

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING
WEDNESDAY, FEBRUARY 25, 2015
ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

Members Present: Charles Freese, John Moore, Chris Brown, Mary Street

Members Absent: Ralph Hemmer

Others Present: Scott McNeil, Dana Bush, Mike Brown, Carol Bush, Mitch Hintz, Tom Lemon, Tony Matelski, Carl Muscott, Steven Voes, Tom Fisher, Sue Fisher, Mike Ridley, Craig Waldron, Mary Ann Gale, Ken Ames

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

PLEDGE OF ALLEGIANCE

Chairperson Freese led the Pledge of Allegiance.

APPROVAL OF AGENDA

The agenda was presented. **Motion** by Mr. Moore, seconded by Mr. Brown, to accept the agenda as presented. Motion carried. 4 Ayes (Freese, Moore, Brown, Street), 0 Nays, 1 Absent (Hemmer)

APPROVAL OF MINUTES

Minutes from the October 22, 2014 Zoning Board of Appeals meeting were presented. **Motion** by Ms. Street, seconded by Mr. Moore, to approve the minutes as presented. Motion carried. 4 Ayes (Freese, Moore, Brown, Street), 0 Nays, 1 Absent (Hemmer)

PUBLIC HEARING & ACTION ON REQUESTS

Dana Bush - Requests a 3.5ft. side setback variance, a 4.0ft. rear setback variance from Giauque Beach Drive and an 8ft. rear setback variance from the rear lot line to construct a garage (24ft. x 28ft.) in a Lake and Stream Protection (P-LS) zoning district. The property is located at 542 Giauque Beach Drive, Mullett Township, Section 31, parcel #130-031-200-031-00. An 8 ft. side setback and a 12 ft. rear setback from Giauque Beach Drive and the rear lot line are required in this zoning district.

Mr. McNeil explained that Mr. Bush is requesting a 3.5ft. side setback variance, a 4.0ft. rear setback variance from Giauque Beach Drive and an 8ft. rear setback variance from the rear lot line. Mr. McNeil stated the property is zoned Lake and Stream Protection.

Mr. Bush stated he has limited space for a 2 car garage and a raised septic system. Mr. Bush noted that Giauque Beach Drive is a private road and his house is the third house from the end of the road. Mr. Bush stated there is a limited amount of traffic on this road. Mr. Bush stated the garage is proposed for a portion of the parcel that is 40ft. x 75ft.

There was no correspondence to be read. Mr. McNeil stated he included with the staff report a history of past dimensional variances that have been granted in this area by the Zoning Board of Appeals.

Mr. Freese asked for public comments. Ms. Gale stated she is representing Mullett Township and the township supports this request. Public comment closed.

Mr. Freese stated this is similar to other requests in this area. Mr. Freese stated that other properties in this area have had to go to a raised septic because the septic on the lakeside is not adequate. Mr. Brown noted this is an improvement to the non-conformity and the proposed garage will not extend any further towards the road than other existing garages in this area.

The Zoning Board of Appeals added “A number of other homes in this same stretch of road have had similar variances granted for the same purpose of constructing a garage.” to the General Findings. The Zoning Board of Appeals reviewed and approved the Specific Findings of Fact under Section 23.5.4. **Motion** by Mr. Moore, seconded by Mr. Brown, to approve the three variance requests based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried. 4 Ayes (Freese, Moore, Brown, Street), 0 Nays, 1 Absent (Hemmer)

Gary DeVoe/Burdco Inc. - Requests a variance from the required number of parking spaces for a medical clinic. The ordinance requires medical clinics/doctor offices to have 4 parking spaces per examination/treatment room plus 1 space

per employee. A total of 132 parking spaces are required for the medical clinic as proposed. The applicant proposes to provide 70 parking spaces. The property is located at 3860 S. Straits Highway, Tuscarora Township, Section 24, parcel #161-024-400-225-00.

Mr. McNeil stated this request is for a variance from the parking requirements for a medical clinic. Mr. McNeil stated the zoning ordinance requires 132 parking spaces for this use. Mr. McNeil stated there are to be 4 parking spaces for each of the 27 examination/procedure rooms and 1 parking space for each of the 24 employees. Mr. McNeil stated the applicant is proposing 70 parking spaces. Mr. McNeil stated the site plan was approved at the last Planning Commission meeting subject to Zoning Board of Appeals approval to allow 70 parking spaces. Mr. McNeil provided examples of neighboring jurisdictions parking requirements and a publication from the American Planning Association for other requirements across the country.

Mr. Mike Brown stated Burdco specializes in medical offices and they have designed and built over 25 medical offices in Northern Michigan in the last 15 years. Mr. Mike Brown stated he is representing Otsego Memorial Hospital. Mr. Mike Brown stated the zoning ordinance requires 132 parking spaces for this medical office and they believe 70 parking spaces would be ample. Mr. Mike Brown referred to section 23.5.2 and stated that this project will meet the intent, will assure public safety and welfare and will serve justice. Mr. Mike Brown referred to section 23.5.2.3 and stated this project is consistent with the purpose and intent of the requirements. Mr. Mike Brown referred to the APA parking information provided by Mr. McNeil and stated 13 out of the 15 examples provided would require as many or less parking spaces for this building as what he is proposing. Mr. Mike Brown stated that Provo Utah would require 50 parking spaces and noted that others jurisdictions would require 42, 62, 41, 44, 62, 62, 40, 42, 48, 61, 50, 83, 57 and 92. Mr. Mike Brown stated there are different standards but none of them would require more than 100 parking spaces for this project. Mr. Mike Brown stated only 2 out of the 15 examples would require more than the 70 spaces that he is proposing. Mr. Mike Brown stated that Mr. McNeil also provided parking requirements from adjacent communities. Mr. Mike Brown noted that for this project the City of Cheboygan would require 36 parking spaces, Otsego County would require 44 parking spaces, Emmett County would require 44 parking spaces, Village of Mackinaw City would require 70 parking spaces and City of Petoskey would require 66 parking spaces. Mr. Mike Brown stated that he included with the application a parking study that was done on medical offices by Walker Parking Consultants. Mr. Mike Brown stated Walker Parking Consultants are a national firm and they have built parking decks across the country. Mr. Mike Brown stated that Walker Parking Consultants conducted a 6 month study on 50 different medical offices buildings in non-urban areas during peak house. Mr. Mike Brown stated that they concluded that 4.5 parking spaces per 1,000sf of medical office are adequate for medical office buildings. Mr. Mike Brown stated this is slightly less than what they use which is 5. Mr. Mike Brown stated that Walker Parking Consultants included a cushion in this number. Mr. Mike Brown stated the purpose of presenting this study is to show that a lot of work has been done on the parking needs for medical office buildings. Mr. Mike Brown stated they are proposing 70 parking spaces for this project which is 5.7 parking spaces per 1,000sf. Mr. Mike Brown stated this is more than what the study recommends and is also more than the requirements from other jurisdictions in the area. Mr. Mike Brown stated the zoning ordinance requires 132 parking spaces which is 10.7 parking spaces per 1,000sf.

Mr. Lemon stated he is the CEO of Otsego Memorial Hospital. Mr. Lemon stated he has been with Otsego Memorial Hospital for 15 years and they believe this is the largest medical group in Northern Michigan. Mr. Lemon stated they now have 9 clinics in 5 communities and they believe that this year they will achieve 160,000 office visits. Mr. Lemon stated they opened their first clinic in Indian River in November 2012 and since this time they have experienced growth at the clinic. Mr. Lemon stated they are averaging around 900 patients per month and due to the growth it has allowed them an opportunity to look at options for a new clinic site. Mr. Lemon stated when looking at clinics he puts them into three categories; low band scenario, mid band scenario and high band scenario. Mr. Lemon explained they designed a high band scenario for this clinic even though they may not be operating at this level when they first open. Mr. Lemon stated there are four providers in Indian River and some specialty clinics including OB/GYN, orthopedics and they will be adding general surgery services. Mr. Lemon stated there will be the same level of services with the addition of lab and radiology services but separation of space for primary care specialty services and walk in services. Mr. Lemon stated under a mid band scenario they will continue with the same level of services with the addition of one primary care physician. Mr. Lemon stated from a high band scenario they would be looking at three additional primary care physicians.

Mr. Lemon stated their goal is to be at a high band scenario by the end of 2018. Mr. Lemon stated their recruitment assumptions are based on a medical staff needs assessment for the Indian River area including Indian River, Afton, Onaway and Wolverine. Mr. Lemon stated the goal for the high band scenario is to operate 76 hours a week, Monday through Friday from 7:00am to 7:00pm. Mr. Lemon stated there will be walk-in hours of 8:00am to 4:00pm on Saturday and Sunday.

Mr. Lemon stated with their recruitment goals they believe they will have providers representing the specialties of family practice, pediatrics, OB/GYN and four mid-level providers will provide primary care services and walk-in services. Mr. Lemon stated they are noticing more than ¼ of the births in Gaylord coming from residents in the Cheboygan zip code which equates to almost 90 births. Mr. Lemon stated under a high band scenario they believe they will be going from 11,000 office visits to 27,500 office visits annually. Mr. Lemon stated this will include primary care services, walk in services and specialty clinic services. Mr. Lemon stated ancillary procedures (lab tests, x-rays, mammograms) will increase from 12,000 to 18,500 procedures annually. Mr. Lemon believes that they will have ample parking for patients and staff. Mr. Lemon stated 80% of ancillary services are tied to a patient who is currently having a primary care office visit. Mr. Lemon stated the annual number of registrations that they anticipate having is 31,250. Mr. Lemon stated 75% of the annual visits are scheduled visits which will minimize any peaks and valleys within the number of registrations that they have on a daily basis. Mr. Lemon stated the check in/check out time for patients receiving both an office visit and an ancillary test is slightly below one hour. Mr. Lemon stated they plan to operate with extended hours Monday through Friday from 7:00am to 7:00pm and on the weekends from 8:00am to 4:00pm. Mr. Lemon stated that from a conservative perspective (Monday through Friday with a 9 hour day) they would expect an average of 120 registrations which would equate to 13.5 registrations per hour. Mr. Lemon stated that with the check in to check out time being less than one hour they believe that a car can sit in a parking space for 3 hours and 15 minutes before it has to vacate the parking space.

Mr. Mike Brown stated that Mr. Lemon's numbers are more than adequate. Mr. Mike Brown stated they are trying to be good stewards as they want to provide green space, good parking, nice building and services that will meet the community's needs.

Mr. Freese asked if there is any correspondence. Mr. McNeil noted that there is a letter from Tuscarora Township Planning Commission that has been included with an updated exhibit list.

Mr. Freese asked for public comments. Mr. Waldron stated he is a Tuscarora Township board member and a Tuscarora Township Planning Commission member. Mr. Waldron stated the Tuscarora Township Planning Commission submitted a letter to the Zoning Board of Appeals. Mr. Waldron stated the Tuscarora Township Planning Commission met on Monday night to discuss the project and they are ecstatic that Otsego Memorial Hospital is planning to build this clinic and they believe it is huge benefit for their community and for the whole county. Mr. Waldron stated Tuscarora Township Planning Commission supports the variance request and believes the proposed parking will meet the needs of the clinic. Mr. Waldron stated there was a second motion noted in the letter suggesting that the Zoning Board of Appeals consider allowing a reserved parking area on the site plan. Mr. Waldron stated Tuscarora Township Planning Commission believes the parking requirements are outdated and/or unreasonable and should be reviewed at a later date. Mr. Waldron stated the Tuscarora Township Planning Commission believes this request should be granted. Mr. Waldron stated that he personally believes that the parking requirements in the zoning ordinance are to prevent encroachment onto someone else's property. Mr. Waldron questioned why parking would be a concern if he is building out in the middle of the woods. Mr. Waldron stated Otsego Memorial Hospital would not invest this amount of money into this project if there is not sufficient amount of parking for the patients. Mr. Waldron stated the DDA plan for the streetscape includes a number of parking spaces in front of this parcel. Mr. Waldron stated he understands these parking spaces will not be considered in the site plan but these are parking spaces that are not used.

Mr. Lemon explained there will be ample parking for the patients utilizing the clinic. Mr. Lemon stated that the conservative numbers he provided are based on a 9 hour day (8:00am – 5:00pm). Mr. Lemon stated if they look at where they hope to be from an extended hour perspective the number of registrations will decline to 100 per day or less and a car can sit for 5 hours before it would have to move to allow a place for another car.

Mr. Ridley, Tuscarora Township Supervisor, stated that with the streetscape plan there has been an effort to reduce the amount of asphalt and concrete along Straits Highway. Mr. Ridley stated this project will create green space and he hates to see a site plan where there will be more asphalt.

Mr. Matelski stated this is the best presentation he has seen in 20 years.

Mr. Voes stated he owns a store at the south east corner of this project. Mr. Voes stated there has been nothing on this parcel for 39 years except for a drain field.

Public comment closed.

Board held discussion. Mr. Freese stated there has been a lot of discussion that the regulation requires too much parking, however, the regulation existed for a long time and there hasn't been a problem with it in the past. Mr. Freese stated the

standards must be met for the Zoning Board of Appeals to grant the variance. Mr. Freese stated there was a discussion regarding parking requirements at the last Planning Commission meeting. Mr. Freese stated if the Zoning Board of Appeals grants a variance, it is from the regulation as written. Mr. Freese stated that in the past the Zoning Board of Appeals has made recommendations to the Planning Commission when they have determined there was a problem with the regulation. Mr. Freese stated in most cases the regulation was changed. Mr. Freese stated the Zoning Board of Appeals does not re-write the regulation and noted the Planning Commission must recommend an amendment to the Cheboygan County Board of Commissioners who approves or does not approve a change to the regulation. Mr. Freese stated there is a large portion of the parcel noted as future development on the site plan. Mr. Freese stated there is plenty of space on the parcel to designate required number of parking spaces. Mr. Freese stated there is no requirement to have the parking spaces asphalted. Mr. Freese stated there could be an area designated for parking that has been cleared with gravel on it. Mr. Freese stated he will discuss a possible change in the regulation with the Planning Commission but he personally does not feel that parking requirements are that far out of line. Mr. Freese stated that he bases this on the fact that his daughter has a veterinary clinic in town and if she had parking spaces based on 1,000 she would be out of business. Mr. Freese stated today there was only one veterinarian at the clinic and there were 9 cars for clients and 5 cars for staff. Mr. Freese stated that based on the 5 per 1,000sf there should only be 3-4 parking spaces and that number would not work. Mr. Freese stated the Planning Commission may review the regulation and make a recommendation to the Cheboygan County Board of Commissioners. Mr. Freese stated a solution to this problem would be to redraw the site plan and include the additional parking in the vacant area. Mr. Freese stated whether or not the parking spaces are needed would be immaterial.

Mr. Chris Brown stated he does a lot of developing in Mackinaw City and Mackinaw City has the most stringent parking ordinance in the county. Mr. Chris Brown stated if this parking is adequate for Mackinaw City it will be adequate for Indian River. Mr. Chris Brown stated he agrees with Mr. Freese that this should be brought back to the Planning Commission. Mr. Chris Brown suggested that the Planning Commission ask for input from Mackinaw City as they changed their ordinance about 4-5 years ago. Mr. Chris Brown stated Mackinaw City spent a lot of money on a parking study. Mr. Chris Brown noted that Mackinaw City has the highest population in the county in the summertime. Mr. Chris Brown stated the applicant could go to the Planning Commission and show additional parking in the vacant area on the site plan so the project can be started. Mr. Chris Brown stated that this may be a moot point by the time the project has been completed if the Planning Commission recommends an ordinance amendment to the Cheboygan County Board of Commissioners regarding parking.

Mr. Moore stated the applicant has done the math and the plan is correct, however, the ordinance is dramatically different. Mr. Moore stated the applicant will have to show the additional parking in the vacant area on the site plan. Mr. Moore stated that by the time the project is completed the additional parking may not be needed if an amendment is approved by the Cheboygan County Board of Commissioners. Discussion was held. Mr. Moore stated it would be easier for the Zoning Board of Appeals to grant the variance if the amount of land would not support the parking requirements. Mr. Moore noted that the parcel is large enough to meet the parking requirements.

Mr. Waldron stated that Mr. Mike Brown stated that the Zoning Board of Appeals could approve this variance request based on sections 23.5.2 and 23.5.2.3. Mr. Lemon stated the Zoning Board of Appeals could make a determination on the parking if it fits the intent of the ordinance. Mr. Waldron stated the intent of the ordinance is not to create issues with parking. Mr. Waldron stated the Zoning Board of Appeals has the authority, without the hardship requirement, to make a determination that this does meet the intent of the ordinance which is to protect the surrounding properties from an adverse use. Mr. Freese stated the five standards of section 23.5.4. must be met for the Zoning Board of Appeals to approve the variance. Mr. Freese stated the Zoning Board of Appeals can make an interpretation if there is an ambiguity or if there is a question by the Zoning Administrator. Mr. Freese stated the Zoning Board of Appeals does not make the law. Mr. Freese stated the law is as written and if they can find that the five standards of section 23.5.4 have been met they can grant a variance.

Mr. Mike Brown stated it appears that there is no differentiation between 23.5.2 and 23.5.3 (use variance) and 23.5.4 (dimensional variance). Mr. Mike Brown stated the Zoning Board of Appeals has the authority to grant variances and the requirement is that the modification will not be inconsistent with the purpose and intent of such requirements. Mr. Mike Brown stated he has proven that it is not inconsistent with the purpose and intent of such requirements. Mr. Mike Brown stated that section 23.5.2 does not say to refer to the criteria/requirements in sections 23.5.3 (use variance) or section 23.5.4. Mr. Mike Brown stated it appears that these three sections are three separate conditions for the Zoning Board of Appeals to approve a variance. Mr. Mike Brown stated it appears under section 23.5.2 that the Zoning Board of Appeals can grant a parking variance.

Mr. McNeil explained that section 23.5.2 is one of the sections that identifies the powers of the Zoning Board of Appeals. Mr. McNeil explained that the Zoning Board of Appeals can grant a variance from the parking standards but the standards

for a dimensional variance or use variance must be met. Discussion was held.

Mr. Mike Brown stated he would like to withdraw the variance request. The Zoning Board of Appeals suggested tabling the request. Mr. Chris Brown asked what the timeframe for this project is. Mr. Lemon stated their goal is to start construction weather permitting and with a timeline of opening on 10/01/15. Mr. Lemon explained that this may affect physician recruitment as they are looking for quality physicians.

Motion by Mr. Moore, seconded by Ms. Street, to table the request. Motion carried. 4 Ayes (Freese, Moore, Brown, Street), 0 Nays, 1 Absent (Hemmer)

UNFINISHED BUSINESS

No comments.

NEW BUSINESS

No comments.

ZBA COMMENTS

No comments.

PUBLIC COMMENTS

No comments.

ADJOURN

Motion by Mr. Moore, to adjourn. Motion carried. Meeting adjourned at 8:02pm.

Mary Street

Mary Street, Secretary