013-100-001-01.

Mr. Turisk reviewed the information included in the staff report.

No representative was present from the United Auto Workers Education Center.

Mr. Freese asked for public comments. Mr. Muscott stated that setback requirements for signage at road intersections to prevent interference with visibility were not addressed. Public comment closed.

Mr. Moore stated he would like to know what the sign actually looks like since the overall size may not all be considered as part of the 18sf allowed but rather be part of the frame or support structure. Mr. Turisk stated that a picture of the actual sign had been requested but not received.

Mr. Freese stated that in view of the fact that no representative of the UAW had elected to attend the meeting and no picture or diagram of the proposed sign had been furnished, the requested variance of 27sf would be considered as requested.

Mr. Freese added the following to the General Findings: 4. The location of the sign is at the northeast corner of a four way stop intersection. The Zoning Board of Appeals reviewed the Findings of Fact and the Specific 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 Specific Findings of Fact under Section 23.5.4 with the requirement that a letter be sent to the applicant clearly explaining that the 18sf limitation refers to the actual sign board message area and not the area which includes the sign's supporting structure. Motion carried. 4 Ayes (Freese, Moore, Hemmer, Sherwood), 0 Nays, 1 Absent (Thompson)

#### **UNFINISHED BUSINESS**

No comments.

#### **NEW BUSINESS**

Ms. Gardner presented information on Citizen Planner training session open to Zoning Board of Appeals members.

#### **ZBA COMMENTS**

No comments.

**PUBLIC COMMENTS**

No comments.

**ADJOURN**

**Motion** by Ms. Moore to adjourn. Motion carried. Meeting adjourned at 7:49 pm.

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John Thompson, Secretary

DRAFT



# CHEBOYGAN COUNTY

## COMMUNITY DEVELOPMENT DEPARTMENT

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CHEBOYGAN COUNTY BUILDING ■ 870 S. MAIN STREET, PO BOX 70 ■ CHEBOYGAN, MI 49721  
PHONE: (231)627-8485 ■ FAX: (231)627-3646  
[www.cheboygancounty.net/planning/](http://www.cheboygancounty.net/planning/)

**To:** Zoning Board of Appeals

**From:** Michael Turisk, Planning Director

**Subject:** A request for an interpretation of the term “minor residential street” for the purpose of Special Use Permit application review for a future proposed Special Use for a restaurant/bar.

**Date:** September 19, 2018 for the September 26, 2018 regular meeting.

A question has arisen as to whether Gratiot St. in Tuscarora Township is a “minor residential street” given a submitted Special Use application for a bar/restaurant in Tuscarora Township. Section 18.7.f. of the Zoning Ordinance (Standards for Special Use Approval) indicates that “Minor residential streets shall not be used to serve as access to uses having larger area-wide patronage.” The subject property for which the restaurant/bar project is proposed is largely zoned Lake and Stream Protection (P-LS) and addressed/located at 3249 Gratiot St. (Parcel #162-019-100-032-00). Gratiot St. is, however, lies within the Commercial Development (D-CM) zoning district corridor along S. Straits Hwy.

The existing development in the *immediate* area is largely residential, with commercial-type uses nearby, including the Indian River Marina. Many of these residential uses are on properties zoned Commercial Development and proximate to the Commercial Development corridor along S. Straits Hwy.

Therefore, the question for the Zoning Board of Appeals to consider is:

*For the purpose of Special Use application review for the proposed restaurant/bar is Gratiot St. considered a “minor residential street?”*

The Zoning Ordinance does not provide a definition for a “minor residential street,” nor does the County Road Commission use such terminology in its classification scheme; rather, Gratiot St. is classified as a local road, the lowest classification in the County’s road hierarchy.

**CHEBOYGAN COUNTY  
PLANNING & ZONING DEPT.**  
PO Box 70  
CHEBOYGAN, MI 49721  
(231) 627-8489 (TELEPHONE)  
(231) 627-3646 (FAX)

**NOTICE OF APPEAL APPLICATION**

\$110.00 APPLICATION FEE

RECEIPT #:	
CASH/CHECK:	CK# 917
ACTION / DATE:	

*THE RIVER DECK  
SUBMITTED 8.31*

**PLEASE PRINT**

**PROPERTY LOCATION**

Address <i>3249 GRATIOT</i>	City / Village <i>TUSCARORA</i>	Township / Sec. <i>19</i>	Zoning District <i>PL-S</i>
Property Tax I.D. (Parcel) Number <i>162-019-100-032-00</i>	Subdivision or Condo. Name / Plat or Lot No.		

**APPLICANT**

Name <i>DAVID MODADE</i>	Telephone <i>231-557-3304</i>	Fax	
Address <i>10666 N. LINDEN RD.</i>	City & State <i>CLIO, MI</i>	Zip Code <i>48420</i>	E-Mail <i>rgarchs@gmail.com</i>

**OWNER (If different from applicant)**

Name <i>BRANDON SUCHLEY / RIVER DECK</i>	Telephone <i>906-203-0762</i>	Fax	
Address <i>5860 SHORE ORCHIS</i>	City & State <i>CAYLOR, MI</i>	Zip Code <i>49735</i>	

Detailed directions to site, including nearest crossroad:

*SOUTH ON S STRAITS TO HEMLOCK, TURN LEFT &  
GO TO WHERE HEMLOCK BECOMES GRATIOT RD.  
ON CURVE, PROPERTY ON THE RIGHT.*

**Please Note:** All applicable questions must be answered completely. If additional space is needed, number and attach additional sheets.

**I. Property Information**

- A. List all known deed restrictions: *NONE*
- B. This property is  unplatted,  platted,  will be platted. If platted, name of plat \_\_\_\_\_
- C. Present use of the property is: *VACANT*
- D. A previous appeal has / has not (circle one) been made with respect to these premises in the last one (1) year. If a previous appeal, rezoning or special use permit application was made, state the date \_\_\_\_\_, nature of action requested \_\_\_\_\_, and the decision \_\_\_\_\_.
- E. Attach a site plan drawn per the attached directions.

II. **Detailed Request and Justification** (Fill in the appropriate following subsection A, B or C completely.)

**A. Interpretation of Zoning Ordinance or Map**

1. The appellant respectfully requests the Board of Appeals make an interpretation of:

- a. The provisions of Article 18 Section 18.7(f) of the Cheboygan County Zoning Ordinance.
- b. The location of district boundaries on the Cheboygan County Zoning Map as applied to the property described in this application.
- c. Other \_\_\_\_\_

2. Please describe in detail the nature of the problem to be interpreted and the reason for the request.

GRATIOT RD. IS OFFICIALLY CLASSIFIED AS "MINOR" BUT WE DISAGREE AS IT SERVES COMMERCIAL PROPERTY (INDIAN RIVER MARINA) W/ TRUCK TRAFFIC - WE CANNOT RE-DESIGNATE THE TYPE OF ROAD THUS VARIANCE IS CRITICAL TO OPEN & OPERATE THIS ESTABLISHMENT.

**B. Appeal from Administrative or Commission Decision**

The appellant respectfully requests the Board of Appeals to reverse / modify the Zoning Administrator's or Planning Commission's decision on Application No. \_\_\_\_\_ or meeting date \_\_\_\_\_. It is alleged that the Administrator or Commission erred in the interpretation of Article(s) \_\_\_\_\_, Section(s) \_\_\_\_\_; the order, requirement, decision, or determination regarding the issuance of a permit and that reversal / modification of said decision should be granted because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Specific decision sought:

\_\_\_\_\_  
\_\_\_\_\_

**C. Other Authorized Review**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\* The Zoning Board of Appeals members will visit the site prior to the public hearing. Please clearly stake the corners of the proposed building or addition and the nearest property line. **Does the property owner give permission for County zoning officials to enter his or her property for inspection purposes?**  Yes  No

Owner's Signature [Signature] Date 8/23/2018

**AFFIDAVIT**

The undersigned affirms that the information and plans submitted in this application are true and correct to the best of the undersigned's knowledge.

Applicant's Signature [Signature] Date 8.23.18

1. Property Line dimensions and Property shape.
2. Front, Rear, & Side setback dimensions.
3. Location, shape & size of all existing & proposed buildings on property.
4. Location of all drives and parking areas.
5. Rivers, lakes, wetlands, or streams within 500 ft.

6. Parcels under separate ownership therein.
7. Road Right-Of-Way (ROW); access or utility easements.
8. The existing and intended use of the lot and structures.
9. Place North arrow in space provided.
10. Other essential zoning information.

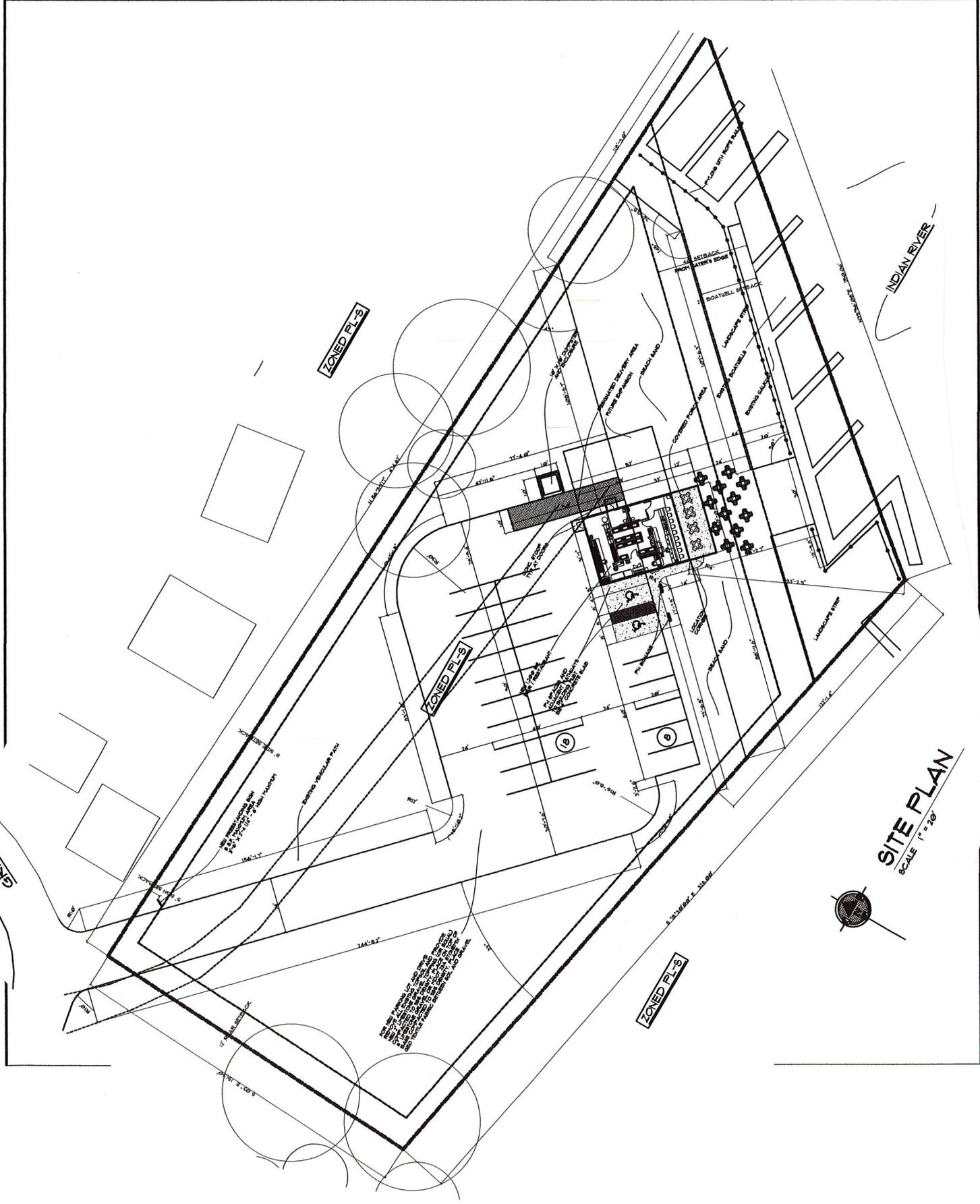
**Distance from property line to proposed structure:**

Front: 56-3 Rear: 250-2 Side: 88-11 Side: 108-6

**Zoning District:**

PL-S

**North:**



**SITE PLAN**  
SCALE 1" = 20'

2007



CONTACT DEQ; ARMY CORP RE: BATTLES

# CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

Shorestone Custom Builders / Jeff and Kimberly Mansfield.

## Exhibit List

1. Cheboygan County Zoning Ordinance
2. Cheboygan County Master Plan
3. Variance Application (3 Pages)
4. Aerial Photo (1 Page)
5. Mailing List (2 Pages)
6. Staff Report (5 Page)
- 7.
- 8.
- 9.
- 10.
- 11.
- 12.
- 13.
- 14.

Note: Zoning Board of Appeals members have exhibits 1 and 2.

**CHEBOYGAN COUNTY  
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(231) 627-8489 (Telephone)  
(231) 627-3646 (Fax)

**DIMENSIONAL VARIANCE APPLICATION**

\$110.00 APPLICATION FEE

RECEIPT #:	\$110.00 6444
CASH/CHECK:	2351
ACTION / DATE:	

**PLEASE PRINT**

**PROPERTY LOCATION**

Address 4707 BIG SKY TRAIL	City / Village INDIAN RIVER	Township / Sec. 35N / 26,27,35	Zoning District NATURAL RIVER
Property Tax I.D. (Parcel) Number 172-P23-000-024-01	Subdivision or Condo. Name / Plat or Lot No. PLAT OF PIGEON RIVER - LOT 24		

**APPLICANT**

Name SHORESTONE CUSTOM BUILDERS	Telephone 231-238-8466	Fax 231-238-4966	
Address 5831 S. STRAITS HWY.	City & State INDIAN RIVER, MI	Zip Code 49749	E-Mail

**OWNER (If different from applicant)**

Name JEFF & KIMBERLEY MANSFIELD	Telephone 313-215-6598	Fax	
Address 5115 ASHTON COURT	City & State BRIGHTON, MI	Zip Code 48116	

Detailed directions to site, including nearest crossroad:

TAKE STRAITS HWY SOUTH TO M33. TURN LEFT ONTO M33. TURN RIGHT ONTO M68. RIGHT ONTO

ONAWAY RD (DIRT ROA). RIGHT TOWARDS ROBERTS LAKE RD. BEAR LEFT ONTO ROBERTS LAKE RD. TURN

LEFT ONTO BIG SKY TRAIL. HOUSE WILL BE ON THE RIGHT.

**Please Note:** All applicable questions must be answered completely. If additional space is needed, number and attach additional sheets.

**I. Property Information**

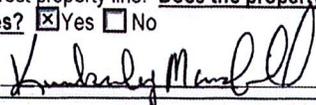
- A. List all known deed restrictions: \_\_\_\_\_
- B. This property is  unplatted,  platted,  will be platted. If platted, name of plat PLAT OF PIGEON RIVER
- C. Present use of the property is: RESIDENCE - SEASONAL
- D. A previous appeal has / has not (circle one) been made with respect to these premises in the last one (1) year. If a previous appeal, rezoning or special use permit application was made, state the date \_\_\_\_\_, nature of action requested \_\_\_\_\_, and the decision \_\_\_\_\_.
- E. Attach a site plan drawn per the attached directions.

II. Detailed Request and Justification

1. State exactly what is intended to be done on, or with the property which necessitates a variance from the Zoning Ordinance.  
BUILD NEW SUPPORTS AND NEW PORCH, WHERE OLD PORCH WAS. HOUSE WAS BUILT IN 1970 AND  
THE CURRENT SETBACKS WERE NOT IN PLACE THEN. THE PORCH IS LESS THAN 200 FT FROM THE  
PIGEON RIVER (151.8FT).
  
2. A dimensional variance may be granted by the Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following. All variance decisions made by the Zoning Board of Appeals are based on the following five (5) standards of the Cheboygan County Zoning Ordinance. Please explain how the request meets each standard.
  - a. That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic difficulty.  
THE HOUSE WAS BUILT BEFORE THE ZONING REQUIREMENTS WERE IN PLACE.  
WE ARE MAKING VERY MINIMAL CHANGES TO THE EXTERIOR, ONLY REPLACING THE PORCH.  
WHICH ACCORDING TO THE CURRENT REQUIREMENTS WILL BE TOO CLOSE TO THE RIVER.
  
  - b. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).  
WHEN IT WAS ORIGINALLY BUILT, THEY FOLLOWED THEIR CURRENT GUIDELINES WHICH HAVE  
SINCE CHANGED. THIS VARIANCE IS NOT DUE TO ANYONE NEGLIGENCE. IT IS ONLY NECESSARY  
DUE TO THE FACT THAT IT HAS BEEN APPROX. 48 YEARS AND THERE ARE NEW REQUIREMENTS.
  
  - c. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome  
THE HOUSE ITSELF IS NOT MOVING AND IS TOO CLOSE. SO AS IT STANDS THEY WOULD HAVE  
TO GO WITHOUT A FRONT PORCH/ENTRY ON THEIR HOME FOR THE REMAINDER OF THEIR  
RESIDENCY. THEREFORE MAKING IT UNNECESSARILY BURDENSOME WITHOUT THE VARIANCE.
  
  - d. That the requested variance is the minimum variance necessary to grant the applicant reasonable relief as well as to do substantial justice to other property owners in the district.  
IT IS IN A REASONABLE LOCATION IN REGARDS TO THE RIVER. THE PORCH IS LOCATED ON THE  
ROADSIDE OF THE HOME. THE FOOTPRINT OF THE PORCH IS MINIMAL.
  
  - e. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.  
THE FRONT PORCH/ENTRY IS ESSENTIAL AND WILL ENHANCE THE CURB APPEAL OF THE HOME.  
IN TURN HELP INCREASE THE PROPERTY VALUE. THE WORK AREA IS VERY MINIMAL AND WILL  
NOT IMPACT THE PIGEON RIVER OR SURROUNDING PROPERTY OWNERS.

The Zoning Board of Appeals members will visit the site prior to the public hearing. Please clearly stake the corners of the proposed building or addition and the nearest property line. Does the property owner give permission for County zoning officials to enter his or her property for inspection purposes?  Yes  No

Owner's Signature

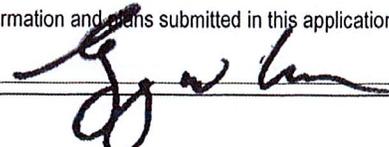


Date 09/07/2018

AFFIDAVIT

The undersigned affirms that the information and plans submitted in this application are true and correct to the best of the undersigned's knowledge.

Applicant's Signature

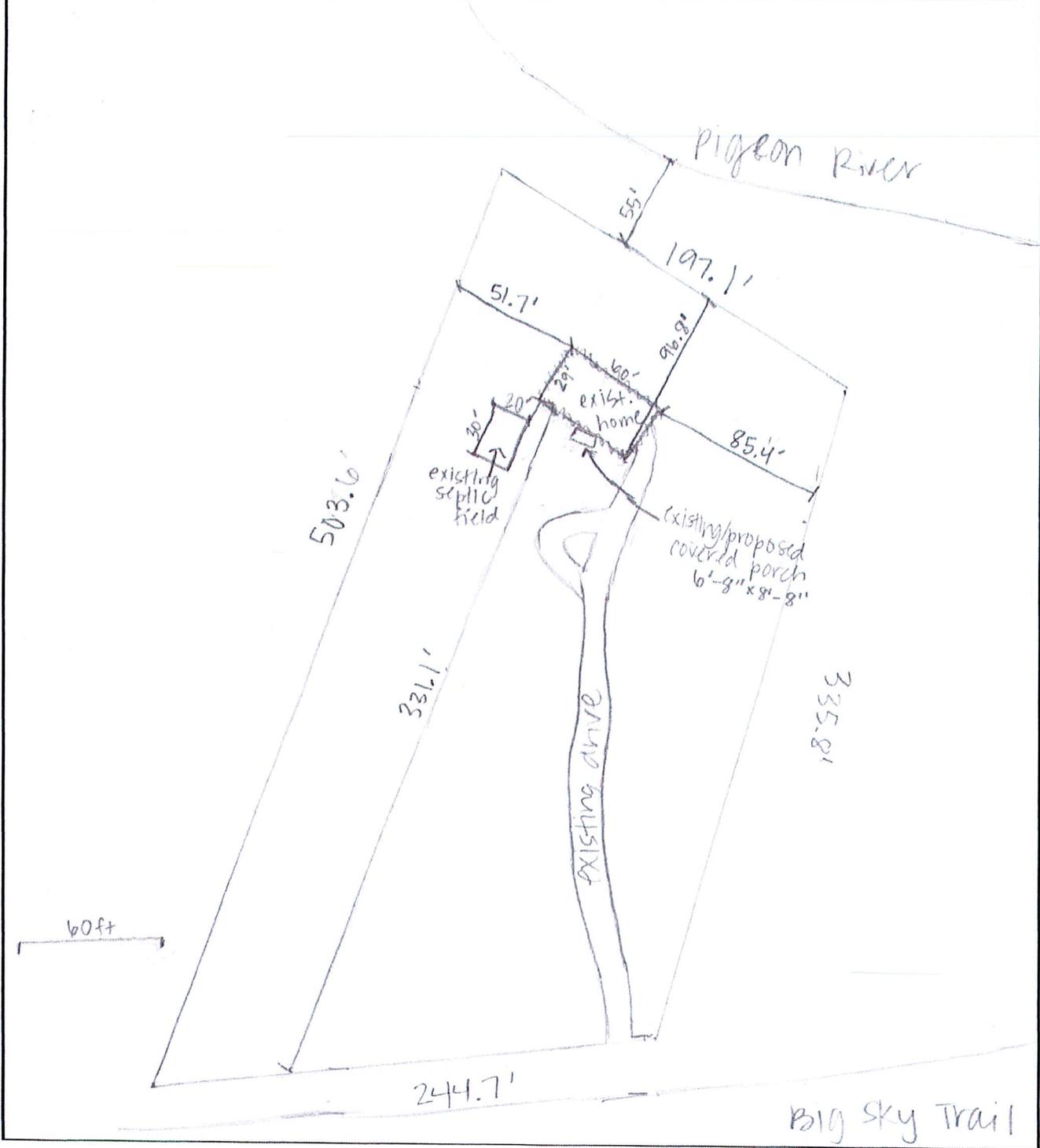


Date 09/07/2018

**SITE PLAN INFORMATION** Please include the following on your site plan:

- |   |   |
|---|---|
| 1. Property Line dimensions and Property shape. ✓                             | 6. Parcels under separate ownership therein. N/A              |
| 2. Front, Rear, & Side setback dimensions. ✓                                  | 7. Road Right-Of-Way (ROW); access or utility easements. N/A  |
| 3. Location, shape & size of all existing & proposed buildings on property. ✓ | 8. The existing and intended use of the lot and structures. ✓ |
| 4. Location of all drives and parking areas. ✓                                | 9. Place North arrow in space provided. ✓                     |
| 5. Rivers, lakes, wetlands, or streams within 500 ft. ✓                       | 10. Other essential zoning information. ✓                     |

<b>Distance from property line to proposed structure:</b>		<b>Zoning District:</b>	<b>North:</b>
Front: <u>331.1'</u>	Rear: <u>67.8'</u>	<u>NATURAL RIVER</u>	↑
Side: <u>51.7'</u>	Side: <u>85.4'</u>		





172-P23-000-026-00  
ELFELT, STEPHEN M  
116 SPRUCE AVENUE  
ALTOONA, PA 16601

172-P23-000-019-00  
LITTLE TRAVERSE CONSERVANCY  
2398 M-119  
PETOSKEY, MI 49770

172-P23-000-024-01  
MANSFIELD, KIMBERELY  
5115 ASTON CT  
BRIGHTON, MI 48116

172-P23-000-025-00  
FANGEL, KEVIN & MARY JANE H/W  
PO BOX 255  
CLARKSTON, MI 48347

172-P23-000-027-00  
HARTMAN, JOAN & DAVID HARTMAN TIC  
45559 KEDING  
UTICA, MI 48317

172-P23-000-028-00  
JACOBS, MARK & JENNIFER H/W  
4713 BIG SKY TRL  
INDIAN RIVER, MI 49749

171-027-400-003-00  
LITTLE TRAVERSE CONSERVANCY  
3264 POWELL RD  
HARBOR SPRINGS, MI 49740

171-027-400-005-00  
ZELIASKO FAMIY TRUST  
1759 PETROLIA  
WEST BLOOMFIELD, MI 48324-3962

172-P23-000-026-00  
OCCUPANT  
4545 BIG SKY TRL  
INDIAN RIVER, MI 49749

172-P23-000-019-00  
OCCUPANT  
4485 BIG SKY TRL  
INDIAN RIVER, MI 49749

172-P23-000-024-01  
OCCUPANT  
4707 BIG SKY TRL  
INDIAN RIVER, MI 49749

171-027-400-005-00  
OCCUPANT  
4881 ONAWAY RD  
INDIAN RIVER, MI 49749

172-P23-000-027-00  
OCCUPANT  
4711 BIG SKY TRL  
INDIAN RIVER, MI 49749

172-P23-000-028-00  
OCCUPANT  
4713 BIG SKY TRL  
INDIAN RIVER, MI 49749



# CHEBOYGAN COUNTY COMMUNITY DEVELOPMENT DEPARTMENT

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PHONE: (231)627-8489 ■ FAX: (231)627-3646  
www.cheboygancounty.net/planning/

## DIMENSIONAL VARIANCE STAFF REPORT

<b>Item:</b> A request for an approximately 48-ft. variance from the minimum 200-ft. front setback requirement for a new porch in a Natural Rivers Protection (P-NR) zoning district.	<b>Prepared by:</b> Michael Turisk
<b>Date:</b> September 17, 2018	<b>Expected Meeting Date:</b> September 26, 2018

### GENERAL INFORMATION

**Applicant:** Shorestone Custom Builders

**Owners:** Jeff and Kimberley Mansfield

**Contact:** Greg Lee, Shorestone Custom Builders

**Phone:** 231.238.8466

### BACKGROUND INFORMATION

The applicant seeks approval of an approximately 48-ft. variance from the 200-ft. front setback standard for mainstream lots located in the Natural Rivers Protection (P-NR) zoning districts, per Section 11.3.1. of the Zoning Ordinance. The subject of this variance request regards a legal, non-conforming dwelling with an attached porch on a 1.97-acre property along the Pigeon River located at 4707 Big Sky Trail in Koehler Township. Per Section 22.1, Lawful non-conforming uses or structures in existence or under construction at the time of passage of this ordinance may be continued but shall not be extended, added to or altered unless such extension, addition or alteration is in conformity with the provisions of this ordinance. The owner intends to replace the porch with one of a similar size (6-ft., 8-in. x 8-ft., 8-in.). The front setback indicated on the submitted site plan for the proposed porch is approximately 152-ft., thus the request for approximately 48-ft. of front setback variance.

### **Surrounding Zoning:**

North: Natural Rivers Protection (P-NR)

East: Natural Rivers Protection (P-NR)

South: Natural Rivers Protection (P-NR); Agriculture and Forestry Management (M-AF)

West: Natural Rivers Protection (P-NR) immediately west; Residential Development (D-RS) zoning just beyond.

**Surrounding Land Uses:**

Mix of low-density residential and vacant properties to north, south and west. The Pigeon River is to the east.

**Environmentally Sensitive Areas: (steep slopes, wetlands, woodlands, stream corridor, floodplain):**

That portion of the subject property near to the Pigeon River is considered environmentally sensitive.

**Public Comment:**

None received as of this writing.

**VARIANCE CONSIDERATIONS**

Please note that all of the conditions listed below must be satisfied in order for a dimensional variance to be granted.

**General Findings:**

1. The subject property is in a Natural Rivers Protection (P-NR) zoning district and fronts the Pigeon River, and thus is classified as a mainstream lot.
2. The Zoning Ordinance requires a minimum 200-ft. front setback in the P-NR zoning district for mainstream lots.
3. The applicant is seeking a 48-ft. front setback variance from the Pigeon River to construct a new, attached porch measuring 6-ft., 8-in. x 8-ft., 8-in.
4. The existing dwelling is legal, non-conforming relative to the minimum 200-ft. front setback requirement for mainstream lots in the P-NR zoning district.

**23.5.4. (Rev. 09/11/04, Amendment #36)**

A dimensional variance may be granted by the Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following:

**23.5.4.1. That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant’s personal or economic difficulty.**

A. The physical conditions of the property that support granting the variance request are as follows:

1. A unique circumstance is that the dwelling is legal, non-conforming, constructed prior to the current minimum 200-ft. front setback standard for mainstream lots in the P-NR zoning district.

The standard has been met.

B. The physical conditions of the property which support denying the variance are as follows:

1. No physical conditions are identified that support denial of the variance as proposed.

The standard has not been met.

**23.5.4.2. The need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).**

A. Actions which have occurred which support granting the variance which were not caused by the applicant:

1. The dwelling is legal, non-conforming, constructed prior to the adopted minimum front setback standard for mainstream lots in the P-NR zoning district.

The standard has been met.

B. Actions which the applicant has taken that results in the request for the variance and therefore require denial of the variance:

1. None identified.

The standard has not been met.

**23.5.4.3. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.**

A. Zoning regulation requirements result in the following conditions which prevent use of the property or cause undue hardship:

1. The current minimum front setback requirement for mainstream lots in the P-NR zoning districts would preclude construction of the new attached porch on the legal, non-conforming dwelling because of its location within the 200-ft. front. setback area.

The standard has been met.

B. Factors that show no adverse effects caused by the zoning regulation conditions:

1. The minimum front setback requirement for mainstream lots in the P-NR zoning districts would preclude construction of the new attached porch on the legal, non-conforming dwelling because of its location within the 200-ft. setback area.

The standard has not been met.

**23.5.4.4. That the requested variance is the minimum variance necessary to grant the applicant reasonable relief as well as to do substantial justice to other property owners in the district.**

A. Factors that show the variance cannot be reduced beyond that requested and still meet the needs of the applicant, and still not infringe upon the rights of the surrounding property owners:

1. The proposed attached porch is intended for the same location and the same size as that of the current porch.

The standard has been met.

B. Factors that show the variance requested is more than needed and/or would infringe upon the rights of surrounding property owners:

1. None identified.

The standard has not been met.

**23.5.4.5. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.**

A. Factors that show how granting the variance would not result in unfavorable impacts on the surrounding properties, neighborhood or zoning district:

1. The dwelling and attached porch are legal, non-conforming with regards to the current minimum front setback requirement for mainstream lots in the P-NR zoning districts, so granting the variance would not result in a major change from that which has existed, nor unfavorable off-site impacts.

The standard has been met.

B. Factors that show how granting the variance would adversely impact the neighborhood or zoning district.

1. Section 11.1.2. indicates, in part, that the purpose of the P-NR zoning district is to maintain water quality, recreational opportunities and to prevent ecological, economic, historic and scenic damage from overcrowding or disorderly development, etc.

This project may be considered comparatively minor, however, and would not compromise the aforementioned district characteristics.

The standard has not been met.