



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 25, 2019 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. Debra Willey - Requests a 19 ft. front setback variance for construction of a garage and an addition to single family dwelling in a Commercial Development (D-CM) zoning district (where a 25 ft. front setback is required). The property is located at 6053 Prospect St. in Tuscarora Township; Parcel No. 161-I31-006-005-00; Section 24.
2. David Hansen/James and Kaylin Caldwell - Requests a 3 ft. 8 in. side setback variance for construction of an addition to a single family dwelling in a Lake and Stream Protection (P-LS) zoning district (where an 8 ft. side setback is required). The property is located at 8991 N. Canal Dr. in Benton Township; Parcel No. 105-L29-000-028-00; Sections 18 and 19.
3. James Brown - Requests a front setback variance of 26 ft. 6 in. to cover two existing decks accessory to a single family dwelling in an Agriculture and Forestry Management (M-AF) zoning district (where a 50 ft. front setback is required). The property is located at 7066 MC Donald Rd. in Benton Township; Parcel No. 104-029-100-018-00; Section 29.
4. Michelle Freeman-Keyser Industries/Indian River Trading Post - Requests a variance from section 17.19.8.1.B of the Zoning Ordinance (that indicates that the area of an electronic sign surface shall not exceed 75% of the total sign surface) to replace the existing menu board with a new digital menu board with an electronic surface greater than 75% of the total sign surface. The property is zoned Commercial Development (D-CM) and located at 6153 M-68 Hwy. in Tuscarora Township; Parcel No. 161-025-200-044-00; Section 25.

UNFINISHED BUSINESS

NEW BUSINESS

Discussion regarding proving practical difficulty for dimensional variance requests.

ZBA COMMENTS

PUBLIC COMMENTS

ADJOURN

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING
WEDNESDAY, AUGUST 28, 2019 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: Jen Merk, Michael Turisk, Carl Muscott, Cal Gouine, Charles Maziasz, Russell Crawford, Cheryl Crawford, Eric Rhadigan

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 Mr. Moore, to accept the agenda as presented. Motion carried unanimously.

APPROVAL OF MINUTES

Minutes from the May 22, 2019 Zoning Board of Appeals meeting were presented. **Motion** by Mr. Moore, seconded by Mr. Hemmer, to approve the minutes as presented. Motion carried unanimously.

PUBLIC HEARING & ACTION ON REQUESTS

Peter and Christie Roe - The applicants request approval of a 6 ft. side setback variance to construct an addition to an existing dwelling on a waterfront property with 62-ft. average property width in a Lake and Stream Protection (P-LS) zoning district. Per section 17.1 of the Zoning Ordinance, a minimum of 8 ft. of side setback is required except waterfront lots in the P-LS zoning district less than 80 ft. in lot width require each side setback be 10% of the lot width, or 5 ft., whichever is greater. The subject property is located at 4270 Long Point Dr. in Mullett Township; Parcel No. 130-L07-000-034-00; Sections 9 and 10.

Ms. Merk reviewed information included in the staff report.

Mr. Freese explained that the proposed addition could be shifted approximately' (approximately 18") to the east and still remain 1.5' from the west property line and still provide the same amount of space for the addition. Mr. Freese explained that by maintaining at least the 1.5' side setback that the policy of the Zoning Board of Appeals to allow variances to be granted which do not exceed the variance already allowed by the established legal non-conforming. Mr. Freese explained that 23.3.4.4 requires that any variance which might be granted must be the minimum necessary to grant the applicant relief and do justice to other property owners in the district. Mr. Freese also pointed out that if the variance request is denied, no reapplication can be made for one year. Mr. Freese asked the applicant whether they would like to reduce the variance request to allow a 1.5' side setback or have the application evaluated on the basis of the .2' side setback.

Mr. Rhadigan stated that he is representing Mr. Roe. Mr. Rhadigan requested that he be allowed to call Mr. Roe in Arizona to check to see if he wishes to stay with his request for a .2' variance.

The applicant's representative stated he wished it to be evaluated on the basis of the .2' variance.

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

The Zoning Board of Appeals revised the following Findings of Fact:

3. The subject property has a measured and recorded rear lot width of 44.66ft.
4. The subject property has a recorded front lot width of 79.19-ft.
5. The subject property's average lot width is 61.425-ft.

The Zoning Board of Appeals reviewed the Specific Findings of Fact under Section 23.5.4. Based on the General Findings and the unanimous vote the standards were met under section 23.5.4.1, 23.5.4.2, 23.5.4.3 and 23.5.4.5 and the standards on section 23.5.4.4 was met by a vote of 3 to 2 (3 Ayes (Sherwood, Thompson, Hemmer), 2 Nays (Freese, Moore), 0 Absent. **Motion** by Ms. Sherwood, seconded by Mr. Thompson 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 (Hemmer, Thompson, Sherwood), 2 Nays (Freese, Moore), 0 Absent

Mr. Freese asked for public comments. Mr. Muscott stated it is nice to see a variance request with a current survey. Discussion was held.

UNFINISHED BUSINESS

No comments.

NEW BUSINESS

Annual Meeting – Election of Officers

Motion by Mr. Moore, seconded by Mr. Thompson, to nominate Mr. Freese as chairperson. Motion carried unanimously.

Motion by Mr. Hemmer, seconded by Mr. Thompson, to nominate Mr. Moore as vice-chairperson. Motion carried unanimously. **Motion** by Mr. Moore, seconded by Mr. Freese, to nominate Mr. Thompson as secretary. Motion carried unanimously.

ZBA COMMENTS

Ms. Sherwood stated that she believes there should be an alternate Zoning Board of Appeals member. Discussion was held regarding the cost being prohibitive to have an alternate Zoning Board of Appeals member. Mr. Turisk stated that the Rules of Procedure have not been updated in 10 years. Mr. Turisk stated he will distribute the Rules of Procedures for the Zoning Board of Appeals to review and decide if there is any interest in updating the document.

PUBLIC COMMENTS

No comments.

ADJOURN

Motion by Mr. Hemmer to adjourn. Motion carried. Meeting adjourned at 7:31 pm.

John Thompson, Secretary

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

Debra Willey

Exhibit List

1. Cheboygan County Zoning Ordinance
2. Cheboygan County Master Plan
3. Variance Application (3 Pages)
4. Mailing List (3 Pages)
5. Staff Report (6 Pages)
- 6.
- 7.

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

CHEBOYGAN COUNTY
 PLANNING & ZONING DEPT.
 870 South Main St., PO Box 70
 Cheboygan, MI 49721
 (231) 627-8489 (Telephone)
 (231) 627-3646 (Fax)

DIMENSIONAL VARIANCE APPLICATION

\$110.00 APPLICATION FEE

RECEIPT #:	6926
CASH/CHECK:	5162
ACTION /DATE:	

PLEASE PRINT

PROPERTY LOCATION

Address 6053 Prospect	City / Village Indian River	Township / Sec. 1	Zoning District D-CM
Property Tax I.D. (Parcel) Number 161-131-006-005-00	Subdivision or Condo. Name / Plat or Lot No.		

APPLICANT

Name Debra Willey	Telephone 231-218-8234	Fax	
Address 6053 Prospect P.O. BOX 1249	City & State Indian River MI	Zip Code 49749	E-Mail debbie-willey@ymail.com

OWNER (If different from applicant)

Name Same as Above	Telephone	Fax	
Address	City & State	Zip Code	

Detailed directions to site, including nearest crossroad:

m-27 turn East on Prospect 1st place on 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: Residence
- 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.

Place Private Garage with up stairs for storage and for living quarters
Topography Slope of property and location of existing buildings
Will not allow meeting required Setbacks

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.

Due to Slope of property & existing buildings
& drain fields, septic

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

no as in A

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

yes AS in A

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.

proposed location is the best not effect other
Property owners

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.

no as Stated in D

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 Debra Willey Date ~~10/11/16~~ 8/20/19

AFFADAVIT

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 Debra Willey Date ~~10/11/16~~ 8/20/19

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

- | | |
|---|---|
| 1. Property Line dimensions and Property shape. | 6. Parcels under separate ownership therein. |
| 2. Front, Rear, & Side setback dimensions. | 7. Road Right-Of-Way (ROW); access or utility easements. |
| 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. |

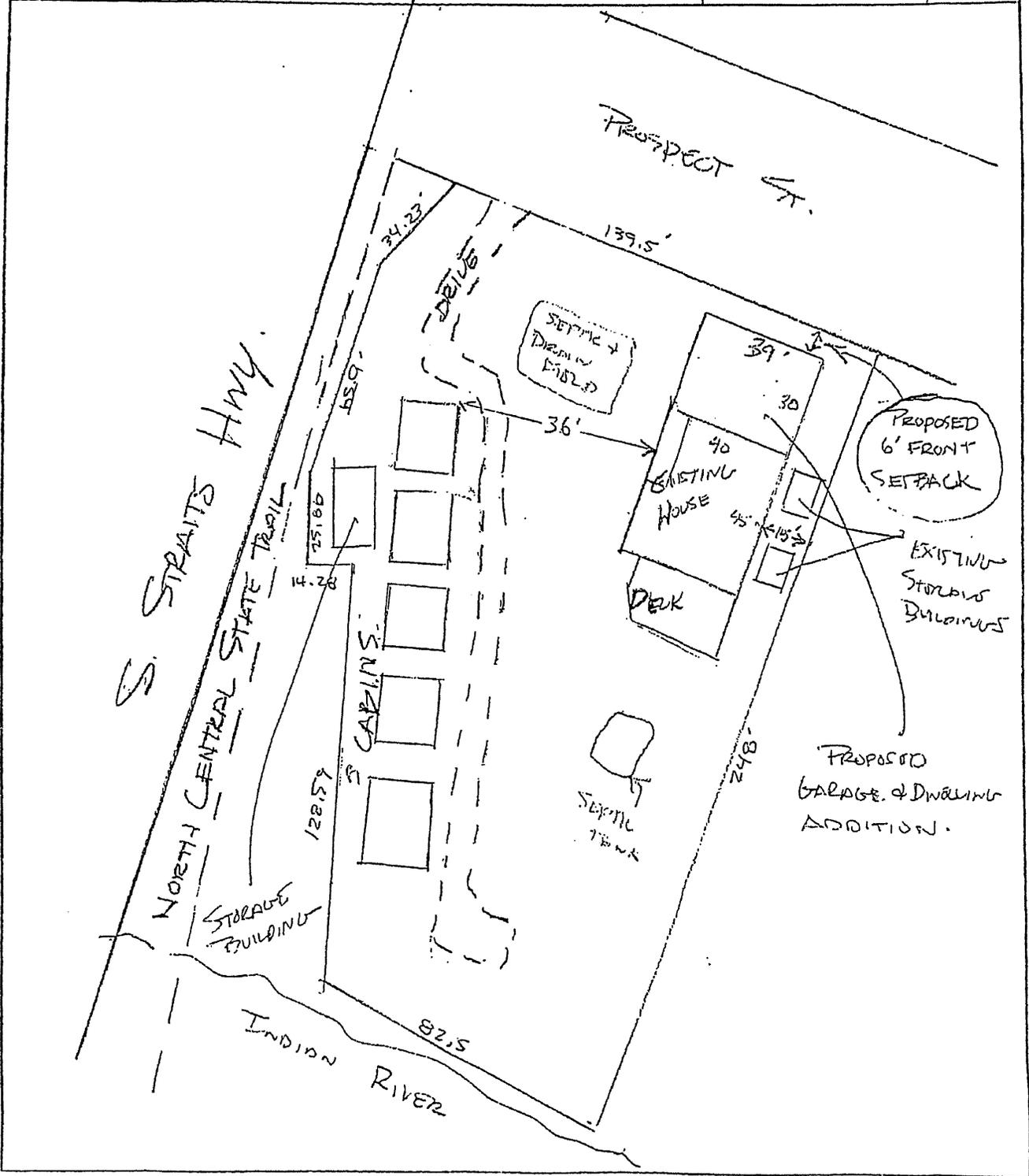
Distance from property line to proposed structure:

Front: 62 Rear: 212 Side: 15 Side: 84

Zoning District:

Commercial

North:



161-I31-006-005-00
PINES COTTAGE OF INDIAN RIVER LLC
6053 PROSPECT, PO BOX 1249
INDIAN RIVER, MI 49749

161-I31-006-004-00
PASSINO, MICHAEL & BRENDA H/W
PO BOX 2184
INDIAN RIVER, MI 49749

161-I31-006-003-00
RADEBACH, LEROY & ELEANOR CO-TTEES
PO BOX 3011
INDIAN RIVER, MI 49749

161-I31-006-001-00
GYORKOS, CHARLES & CHRISTINE H/W
366 PLEASANT VALLEY
MILFORD, MI 48380

161-I31-006-001-01
HANLON, TIMOTHY J TRUST
PO BOX 684
INDIAN RIVER, MI 49749

161-I31-005-006-00
DESJARDINS, RICHARD
3365 W. VALLEY VIEW DR
SAINT JOSEPH, MI 49085

161-I31-005-006-01
NEWMAN, REBECCA & STEPHEN NOBLE,
3287 CLUB RD
INDIAN RIVER, MI 49749

161-I31-005-009-00
DIETRICH, ANDREW & KELLIE H/W
5640 HUMMER LAKE RD
OXFORD, MI 48371

161-I31-005-007-00
L L STONE PROPERTIES, LLC
PO BOX 396
PETOSKEY, MI 49770

161-I31-005-008-00
L L STONE PROPERTIES, LLC
818 CROOKED TREE DR
PETOSKEY, MI 49770

161-I31-005-011-00
WALDRON, JULIE & CRAIG TTEES
3878 MCMICHAEL RD, PO BOX 4206
BURT LAKE, MI 49717

161-024-200-001-02
MICHIGAN DEPT OF NATURAL RESOURCES
PO BOX 30722
LANSING, MI 48909

161-I31-010-008-00
GUST, STEPHEN G & CHARLENE M H/W
8231 KATE HANSON RD
CHEBOYGAN, MI 49721

161-I31-010-007-00
JACOBS, ROGER W
PO BOX 296
INDIAN RIVER, MI 49749

161-I31-010-003-00
COOK, BRIGETTE; STEPHEN COOK &
PO BOX 1149
INDIAN RIVER, MI 49749

161-I31-010-002-00
WILSON, TONI 1/3 INT; PHIL
2136 BOY SCOUT RD
INDIAN RIVER, MI 49749

161-I31-010-001-00
TUSCARORA, TOWNSHIP OF
INDIAN RIVER, MI 49749

161-I31-007-001-00
LACOURSIER, ALLAN & ELIZABETH H/W
PO BOX 193
INDIAN RIVER, MI 49749

161-I31-007-003-00
SMITH, FRED J SR, TTEE (DECD)
6111 PROSPECT ST, PO BOX 293
INDIAN RIVER, MI 49749

161-I31-007-004-00
DISBROW, JOANNE L/E & ARTHUR
465 LINCOLNSHIRE DR
TROY, OH 45373

161-I31-004-003-00
SWADLING, KENNETH ET UX
PO BOX 2008
INDIAN RIVER, MI 49749

161-I31-004-001-00
VIZINA, JORDAN
6117 HEMLOCK ST
INDIAN RIVER, MI 49749

161-I31-005-001-00
PURTILL, JAMES & MARILYN SPOERING
3247 N CLUB RD
INDIAN RIVER, MI 49749

161-I31-005-005-00
PURTILL, JAMES & MARILYN SPOERLING
3247 N CLUB RD
INDIAN RIVER, MI 49749

161-I31-011-006-00
PFISTER, DARRYL & KATHLEEN H/W L/E
PO BOX 334
INDIAN RIVER, MI 49749

161-I31-011-003-00
CASUCCI, CASS, TRUSTEE
6000 RIVER ST., PO BOX 250
INDIAN RIVER, MI 49749

161-I31-011-005-00
MOORE, EDWIN & LINDA H/W
PO BOX 929
INDIAN RIVER, MI 49749

161-I31-011-002-00
DOTY, ARTHUR & CAROL H/W
PO BOX 846
INDIAN RIVER, MI 49749

161-024-200-015-00
COOK, BRIGETTE; STEPHEN COOK &
PO BOX 1149
INDIAN RIVER, MI 49749

161-024-200-004-01
TUSCARORA TOWNSHIP
3546 S STRAITS HWY
INDIAN RIVER, MI 49749

161-024-200-003-01
WERNET, CHARLES H
12403 PATHOS LN
SAN DIEGO, CA 92129

161-I31-006-005-00
OCCUPANT
6053 PROSPECT ST
INDIAN RIVER, MI 49721

161-I31-006-004-00
OCCUPANT
6033 PROSPECT ST
INDIAN RIVER, MI 49721

161-I31-006-003-00
OCCUPANT
6031 PROSPECT ST
INDIAN RIVER, MI 49721

161-I31-006-001-00
OCCUPANT
5997 PROSPECT ST
INDIAN RIVER, MI 49721

161-I31-006-001-01
OCCUPANT
5991 PROSPECT ST
INDIAN RIVER, MI 49721

161-I31-005-006-00
OCCUPANT
3267 N CLUB RD
INDIAN RIVER, MI 49721

161-I31-005-006-01
OCCUPANT
3287 N CLUB RD
INDIAN RIVER, MI 49721

161-I31-005-009-00
OCCUPANT
6024 PROSPECT ST
INDIAN RIVER, MI 49721

161-I31-005-007-00
OCCUPANT
6052 PROSPECT ST
INDIAN RIVER, MI 49721

161-I31-005-008-00
OCCUPANT
6038 PROSPECT ST
INDIAN RIVER, MI 49721

161-024-200-004-01
OCCUPANT
3425 S STRAITS HWY
INDIAN RIVER, MI 49721

161-024-200-001-02
OCCUPANT
6045 RIVER ST
INDIAN RIVER, MI 49721

161-I31-010-008-00
OCCUPANT
6084 RIVER ST
INDIAN RIVER, MI 49721

161-I31-010-007-00
OCCUPANT
6072 RIVER ST
INDIAN RIVER, MI 49721

161-I31-010-003-00
OCCUPANT
6064 RIVER ST
INDIAN RIVER, MI 49721

161-I31-010-002-00
OCCUPANT
6060 RIVER ST
INDIAN RIVER, MI 49721

161-I31-010-001-00
OCCUPANT
6054 RIVER ST
INDIAN RIVER, MI 49721

161-I31-007-001-00
OCCUPANT
3324 S STRAITS HWY
INDIAN RIVER, MI 49721

161-I31-007-003-00
OCCUPANT
6111 PROSPECT ST
INDIAN RIVER, MI 49721

161-I31-007-004-00
OCCUPANT
6121 PROSPECT ST
INDIAN RIVER, MI 49721

161-I31-004-003-00
OCCUPANT
3280 S STRAITS HWY
INDIAN RIVER, MI 49721

161-I31-004-001-00
OCCUPANT
6117 HEMLOCK ST
INDIAN RIVER, MI 49721

161-I31-005-005-00
OCCUPANT
3247 N CLUB RD
INDIAN RIVER, MI 49721

161-I31-011-006-00
OCCUPANT
6032 RIVER ST
INDIAN RIVER, MI 49721

161-I31-011-003-00
OCCUPANT
6000 RIVER ST
INDIAN RIVER, MI 49721

161-I31-011-005-00
OCCUPANT
6012 RIVER ST
INDIAN RIVER, MI 49721

161-I31-011-002-00
OCCUPANT
5980 RIVER ST
INDIAN RIVER, MI 49721

161-I31-011-006-00
Occupant
6034 River Street
Indian River, MI 49749



CHEBOYGAN COUNTY

PLANNING AND ZONING DEPARTMENT

CHEBOYGAN COUNTY BUILDING ■ 870 S. MAIN STREET, PO BOX 70 ■ CHEBOYGAN, MI 49721
 PHONE: (231)627-8489 ■ FAX: (231)627-3646
www.cheboygancounty.net/planning/

DIMENSIONAL VARIANCE STAFF REPORT

Item: Requests a 19-ft. front setback variance to construct an addition to the existing dwelling in a Commercial Development (D-CM) zoning district.	Prepared by: Jennifer Merk
Date: September 17, 2019	Expected Meeting Date: September 25, 2019

GENERAL INFORMATION

Applicant/Owner(s): Debra Willey/Pines Cottage of Indian River LLC

Contact person: Same as above

Phone: 231-218-8234

Requested Action: The applicant requests a 19-ft. front setback variance to construct an addition (39-ft. x 30-ft.) to an existing dwelling where a minimum of 25-ft. is required in a Commercial Development (D-CM) zoning district.

BACKGROUND INFORMATION

The subject property is a waterfront lot on the Indian River and located at 6053 Prospect St. in Tuscarora Township. A single-family dwelling, rental cabins and storage building are existing structures on the property. The subject property is zoned Commercial Development (D-CM).

The Zoning Board of Appeals approved a side setback variance for a 14-ft. x 32-ft. storage building on the subject property on June 24, 2015. A front setback variance of 19-ft. to construct a 39-ft. x 30-ft. garage and dwelling addition onto an existing dwelling (this exact variance request) was approved on October 26, 2016. The applicant was unable to begin the project which was approved for a variance due to work obligations out of town. Per Section 23.6 of the Zoning Ordinance, variance requests expire after one year if a building permit is not obtained and the project started and proceeds to completion.

The applicant is again proposing to construct a 39-ft. x 30-ft. addition to the north side of the existing dwelling.

Per section 17.1 of the Zoning Ordinance, a minimum of 25-ft. of front setback is required in a Commercial Development zoning district. The proposed garage and dwelling addition will therefore extend 19-ft. into the 25-ft. minimum front setback area.

The variance conditions listed in the following sections 23.5.4.1 through 23.5.4.5 are copied into this report nearly verbatim from the above-mentioned sections of the 2016 staff report.



Figure 1. Location and zoning of subject property at 6053 Prospect St., Tuscarora Twp.

Surrounding Zoning:

North: Commercial Development (D-CM)

East: Same

South: Commercial Development and Village Center Indian River Overlay

West: Commercial Development

Surrounding Land Uses:

Residential mixed with commercial land uses exist to the north. Michigan Department of Natural Resources owns property (rail trail) directly west and adjacent to South Straits Highway. Mainly residential land uses exist to the west. The Indian River is located directly south.

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

The subject property is located on Indian River, and therefore the shoreline area is considered particularly sensitive.

Public comments:

No public comments have been received as of this writing.

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS
Wednesday, September 25, 2019 at 7:00 PM
Room 135 – Commissioners Room
Cheboygan County Building, 870 S. Main St., Cheboygan, MI 49721**

Applicant:

Debra Willey
P.O. Box 1249
Indian River, MI 49749

Owner:

Debra Willey/Pines Cottage of Indian River LLC

Parcel: 161-I31-006-005-00

General Findings:

1. The subject property is located in a Commercial Development (D-CM) zoning district.
2. A front setback of 25 feet is required in the D-CM zoning district per section 17.1.
3. The applicant is seeking a 19-ft. front setback variance (to allow for a 6-ft. front setback) to construct a 39-ft. x 30-ft. addition to the north side of an existing dwelling.
4. Adjacent properties have greater encroachments on the front setback than what has been requested by the applicant.
5. The next door neighbor was granted a variance in 2015.
6. This same variance request was approved by the Zoning Board of Appeals on October 26, 2016.
7. The applicant was unable to start the project after the variance request was approved in 2016 due to work taking her out of town but now has returned home and would like to start the project.

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. The existing dwelling is located near the required front setback and a steep slope exits at the rear, which are unique physical conditions.

This standard has been met.

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

1. There are no unique circumstances or physical conditions and the circumstances are due to the applicant's personal difficulty.

This standard has not been met.

23.5.4.2. That 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 need for the variance is due to the location of the existing dwelling, the location of the septic and drain field and the topography of the lot, which are unique conditions and is not the result of actions of the property owner or previous property owners.

This 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. The proposed placement of the garage and dwelling addition is the result of actions of the current property owner and the need for the requested variance is self-created.

This 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. Due to the location of the existing dwelling structure, the location of the septic and drain field and the topography of the lot, strict compliance with front setback regulations will be unnecessarily burdensome.

This standard has been met.

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

1. Strict compliance with front setback regulations will allow for additions to the structure in other locations and conforming to setback regulations will not be unnecessarily burdensome.

This 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. Due to location of the existing dwelling structure, the location of the septic and drain field and topography of the lot, the requested variance is necessary to grant reasonable relief and do substantial justice to other property owners in the district.

This 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. The variance request for construction of a 39-ft. x 30-ft. garage and dwelling addition does not represent the minimum variance necessary to grant reasonable relief and other options for smaller additions to the existing structure exist and/or granting the variance will not do substantial justice to other property owners in the district.

This 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. Granting a variance to allow a 6-ft. front setback will not cause an adverse impact on surrounding property, property values and/or the use and enjoyment of property in the neighborhood or zoning district due to like conditions.

This standard has been met.

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

1. Granting a variance to allow a 6-ft. front setback will cause an adverse impact on surrounding property and/or property values and/or the use and enjoyment of property in the neighborhood.

This standard has not been met.

DECISION

TIME PERIOD FOR JUDICIAL REVIEW

MCLA 125.3606 provides that a person having an interest affected by the zoning ordinance may appeal a decision of the Zoning Board of Appeals to the Circuit Court. Any appeal must be filed within thirty (30) days after the Zoning Board of Appeals certifies this Decision in writing or approves the minutes of its decision.

DATE DECISION AND ORDER ADOPTED

Wednesday, September 25, 2019

Charles Freese, Chairperson

John Thompson

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

David Hansen/James and Kaylin Caldwell

Exhibit List

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- 6.
- 7.

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

CHEBOYGAN COUNTY
PLANNING & ZONING DEPT.
 870 SOUTH MAIN ST., PO BOX 70
 CHEBOYGAN, MI 49721
 (231) 627-8489 (TELEPHONE)
 (231) 627-3646 (FAX)

DIMENSIONAL VARIANCE APPLICATION

\$110.00 APPLICATION FEE

RECEIPT #:	6940
CASH/CHECK:	CC
ACTION /DATE:	

PLEASE PRINT

PROPERTY LOCATION

Address 8991 N. CANAL DR	City / Village CHEBOYGAN	Township / Sec. Benton Twp. 37N 18 & 19	Zoning District P-LS
Property Tax I.D. (Parcel) Number 105-L29-000-028-00	Subdivision or Condo. Name / Plat or Lot No. LAHAIE'S ISLAND VIEW SUB LOT 28		

APPLICANT

Name DAVID HANSEN	Telephone 231-625-9661 231-420-2880 cell	Fax
Address 7039 McDONALD RD	City & State CHEBOYGAN MI	Zip Code 49721
		E-Mail david052357@gmail.com

OWNER (If different from applicant)

Name JAMES & KAYLIN CALDWELL	Telephone 231-445-0705	Fax
Address 8991 N. CANAL DR	City & State CHEBOYGAN MI	Zip Code 49721

Detailed directions to site, including nearest crossroad:

FROM HW27 & HW33 JUNCTION; SOUTH ON M33 1/4 MILE
TO CARTER RD - RIGHT, THEN 1/4 MILE TO WEST CANAL
DR - RIGHT, THEN FOLLOW CURVE TO RIGHT, 1/4 MILE TO
HOME ON LEFT.

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: RESIDENTIAL
- 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.

See ATTACHED

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.

See ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

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.

SEE ATTACHED

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.

SEE ATTACHED

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 Hayden Caldwell Date 8-26-2019

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 Hayden Caldwell Date 8-26-2019

II.

1. Existing attached 24' x 24' garage will be converted to living space and a new 24' x 52' addition constructed consisting of; bedroom, home office, garage, laundry room, storage and mud room. The existing garage is 4' from the south lot line and new structure would be 4'-4" away. The applicants (Kaylin and Chase Caldwell) are a young growing family and the existing house is just too small. There is a real need for additional bedrooms. And as Kaylin works from home as an educational program developer, a dedicated home office is a necessity.
2.
 - a. The property is 90' wide x 245' deep. Because of the sloping terrain of the front yard (canal side), the addition can only be built on the back (road side). The available property to build this addition is restricted to a 75' x 90' area, which also has to accommodate a new 1800 sf septic field.
 - b. The variance is required due to the continually changing and restrictive Lake & Stream property codes regulating septic systems. It is inevitable that the aging septic field will need to be relocated to the same available 75' x 90' area.
 - c. If the variance is not granted; (1) adherence to the Environmental Health Dept codes would not be possible, or (2) new garage & storage would be restricted to only a single car width, requiring one vehicle and seasonal lawn equipment be parked outside, creating an unsightly neighborhood, or (3) if the new 24' width addition is moved north to comply with setback, it would not only butt up against the new raised septic field, it would block the existing required barrier free entry to the house.
 - d. The requested variance is indeed the minimum necessary to reasonably comply with all set back for both the septic and addition.
 - e. The requested variance will not impact the neighboring property owners as the new addition will not be any closer than the existing structure is already.

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

- | | |
|---|---|
| 1. Property Line dimensions and Property shape. | 6. Parcels under separate ownership therein. |
| 2. Front, Rear, & Side setback dimensions. | 7. Road Right-Of-Way (ROW); access or utility easements. |
| 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. |

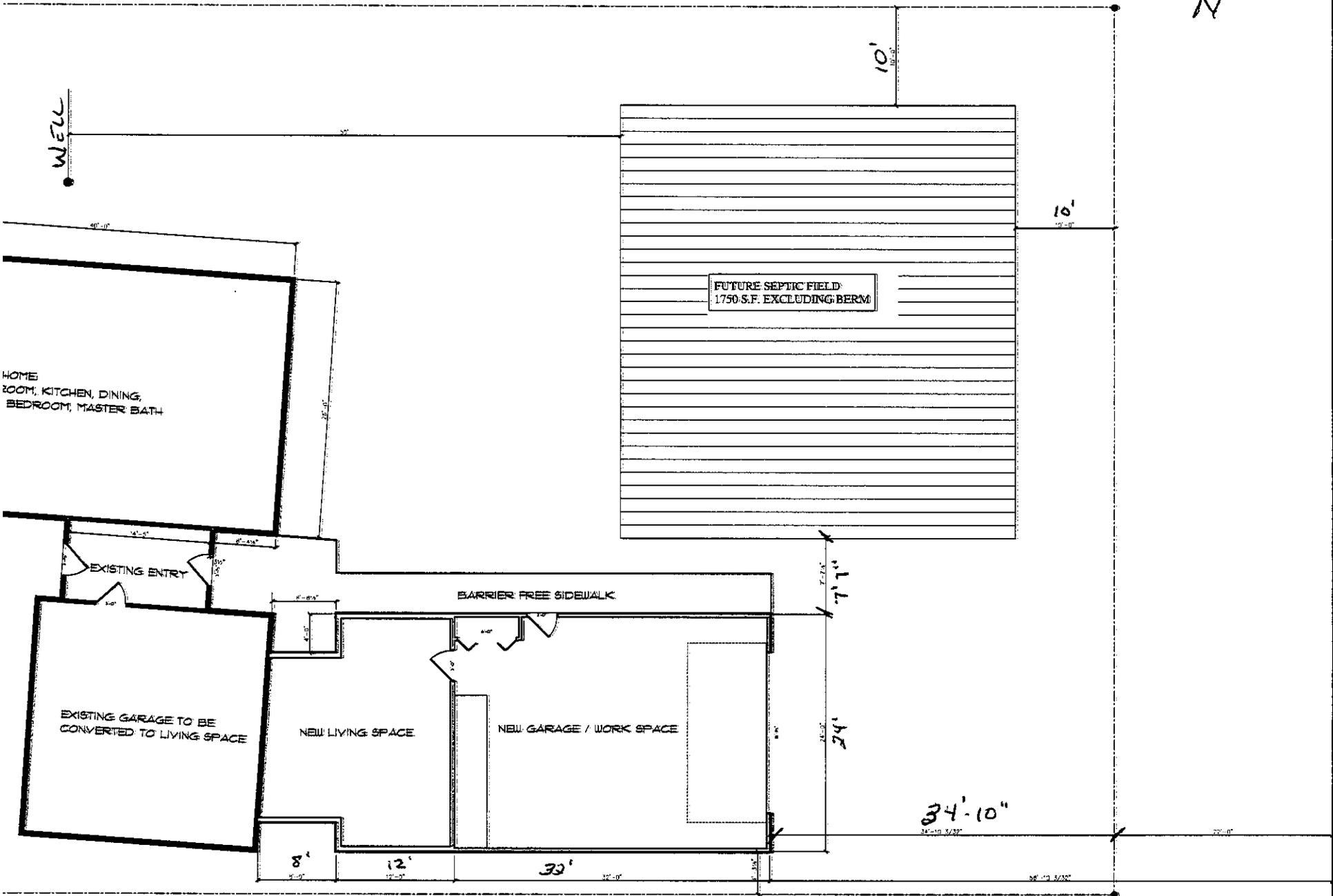
Distance from property line to proposed structure:

Front: 160' Rear: 34' Side: 4'4" Side: 60'

Zoning District:

North:

SEE ATTACHED 2 PGS

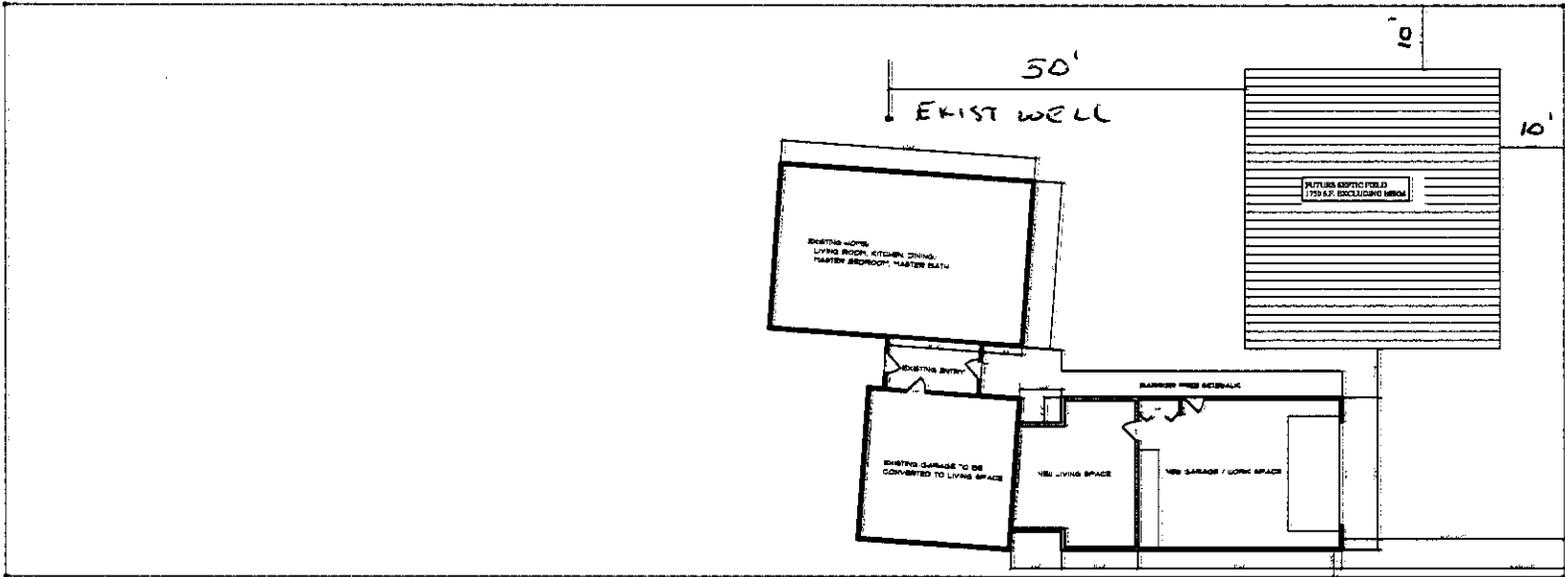


1" = 15'-0"

EDGE OF ROAD ASPHALT

- 90' - CANAL

245'



246'

AL. CLARK 2/12
STATE OF TEXAS, JOPLIN

1" = 30'-0"

104-019-200-001-00
CALDWELL, JAMES CHASE
8991 N CANAL DR
CHEBOYGAN, MI 49721

105-L29-000-032-00
CALDWELL, JAMES CHASE
8991 N CANAL DR
CHEBOYGAN, MI 49721

105-L29-000-031-00
CALDWELL, JAMES CHASE
8991 N CANAL DR
CHEBOYGAN, MI 49721

105-L29-000-030-00
VANBUSKIRK, MICHAEL
8959 N CANAL DR
CHEBOYGAN, MI 49721

105-L29-000-029-00
DAHLQUIST, RICHARD & CAROL H/W
426 VALE ST
CHEBOYGAN, MI 49721

104-019-200-002-00
LUTTRELL, JASON & JACQUELINE H/W
8949 N CANAL DR
CHEBOYGAN, MI 49721

104-018-400-008-02
VANHIMBERGEN, DAVID & RONDA H/W
948 WEST ISLAND VIEW DR
CHEBOYGAN, MI 49721

105-L29-000-024-00
SUMMERS, JENNIFER J
9004 N CANAL DR
CHEBOYGAN, MI 49721

105-L29-000-028-00
CALDWELL, JAMES C & KAYLIN H H/W
8991 N CANAL DR
CHEBOYGAN, MI 49721

105-L29-000-025-00
EUSTICE, DANIEL & SALLY H/W
9006 N CANAL DR
CHEBOYGAN, MI 49721

105-L29-000-019-01
VANHIMBERGEN, DAVID & RONDA H/W
948 WEST ISLAND VIEW DR
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105-L29-000-013-01
EUSTICE, DANIEL JAMES
8999 N CANAL DR
CHEBOYGAN, MI 49721

104-018-400-009-00
EUSTICE, DANIEL JAMES
8999 N CANAL DR
CHEBOYGAN, MI 49721

105-L29-000-032-00
OCCUPANT
8970 N CANAL DR
CHEBOYGAN, MI 49721

105-L29-000-031-00
OCCUPANT
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OCCUPANT
8959 N CANAL DR
CHEBOYGAN, MI 49721

105-L29-000-029-00
OCCUPANT
8969 N CANAL DR
CHEBOYGAN, MI 49721

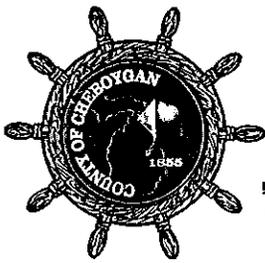
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, MI 49721

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8991 N CANAL DR
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105-L29-000-025-00
OCCUPANT
9006 N CANAL DR
CHEBOYGAN, MI 49721



CHEBOYGAN COUNTY PLANNING AND ZONING DEPARTMENT

CHEBOYGAN COUNTY BUILDING ■ 870 S. MAIN STREET, PO BOX 70 ■ CHEBOYGAN, MI 49721
 PHONE: (231)627-8489 ■ FAX: (231)627-3646
www.cheboygancounty.net/planning/

DIMENSIONAL VARIANCE STAFF REPORT

Item: Requests a 3-ft. 8-in. side setback variance to construct an addition to a single family dwelling in a Lake and Stream Protection (P-LS) zoning district.	Prepared by: Jennifer Merk
Date: September 18, 2019	Expected Meeting Date: September 25, 2019

GENERAL INFORMATION

Applicant/Contact Person: David Hansen

Phone: 231-625-9661

Owner(s): James and Kaylin Caldwell

Requested Action: The applicant requests a 3-ft. 8-in. side setback variance to construct an addition (24-ft. x 52-ft.) to a single family dwelling where a minimum of 8-ft. is required in a Lake and Stream Protection (P-LS) zoning district.

BACKGROUND INFORMATION

The subject property is a waterfront lot on the Cheboygan River and located at 8991 N. Canal Dr. in Benton Township. The applicant is proposing to construct a 24-ft. x 52-ft. addition to the east side of the existing garage. The existing garage is 4-ft. from the side lot line. The new addition will be 4-ft. 4-in. from the side lot line. Per section 17.1 of the Zoning Ordinance, a minimum of 8-ft. of side setback is required in a Lake and Stream Protection zoning district. The proposed 24-ft. x 52-ft. addition will therefore extend 3-ft. 8-in. into the 8-ft. minimum side setback area.



Figure 1. Location and zoning of subject property at 8991 N. Canal Dr., Benton Twp.

Surrounding Zoning:

North: Lake and Stream Protection (P-LS)

East: Same

South: Same

West: Same

Surrounding Land Uses:

Residential land uses are located to the north, east, south, and west across the Cheboygan River.

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

The subject property is located on Cheboygan River, and therefore the shoreline area is considered sensitive.

Public comments:

No public comments have been received.

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS
Wednesday, September 25, 2019 at 7:00 PM
Room 135 – Commissioners Room
Cheboygan County Building, 870 S. Main St., Cheboygan, MI 49721

Applicant:

David Hansen
7039 McDonald Rd.
Cheboygan, MI 49721

Owner:

James and Kaylin Caldwell
8991 N. Canal Dr.
Cheboygan, MI 49721

Parcel: 105-L29-000-028-00

General Findings:

1. The subject property is located in a Lake and Stream Protection (P-LS) zoning district.
2. A side setback of 8 feet is required in the P-LS zoning district per section 17.1.
3. The applicant is seeking a 3-ft. 8-in. side setback variance (to allow for a 4-ft. 4-in. side setback) to construct a 24-ft. x 52-ft. addition to the east side of an existing garage.
4. The existing garage on the subject property is 4-ft from the south side lot line.

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. The existing garage (to be converted to living space and an addition constructed to the east) is located in the required side setback, a steep slope exists at the front of the property (canal side), a future septic field will be placed in the back (road side), a well is located north of the existing dwelling, which are unique circumstances and physical conditions.

This standard has been met.

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

1. There are no unique circumstances or physical conditions and the circumstances are due

to the applicant's personal difficulty.

This standard has not been met.

23.5.4.2. That 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 need for the variance is due to the location of the existing dwelling, the location of well, septic and drainfield and the topography of the lot, which are unique conditions and is not the result of actions of the property owner or previous property owners.

This 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. The proposed placement of the garage and dwelling addition is the result of actions of the current property owner and the need for the requested variance is self-created.

This 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. Due to the location of the existing garage and dwelling structure, the location of the well, septic and drainfield and the topography of the lot, strict compliance with side setback regulations will be unnecessarily burdensome.

This standard has been met.

- B. Factors that show no adverse effects caused by the zoning regulation conditions:
 - 1. Strict compliance with side setback regulations will allow for additions to the structure in other locations or smaller structure additions and conforming to setback regulations will not be unnecessarily burdensome.

This 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. Due to location of the existing garage and dwelling structure, the location of the well, septic and drainfield and topography of the lot, the requested variance is the minimum necessary to grant reasonable relief and do substantial justice to other property owners in the district.
 2. The proposed addition will be 4-ft. 4-in. from the south side lot line thus more conforming to the side setback requirement in P-LS.

This 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. The variance request for construction of a 24-ft. x 52-ft. garage and dwelling addition does not represent the minimum variance necessary to grant reasonable relief and other options for smaller additions to the existing structure exist and/or granting the variance will not do substantial justice to other property owners in the district.

This 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 existing garage (the location of proposed dwelling addition) is located 4-ft. from the south side lot line.
 2. Granting a variance to allow a 4-ft. 4-in. side setback will not cause an adverse impact on surrounding property, property values and/or the use and enjoyment of property in the neighborhood or zoning district due to like conditions.

This standard has been met.

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

1. Granting a variance to allow a 4-ft. 4-in. side setback will cause an adverse impact on surrounding property and/or property values and/or the use and enjoyment of property in the neighborhood.

This standard has not been met.

DECISION

TIME PERIOD FOR JUDICIAL REVIEW

MCLA 125.3606 provides that a person having an interest affected by the zoning ordinance may appeal a decision of the Zoning Board of Appeals to the Circuit Court. Any appeal must be filed within thirty (30) days after the Zoning Board of Appeals certifies this Decision in writing or approves the minutes of its decision.

DATE DECISION AND ORDER ADOPTED

Wednesday, September 25, 2019

Charles Freese, Chairperson

John Thompson

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

James Brown

Exhibit List

1. Cheboygan County Zoning Ordinance
2. Cheboygan County Master Plan
3. Variance Application (5 Pages)
4. Mailing List (2 Pages)
5. Staff Report (6 Pages)
- 6.
- 7.

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

**CHEBOYGAN COUNTY
PLANNING & ZONING DEPT.**
870 SOUTH MAIN ST., PO BOX 70
CHEBOYGAN, MI 49721
(231) 627-8489 (TELEPHONE)
(231) 627-3646 (FAX)

DIMENSIONAL VARIANCE APPLICATION

\$110.00 APPLICATION FEE

RECEIPT #:	6950
CASH/CHECK:	✓ # 4032
ACTION / DATE:	

PLEASE PRINT

PROPERTY LOCATION

Address 7066 McDonald Road	City / Village Benton (Cheboygan)	Township / Sec. Benton ²⁹	Zoning District M-AF
Property Tax I.D. (Parcel) Number 104-029-100-018-00	Subdivision or Condo. Name / Plat or Lot No.		

APPLICANT

Name James Brown	Telephone (231) 445-0872	Fax	
Address 7910 Golf View Dr.	City & State Cheboygan MI	Zip Code 49721	E-Mail

OWNER (If different from applicant)

Name	Telephone	Fax	
Address	City & State	Zip Code	

Detailed directions to site, including nearest crossroad:

over 33 Bridge Then Right on Carter Rd
Left on McDonald Road. 7066 is 1 mile of Left
Mail Box says 7033.

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 known
- B. This property is unplatted, platted, will be platted. If platted, name of plat _____
- C. Present use of the property is: Residential
- 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 shed roof over existing Deck x2
zoned for SOFT set Back, I would need A variance of 26'6"

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 property is narrow and although quite deep, back of property is unbuildable.
The house and decks were built years ago, I guessing before any rules were made.
I would love to cover the decks due to heat in the summer, snow in winter.

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

I've made lots of improvements to the property, covering the existing decks
would really improve the looks of the property, not only for me but for
the people living around me, man across the street said how nice it looks.

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

I believe the setback ^{regulation} ~~is an~~ will keep me from really enjoying
the front yard. I hope you can see the benefit in what I
want to do, I think will only enhance the neighborhood.

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.

I am only asking for what I need, I have no plans to do
anything more, other than to landscape with plants & bushes.

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 property was kind of an eye sore before, I have spent a
lot of time improving the property, the neighbors I have talked
to are so happy with what I have done. Thank you.

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 James Brown Date 9/3/19

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 James Brown Date 9/3/19

(2 a) while doing my improvements I tried
To consider all possibilities and was
unable to place decks or entry doors
in any other AREA do to property lines
And septic behind home.

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

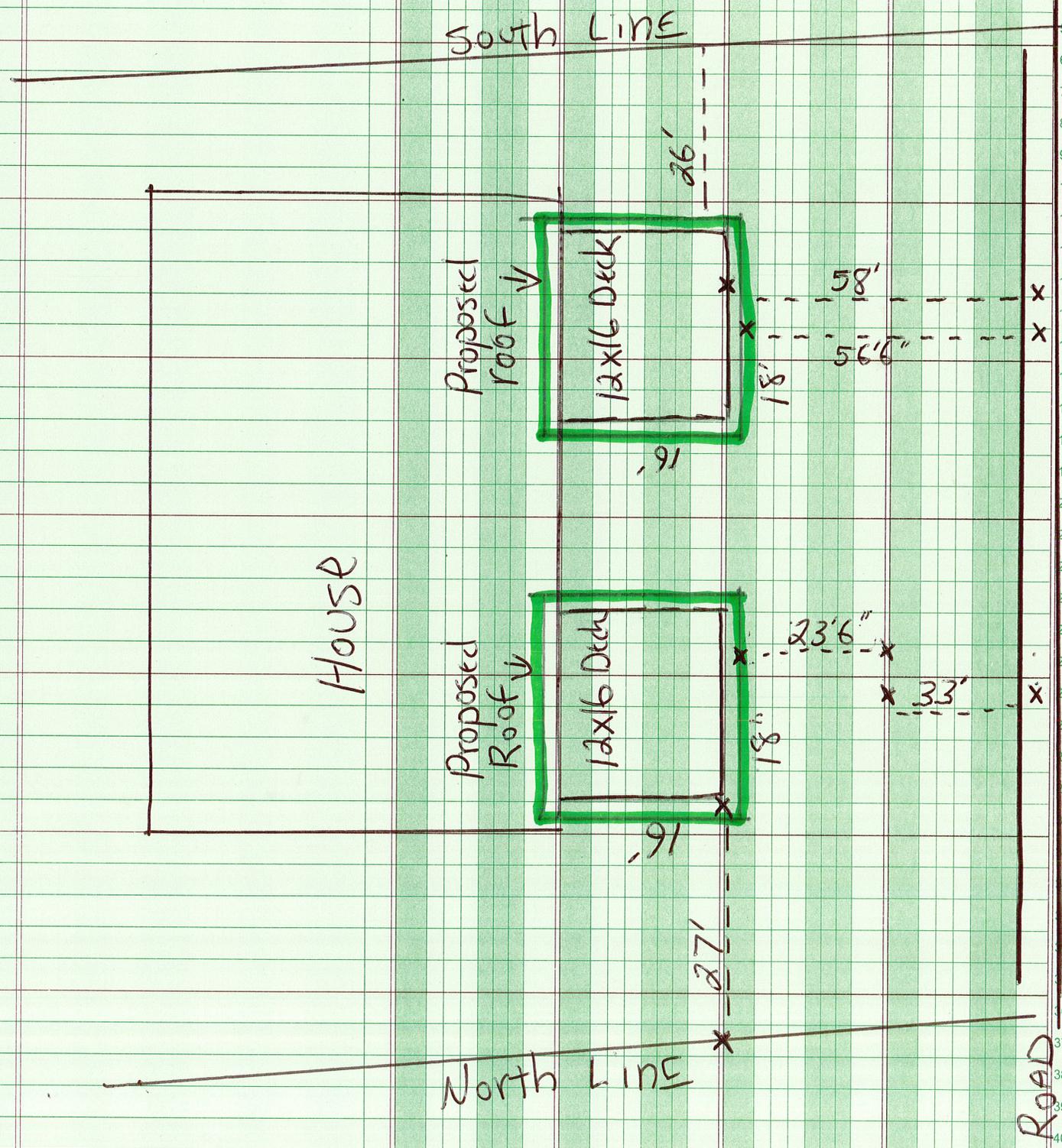
- | | |
|---|---|
| 1. Property Line dimensions and Property shape.
2. Front, Rear, & Side setback dimensions.
3. Location, shape & size of all existing & proposed buildings on property.
4. Location of all drives and parking areas.
5. Rivers, lakes, wetlands, or streams within 500 ft. | 6. Parcels under 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: _____ Rear: _____ Side: _____ Side: _____	Zoning District:	North:
---	-------------------------	---------------

See attached

	Initials	Date
Prepared By		
Approved By		

- (2) 16x18 Proposed Roofs overhang road side of decks by 18 inches
- Proposed roofs overhang existing decks 18 inches (8" on sides)
 - right of way is 33' from middle of ROAD



104-029-100-014-00
HANSEN, DAVID D JR
7134 MCDONALD RD
CHEBOYGAN, MI 49721

104-029-100-015-00
BURTON, MICHAEL A
165 IRONWOOD PLANTATION BLVD
MADISON, MS 39110

104-029-100-016-00
BUR, MICHAEL & SUSAN
7201 MCDONALD RD
CHEBOYGAN, MI 49721

104-029-100-001-01
MICHIGAN DEPT OF NATURAL RESOURCES
PO BOX 30722
LANSING, MI 48909

104-029-100-017-00
GRAY, TIMOTHY JAMES JR
7076 MCDONALD RD
CHEBOYGAN, MI 49721

104-029-100-018-00
BROWN, JAMES L & RENEE H/W
7910 GOLF VIEW DR
CHEBOYGAN, MI 49721

104-029-100-019-00
HANSEN, PATRICIA J
7056 MC DONALD RD
CHEBOYGAN, MI 49721

104-029-100-020-00
BARBER, PAULA M
7054 MCDONALD RD
CHEBOYGAN, MI 49721

104-029-100-021-00
DUCH, MICHAEL J & KIMBERLY A H/W,
7050 MC DONALD RD
CHEBOYGAN, MI 49721

104-029-100-030-00
TRANSPORT HOLDINGS, LLC
5200 CRYSTAL CREEK LN
WASHINGTON, MI 48094

104-029-100-029-00
HANSEN, DAVID D ET UX TRUSTEES
1513 DUTCH VILLAGE LN
CHEBOYGAN, MI 49721

104-029-100-028-01
WRIGHT, ERIC & MARY, TTEES
354 SALINE RIVER DR
SALINE, MI 48176

104-029-100-028-00
BATES, ONDREA L L/EWPTS;
600 SOUTH ALPINE LAKE DR
JACKSON, MI 49203

104-029-100-027-00
HANSEN, DAVID ET UX TRUSTEES
7039 MC DONALD RD
CHEBOYGAN, MI 49721

104-029-100-022-00
HANSEN, JEAN
7020 MC DONALD RD
CHEBOYGAN, MI 49721

104-029-200-007-09
CRAWFORD, JASON & MINDY H/W
2413 N M-33 HWY
CHEBOYGAN, MI 49721

104-029-200-007-09
OCCUPANT
1605 ORCHARD BEACH RD
CHEBOYGAN, MI 49721

104-029-100-022-00
OCCUPANT
7020 MC DONALD RD
CHEBOYGAN, MI 49721

104-029-100-016-00
OCCUPANT
7090 MC DONALD RD
CHEBOYGAN, MI 49721

104-029-100-027-00
OCCUPANT
7039 MC DONALD RD
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104-029-100-017-00
OCCUPANT
7076 MC DONALD RD
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104-029-100-018-00
OCCUPANT
7066 MC DONALD RD
CHEBOYGAN, MI 49721

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OCCUPANT
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CHEBOYGAN, MI 49721

104-029-100-029-00
OCCUPANT
1513 DUTCH VILLAGE LN
CHEBOYGAN, MI 49721

104-029-100-028-01
OCCUPANT
7065 MC DONALD RD
CHEBOYGAN, MI 49721

104-029-100-028-00
OCCUPANT
7057 MC DONALD RD
CHEBOYGAN, MI 49721

104-029-100-029-00
OCCUPANT
1431 DUTCH VILLAGE LN 1
CHEBOYGAN, MI 49721

104-029-100-029-00
OCCUPANT
1431 DUTCH VILLAGE LN 2
CHEBOYGAN, MI 49721

104-029-100-029-00
OCCUPANT
1431 DUTCH VILLAGE LN 3
CHEBOYGAN, MI 49721

104-029-100-029-00
OCCUPANT
1431 DUTCH VILLAGE LN 4
CHEBOYGAN, MI 49721

104-029-100-029-00
OCCUPANT
1431 DUTCH VILLAGE LN 5
CHEBOYGAN, MI 49721

104-029-100-029-00
OCCUPANT
1431 DUTCH VILLAGE LN 6
CHEBOYGAN, MI 49721

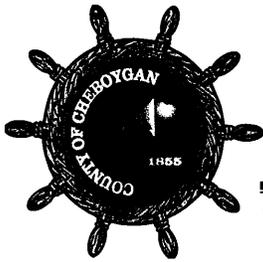
104-029-100-029-00
OCCUPANT
1431 DUTCH VILLAGE LN 7
CHEBOYGAN, MI 49721

104-029-100-029-00
OCCUPANT
1431 DUTCH VILLAGE LN 8
CHEBOYGAN, MI 49721

104-029-100-029-00
OCCUPANT
1431 DUTCH VILLAGE LN 9
CHEBOYGAN, MI 49721

104-029-100-029-00
OCCUPANT
1431 DUTCH VILLAGE
CHEBOYGAN, MI 49721

104-029-100-018-00
OCCUPANT
7062 MCDONALD RD
CHEBOYGAN, MI 49721



CHEBOYGAN COUNTY PLANNING AND ZONING DEPARTMENT

CHEBOYGAN COUNTY BUILDING ■ 870 S. MAIN STREET, PO BOX 70 ■ CHEBOYGAN, MI 49721
PHONE: (231)627-8489 ■ FAX: (231)627-3646
www.cheboygancounty.net/planning/

DIMENSIONAL VARIANCE STAFF REPORT

Item: Requests a front setback variance of 26-ft. 6-in. to cover two existing decks accessory to a single family dwelling in an Agriculture and Forestry Management (M-AF) zoning district.	Prepared by: Jennifer Merk
Date: September 20, 2019	Expected Meeting Date: September 25, 2019

GENERAL INFORMATION

Applicant/Owner(s): James Brown

Contact person: Same as above

Phone: 231-445-0872

Requested Action: The applicant requests a 26-ft 6-in. front setback variance to construct a roof (both 16-ft. x 18-ft) over two existing decks accessory to a single family dwelling where a minimum of 50-ft. is required in an Agriculture and Forestry Management (M-AF) zoning district.

BACKGROUND INFORMATION

The subject property is a half-acre parcel located at 7066 McDonald Rd. in Benton Township. The subject property is zoned Agriculture and Forestry Management (M-AF). The applicant is requesting a front setback variance to cover two existing decks located on the front (road side) of a single family dwelling.

The subject property does not meet minimum lot size requirements for the Agriculture and Forestry Management (M-AF) zoning district; therefore, the subject property is legal nonconforming. The dwelling is visible on aerial photos going back to 1998.

The applicant received a letter from Building Safety Department stating a building permit is needed for the construction of roofs over existing decks. The applicant inquired into getting a zoning permit but found the two covered decks could not be approved without a dimensional variance. Per section 17.1 of the Zoning Ordinance, a minimum of 50-ft. of front setback is

required in an Agriculture and Forestry Management zoning district. The covered decks extend 26-ft. 6-in. into the 50-ft. minimum front setback area.

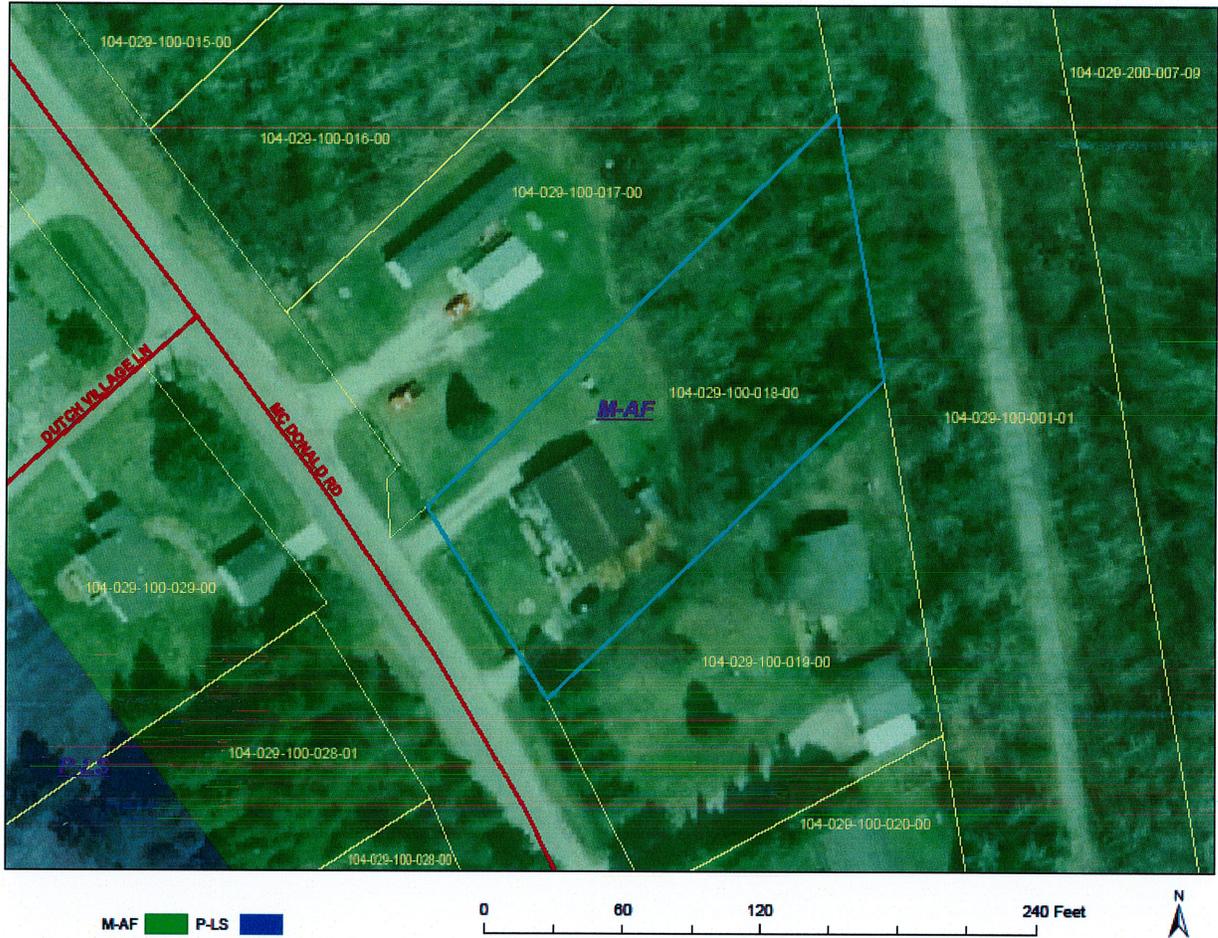


Figure 1. Location and zoning of subject property at 7066 McDonald Rd., Benton Twp.

Surrounding Zoning:

North: Agriculture and Forestry Management (M-AF)

East: Same

South: Same

West: M-AF and Lake and Stream Protection (P-LS)

Surrounding Land Uses:

Residential land uses exist to the north, west and south. Michigan Department of Natural Resources owns property (rail trail) directly east of the subject property.

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

According to the Final Wetlands Inventory Database, wetlands may be present on the subject property and may need review by the Michigan Department of Environment, Great Lakes, and Energy (EGLE).

Public comments:

No public comments have been received.

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS
Wednesday, September 25, 2019 at 7:00 PM
Room 135 – Commissioners Room
Cheboygan County Building, 870 S. Main St., Cheboygan, MI 49721

Applicant:

James Brown
7910 Golf View Rd.
Cheboygan, MI 49721

Owner:

Same

Parcel: 104-029-100-018-00

General Findings:

1. The subject property is located in an Agriculture and Forestry Management (M-AF) zoning district.
2. The subject property is one half acre and less than 150 ft. of width, therefore, legal nonconforming as to minimum lot size.
3. A front setback of 50 feet is required in the M-AF zoning district per section 17.1.
4. The right-of-way near the applicant's property on 7066 McDonald Road is sixty-six (66) feet as recorded from a 1960's survey per the Cheboygan County Road Commission.
5. The applicant is seeking a 26-ft. 6-in. front setback variance (to allow for a 23-ft. 6-in. front setback) to cover two existing decks on the southwest side (road side) of a single family dwelling.

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. The property lot size is legal nonconforming for the Agriculture and Forestry Management (M-AF) zoning district.

2. The existing dwelling and decks are located near the required front setback and the septic, drain field and low lying terrain are located in the back of the property, which are unique physical conditions.

This standard has been met.

- B. The physical conditions of the property which support denying the variance are as follows:
 1. There are no unique circumstances or physical conditions and the circumstances are due to the applicant's personal difficulty.

This standard has not been met.

23.5.4.2. That 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 property lot size is legal nonconforming for the Agriculture and Forestry Management (M-AF) zoning district.
 2. The need for the variance is due to the location of the existing dwelling and decks and the location of the septic, drain field and low lying terrain in the back of the property, which are unique conditions and is not the result of actions of the property owner or previous property owners.

This 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. The existing decks were covered without applying for permits and are the result of actions of the current property owner and the need for the requested variance is self-created.

This 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. Due to the property lot size being smaller than required for the Agriculture and Forestry Management (M-AF) zoning district, as well as the location of the existing dwelling and decks, the location of the septic, drain field and low lying terrain of the property, strict compliance with front setback regulations will be unnecessarily burdensome.

This standard has been met.

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

1. Strict compliance with front setback regulations will allow for additions to the structure in other locations and conforming to setback regulations will not be unnecessarily burdensome.

This 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. Due to location of the existing dwelling and covered decks and the location of the septic, drain field and low lying terrain in the back of the property; the requested variance is necessary to grant reasonable relief and do substantial justice to other property owners in the district.

This 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. The variance request to cover two existing decks (both 16-ft. x 18-ft.) on an existing dwelling does not represent the minimum variance necessary to grant reasonable relief and granting the variance will not do substantial justice to other property owners in the district.

This 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. Granting a variance to allow a 23-ft. 6-in. front setback instead of the required 50-ft. front setback will not cause an adverse impact on surrounding property, property values and/or the use and enjoyment of property in the neighborhood or zoning district.

This standard has been met.

- B. Factors that show how granting the variance would adversely impact the neighborhood or zoning district.
1. Granting the variance would allow the covered decks with a front setback of 23-ft. 6-in. instead of the required 50-ft. in an Agriculture and Forestry Management (M-AF) zoning district.

This standard has not been met.

DECISION

TIME PERIOD FOR JUDICIAL REVIEW

MCLA 125.3606 provides that a person having an interest affected by the zoning ordinance may appeal a decision of the Zoning Board of Appeals to the Circuit Court. Any appeal must be filed within thirty (30) days after the Zoning Board of Appeals certifies this Decision in writing or approves the minutes of its decision.

DATE DECISION AND ORDER ADOPTED

Wednesday, September 25, 2019

Charles Freese, Chairperson

John Thompson

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

Michelle Freeman-Keyser Industries/Indian River Trading Post, Inc.

Exhibit List

1. Cheboygan County Zoning Ordinance
2. Cheboygan County Master Plan
3. Variance Application (7 Pages)
4. Mailing List (2 Pages)
5. Staff Report (6 Pages)
- 6.
- 7.

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

**CHEBOYGAN COUNTY
PLANNING & ZONING DEPT.**
870 South Main St., PO Box 70
Cheboygan, MI 49721
(231) 627-8489 (Telephone)
(231) 627-3646 (Fax)

DIMENSIONAL VARIANCE APPLICATION

\$110.00 APPLICATION FEE

RECEIPT #:	6945
CASH/CHECK:	✓ \$1020841
ACTION / DATE:	

PLEASE PRINT

PROPERTY LOCATION

Address 6153 M68	City / Village INDIAN RIVER	Township / Sec. TU 25	Zoning District D-CM Commercial
Property Tax I.D. (Parcel) Number 16102520004400	Subdivision or Condo. Name / Plat or Lot No. n/a		

APPLICANT

Name Michelle Freeman- Keyser Industries	Telephone 708-876-1249	Fax	
Address 9015 South Kedzie Avenue	City & State Evergreen Park	Zip Code 60805	E-Mail michelle.freeman@  explorekeyser.com

OWNER (If different from applicant)

Name Indian River Trading Post, Inc.	Telephone	Fax	
Address 235 Water St.	City & State Alpena, MI	Zip Code 49707	

Detailed directions to site, including nearest crossroad:
This McDonald's is located off of M-68 between Sturgeon Street and Club Road. It is inside a Shell gas station and across the street from a Marathon gas station.

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 _____
- C. Present use of the property is: restaurant / gas station
- 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.
We are proposing to replace the current menu board at this McDonald's with a new 100% digital menu board. We will be completely removing the existing Drive Thru boards and installing this new one. The variance required is due to the fact that these boards are 100% digital/electronic, and the code allowance has a maximum of 75%

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.
These new 100% digital boards are being installed at every McDonald's location in the country. The old boards and the material for them will no longer be available to owners. If this board cannot be installed, the Drive Thru will not be able to function going forward.

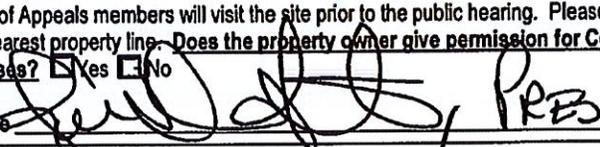
 - b. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).
The Outdoor Digital Menu Board Project was implemented by McDonald's Corporate for all locations in the country. These boards will be the only Drive Thru option available to owners going forward. There is no option for new menu boards that are not 100% digital for this or any location in the country.

 - 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
If this board cannot be installed, the Drive Thru will not be able to function. The Drive Thru is an essential aspect of the restaurant as a whole, and it will be at a significant disadvantage if the board is not allowed.

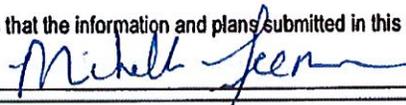
 - d. That the requested variance is the minimum variance necessary to grant the applicant reasonable relief as well as to do substantial justice to other property owners in the district.
The requested variance is the minimum variance necessary because there is no other option for the owner's menu board.

 - 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 requested variance will not have an adverse impact. These new boards are smaller, cleaner looking, and have advanced technology. It will improve the appearance of the restaurant and the efficiency of the Drive Thru.

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 , PEB. Date 8/19/19

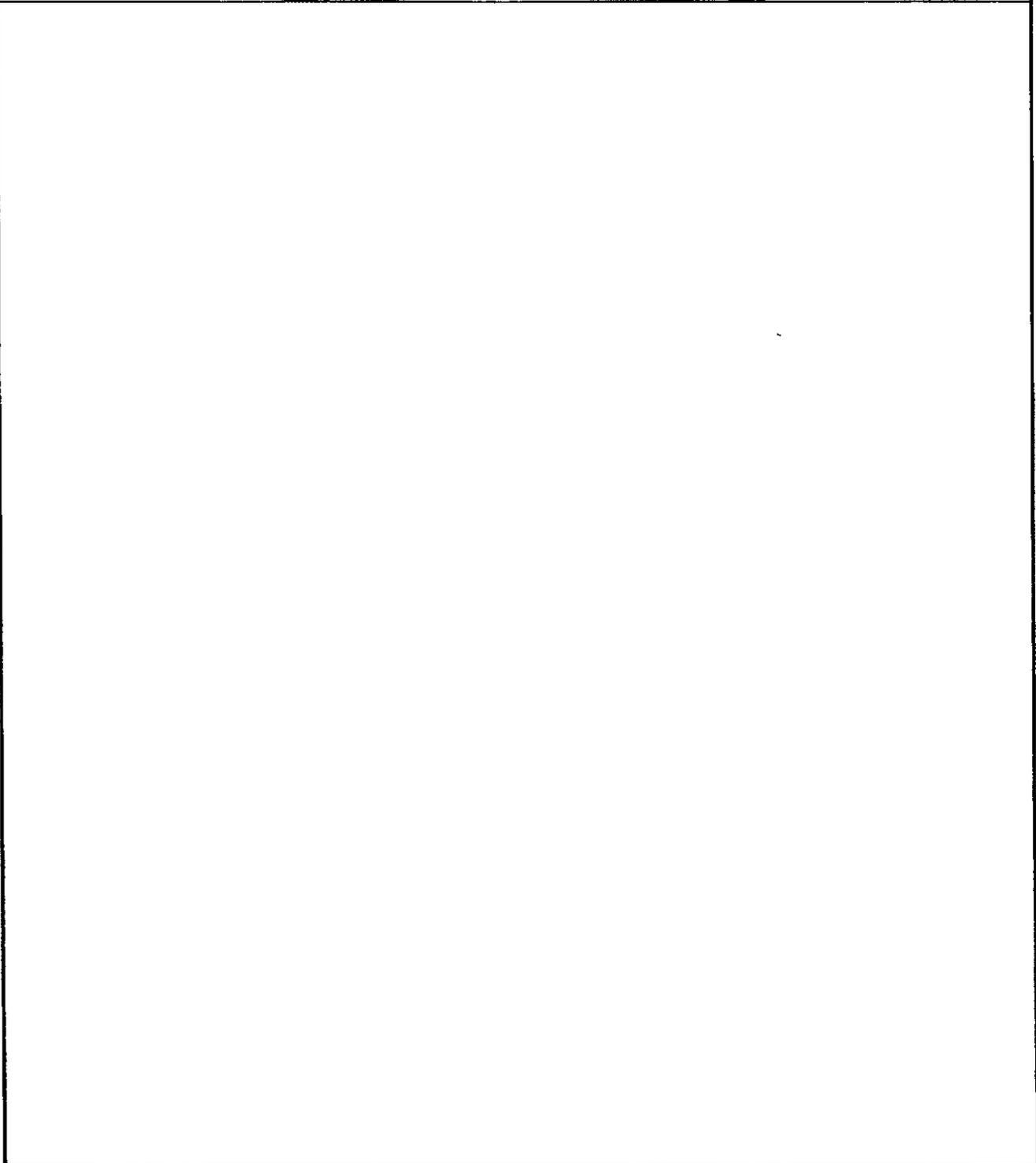
AFFADAVIT
 The undersigned affirms that the information and plans submitted in this application are true and correct to the best of the undersigned's knowledge.

Applicant's Signature  Date 8/23/19

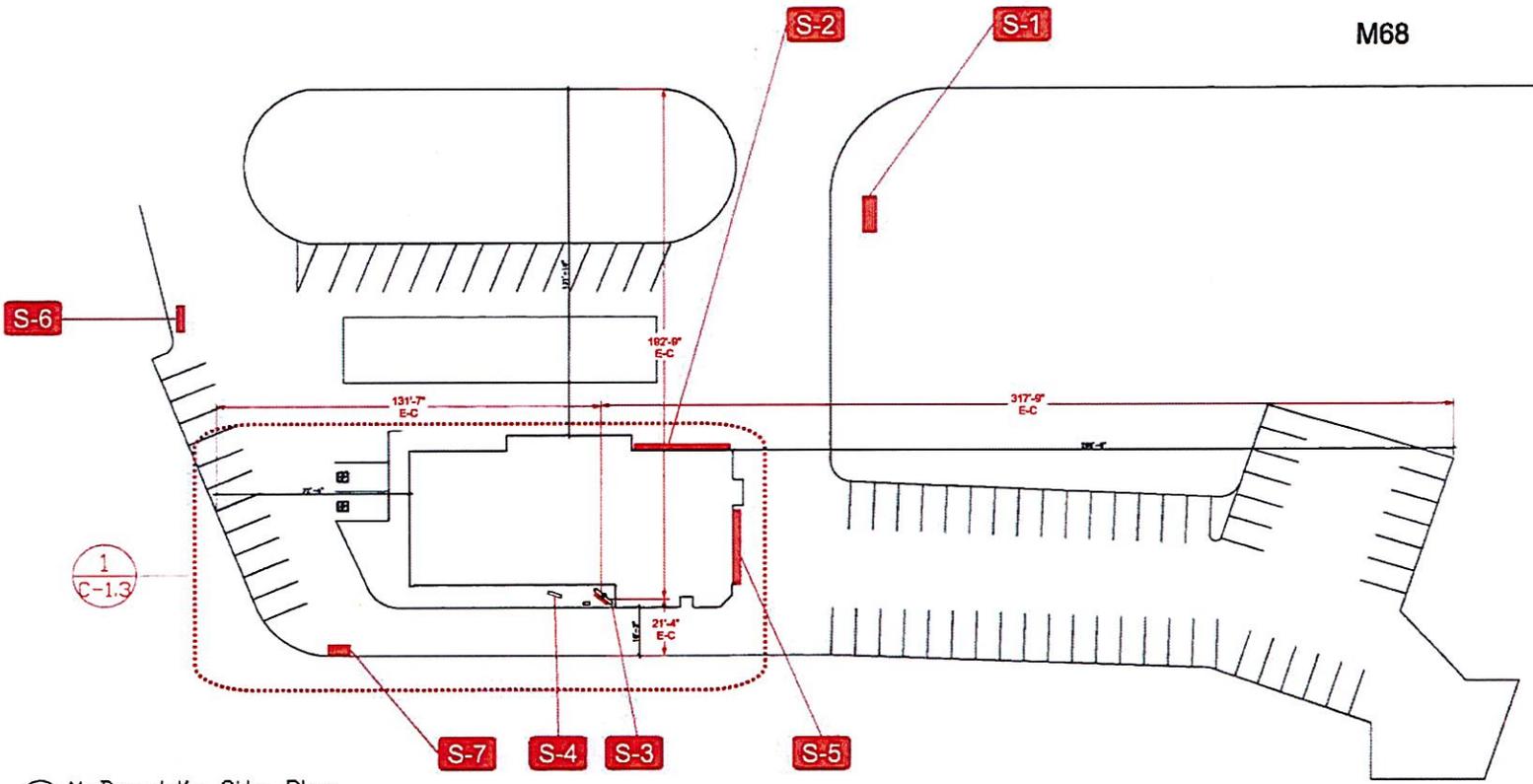
SITE PLAN INFORMATION Please include the following on your site plan:

- | | |
|---|---|
| 1. Property Line dimensions and Property shape. | 6. Parcels under separate ownership therein. |
| 2. Front, Rear, & Side setback dimensions. | 7. Road Right-Of-Way (ROW); access or utility easements. |
| 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. |

Distance from property line to proposed structure: Front: <u>22'6"</u> Rear: <u>23'1"</u> Side: <u>21'4"</u> Side: <u>23'9"</u>	Zoning District: <u>County Commercial</u>	North: 
--	--	---



Sign	Location	Height	Dimensions
Sign #1	Northeast side of lot	30' (from Grade)	14' x 12'
Sign #2	Northside of building	4'	4' x 12'
Sign #3	Southside of building	6'9"	5'4" x 8'7"
Sign #4	Southside of building	6'5"	5'4" x 2'5"
Sign #5	Eastside of building	4'	4' x 12'
Sign #6	Northwest side of lot	40' (from Grade)	10' x 10'
Sign #7	Southside of lot	5'	1' x 2'



1 McDonald's Site Plan
SCALE: N.T.S.

DATE	7-18-78
BY	...
PROJECT NO.	...

Prepared For:
McDONALD'S

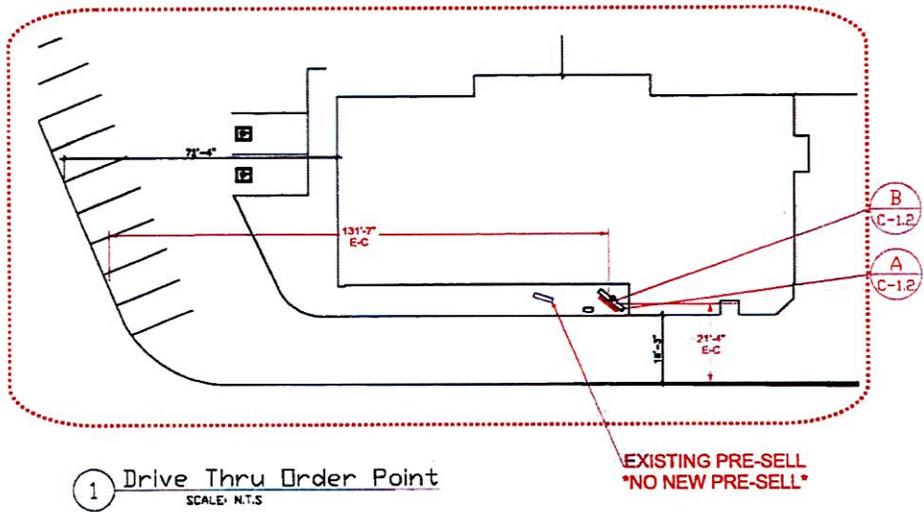
Prepared By:

CHECKED BY:	...
DESIGNED BY:	...
DATE:	...
SCALE:	...
PROJECT NO.:	C-1

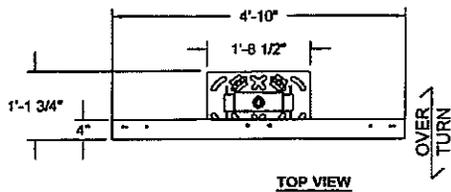
BUILDING/ELECTRICAL/MECHANICAL COMMENTS:

MENU BOARD IS ELECTRIFIED, USING EXISTING DEDICATED 20AMP CIRCUIT FOR EACH D/T LANE AN WILL HAVE ISOLATED GROUNDS.
 CONDUIT: EXISTING TO HOME RUN IS 2". NEW FEEDER WILL BE 3/4" FOR LINE VOLTAGE. ALL CONDUIT EXISTING WILL BE SCHEDULE 40PVC UNDERGROUND.
 LINE VOLTAGE WIRING: 4#12 & 1#12 GND & 1#12 ISOLATED GND TO EXISTING PANEL FOR ISOLATED GROUND POWER TO MENU BOARDS
 LOW VOLTAGE CABLING: CAT-6 OUTDOOR & UNDERGROUND RATED BELKIN CABLING TO EXISTING NETWORK DATE SWITCH FOR COMMUNICATION TO MENU BOARDS.

- A) NEW LANE 1 MENU BOARD INSTALLATION-REMOVE OLD BOARD
 SCREEN DIMS: 4'-10"W x 4'-1 5/8"H x 1'-1 1/2"D
 TOTAL BOARD HEIGHT (WITH BASE): 5'-11 5/8"H
 MINIMUM SETBACK FROM PUBLIC WAY: 40'
 NEW SCREEN SQUARE FOOTAGE: 20'
 OLD SCREEN SQUARE FOOTAGE: 43' Double Screen
- B) EXISTING DRIVE-THRU EQUIPMENT TO BE REMOVED



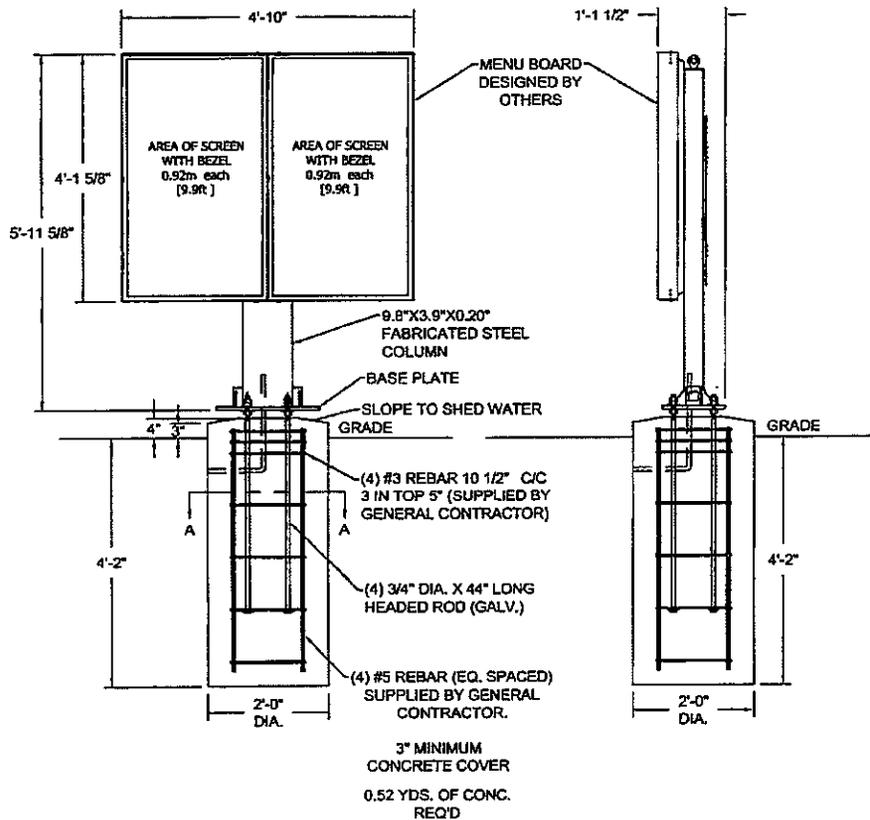
	DATE: 7-18-13
	DRAWN BY: [Redacted]
	CHECKED BY: [Redacted]
	DATE: [Redacted]
	SCALE: [Redacted]
	PROJECT NO.: [Redacted]
Prepared For: [Redacted]	
Prepared By: [Redacted]	
C-1.3	



SIGN CABINET
DESIGN BY OTHERS.

ELECTRICAL/ILLUMINATION
DESIGN BY OTHERS.

ALL STEEL SHALL BE
HOT DIP GALVANIZED.



Notes:

- Design criteria:
Building Code: MIBC 2015/IBC 2015
Wind Speed: 115 MPH, Exposure C
Category II
- Foundation analysis assumes soil class 4. The allowable bearing pressure should be verified prior to placement of concrete. In the event that the stated requirements are not met and conditions appear deleterious, cease and secure excavation and immediately contact THE CLIENT.
- Caisson foundation is based on a presumptive safe lateral soil bearing pressure minimum of 150 psf per foot of depth. Isolated lateral bearing footings subject to short-term lateral loads and not adversely affected by a 1/2" motion at grade are permitted to be designed using twice the tabulated value of the corresponding soil class.
- Foundation shall not be placed on, or at the top of a slope exceeding 3:1 without evaluation by a competent Professional Engineer. Do not place foundation in fill.
- Concrete shall be mixed to attain a minimum 28 day compressive strength of 3000 psi.
- Steel reinforcing bars shall conform to ASTM A615, Grade 60 with deformations, in accordance with ASTM A305. Welding of reinforcement is prohibited.
- Anchor bolts shall meet ASTM F1554 Grade 36 and shall be galvanized to prevent corrosion.
- All support members shall be free from defects. Steel tubes shall meet ASTM A500 Grade B with a minimum yield strength of 46000 psi. Steel pipe shall meet ASTM A53 Grade B with a minimum yield strength of 35000 psi. Steel angle, channel, and plate shall meet ASTM A36.
- Steel welds shall be made with E70XX electrodes by persons qualified in accordance with AWS standards within the past two years.
- Structural bolts shall meet ASTM A325 and be zinc coated unless noted otherwise. Heavy hex nuts shall meet ASTM A563 and washers shall meet ASTM F436 when used with high strength bolts. All high strength bolts shall be tightened using the Turn-of-Nut method unless noted otherwise.
- This engineer will not be responsible for safety on the jobsite before, during, or after the installation of this structure. It is the responsibility of the owners, contractors, and installers to ensure that the installation of this structure is completed using methods that fully comply with OSHA regulations.
- Any deviation from this design or from any part of this drawing without prior written consent of this engineer voids this drawing in its entirety.
- The structure depicted on this drawing is intended to be installed at the address shown and should not be used at any other location.

NOTES: All materials specified on this drawing are the sole property of Campbell Consulting Engineering, LLC. No part of this drawing may be reproduced or transmitted in any form or by any means electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without written permission of Campbell Consulting Engineering, LLC. The use of this drawing without the written consent of Campbell Consulting Engineering, LLC is prohibited. The use of this drawing without the written consent of Campbell Consulting Engineering, LLC is prohibited. The use of this drawing without the written consent of Campbell Consulting Engineering, LLC is prohibited.

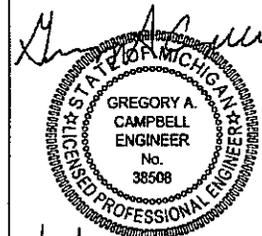
McDONALD'S - NS# 21854 - DOUBLE FACE MENU BOARD
6153 M68
INDIAN RIVER, MI 49749

CLIENT: KEYSER
10200 S. Kedzie Avenue
Evergreen Park, IL 60805



382 HIGH STREET
MARYVILLE, TN 37804
865-980-8881
CCENGINEER.COM
COA #E9053H

SHEET	BY	PROJECT NO.
1	JRL	19-0064
OF	DATE	DRAWING NO.
2	05/13/2019	B1211636



5/13/19

May 13, 2019

PROJECT # 19-0064
 DRAWING # B3211636
 WIND SPEED 115 MPH
 WIND LOAD 20.56 PSF
 BUILDING CODE IBC 2015/IBC 2015

OWNER: MCDONALD'S NSR 21854 - 2 FACE MENU BOARD
 6153 M68
 INDIAN RIVER, MI 49749
 CLIENT: KEYSER
 10200 S. KEDZIE AVE.
 EVERGREEN PARK, IL 60805

Description	Height (FT)	Width (FT)	Shape Factor	Cf	Centroid (FT)	Area (SQ FT)	Wind Force (Q)	Moment (K-FT)
SIGN COLUMN	4.133	4.823	1.000	2.000	2.967	19.978	0.411	0.849
OVERALL HEIGHT	1.813	0.817	1.000	1.312	0.917	1.497	0.448	1.636

COLUMN CALCULATIONS

T = TUBE; P = PIPE; W = WIDE-FLANGE; O = OTHER

Description	Column Depth (IN)	Column Width (IN)	Wall Thickness (IN)	Ixx (IN ⁴)	Iyy (IN ⁴)	Zxx (IN ³)	DESIGN MOMENT (K-FT)	NOMINAL FLEXURAL STRENGTH (K-FT)	UNITY
T SIGN COLUMN	5.000	9.800	0.200	14.482	7.427	7.748	0.849	11.693	0.073
T COLUMN	3.900	9.800	0.200	14.482	7.427	7.748	1.636	11.693	0.140

BOLT CALCULATIONS

Description	MOMENT (K-FT)	BOLT SPACING (IN)	BOLT QTY	BOLT DIAMETER (IN)	BOLT AREA (IN ²)	BOLT TENSION (K)	BOLT SHEAR CAPACITY (K)	BOLT TENSION CAPACITY (K)	BOLT SHEAR CAPACITY (K)	COMBINED UNITY CHECK
BASE PLATE	1.636	8.000	4	0.750	0.442	1.277	0.112	8.439	5.964	0.145

PLATE CALCULATIONS

Description	TENSION PER BOLT (K)	MOMENT ARM (IN)	PLATE MOMENT (K-IN)	PLATE WIDTH (IN)	PLATE DEPTH (IN)	PLATE THICK. (IN)	MINIMUM PLATE THICK. (IN)
BASE PLATE	1.277	2.000	2.454	3.000	11.600	0.630	0.429

FOUNDATION CALCULATIONS

CAISSON FOUNDATION

MOMENT AT GRADE	1.636	K-FT
SHEAR AT GRADE	0.448	K
REFERENCE (BC 1807.3.2 & TABLE 1806.2)		
ASSUME SOIL CLASS #4 - SW, SP, SA, SC, GM, & GC		
LATERAL BEARING PRESSURE - PSF/FT OF DEPTH	150.000	PSF/FT
DEPTH	416.847	FT
DIAMETER	2.000	FT
h	3.432	FT
A	1.258	FT
CALCULATED DEPTH	2.954	FT
CONCRETE REQUIRED	0.483	YD ³

ALL STEEL SHALL BE HOT DIP GALVANIZED.

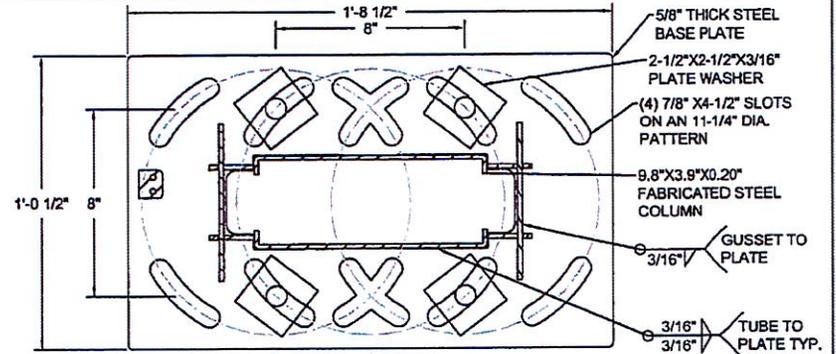
3/4" DIA. HVY HEX NUT (GALV.)

2-1/2" X 2-1/2" X 3/16" PLATE WASHERS

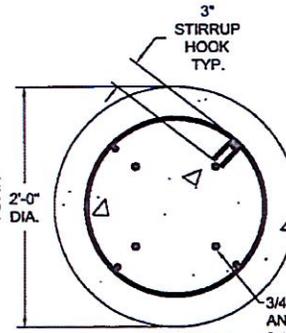
3/4" DIA. X 44" LONG HEADED ROD (GALV.)

HEADED ROD W/ 2 1/2" X 2 1/2" X 3/16" WASHER (GALV.)

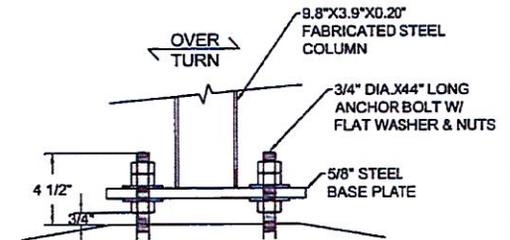
ANCHOR BOLT DETAIL



BASE PLATE DETAIL



SECTION A-A



ANCHOR BOLT PROJECTION DETAIL

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5/13/19

MCDONALD'S - NSR 21854 - DOUBLE FACE MENU BOARD
 6153 M68
 INDIAN RIVER, MI 49749

CLIENT: KEYSER
 10200 S. Kedzie Avenue
 Evergreen Park, IL 60805



382 HIGH STREET MARYVILLE, TN 37804
 865-980-8881
 CCENGINEER.COM
 COA #E9053H

SHEET	BY	PROJECT NO.
2	JRJ	19-0064
DATE	DATE	DRAWING NO.
05/13/2019		B1211636

161-024-400-578-02
WIZZLE HOLDINGS LLC
6100 M-68 HWY
INDIAN RIVER, MI 49749

161-024-400-578-03
CARPENTER, DAVID & DENISE H/W
PO BOX 430
INDIAN RIVER, MI 49749

161-B01-000-012-01
DEIBEL, MARY C
1436 SOUTHPOINTE CIR NE
CANTON, OH 44714

161-B01-000-014-00
SCHNEIDER, ROBERT & MARTHA H/W
4249 RAINBOWS END TRL
INDIAN RIVER, MI 49749

161-B01-000-022-00
P & K CHAMPAGNE FAMILY, LLC
7755 HOSPITAL RD
FREELAND, MI 48623

161-025-200-042-00
PAOLINO, LOUIS R & PAULA H/W
528 EAGLESNEST RD
INDIAN RIVER, MI 49749

161-025-200-001-02
MICHIGAN DEPT OF NATURAL RESOURCES
PO BOX 30722
LANSING, MI 48909

161-025-200-026-01
WILSON, TONI
4928 MODOC RD
INDIAN RIVER, MI 49749

161-025-200-038-00
REID, CHARLES & LULLA TRUST
1120 HUFFMAN RD, STE 24 PMB 561
ANCHORAGE, AK 99515

161-025-200-039-00
BLARNEY CASTLE OIL CO
PO BOX 246
BEAR LAKE, MI 49614

161-025-200-044-00
INDIAN RIVER TRADING POST, INC
235 WATER ST
ALPENA, MI 49707

161-B01-000-015-00
WILHELM, JAMES W ET UX
5324 E MITCHELL
PETOSKEY, MI 49770

161-B01-000-016-00
WILHELM, JAMES ET UX
5324 E MITCHELL ST
PETOSKEY, MI 49770

161-B01-000-017-00
WILHELM, JAMES ET UX
5324 E MITCHELL
PETOSKEY, MI 49770

161-B01-000-018-00
HOPE, DAVID E
4221 RAINBOWS END TRL
INDIAN RIVER, MI 49749

161-B01-000-019-00
GRUBAY, GERALD A
29114 WILDBROOK
SOUTHFIELD, MI 48034

161-B01-000-020-00
TSCHIRHART, TIMOTHY J
4209 RAINBOWS END TRL
INDIAN RIVER, MI 49749

161-B01-000-021-00
WILKINS, ROBERT & SUZETTE H/W
614 PRADO DR
LADY LAKE, FL 32159

161-581-000-001-00
PEARSON, JOHN PAUL ET UX
4185 RAINBOWS END TRL
INDIAN RIVER, MI 49749

161-025-200-043-00
STATE OF MICHIGAN
PO BOX 30448
LANSING, MI 48909

161-024-400-575-00
FAMILY DOLLAR INDIAN RIVER MI, LLC
29231 WELLINGTON ST
FARMINGTON, MI 48334

161-024-200-001-02
MICHIGAN DEPT OF NATURAL RESOURCES
PO BOX 30722
LANSING, MI 48909

161-025-200-055-00
STRAITS AREA FEDERAL CREDIT UNION
201 LOCUST ST, PO BOX 367
CHEBOYGAN, MI 49721

161-024-400-578-02
OCCUPANT
6100 M-68 HWY
INDIAN RIVER, MI 49721

161-024-400-578-03
OCCUPANT
6220 M-68 HWY
INDIAN RIVER, MI 49721

161-B01-000-012-01
OCCUPANT
4267 RAINBOWS END TRL
INDIAN RIVER, MI 49721

161-B01-000-014-00
OCCUPANT
4249 RAINBOWS END TRL
INDIAN RIVER, MI 49721

161-B01-000-022-00
OCCUPANT
4240 RAINBOWS END TRL
INDIAN RIVER, MI 49721

161-025-200-042-00
OCCUPANT
4141 CLUB RD
INDIAN RIVER, MI 49721

161-S81-000-001-00
OCCUPANT
4185 RAINBOWS END TRL
INDIAN RIVER, MI 49721

161-025-200-026-01
OCCUPANT
6031 M-68 HWY
INDIAN RIVER, MI 49721

161-025-200-038-00
OCCUPANT
6225 M-68 HWY
INDIAN RIVER, MI 49721

161-025-200-039-00
OCCUPANT
6174 M-68 HWY
INDIAN RIVER, MI 49721

161-025-200-044-00
OCCUPANT
6153 M-68 HWY
INDIAN RIVER, MI 49721

161-B01-000-015-00
OCCUPANT
4245 RAINBOWS END TRL
INDIAN RIVER, MI 49721

161-B01-000-016-00
OCCUPANT
4237 RAINBOWS END TRL
INDIAN RIVER, MI 49721

161-B01-000-017-00
OCCUPANT
4229 RAINBOWS END TRL
INDIAN RIVER, MI 49721

161-B01-000-018-00
OCCUPANT
4221 RAINBOWS END TRL
INDIAN RIVER, MI 49721

161-B01-000-019-00
OCCUPANT
4215 RAINBOWS END TRL
INDIAN RIVER, MI 49721

161-B01-000-020-00
OCCUPANT
4209 RAINBOWS END TRL
INDIAN RIVER, MI 49721

161-B01-000-021-00
OCCUPANT
4197 RAINBOWS END TRL
INDIAN RIVER, MI 49721

161-024-200-001-02
OCCUPANT
6045 RIVER ST
INDIAN RIVER, MI 49721

161-025-200-055-00
OCCUPANT
6090 M-68 HWY
INDIAN RIVER, MI 49721



CHEBOYGAN COUNTY PLANNING AND ZONING DEPARTMENT

CHEBOYGAN COUNTY BUILDING ■ 870 S. MAIN STREET, PO BOX 70 ■ CHEBOYGAN, MI 49721
PHONE: (231)627-8489 ■ FAX: (231)627-3646
www.cheboygancounty.net/planning/

DIMENSIONAL VARIANCE STAFF REPORT

Item: Requests a variance from section 17.19.8.1.B of the Zoning Ordinance (that indicates that the area of an electronic sign surface shall not exceed 75% of the total sign surface) to replace the existing menu board with a new digital menu board in a Commercial Development (D-CM) zoning district.	Prepared by: Jennifer Merk
Date: September 18, 2019	Expected Meeting Date: September 25, 2019

GENERAL INFORMATION

Applicant(s): Michelle Freeman/Keyser Industries

Owner(s): Indian River Trading Post, Inc.

Contact person: Michelle Freeman

Phone: 708-876-1249

Requested Action: The applicant requests a variance from Section 17.19.8.1.B that indicates that the area of the electronic sign surface shall not exceed 75% of the total sign surface. The applicant proposes replacing the existing menu board at the McDonalds restaurant with a new digital menu board with electronic sign surface area of nearly 100%.

BACKGROUND INFORMATION

The subject property is zoned Commercial Development and located along the Sturgeon River at 6153 Highway M-68 in Tuscarora Township. The McDonalds restaurant is part of the "Indian River Trading Post" that includes a gas station and convenience store. There are seven existing signs on the subject property; this request concerns the menu board for the McDonalds drive-thru window. The applicant would like to replace the static menu board (43 sq. ft. of sign area) with a smaller new digital menu board (20 sq. ft. of sign area). However, the proposed digital menu board includes a minimal bezel/frame with an electronic sign surface area of nearly 100%.

The Zoning Board of Appeals approved a 10-ft. setback variance from the Sturgeon River for construction of a restaurant addition for McDonalds on October 25, 2006. Furthermore, a Sign Permit was approved in 2013 to reface an existing freestanding sign.

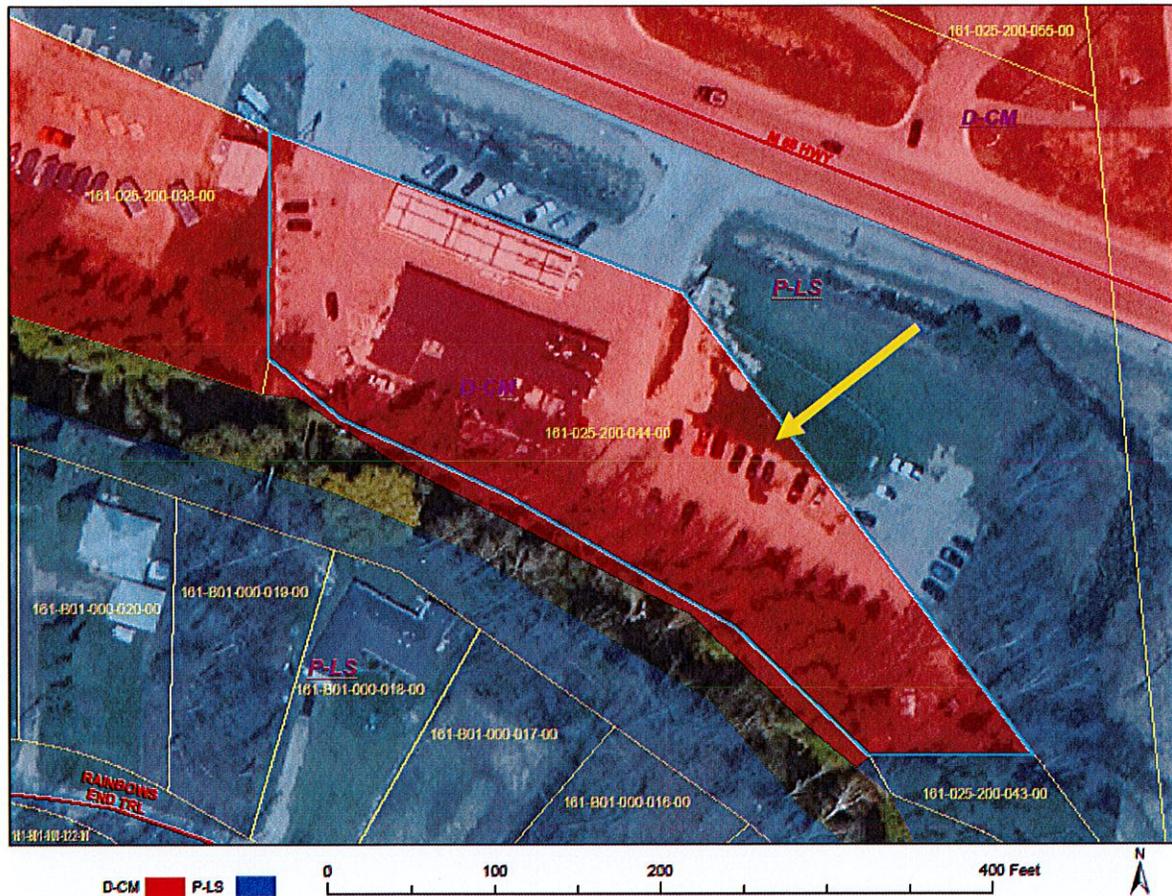


Figure 1. Location and zoning of subject property at 6153 Highway M-68, Tuscarora Twp.

Surrounding Zoning:

North: Lake and Stream Protection (P-LS)

East: same

South: same

West: Commercial Development (D-CM)

Surrounding Land Uses:

Commercial land uses exist to the north, east, and west. The Sturgeon River is located directly south with residential uses across the river.

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

The subject property is located on the Sturgeon River, and therefore the shoreline area is considered particularly sensitive.

Public comments:

No public comments have been received as of this writing.

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS
Wednesday, September 25, 2019 at 7:00 PM
Room 135 – Commissioners Room
Cheboygan County Building, 870 S. Main St., Cheboygan, MI 49721

Applicant:

Michelle Freeman/Keyser Industries
9015 South Kedzie Avenue
Evergreen Park, IL 60805

Owner:

Indian River Trading Post, Inc.
235 Water St.
Alpena, MI 49707

Parcel: 161-025-200-044-00

General Findings:

1. The subject property is located in a Commercial Development (D-CM) zoning district.
2. A gas station and McDonalds restaurant are part of the “Indian River Trading Post.”
3. There are seven (7) existing signs on the subject property that are part of the McDonalds franchise.
4. Section 17.19.8.1. B of the Zoning Ordinance states “The area of the electronic sign surface shall not exceed 75% of the total sign surface.
5. The applicant is requesting a variance to Section 17.19.8.1.B to replace an existing menu board with a digital menu board with a total electronic sign surface area of nearly 100%.
6. The proposed digital menu board sign surface area will be 20 square feet compared to the 43 square feet of the existing menu board.
7. The Zoning Board of Appeals approved a 10-ft. setback variance from the Sturgeon River for a restaurant addition (McDonalds) on October 25, 2006.
8. A Sign Permit was approved in 2013 to reface an existing freestanding sign.

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. McDonalds franchisees are replacing menu boards across the country and replacing them with digital menu boards that have a total electronic surface area of nearly 100% like the sign that is the subject of this dimensional variance request. Old menu boards and materials will not be available to franchisees in the

future.

This standard has been met.

- B. The physical conditions of the property which support denying the variance are as follows:
2. McDonalds franchisees are replacing menu boards across the country and replacing them with digital menu boards that have a total electronic surface area of nearly 100% like the sign that is the subject of this dimensional variance request. Old menu boards and materials will not be available to franchisees in the future. The change to the proposed digital sign technology is likely driven at the corporate level, and thus may be considered a unique circumstance, one perhaps not due to the applicant's personal or economic difficulty. However, this circumstance is not necessarily considered one that presents "practical difficulty."

This standard has not been met.

23.5.4.2. That 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 McDonalds franchise is updating all menu boards across the country and older signs and materials for them will not be available if owners if do not replace them. Therefore, this is not the result of actions of the property owner or previous property owners (self-created).

This 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. The McDonalds franchise is updating all menu boards across the country to digital menu boards with a total sign surface area of nearly 100%.

This 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. Strict compliance with the zoning regulations would prevent the menu board from being updated to the latest digital technology and if the existing menu board needed to be fixed, parts and materials would not be available. As a result, conformity with the zoning regulations would be unnecessarily burdensome.

This standard has been met.

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

1. The McDonalds restaurant drive-through currently functions with the older static menu board and may continue to function into the foreseeable future.

This 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. Although the design of the menu board is set by the McDonalds franchise and apparently no other options exist beyond not updating the menu board to corporate standards, the variance to allow the digital menu board as proposed is the minimum variance necessary.

This 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.

This 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 proposed digital menu board replaces an existing menu board and is smaller (20 sq. ft.) than the existing menu board (43 sq. ft.) therefore it will not cause an adverse impact on surrounding property, property values or the use and enjoyment of property in the neighborhood or zoning district.

This standard has been met.

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

1. None identified.

This standard has not been met.

DECISION

TIME PERIOD FOR JUDICIAL REVIEW

MCLA 125.3606 provides that a person having an interest affected by the zoning ordinance may appeal a decision of the Zoning Board of Appeals to the Circuit Court. Any appeal must be filed within thirty (30) days after the Zoning Board of Appeals certifies this Decision in writing or approves the minutes of its decision.

DATE DECISION AND ORDER ADOPTED

Wednesday, September 25, 2019

Charles Freese, Chairperson

John Thompson



MSU Extension

Proving a practical difficulty for a dimensional variance request

While inherently rigid, there are mechanisms in zoning to allow for flexibility.

October 27, 2014 - Author: Brad Neumann, Michigan State University Extension

A zoning ordinance is inherently rigid. Within the rigid structure of zoning that defines where suitable uses can take place, the bulk or scale of those uses allowed, how those uses are accessed, etc. there must be mechanisms for flexibility, based on statutory (Michigan Zoning Enabling Act) and Constitutional (5th Amendment) grounds. Zoning must allow for differences in types of allowed uses, physical characteristics of the land, unique needs of neighborhoods and to prevent infringement on constitutionally-protected property interests.

One mechanism for flexibility in zoning is the variance. A variance is the authority to depart from the literal application of the zoning ordinance because of an *Unnecessary Hardship* (in the case of a use variance) or a *Practical Difficulty* (in the case of a non-use or dimensional variance) resulting from the physical characteristics of the land. This article will focus on dimensional variances and the principles that amount to a showing of a practical difficulty.

The Michigan Court of Appeals has applied the following principles in dimensional variance court cases, which **collectively** amount to the showing of a practical difficulty:

- Strict compliance with the standard would unreasonably prevent the landowner from using the property for a permitted use, or would render conformity necessarily burdensome;
- The particular request, or a lesser relaxation of ordinance standard, would provide substantial justice to the landowner and neighbors;
- The plight is due to unique circumstances of property and is not shared by neighboring properties in the same zone; and
- The problem is not self-created.

There may be additional standards that apply in a community's zoning ordinance.

For the first standard, the zoning board of appeals (ZBA) should figure out if there is a way to accomplish the same purpose without a variance, even if it will be more inconvenient or more expensive for the applicant. If so, a variance should not be granted. For example, if the design for an addition brought forward by the applicant can be changed such that a variance is no longer needed, the variance request should be denied (see Figure 1). A variance is granted for circumstances unique to the property (e.g. odd shape), not those unique to the property owner (e.g. large family).

On the second standard, there are valid health and safety reasons for zoning setbacks, but when these regulations treat an applicant unfairly in relation to unique aspects of the land they should be relaxed. However, if a lesser variance than what is requested would provide substantial justice to the property owner, the lesser variance should be considered.

For example, if the request is to encroach into the setback by 4 feet, but a 2 foot encroachment would allow the owner to use his/her property for the permitted use, the appeals board must not approve a greater variance than minimally necessary (see Figure 2).

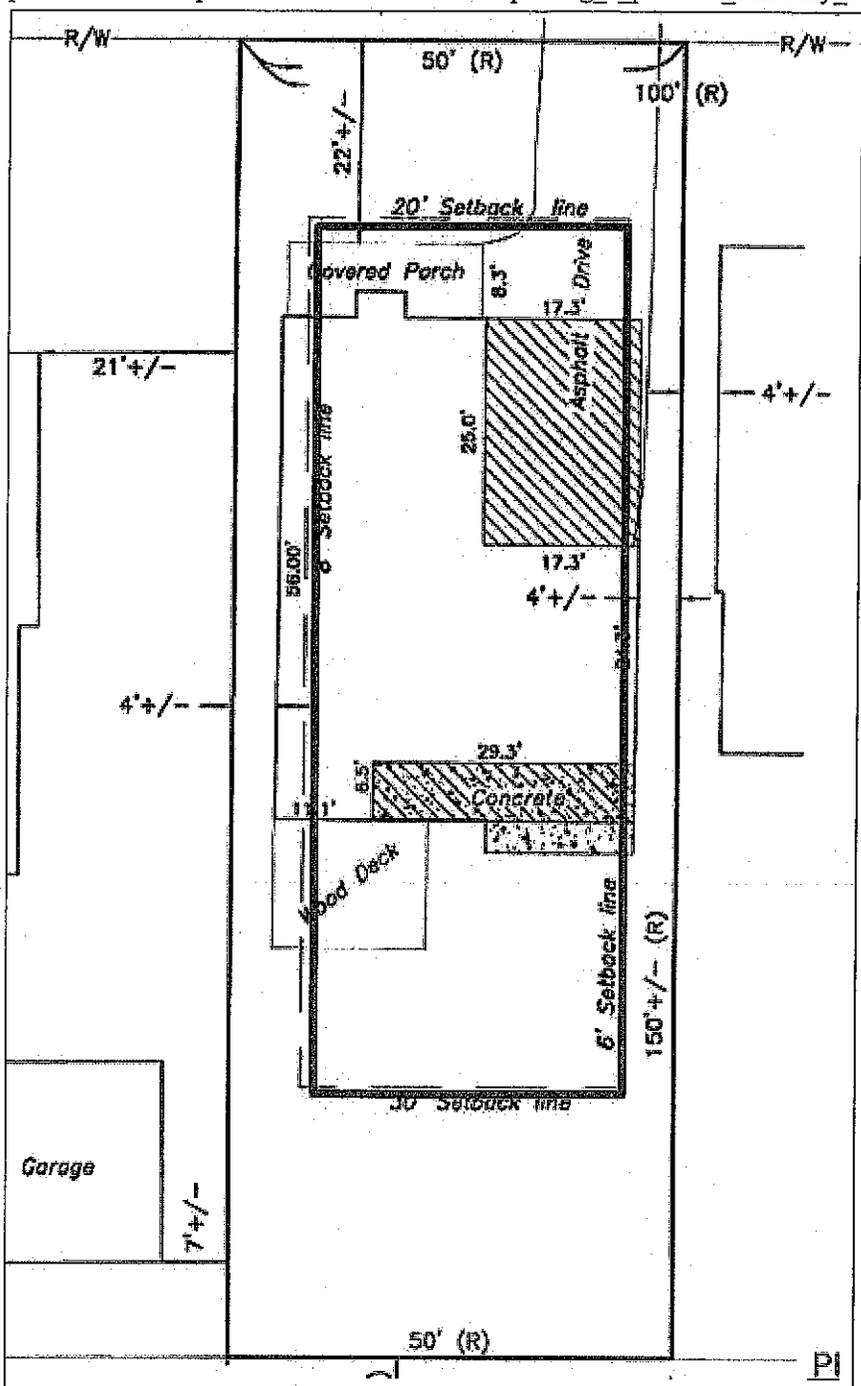


Figure 1: The home addition proposed in this plan requires a variance from the setback. There are no unique characteristics of this lot or of the land and the design could be changed to meet the side yard setback. This variance should not be granted.



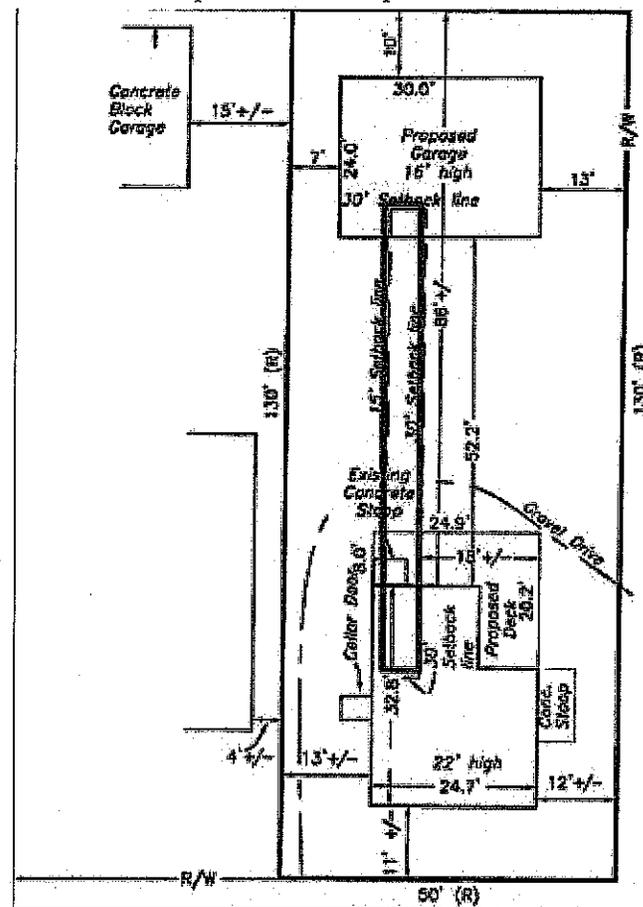


Figure 2: With two front yard setbacks (red line is the buildable envelope) this corner lot has unique circumstances for which a variance to construct a garage may be warranted. However, the proposed three-car garage in this plan is probably beyond the minimum necessary and may not be fair to neighboring properties in the single-family zone.

Third, if the circumstances on which a variance is warranted are shared among numerous properties in the same zone, then the variance request should be denied. It may be better to consider amending the zoning ordinance. For instance, a historic portion of a community developed around the turn of the 20th Century might have 50 foot lots throughout a neighborhood of single-family homes. If this neighborhood is subject to the same zoning standards as neighborhoods developed later with 70 foot wide lots, projects not requiring a dimensional variance in the newer neighborhood will most likely require a variance in the historic neighborhood. The proper solution is to create a new zoning district for the historic neighborhood that is more reflective of the existing character (see Study neighborhood typology to discover a library of information on form).

The fourth standard is widely misunderstood among ZBA members. The proper interpretation is to ask whether the applicant took some affirmative action that created the need for the variance, such as making an unusual land division (shape), filling the entire building envelope so that a porch must necessarily extend into the setback area, digging a pond, etc. Being 'self-created' includes actions of the current property owner and actions of all previous owners. So, the applicant may not have caused the problem leading to a

variance request because a previous owner did so, but it still considered 'self-created' and would preclude granting a variance. Even submitting an application for a dimensional variance to encroach into the side yard setback by two feet for construction of an addition is a self-created situation (i.e. he/she created the need for the variance by designing the request that is now before the ZBA). However, if the landowner's lot has an unusual shape (e.g. a narrow corner lot with two front setbacks or a triangular lot cut by a railroad right-of-way) that results in a unbuildable lot, this is instead a situation with unique circumstances and a landowner's request to encroach into the setbacks may be reasonable in order to use the property for the permitted use (and avoid infringement on constitutionally protected property interests).

The role of the ZBA member is an unenviable one. Board members are asked to apply the standards described in this article to the requests of perfect strangers, acquaintances, and friends alike (outside of a bona fide conflict of interest) and do so consistently and without bias. Doing so is made easier when all members of the ZBA understand the standards in the ordinance and have reference material in front of them at each meeting that spells out what constitutes a practical difficulty (or unnecessary hardship). Michigan State University Extension offers training for ZBA members to help them make more legally defensible decisions. Contact a land use educator to schedule a training program in your region.

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