

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING**  
**WEDNESDAY, AUGUST 24, 2016 AT 7:00PM**  
**ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING**

**Members Present:** Charles Freese, Ralph Hemmer, John Moore, John Thompson, Nini Sherwood  
**Members Absent:** None  
**Others Present:** Scott McNeil, Carl Muscott, Tony Matelski, Cheryl Crawford, Russell Crawford, Jerry Holmes, Larry Steve, Dave Drews, Jeff Jakeway

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. Hemmer, to accept the agenda as presented. Motion carried unanimously.

**APPROVAL OF MINUTES**

Minutes from the July 27, 2016 Zoning Board of Appeals meeting were presented. **Motion** by Mr. Hemmer, seconded by Mr. Moore, to approve the minutes as presented. Motion carried unanimously.

**PUBLIC HEARING & ACTION ON REQUESTS**

**Jeff Jakeway/The Jakeway Family Trust/Daniel Gearhart Family Living Trust** – Requests a 7.3 ft. rear setback variance and a 4.9 ft. rear setback variance for construction of two (2) commercial structures and a 2 stacking parking space variance for a fast food restaurant drive through in a Commercial Development (D-CM) zoning district. The property is located at 4104 South Straits Highway, 4104 South Straits Highway, 4092, South Straits Highway, 4082 South Straits Highway and 4062 South Straits Highway, Tuscarora Township, Section 25, parcel #161-025-200-007-00, #161-025-200-007-01, #161-025-200-008-00 and #161-025-200-009-00. A rear setback of 10 feet is required in this zoning district and a minimum of 5 stacking parking spaces for a fast food restaurant drive through are required under section 17.6 of the Cheboygan County Zoning Ordinance #200.

Mr. McNeil referred to the revised site plan and explained that the applicant is requesting a 7.3 ft. rear setback variance and a 4.9 ft. rear setback variance for construction of 2 commercial structures and 2 stacking parking space variance for a fast food restaurant drive through in a Commercial Development zoning district.

Mr. Drews stated that he is with Northern Michigan Engineering. Mr. Drews distributed a revised site plan. Mr. Drews stated that changes to the plan include spot elevations, storm water location and light poles for parking areas. Mr. Drews explained the location of the proposed addition. Mr. Drews stated that an existing house, an accessory building and sections of the existing Northstar Gardens building will be removed. Mr. Drews stated that the non-compliance is reduced in this plan in dimensions and in total square footage. Mr. Drews stated that this is a challenged site. Mr. Drews stated the there are multiple curb cuts and MDOT wants the number of the curb cuts reduced. Mr. Drews noted that landscape material bins will be located at the north end of the parcel. Discussion was held regarding parking.

Mr. Freese asked if there is any correspondence. Mr. McNeil stated no. Mr. Muscott complimented Mr. Jakeway on the project. Mr. Muscott stated the revised plan is a much improved plan. Mr. Muscott noted that at the south end of the parcel there is additional off street parking available that will benefit all the customers and he is in favor of this variance request. Mr. Muscott stated that they are arbitrary numbers that the Zoning Board of Appeals has to work with when granting a setback variance request. Public comment closed.

Mr. Freese stated that the configuration of the project could be modified and the variance requests would not be needed. Mr. Freese reviewed an alternate configuration with Mr. Jakeway. Mr. Jakeway explained that he has considered alternate configurations and they would not work. Mr. Jakeway noted that Mr. Freese’s suggestion would not work as automobiles would enter on the south side of the parcel to go through the drive-thru lane and ordering would have to take place from the passenger side of the automobile. Mr. Jakeway explained that with the existing buildings there are 750sf that does not comply with setback requirements. Mr. Jakeway explained that with the proposed buildings there will be 170sf that does not comply with setback requirements. Mr. Jakeway stated that by removing two buildings (previously used as residences), he is reducing the outside footprint by 75% and he is still keeping with the flow of traffic for both the garden center and the coffee shop. Mr. Jakeway explained that there is a patio in front of the garden center

which he wants customers from the garden center and the coffee shop to use. Mr. Jakeway explained that he would prefer to keep the patio in the front. Mr. Freese asked if size the 2-story addition could be reduced. Mr. Jakeway stated he is proposing this site plan for the future. Mr. Jakeway explained that he needs 3 offices and a conference room to meet with customers regarding landscaping. Mr. Jakeway stated this is more than a garden center and a coffee shop. Mr. Jakeway stated that his company has been in business for 77 years and he and his wife are third generation owners. Mr. Jakeway stated that they employ 52 employees and this will add approximately 12 more employees. Mr. Jakeway stated that they have locations in Wolverine and Gaylord. Mr. Jakeway stated the Indian River location will be the corporate headquarters. Mr. Jakeway reviewed the floor plan and noted that the retail area will not have the same hours of operation as the coffee shop. Mr. Jakeway explained that the doors from the coffee shop to the retail area and upstairs will be locked when the garden shop is closed. Mr. Jakeway stated the coffee shop will be open from 6:00am until 7:00pm or 8:00pm. Mr. Jakeway stated that the garden shop may be open from 8:00am until 7:00pm or 8:00pm. Mr. Jakeway stated he could move the patio to the back of the building, but he did not feel it would be fair to Ken Swadling and Jeff Swadling (Ken's Market) as it may pull from their parking area. Mr. Drews stated that there are 11 parking spaces at the south end of the building and 9 parking spaces at the north end of the building. Mr. Jakeway stated that parking has been an issue ever since he has taken over the business. Mr. Jakeway explained that until the sewer was put in Indian River he was not able to expand as a drain field would absorb the majority of his lot. Mr. Jakeway explained that the first-floor addition is needed for the gift shop. Mr. Jakeway explained that the second-floor addition is needed for offices, bathroom, meeting with clients, workroom, meetings and conferences with contractors. Mr. Freese reviewed an alternate configuration for the site plan with Mr. Jakeway that would alleviate non-compliance with regard to setback requirements. Mr. Jakeway explained that Mr. Freese's suggestion would stop the customer flow that he is trying to accomplish. Discussion was held.

Ms. Sherwood asked how wide is Old Trail Road. Discussion was held. Mr. Drews stated that Old Trail Road does not meet county specifications and is not 66ft. wide. Mr. Jakeway stated that he has put gravel on this road and he plows this road in the winter. Mr. Jakeway stated he has talked with Gabe from MDOT and Brent Shank from the Road Commission and both are happy with this proposed plan. Mr. Jakeway stated that Mr. Shank had no issues with the curbing.

Mr. Drews explained that this proposed site plan works well for the customer flow as some drive-thru customers may not be interested in the garden center and some may be interested in the garden center. Mr. Drews explained that the building must be pushed back as far as possible towards Old Trail Road to allow for car stacking at the drive-thru. Mr. Drews stated that this was a consideration when designing this site.

Mr. Freese asked if the drive-thru customers coming through the northern entrance will be going to the garden center. Mr. Jakeway stated that customers at the northern entrance will be coming to the coffee shop most likely. Mr. Jakeway stated that garden shop customers will most likely park in the south parking lot. Mr. Jakeway stated that there may be some garden shop customers that will also get a coffee and he is hoping that they do. Mr. Jakeway stated he is trying to make sure there is good retail flow. Mr. Jakeway stated this floor plan allows for the garden shop and the coffee shop to not be open at the same time. Discussion was held.

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

8. The positioning of the new two-story building and the coffee shop is lessening the setback variance from what is already on site.
9. MDOT is agreeable to the use of the MDOT right of way for stacking and the proposed driveway access.

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. Hemmer, to approve the 3 variance requests (7.3 ft. rear setback variance request, 4.9 ft. rear setback variance request and 2 stacking parking space variance request) based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried unanimously.

**Johnson Outdoor Digital/Indian River Hotel Real Estate LLC** - Requests a 75 ft. height variance and a variance to provide a 4th freestanding sign where 3 are permitted. The property is in the Light Industrial Development (D-LI) zoning district. The property is located at 4375 Brudy Road, Tuscarora Township, Section 30, parcel #162-030-100-004-03. The maximum height for a freestanding sign is 25 feet and a maximum number of freestanding signs per parcel are 3 in this zoning district.

Mr. McNeil stated that the applicant is looking to place a sign on an existing pole that exceeds the height limitation. Mr. McNeil stated the applicant is requesting a 45ft. height variance as the maximum height allowed for a freestanding sign is 25ft. Mr. McNeil stated the applicant is requesting a variance to allow a 4th freestanding sign. Mr. McNeil noted that there are already 3 freestanding signs which are the maximum allowed in the Light Industrial Development zoning

district.

Mr. Holmes noted that the picture submitted with the application should show 85ft. to the bottom of the proposed sign (not 65ft.). Mr. Holmes stated that the average tree height is 75ft. in this area. Mr. Holmes noted that this sign is proposed to be higher than the trees for visibility. Mr. Holmes explained that if they must meet the 25ft. requirement the sign would not be visible due to the trees. Mr. Holmes stated that a 150ft. variance was approved for the existing sign on this pole. Mr. Holmes stated that the variance was also approved for the size of the sign. Mr. Holmes noted that the existing freestanding sign did not require all the 150ft. variance. Mr. Holmes also noted that the size of the freestanding sign was smaller than approved by the Zoning Board of Appeals.

Mr. Freese stated that Mr. Thompson has asked to be recused due to a conflict of interest.

Mr. Freese asked if there is any correspondence. Mr. McNeil stated no. Mr. Freese asked for public comments. There were no public comments. Public comment closed.

Mr. Freese asked why this freestanding sign is necessary. Mr. Holmes stated this is a LED sign and will allow for advertising the room rate and the swimming pool. Mr. Holmes stated that it will bring in more business to the establishment. Mr. Holmes stated that they have records showing that this will increase the traffic flow by 20%. Mr. Freese stated that a variance was previously granted for the height and size of the existing sign. Mr. Freese asked if the bottom sign could be combined into the top sign. Discussion was held regarding the existing sign being visible from the southbound lane of I-75 and not visible from the northbound lane of I-75. Mr. Holmes stated the owner is concerned about the sign being visible from the southbound lane of I-75 and to the local traffic in Indian River. Mr. Freese stated there are 5 signs in the county that are tall signs used to attract customers from the expressway. Mr. Freese stated 3 are located within Cheboygan County zoning jurisdiction and 2 are located in the Village of Mackinaw. Mr. Freese stated that these 5 signs have only one sign on each pole. Mr. McNeil noted that there is language in the ordinance that allows non-conforming signs to be replaced as long as they are not increased in size or location. Discussion was held. Mr. Holmes stated that a 150ft. variance was approved for the existing sign on this pole and a 320sf variance was also approved for the size of the sign. Mr. Holmes stated it would be adding an undue burden to the customer to totally rebuild and add LED to the sign. Mr. Holmes stated it would cost over \$100,000 as opposed to \$25,000 which is the cost of the proposed sign. Mr. Freese stated that the Zoning Board of Appeals is not allowed to consider cost when considering a variance request. Mr. Moore suggested replacing the existing menu board with the LED sign. Mr. Moore also suggested putting this information on a wall sign, a roof sign on the carport or a roof sign on the building. Mr. Moore stated that there are a number of other options for this information to be put legally. Discussion was held regarding the signs on the stone pillar (menu board and the Hometown Inn sign) being considered 2 signs. Discussion was held regarding the previous variance approval having a one-year expiration. Mr. McNeil noted that Zoning Board of Appeals approvals are granted for one year and the sign must be established within the year. Mr. McNeil stated the sign that is erected is what is established and that is the extent of the non-conforming use. Mr. Freese stated that a previous variance was granted for the height, but it is not clear if there was a variance for the size of the sign. Mr. McNeil stated the Zoning Board of Appeals needs to establish the size of the existing sign now. Mr. McNeil stated that this sign is allowed to be replaced but is to be no larger. Mr. Holmes stated that 50sf would be added to the pole. Mr. Freese stated he has a problem with the additional sign on this pole as no other business in the county has two signs on a pole such as what is being proposed. Discussion was held.

The Zoning Board of Appeals reviewed the General Findings and revised #5 "Freestanding signs are limited to three (3) per parcel. The applicant is proposing to eliminate one of the freestanding signs bringing the number of freestanding signs on site to two (2), therefore, there is no variance requested for a fourth sign."

Discussion was held regarding the height of the proposed sign. Mr. Holmes stated that the proposed sign will not be any higher than 85ft. as it will lose visibility and blur out. Mr. Moore asked what is the height of the proposed sign. Mr. Holmes stated that until he is up in the bucket truck he will not know the exact measurement. Mr. Holmes stated the height of the pole was shot with a range finder and he believes it to be 85ft. - 90ft. tall. Mr. McNeil suggested staying with the 75ft. variance request as it was noticed. Mr. Moore stated this would allow the top of the LED sign to be at 100ft. above the ground maximum. The Zoning Board of Appeals reviewed the General Findings and revised #2 "The applicant is seeking a 75 ft. height variance to allow an additional freestanding sign on an existing structure."

The Zoning Board of Appeals reviewed the Specific Findings of Fact under Section 23.5.4. **Motion** by Mr. Moore, seconded by Mr. Hemmer, to deny the variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried. 4 Ayes (Freese, Moore, Hemmer, Sherwood), 0 Nays, 0 Absent

Mr. McNeil noted that the reason Mr. Thompson's requested to be recused is due to being a direct competitor.

Mr. Holmes asked what will it take to get the sign up and working. Mr. Moore and Mr. Freese stated that the sign on top would have to be replaced. Mr. McNeil explained that the new sign must be the same size or smaller than the existing sign. Discussion was held.

**UNFINISHED BUSINESS**

No comments.

**NEW BUSINESS**

No comments.

**ZBA COMMENTS**

No comments.

**PUBLIC COMMENTS**

No comments.

**ADJOURN**

**Motion** by Mr. Hemmer to adjourn. Motion carried. Meeting adjourned at 8:33pm.



John Thompson, Secretary