



# 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, MAY 24, 2017 AT 7:00 P.M.  
ROOM 135 – COMMISSIONERS ROOM  
CHEBOYGAN COUNTY BUILDING, 870 S. MAIN ST., CHEBOYGAN, MI 49721**

*AGENDA – Revised 05/16/17*

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF AGENDA**

**APPROVAL OF MINUTES**

**PUBLIC HEARING AND ACTION ON REQUESTS**

1. **Andy Stempky** – Requests a use variance for use of a single family dwelling for a lodging house (For a period of 14 weeks per year with a maximum of 6 people) in a Lake and Stream Protection (P-LS) zoning district. The property is located at 5356 Hiawatha Drive, Aloha Township, Section 3, parcel #140-H09-000-014-00. *(This item was tabled at the 04/26/17 Zoning Board of Appeals meeting.)*
2. **Don Kade** - Requests a 19.5 ft. front setback variance to construct a dwelling addition and deck in a Lake and Stream Protection (P-LS) zoning district. The property is located at 11710 Braidwoods Trail, Grant Township, Section 24, parcel #151-024-400-005-00. A 40 foot front setback from the high water mark is required in this zoning district.

**UNFINISHED BUSINESS**

**NEW BUSINESS**

**ZBA COMMENTS**

**PUBLIC COMMENTS**

**ADJOURN**

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING**  
**WEDNESDAY, APRIL 26, 2017 AT 7:00 PM**  
**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, Cal Gouine, Mark Sypniewski, Carl Muscott, Russell Crawford, Cheryl Crawford, Alex Navidzadeh, Laurie Navidzadeh, Mary Smith

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

**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 March 22, 2017 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**

**Andy Stempky** – Requests a use variance for use of a single family dwelling for a lodging house (For a period of 14 weeks per year with a maximum of 6 people) in a Lake and Stream Protection (P-LS) zoning district. The property is located at 5356 Hiawatha Drive, Aloha Township, Section 3, parcel #140-H09-000-014-00. (This item was tabled at the 01/25/17 Zoning Board of Appeals meeting.)

Mr. Freese stated that Mr. Stempky submitted a request to withdraw his variance application. Mr. Freese stated that the Planning Commission has forwarded to the Cheboygan County Board of Commissioners with a recommendation for approval, an amendment regarding short term rentals. Mr. Freese stated that this amendment will allow short term rentals throughout the county without any restrictions. Mr. Freese stated that Mr. Stempky has asked that his variance request be withdrawn. Mr. Freese stated that the request could be withdrawn or tabled to a later date in case the Board of Commissioners does not accept the recommendation from the Planning Commission. Mr. Moore asked when this amendment will be reviewed by the Board of Commissioners. Mr. McNeil stated it may be reviewed in June. **Motion** by Mr. Moore, seconded by Mr. Hemmer, to table the request until the June 28, 2017 meeting. Motion carried unanimously.

**Mark Sypniewski** - Requests a waiver from a greenbelt or fence requirement under Section 17.18.6. for construction of a Private Storage Building within 30 feet of a side lot line in a Lake and Stream Protection (P-LS) zoning district. The property is located at 11962 Van Road, Munro Township, Section 18, parcel #080-S15-000-106-00. Under Section 17.23.1.d., if within thirty (30) feet of a side property line, all such private storage buildings must be screened from view of the side property lines with a solid evergreen hedge with a minimum height of six (6) feet or privacy fence with a minimum height of six (6) feet.

Mr. McNeil stated that the applicant is requesting a waiver from a fence requirement with regards to a private storage building. Mr. McNeil stated in the Lake and Stream Protection Zoning District and Residential Zoning District, a storage building which is placed on property without a dwelling is defined as a private storage building. Mr. McNeil stated that if the private storage building is placed within 30 feet of a side lot line, a 6 foot high solid fence or hedge is required. Mr. McNeil stated that section 17.23.1.d allows the Zoning Board of Appeals to waive the fence requirement based on certain conditions.

Mr. Freese asked for public comments. An adjacent property owner stated that he owns the property to the west of this parcel and he has no problems with this request. The adjacent property owner stated his concerns regarding the fence deteriorating over time and also regarding deer eating a cedar hedge. Public comment closed.

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

5. The building is to be constructed on fill placed in a wetland which has been properly permitted by the DEQ.
6. The wetlands provide a natural buffer for this structure.

The Zoning Board of Appeals added “The Board of Appeals hereby determines that no good or practical purpose would be served by the screening requirement under section 17.23.1.d. due to natural isolation and screening provided by the building location in a wetland area.” to Section 17.18.6. The Zoning Board of Appeals approved the Findings of Fact under section 17.18.6. **Motion** by Mr. Freese seconded by Mr. Moore, to approve the waiver request based on the General Findings and the Findings of Fact under Section 17.18.6. Motion carried unanimously.

**David and Laurie Valasek / Bandi Builders** – Requests a 2.46 foot side setback variance to reconstruct a dwelling structure in a Lake and Stream Protection (P-LS) zoning district. The property is located at 699 East Shore View Lane, Koehler Township, Section 4, parcel #172-P21-000-011-00. A side setback of 5.54 feet is required for the subject property in this zoning district.

Mr. McNeil stated that the applicant is requesting a 2.46ft. side setback variance. Mr. McNeil stated that this lot is 55.45ft. wide, requiring a 5.5ft. side setback.

Mr. Navidezadeh stated that he represents Bandi Builders and Mr. and Mrs. Valasek. Mr. Navidezadeh stated that the applicant would like to demolish the home as it is in really bad shape. Mr. Freese asked if the deck will be removed. Mr. Navidezadeh stated that the deck will be taken out and a new deck will be built on the same footprint. Mr. Navidezadeh explained that the proposed dwelling will be built on the same footprint as the existing dwelling. Mr. Freese stated that since the foundation is being torn out, there is less justification for the variance request. Mr. Navidezadeh stated that he agrees, but the applicant is trying to keep their home in the same manner as it has always been. Mr. Navidezadeh stated that it is hard to get any square footage out of this lot because it is very irregular and very narrow. Ms. Sherwood asked how big is the great room. Mr. Navidezadeh stated that it is probably around 16ft. x 18ft. Mr. Freese stated if the foundation is being torn out, the foundation can easily be put back in at 5.5ft. from the property line. Mr. Moore suggested keeping the foundation in line with the side of the garage, which he believes would look better aesthetically. Mr. Navidezadeh consulted with the general contractor (Bandi Builders). Mr. Navidezadeh stated that Mr. Bandi asked if the house is removed and they determine that the existing foundation is good and can remain, can the variance be approved. Mr. Navidezadeh stated that if the foundation is not good and must be replaced they will conform to the setback requirement. Mr. Freese stated yes, this could be a restriction on the approval.

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

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

3. The applicant is proposing to tear down and replace on existing foundations an existing structure 3.08 ft. from the side lot line
4. The portion to be reconstructed will not encroach any further into the side setback than the original structure.
5. The existing dwelling structure is legal non-conforming.
6. If the foundations meet Department of Building Safety requirements, the applicant proposes to conform with the existing 5.8ft. side setback.

The Zoning Board of Appeals reviewed and approved the Findings of Fact and the Specific Findings of Fact under Section 23.5.4. **Motion** by Mr. Moore, seconded by Mr. Hemmer, to approve the variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.4 with the condition that the foundation must pass inspection by the Department of Building Safety or the variance will be null and void and the setback requirement will have to be met. Motion carried unanimously.

**The Zoning Administrator requests an interpretation as to whether Travel Trailer Park as defined under section 2.2. and Travel Trailer Courts as allowed under section 9.3.11. are synonymous or not.**

Mr. McNeil stated that he has received a request from someone considering an application for longer term use of a camper on a site in conjunction with a typical campground. Mr. McNeil stated that in researching this request, he found that the definition of Travel Trailer Park lends consideration to this proposed use. Mr. McNeil stated that in the use listings he found Travel Trailer Court in regards to the Agriculture and Forestry Management Zoning District. Mr. McNeil stated that he is asking the Zoning Board of Appeals for their review and determination of whether Travel Trailer Park and Travel Trailer Court are synonymous.

Mr. Moore stated that Travel Trailer Park and Travel Trailer Court are synonymous. Mr. Moore questioned why is there any restriction on the duration a trailer would stay on the site if the RV park is licensed. Mr. McNeil stated that a licensed park doesn't require zoning review. Mr. Freese stated that he agrees with Mr. Moore. Mr. Freese stated that he can think of 8 instances of travel trailer courts where there is a single road going into the court with a turn around and there are trailers on both sides and at the end. Mr. Freese stated that travel trailer parks have multiple roads going in and out. Mr.

Freese stated that he can see why there are two terms, but there is no difference in the use. **Motion** by Mr. Freese, seconded by Mr. Moore, that Travel Trailer Park and Travel Trailer Court are synonymous. Motion carried unanimously.

**UNFINISHED BUSINESS**

No comments.

**NEW BUSINESS**

No comments.

**ZBA COMMENTS**

Mr. Freese provided an update on Commissioner Matelski to the Zoning Board of Appeals.

**PUBLIC COMMENTS**

Mr. Muscott referred to Mr. Sypniewski's request for a waiver from the greenbelt/fence requirement and stated that the neighbors understood that the fence or greenbelt may eventually look worse than the pole barn. Mr. Muscott stated that pole barns are not getting smaller, they are getting bigger. Mr. Muscott stated that if you put up a 6ft. tall fence/greenbelt that is 8ft. from the side property line there is nothing that is being screened from the neighbor. Mr. Muscott asked if this requirement could be eliminated. Mr. Freese stated that this requirement is in the ordinance because there are situations where there may be a need for screening. Discussion was held.

**ADJOURN**

**Motion** by Mr. Moore to adjourn. Motion carried. Meeting adjourned at 7:38 pm.

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John Thompson, Secretary

# CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

Andy Stempky – *Revised 04/18/17*

## Exhibit List

1. Cheboygan County Zoning Ordinance
2. Cheboygan County Master Plan
3. Zoning Board of Appeals Notice of Public Hearing (1 Page)
4. Use Variance Application (4 Pages)
5. Letter Dated 12/19/16 From Andy and Nancy Stempky to Zoning Board of Appeals (2 Pages)
6. Mailing List (2 Pages)

### ***The following items were added to the exhibit list on 01/17/17:***

7. Letter dated 01/09/17 from Michael and Susan Donovan (1 Page)

### ***The following items were added to the exhibit list on 01/17/17:***

8. Emails between Scott McNeil to Andy Stempky (2 Pages)
- 9.
- 10.
- 11.
- 12.

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

## NOTICE

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING and PUBLIC HEARING  
WEDNESDAY, JANUARY 25, 2017 AT 7:00 P.M.  
ROOM 135 – COMMISSIONERS ROOM  
CHEBOYGAN COUNTY BUILDING, 870 S. MAIN ST., CHEBOYGAN, MI 49721**

- 1.) **Joseph Gelina** - Requests a 35 ft. front setback variance for an addition to a storage building (19 ft. 2 in. x 10 ft. 6 in.) in a Lake and Stream Protection (P-LS) zoning district. The property is located at 4278 W. Temple Rd., Koehler Township, Section 5, parcel #171-005-300-005-00. A 40 ft front setback is required for the subject property in this zoning district.
- 2.) **Anthony Coppola** - Requests a 9 ft. front setback variance for construction of a dwelling (40 ft. 4 in. x 41 ft. 6 in.) in Residential Development (D-RS) zoning district. The property is located at 3147 Harold B Street., Koehler Township, Section 4, parcel #172-T34-000-016-00. A 30 ft front setback is required for the subject property in this zoning district.
- 3.) **Andy Stempky** – Requests a use variance for use of a single family dwelling for a lodging house (For a period of 14 weeks per year with a maximum of 6 people) in a Lake and Stream Protection (P-LS) zoning district. The property is located at 5356 Hiawatha Drive, Aloha Township, Section 3, parcel #140-H09-000-014-00.

Please visit the Planning and Zoning office or visit our website to see the application and the associated plan drawings. Site plans may be viewed at [www.cheboygancounty.net/planning](http://www.cheboygancounty.net/planning). Comments, questions, and correspondence may be sent to [planning@cheboygancounty.net](mailto:planning@cheboygancounty.net) or Planning & Zoning Department, 870 S. Main St., PO Box 70, Cheboygan, MI 49721, or presented at the meeting.

Persons with disabilities needing accommodations for effective participation in the public hearing should contact the Community Development Director at the above address one week in advance to request mobility, visual, hearing or other assistance.

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

USE VARIANCE APPLICATION

\$110.00 APPLICATION FEE

RECEIPT #:	5417
CASH/CHECK:	3224
ACTION / DATE:	

PLEASE PRINT

**PROPERTY LOCATION**

Address <u>5356 Hiawatha Dr.</u>	City / Village <u>Cheboygan</u>	Township / Sec. <u>Aloha Sec 3</u>	Zoning District
Property Tax I.D. (Parcel) Number <u>140-H09-000-014-00</u>	Subdivision or Condo. Name / Plat or Lot No. <u>Hiawatha Subdivision</u>		

**APPLICANT**

Name <u>Andy Stempky</u>	Telephone <u>231-625-2019</u>	Fax	
Address <u>7607 M-33</u>	City & State <u>Cheboygan, MI</u>	Zip Code <u>49721</u>	E-Mail <u>astempky@adi.com</u>

**OWNER (If different from applicant)**

Name	Telephone	Fax	
Address	City & State	Zip Code	

Detailed directions to site, including nearest crossroad:

From crossroad of Chestnut Drive and Hiawatha Drive  
go SW on Hiawatha Drive 840 feet to driveway.

**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 Hiawatha
- C. Present use of the property is: vacation rental / personal use
- D. A previous appeal has  (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.

Would like to continue to rent to vacationers on a weekly basis. Will restrict rental to 14 weeks in the summer months with a maximum of 6 people.

2. Where owing to special conditions, a literal enforcement of the provisions of this Ordinance would involve practical difficulties or cause unnecessary hardships within the meaning of this Ordinance, the Board shall have power upon appeal in specific cases to authorize such variation or modification as may be in harmony with the spirit of this Ordinance, will assure that public health, safety and welfare is secured and substantial justice done. No such variance for the use provisions of this Ordinance shall be granted unless all of the following facts and conditions exist. All use 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. There are exceptional or extraordinary circumstances or conditions applicable to the property or to its use that do not apply generally to other properties or uses in the same district.

The property has a vacant property to west used sparingly for camping. Vacant lot to South, lake to North, seasonal weekly use to East. Owner lives 15 minutes away and can personally monitor use of property.

b. Such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the vicinity.

The property is used in a similar manner to neighbors on west (camping) and east (weekly seasonal). Many lake properties are seasonal use.

c. The granting of the variance will relate only to the property under control of the appellant.

Will relate only to lot 14 of owner. Other properties would require a variance by the commission

d. The granting of the variance will not adversely affect the purposes or objectives of the Zoning Plan of the County.

Will restrict rental to 14 weeks in the summer. Will restrict to 6 people or under and screen for family groups.

e. The granting of the variance or modification will not be materially detrimental to the public welfare or materially injurious to other property or improvements in the district in which the property is located.

There is a large abundance of seasonal use properties on hang lake. Property would fall in line with that use including properties adjacent (A.)

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

Andy Stephy

Date

12/27/14

**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

Andy Stephy

Date

12/27/16

**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.                     |

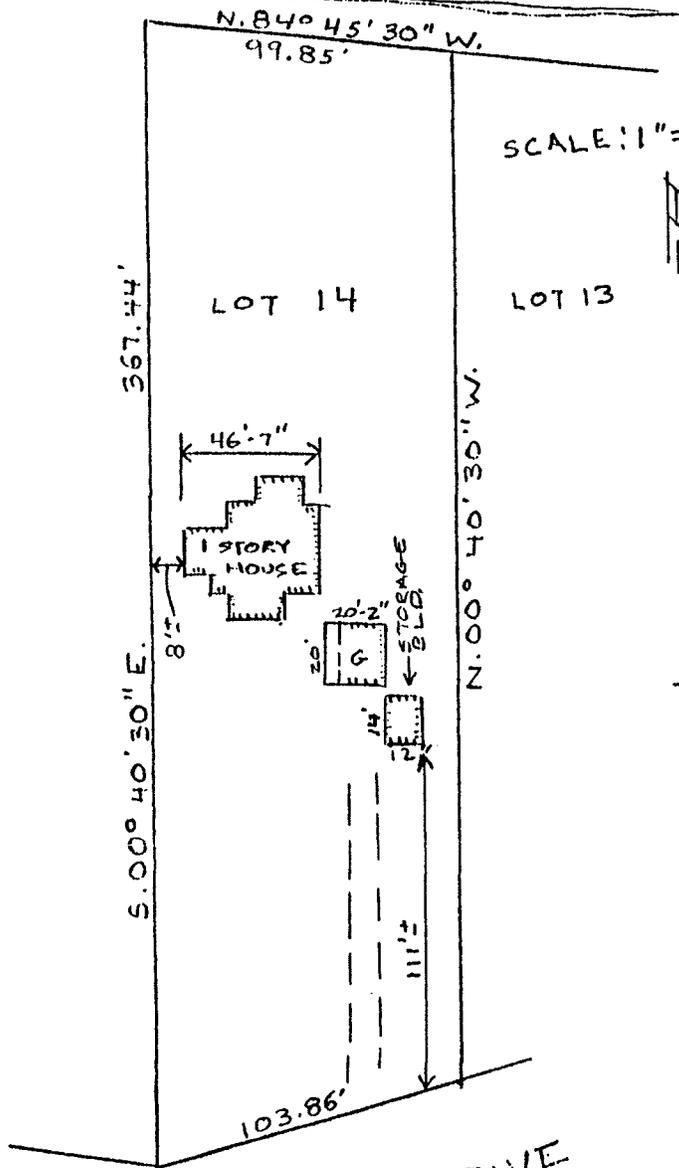
**Distance from property line to proposed structure:**

Front: \_\_\_\_\_ Rear: \_\_\_\_\_ Side: \_\_\_\_\_ Side: \_\_\_\_\_

**Zoning District:**

**North:**

*See attached*



SCALE: 1" = 60 FT.



Mortgagee:

First of America-Northern  
 316 North Main Street  
 Cheboygan, MI 49721

Mortgagor:

Andrew & Nancy Stempky  
 5356 Hiawatha Drive  
 Cheboygan, MI 49721

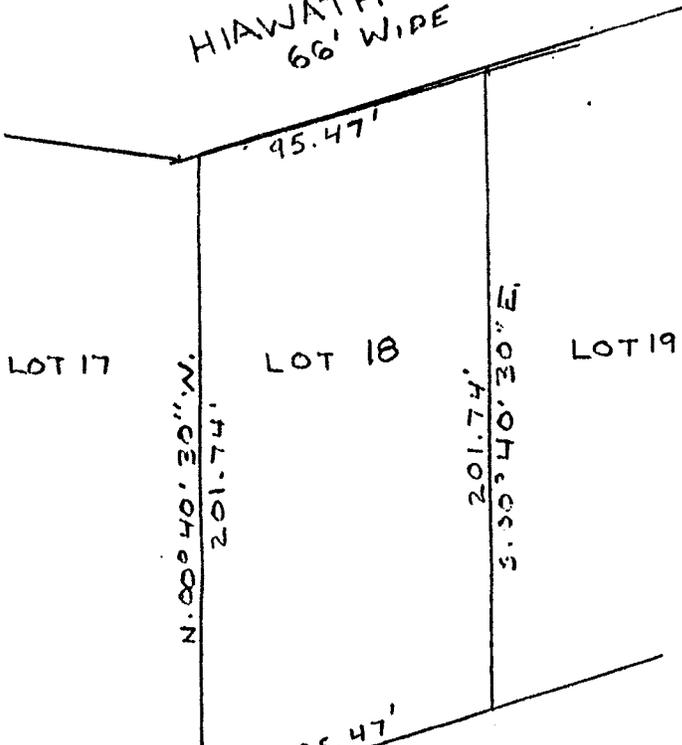
Title Insuror:

Cheboygan Title Company  
 220 North Main Street  
 Cheboygan, MI 49721

DESCRIPTION

Lots 14 and 18, Hiawatha Subdivision,  
 according to the Plat thereof as recorded  
 in Liber 6 of Plats on Page 47, Cheboygan  
 County Records.

HIAWATHA DRIVE  
 66' WIDE



December 19, 2016  
Cheboygan County Planning Commission

Dear Commission:

My wife and I own a small house on Long Lake in Cheboygan County. We originally purchased the home in 1991 and proceeded to live there for 4-5 years prior to moving to a home closer to town to raise a family, making it more convenient to attend school functions etc. Since that time we have kept the home up and rented it out in the summer months, on a weekly basis, to make the payments. Our goal was to use the rental income as a means to pay off the mortgage and perhaps move out to the Lake property in our retirement years. This fall we received a notice of violation concerning a Cheboygan County zoning ordinance prohibiting "transient rentals" on properties bordering Lakes and Streams. We had no idea there was a zoning provision prohibiting the rental of our property. While we understand the reasoning behind the zoning, to protect property values, we do not believe renting out our property, on a weekly basis during the summer months negatively affects the value of nearby homes. We rent the cottage as a quiet getaway and try to be selective as to who we rent to in that regard.

We are blessed with an abundance of beautiful lakes in Cheboygan County. While most people cannot afford to purchase a home and live on a lake in the county, a weekly stay with their family allows them to experience northern Michigan at its finest for a reasonable price. The people who stay at our cottage are generally not the same people who would stay in a hotel or motel. They wish to experience a quiet lake experience where they have a chance to get away from the hustle and reconnect with family members (we do not have phone or internet service at our cottage). If they do not find that opportunity in Cheboygan County they will simply take their dollars and vacation in a county which allows for that service. This would deprive Cheboygan County of on average about \$2,000 to \$3,000 per family which the weekly rental spends locally in the area, including rental, gas, groceries, shopping, dining and entertainment. Over a summer this would equate to upwards of \$40,000 generated from our cottage alone which is spent in the local area. In addition to the people who travel, "up north" to vacation, we often get a booking from locals who have family who grew up here and moved away and are visiting with their families. We provide a local place to stay for a weeks' vacation with a more home like experience than a hotel or the crowded experience they may get staying in Mackinaw City.

In my discussion with Mr. Schnell he indicated the main issue is usually noise. We present our house as a quiet getaway and try to rent to smaller families only, with a maximum of 6 people. We are in touch with each renter personally as we talk to them prior to booking and meet every renter upon arrival. We provide our renters and neighbors with our personal phone number, and, should problems arise, we live 15-minutes away and handle it personally.

My wife and I have purchased the home as an investment with the hope of living there again someday. While the rental income does not cover all expenses it helps to defer the cost of the mortgage enough allowing us to make the payments and to provide the necessary repairs and improvements. We

typically rent at the most 14 weeks a year. This includes one week which we donate to a local organization for their fundraiser every year.

In this regard we are requesting a variance which would allow us to rent out our property, on a weekly basis for a maximum of 14 weeks a year. We would rent during the summer months only; screen our renters to a maximum of 6 people. We are requesting this variance for a period of 7 years until we are of retirement age and the home is paid off. We believe this would benefit Cheboygan County including the local bank we have the mortgage with, the local businesses and vendors who provide services to those visiting, the local nonprofit who benefit from the donation of a week's rental donation each summer and local families who are able to rent a home where visiting family members can stay, relax, and reconnect with Northern Michigan. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andy and Nancy Stempky". The signature is stylized and cursive, with the first name "Andy" and last name "Stempky" being the most legible parts. The signature is positioned above the printed name.

Andy and Nancy Stempky

16-140-003-400-006-00  
JACOBS, SHIRLEY J REVOC TRUST  
16863 SHREWSBURY  
LIVONIA MI 48154

16-140-H09-000-015-00  
DONOVAN, SUSAN  
5399 HIAWATHA DR  
CHEBOYGAN MI 49721

16-140-003-400-007-00  
JACOBS, RICHARD & DANUTA H/W  
32501 HAVERFORD ST  
FRANKLIN MI 48025

16-140-H09-000-016-00  
DONOVAN, MICHAEL & SUSAN H/  
5388 HIAWATHA DR  
CHEBOYGAN MI 49721

16-140-003-400-008-00  
DONOVAN, MICHAEL & SUSAN H/W  
5388 HIAWATHA DR  
CHEBOYGAN MI 49721

16-140-H09-000-017-00  
DONOVAN, MICHAEL & SUSAN H/  
5388 HIAWATHA DR  
CHEBOYGAN MI 49721

16-140-003-400-010-00  
WEISS-GELMI, DEBRA & MICHAEL  
10313 LYNWOOD LN  
ZEELAND MI 49464

16-140-H09-000-020-00  
DEROSIA, LILLIAN & KENNETH DE  
5560 CHESTNUT DR  
CHEBOYGAN MI 49721

16-140-003-400-011-00  
SWANSON, THOMAS & JAYME SW  
2296 E MALEPORT DR  
SAULT SAINTE MARIE MI 49783

16-140-H09-000-021-00  
DEROSIA, LILLIAN & KENNETH DE  
5560 CHESTNUT DR  
CHEBOYGAN MI 49721

16-140-003-400-015-00  
DEROSIA, LILLIAN & KENNETH DE  
5560 CHESTNUT DR  
CHEBOYGAN MI 49721

16-140-H09-000-022-00  
DEROSIA, LILLIAN & KENNETH DE  
5560 CHESTNUT DR  
CHEBOYGAN MI 49721

16-140-H09-000-011-00  
DEROSIA, LILLIAN & KENNETH DE  
5560 CHESTNUT DR  
CHEBOYGAN MI 49721

16-140-H09-000-012-00  
WISNIEWSKI, ARTHUR & MARY H/  
25631 FRIAR LN  
SOUTHFIELD MI 48034

16-140-H09-000-013-00  
WALLING, FLORENCE M, TRUSTEE  
10167 W PIERSON RD  
FLUSHING MI 48433

16-140-H09-000-014-00  
STEMPKY, ANDREW & NANCY H/W  
7607 N M-33 HWY  
CHEBOYGAN MI 49721

16-140-003-400-006-00  
OCCUPANT  
5406 HIAWATHA DR  
CHEBOYGAN, MI 49721

16-140-H09-000-017-00  
OCCUPANT  
5365 HIAWATHA DR  
CHEBOYGAN, MI 49721

16-140-003-400-007-00  
OCCUPANT  
5398 HIAWATHA DR  
CHEBOYGAN, MI 49721

16-140-H09-000-020-00  
OCCUPANT  
5343 HIAWATHA DR  
CHEBOYGAN, MI 49721

16-140-003-400-008-00  
OCCUPANT  
5388 HIAWATHA DR  
CHEBOYGAN, MI 49721

16-140-H09-000-021-00  
OCCUPANT  
5339 HIAWATHA DR  
CHEBOYGAN, MI 49721

16-140-003-400-010-00  
OCCUPANT  
5382 HIAWATHA DR  
CHEBOYGAN, MI 49721

16-140-H09-000-022-00  
OCCUPANT  
5331 HIAWATHA DR  
CHEBOYGAN, MI 49721

16-140-H09-000-011-00  
OCCUPANT  
5316 HIAWATHA DR  
CHEBOYGAN, MI 49721

16-140-H09-000-012-00  
OCCUPANT  
5338 HIAWATHA DR  
CHEBOYGAN, MI 49721

16-140-H09-000-013-00  
OCCUPANT  
5348 HIAWATHA DR  
CHEBOYGAN, MI 49721

16-140-H09-000-014-00  
OCCUPANT  
5356 HIAWATHA DR  
CHEBOYGAN, MI 49721

16-140-H09-000-015-00  
OCCUPANT  
5399 HIAWATHA DR  
CHEBOYGAN, MI 49721

16-140-H09-000-016-00  
OCCUPANT  
5379 HIAWATHA DR  
CHEBOYGAN, MI 49721

January 9, 2017

Planning and Zoning Department  
870 South Main Street  
Post Office Box 70  
Cheboygan, Michigan 49721

Planning and Zoning Department:

Andy and Nancy Stempky are neighbors of ours and are hoping to receive a variance permit on their property on Hiawatha Drive that would allow them to rent their property on a weekly basis. They have been doing this for the past 15 years, not knowing that it was not allowed.

Our property is two lots from theirs at 5388 Hiawatha Drive. We are the only close neighbors that live in the area year round. My wife, Susan, and I are in favor of them receiving a variance permit for their property. In the past 15 years, there has never been a problem with renters and, in fact, we've enjoyed those renting the property. We believe that the tourism is great for the area and that allowing people to rent will promote our town and everything it has to offer.

We ask that you take into consideration that there have not been any issues with renters and that these renters bring revenue into the area.

Please feel free to contact me if you have any questions or concerns. I can be reached at 231-290-0620.

Sincerely,

Handwritten signatures of Michael J. Donovan and Susan Donovan in blue ink. The signature of Michael J. Donovan is written above the signature of Susan Donovan.

Michael J. and Susan Donovan  
5388 Hiawatha Drive  
Cheboygan, Michigan 49721

## Deborah Tomlinson

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**From:** Scott McNeil  
**Sent:** Monday, April 17, 2017 9:00 AM  
**To:** 'Stempky, Andy (DEQ)'  
**Subject:** FW: Variance Request

Hi Andy,

Any more thoughts regarding tabling the matter? Give me a call if you like.

Regards,  
Scott McNeil  
Community Development Planner  
Cheboygan County Planning and Zoning Department  
Phone - 231-627-8475  
Fax - 231-627-3646  
[scott@cheboygancounty.net](mailto:scott@cheboygancounty.net)  
[www.cheboygancounty.net/planning](http://www.cheboygancounty.net/planning)

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**From:** Scott McNeil  
**Sent:** Thursday, April 6, 2017 11:24 AM  
**To:** 'Stempky, Andy (DEQ)'  
**Subject:** RE: Variance Request

Andy;

An amendment to the zoning ordinance that will allow short term rental of a dwelling is scheduled for a public hearing on April 19. I expect it will be recommended for approval by the board of commissioners. I would hope that the boc act on it in May.

You could ask for it to be tabled again until the May or June meeting.

Let me know what you think or if you have any concerns. The notice for the April meeting will go out on Monday at the latest. Don't hesitate to give me a call if you like.

Regards,  
Scott McNeil  
Community Development Planner  
Cheboygan County Planning and Zoning Department  
Phone - 231-627-8475  
Fax - 231-627-3646  
[scott@cheboygancounty.net](mailto:scott@cheboygancounty.net)  
[www.cheboygancounty.net/planning](http://www.cheboygancounty.net/planning)

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**From:** Stempky, Andy (DEQ) [<mailto:STEMPKYA@michigan.gov>]  
**Sent:** Thursday, April 6, 2017 11:17 AM

**To:** Scott McNeil  
**Subject:** RE: Variance Request

Scott, what do you propose on the variance request?

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**From:** Scott McNeil [<mailto:scott@cheboygancounty.net>]  
**Sent:** Wednesday, February 8, 2017 9:00 AM  
**To:** Stempky, Andy (DEQ) <[STEMPKYA@michigan.gov](mailto:STEMPKYA@michigan.gov)>  
**Subject:** RE: Variance Request

Thanks Andy. I will keep you advised.

Scott McNeil  
Community Development Planner  
Cheboygan County Planning and Zoning Department  
Phone - 231-627-8475  
Fax - 231-627-3646  
[scott@cheboygancounty.net](mailto:scott@cheboygancounty.net)  
[www.cheboygancounty.net/planning](http://www.cheboygancounty.net/planning)

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**From:** Stempky, Andy (DEQ) [<mailto:STEMPKYA@michigan.gov>]  
**Sent:** Wednesday, February 8, 2017 8:49 AM  
**To:** Scott McNeil  
**Cc:** Andy  
**Subject:** Variance Request

Scott, I would like to table my variance request until the April meeting pending resolution of the planning commission decision on the zoning language. Thanks. Andy



# CHEBOYGAN COUNTY COMMUNITY DEVELOPMENT 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/](http://www.cheboygancounty.net/planning/)

## USE VARIANCE STAFF REPORT

<b>Item:</b> Request a use variance for a lodging house (For a period of 14 weeks per year with a maximum of 6 people) in a Lake and Stream Protection (P-LS) zoning district.	<b>Prepared by:</b> Scott McNeil
<b>Date:</b> January 13, 2017	<b>Expected Meeting Date:</b> January 25, 2017

### GENERAL INFORMATION

**Applicant:** Andy and Nancy Stempky

**Property Owner:** Same

**Contact person:** Andy Stempky

**Phone:** 231-625-2019

**Requested Action:** Grant a use variance for a lodging house (For a period of 14 weeks per year with a maximum of 6 people) in a Lake and Stream Protection (P-LS) zoning district.

### BACKGROUND INFORMATION

This variance comes to the board as result of enforcement. The applicant has been renting a dwelling located on Long Lake on a short term basis during the summer months. This reflects a lodging house use. The applicant is seeking a use variance to carry on the rental use. Lodging houses is a permitted use in the Commercial Development zoning district (D-CM) under section 6.2.27. The subject property is located in a Lake and Stream Protection zoning district (P-LS). Lodging house is not a permitted use in the Lake and Stream Protection zoning district.

You will note that the applicant states that there is a seasonal weekly use to the east of the subject property in the application. If such use is identified, the same will be a separate enforcement matter.

A map to the subject site is located after the proposed specific findings in this report.

**Current Zoning:** P-LS, Lake and Stream Protection

**Surrounding Zoning:**

**West:** P-LS, Lake and Stream Protection

**East:** P-LS, Lake and Stream Protection

**South:** P-LS, Lake and Stream Protection

**North:** Long Lake

**Surrounding Land Uses:**

The subject property is surrounded by residential land uses.

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

The property is located on the Long Lake. No other environmental sensitive areas have been identified.

**VARIANCE CONSIDERTIONS**

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

**General Findings:**

1. The subject property is located at 5356 Hiawatha Drive with property tax identification number 16-140-H09-000-014-00.
2. The subject property is located in a Lake and Stream Zoning District (P-LS).
3. The owner/applicant is seeking a use variance for a lodging house for a period of no more than 14 weeks per year with a maximum of 6 people at any one time.
- 4.
- 5.

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

**23.5.3. Where owing to special conditions, a literal enforcement of the provisions of this Ordinance would involve practical difficulties or cause unnecessary hardships within the meaning of this Ordinance, the Board shall have power upon appeal in specific cases to authorize such variation or modification as may be in harmony with the spirit of this Ordinance, will assure that public health, safety and welfare is secured and substantial justice done. No such variance for the use provisions of this Ordinance shall be granted unless all of the following facts and conditions exist:**

**23.5.3.1. There are exceptional or extraordinary circumstances or conditions applicable to the property or to its use that do not apply generally to other properties or uses in the same district.**

There are exceptional or extraordinary circumstances or conditions applicable to the property and/or to its use that do not apply generally to other properties or uses in the same district due to \_\_\_\_\_.

Or; There are no exceptional or extraordinary circumstances or conditions applicable to the subject property or to its use that do not apply generally to other properties or uses in the Lake and Stream Protection zoning district.

**23.5.3.2. Such a variance is necessary for the preservation of a substantial property right possessed by other property in the vicinity.**

The variance is necessary for the preservation of a substantial property right possessed by others in the vicinity due to\_\_\_\_\_.

Or, the subject property can be used for permitted uses within the district as possessed by others in the vicinity. The variance is not necessary for the preservation of a substantial property right.

**23.5.3.3. The granting of the variance will relate only to the property under control of the appellant.**

The appellant is seeking the use variance only for the property as described in the application which is under control of the appellant.

Or, \_\_\_\_\_.

**23.5.3.4. The granting of the variance will not adversely affect the purposes or objectives of the Zoning Plan of the County.**

The Cheboygan County Master Plan must be considered in all land use decisions such as a use variance.

The Cheboygan County master Plan Future Land Use Map indicates a Lake and Stream Residential future land use category for the subject property. These land use categories are described in the Master Plan as follows:

**Residential**

The Residential area is intentionally designed to be restrictive in character, focusing on residential uses. The area is characterized by medium-density residential development. Typical residential development methods could include platted subdivisions, site condominiums or smaller parcel splits. Uses related to residential purposes, such as assembly halls, schools and parks, can be included if designed in a way that preserves the residential character of the area. Day care and group home facilities at residential scale are also anticipated

Open-space designs, with clustered residential units are also appropriate, particularly where such a design can preserve natural or recreational resources. New clustered residential developments that include small, neighborhood commercial activity as part of a comprehensive site design could be acceptable with proper controls. It is important to ensure adequate home occupation opportunities are available in the residential future land use category.

### **Lake, River, and Stream Protection**

The Lake, River, and Stream Protection category contains undeveloped land as well as developed residential and recreational uses. This classification applies to both current and future residential and smaller commercial uses along the shores of all the County's lakes and inland waterways. The Future Land Use Map presents the locations of this class by highlighting the shores of selected, major lakes and waterways. This class is designed to apply to all residential, small commercial waterfront development and the map was not intended, nor would it be feasible, to show all graphically.

Future development in the Lake, River, and Stream Protection class should be planned in consideration of potential environmental and aesthetic impacts on the water resources. Shoreline buffers to prevent erosion and filter stormwater run-off, limitations on the application of fertilizers, large setbacks from the water line, lower density, and/or requirements for public sewer for higher density developments are recommended mechanisms for maintaining high water quality.

Accommodations may need to be made for historically smaller waterfront lots such as older platted subdivisions. Larger commercial areas with higher density of commercial activity should be located in the areas designated by the Commercial future land use category.

Appropriate uses for this area include residential, waterfront access, public boat ramps, municipal parks and public beaches.

The Cheboygan County Master Plan also includes a Zoning Plan.

The first paragraph of Chapter 5, Five-year Implementation Plan (Zoning Plan) of the Cheboygan County Master Plan states as follows:

The Zoning Plan is an important part of a Master Plan. It explains how the land use categories on the Future Land Use Map relate to the zoning districts as well as how the Goals and Objectives relate to improvements needed in the zoning ordinance. The importance of a Zoning Plan is to facilitate immediate action to accomplish the goals of the Master Plan.

Future Land Use/Zoning Comparison Table of the Zoning Plan contains the following recommended changes relating to the Lake and Stream Protection zoning district:

Refine language for this district to better identify water resources in need of protection rather than *everything* that is on a 7.5' USGS topographical map.

Public lands are allowed in all zoning districts and no specific zoning district is proposed for this land use category.

A use variance for lodging house will not adversely affect the purposes and/or objectives Cheboygan County Master Plan or the Zoning Plan of the Cheboygan County Master Plan.

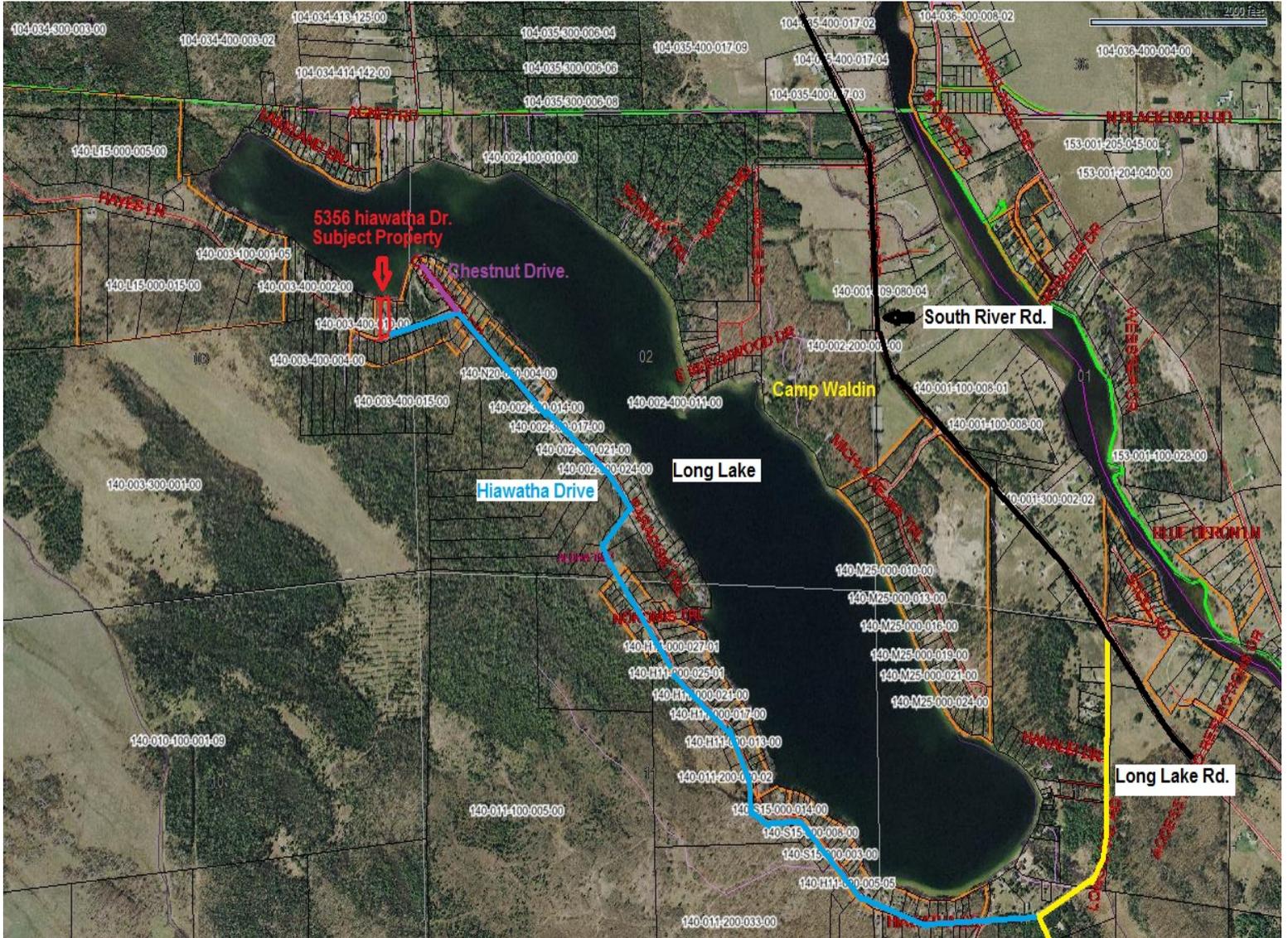
Or; A use variance for lodging house will adversely affect the purposes and objectives Cheboygan County Master Plan and/or the Zoning Plan of the Cheboygan County Master Plan.

**23.5.3.5. The granting of the variance or modification will not be materially detrimental to the public welfare or materially injurious to other property or improvements in the district in which the property is located.**

The granting of a variance for will not be detrimental to the public welfare or materially injurious to other property or improvements in the district due to other similar uses in the area in which the property is located due to \_\_\_\_\_.

Or, the granting of a variance will be detrimental to the public welfare and/or will be detrimental to the other property or improvements which in the district in which the property is locate

# Map to subject site.



# CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

Don Kade

## Exhibit List

1. Cheboygan County Zoning Ordinance
2. Cheboygan County Master Plan
3. Zoning Board of Appeals Notice of Public Hearing (1 Page)
4. Variance Application (3 Pages)
5. Mailing List (2 Pages)
6. Floor Plan (1 Page)
- 7.
- 8.
- 9.
- 10.
- 11.
- 12.
- 13.

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

**NOTICE**

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING and PUBLIC HEARING  
WEDNESDAY, May 24, 2017 AT 7:00 P.M.  
ROOM 135 – COMMISSIONERS ROOM  
CHEBOYGAN COUNTY BUILDING, 870 S. MAIN ST., CHEBOYGAN, MI 49721**

- 1.) **Don Kade** - Requests a 19.5 ft. front setback variance to construct a dwelling addition and deck in a Lake and Stream Protection (P-LS) zoning district. The property is located at 11710 Braidwoods Trail, Grant Township, Section 24, parcel #151-024-400-005-00. A 40 foot front setback from the high water mark is required in this zoning district.
  
- 2.) **Matt Whitener/Whitewood Inc.** - Requests an 8 ft. side setback variance for a land division in a Commercial Development (D-CM) zoning district. The property is located at 3792 South Straits Highway, Tuscarora Township, Section 24, parcel #161-024-400-230-11. A 10 foot side setback is required in this zoning district.

Please visit the Planning and Zoning office or visit our website to see the application and the associated plan drawings. Site plans may be viewed at [www.cheboygancounty.net/planning](http://www.cheboygancounty.net/planning). Comments, questions, and correspondence may be sent to [planning@cheboygancounty.net](mailto:planning@cheboygancounty.net) or Planning & Zoning Department, 870 S. Main St., PO Box 70, Cheboygan, MI 49721, or presented at the meeting.

Persons with disabilities needing accommodations for effective participation in the public hearing should contact the Community Development Director at the above address one week in advance to request mobility, visual, hearing or other assistance.

**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 #:	\$110.- 5556
CASH/CHECK:	Cash
ACTION / DATE:	

**PLEASE PRINT**

**PROPERTY LOCATION**

Address <i>11710 BRAIDWOODS TR.</i>	City / Village <i>CHEBOYGAN</i>	Township / Sec. <i>GRANT 24</i>	Zoning District
Property Tax I.D. (Parcel) Number <i>151 024 400 005 00</i>	Subdivision or Condo. Name / Plat or Lot No.		

**APPLICANT**

Name <i>DON KADE</i>	Telephone	Fax	
Address <i>716 W. DAVIS RD</i>	City & State <i>HOWELL MI</i>	Zip Code <i>48843</i>	E-Mail

**OWNER (If different from applicant)**

Name	Telephone	Fax	
Address	City & State	Zip Code	

Detailed directions to site, including nearest crossroad:

*DORIVA BEACH RD TO EISENS TRAIL TO BRAIDWOODS TRAIL, FOLLOW THRU WOODS TO END OF ROAD*

**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: *SUMMER 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.

ADD ADDITION TO EXISTING COTTAGE

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.

EXISTING COTTAGE IS WITHIN CURRENT FRONT SET BACK

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 "A" ABOVE

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

DUE TO FLOOR PLAN OF EXISTING STRUCTURE THE PROPOSED ADDITION IS WITHIN FRONT SET BACK

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.

YES

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.

ADDITION WOULD BE FAR FROM ANY NEIGHBOR RESIDENCE AND WELL WITHIN SIDE LINE SET BACK

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

Owner's Signature

[Signature]

Date

5/1/17

**AFFIDAVIT**

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

Applicant's Signature

[Signature]

Date

5/1/17

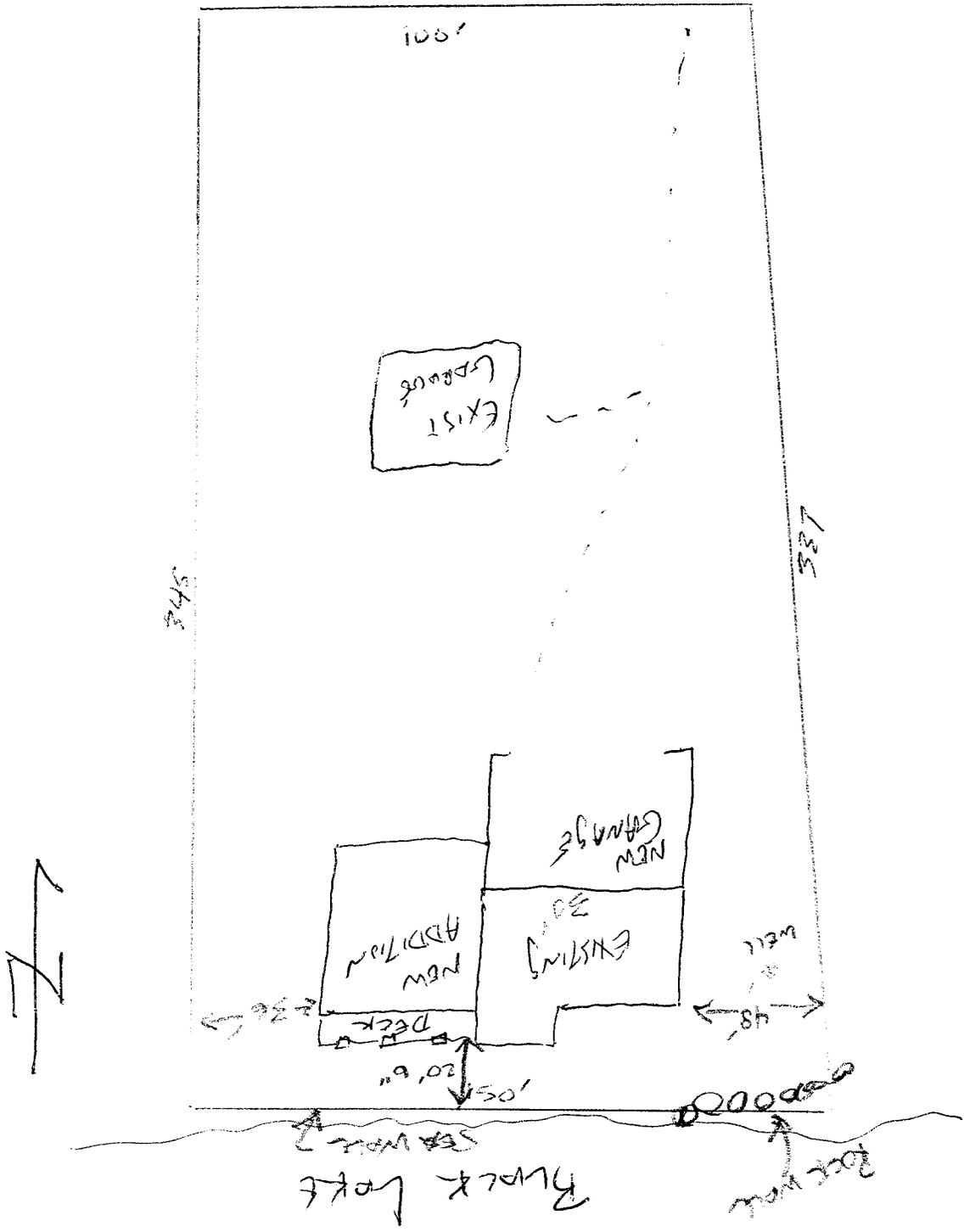
**SITE PLAN INFORMATION** Please include the following on your site plan:

- |   |   |
|---|---|
| <ol style="list-style-type: none"> <li>1. Property Line dimensions and Property shape.</li> <li>2. Front, Rear, &amp; Side setback dimensions.</li> <li>3. Location, shape &amp; size of all existing &amp; proposed buildings on property.</li> <li>4. Location of all drives and parking areas.</li> <li>5. Rivers, lakes, wetlands, or streams within 500 ft.</li> </ol> | <ol style="list-style-type: none"> <li>6. Parcels under separate ownership therein.</li> <li>7. Road Right-Of-Way (ROW); access or utility easements.</li> <li>8. The existing and intended use of the lot and structures.</li> <li>9. Place North arrow in space provided.</li> <li>10. Other essential zoning information.</li> </ol> |
|---|---|

**Distance from property line to proposed structure:**  
 Front: \_\_\_\_\_ Rear: \_\_\_\_\_ Side: \_\_\_\_\_ Side: \_\_\_\_\_

**Zoning District:**

**North:**



16-151-024-400-004-01  
KADE, DONALD JR & COLLEEN, TTEES  
716 W DAVIS RD  
HOWELL MI 48843-8842

16-151-024-400-004-02  
KADE, DONALD JR & COLLEEN KADE  
716 WEST DAVIS RD  
HOWELL MI 48843

16-151-024-400-004-03  
SELVIG, ROGER & PAMELA, TTEES  
11723 BRAIDWOODS TRL  
CHEBOYGAN MI 49721

16-151-024-400-004-04  
MCGILLIVRAY, PAUL & BARBARA H/W  
2386 BEAVER TRL  
MACOMB MI 48042

16-151-024-400-004-10  
MCGILLIVRAY, BARBARA A TRUST  
52386 BEAVER TRAIL DR  
MACOMB MI 48042

16-151-024-400-005-00  
KADE, DONALD JR & COLLEEN REVOC  
716 WEST DAVIS RD  
HOWELL MI 48843

16-151-024-400-006-00  
COOPER, JEREMY  
2929 SERFASS RD  
CLINTON OH 44216

16-151-024-400-014-10  
LIEVENS, GREGORY & REBECCA H/W  
6560 SCHOOL RD  
PETERSBURG MI 49270

16-151-024-400-004-01  
OCCUPANT  
11695 BRAIDWOODS TRL  
CHEBOYGAN, MI 49721

16-151-024-400-004-03  
OCCUPANT  
11723 BRAIDWOODS TRL  
CHEBOYGAN, MI 49721

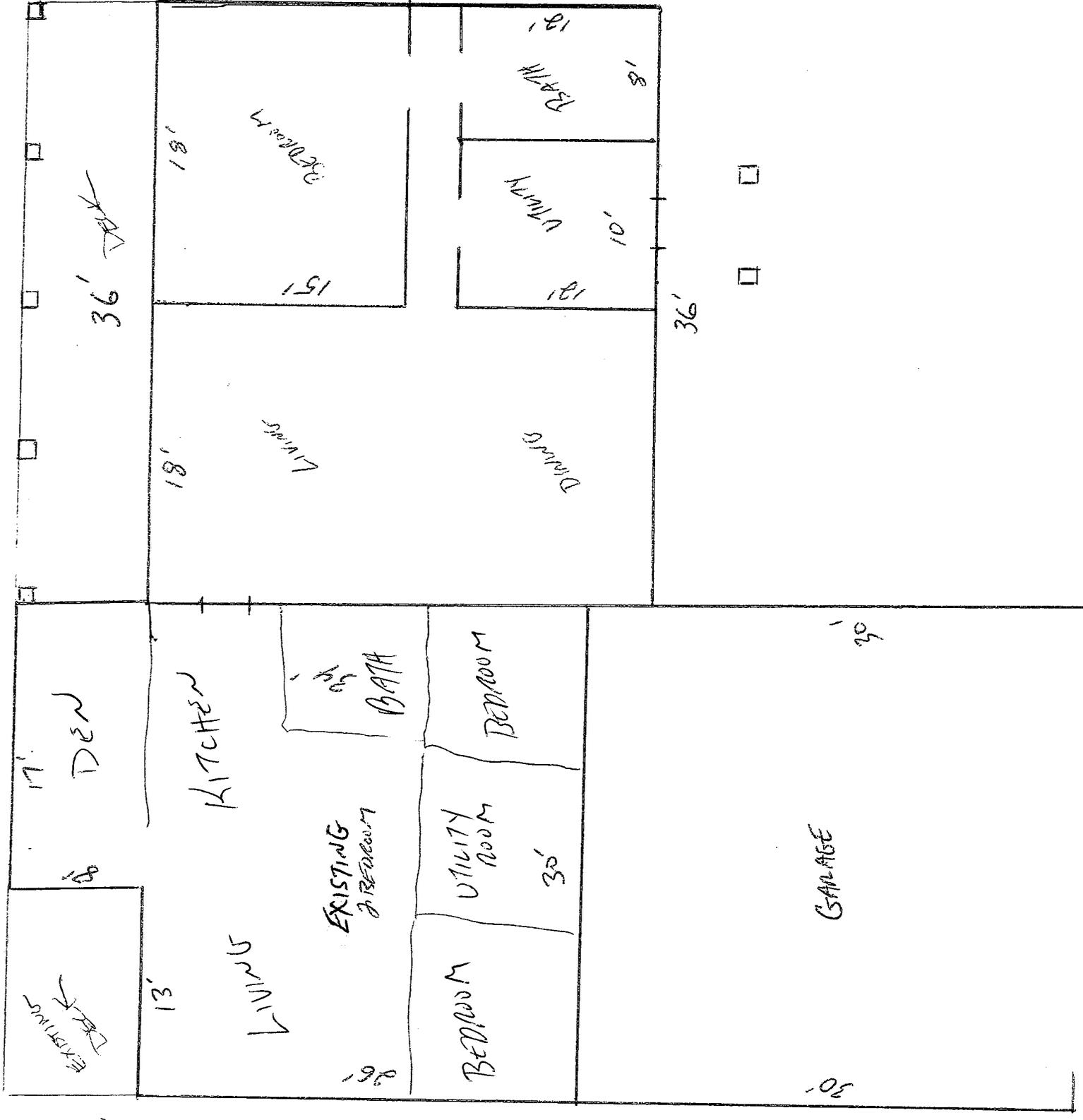
16-151-024-400-004-04  
OCCUPANT  
11669 BRAIDWOODS TRL  
ONAWAY, MI 49765

16-151-024-400-005-00  
OCCUPANT  
11710 BRAIDWOODS TRL  
CHEBOYGAN, MI 49721

16-151-024-400-006-00  
OCCUPANT  
11729 BRAIDWOODS TRL  
CHEBOYGAN, MI 49721

16-151-024-400-014-10  
OCCUPANT  
2050 BEAR PAW LN  
CHEBOYGAN, MI 49721

.125" = 1'



PROPOSED ADDITION  
36' X 30' + 8' X 36' DECK

36" HALLWAY  
36" DOOR  
COVERED DECK  
COVERED PORCH



# CHEBOYGAN COUNTY COMMUNITY DEVELOPMENT 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/](http://www.cheboygancounty.net/planning/)

## DIMENSIONAL VARIANCE STAFF REPORT

<b>Item:</b> Request for a 19.5 ft. front setback variance for an addition to an existing dwelling in a Lake and Stream Protection (P-LS) zoning district	<b>Prepared by:</b> Scott McNeil
<b>Date:</b> May 11, 2017	<b>Expected Meeting Date:</b> May 24, 2017

### GENERAL INFORMATION

**Applicant:** Don Kade

**Property Owner:** Same

**Requested Action:** Approve a 19.5 ft. front setback variance for an addition to an existing dwelling in a Lake and Stream Protection (P-LS) zoning district.

### BACKGROUND INFORMATION

The applicant is seeking a front setback variance in order to construct an addition to an existing dwelling. The existing dwelling is nonconforming relative to front setback. The addition proposed to be placed in the front setback includes a deck measuring 8 ft. x 36 ft. and dwelling area measuring 30 ft. x 36 ft. The addition is proposed to extend to the west from the existing dwelling which is located 20.5 feet from the highwater mark and front lot line.

The zoning district is P-LS, Lake and Stream Protection District. A 40ft front setback from the high water mark is required for the subject lot per section 17.1.

A maps to the location of the subject site is located at the end of the draft specific findings. An “under review” sign will be placed at the driveway of the subject site.

**Surrounding Zoning:** The need for the requested variance is due to the location and floor plan of the existing nonconforming dwelling structure which are unique physical conditions

**West:** P-LS, Lake and Stream Protection District

**East:** Same

**North:** Same

**South:** Black Lake

**Surrounding Land Uses:** Residential uses surround the subject site.

**Environmentally Sensitive Areas: (steep slopes, wetlands, woodlands, stream corridor, floodplain)** The subject site is located on the Black Lake. There are no other environmentally sensitive areas on the subject site.

**Public Comments:** None.

### **VARIANCE CONSIDERTIONS**

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

#### **General Findings**

1. The property is zoned Lake and Stream Protection (P-LS)
2. A front setback of 40 feet is required in a P-LS zoning district per Section 17.1.
3. The applicant is seeking a 19.5 foot front setback variance for a deck and dwelling addition to an existing dwelling.
4. The existing dwelling structure is nonconforming relative to front setback.
- 5.
- 6.

#### **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.**

The need for the requested variance is due to the location and floor plan of the existing nonconforming dwelling structure which are unique physical conditions.

OR, there are no unique circumstances or physical conditions of the property relative to the placement of an addition to the existing dwelling structure.

**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).**

The need for the requested variance is due to the location and floor plan of the existing nonconforming dwelling structure which are unique physical conditions.

OR, other options for location of an addition to the existing dwelling structure exist and the requested variance is the result of actions of the applicant and/or the need for the requested variance is self created.

**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.**

Do to location and/or floor plan of the existing dwelling structure, conformity with setback regulations would be unnecessarily burdensome.

OR, there are no unique circumstances or physical conditions and conformity with setback requirements is not unnecessarily burdensome.

**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.**

The variance is the minimum necessary to grant the applicant reasonable relief and will do substantial justice to other property owners in the district do to the location and/or floor plan of the existing dwelling structure.

OR, other options exist for the applicant and the variance request does not represent the minimum necessary to grant the owner reasonable relief and will not do substantial justice to other property owners in the district.

**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.**

The subject lot is in an isolated location and granting the variance will not cause adverse impacts on, or lessen the use and enjoyment of the neighboring property.

OR, granting the variance will cause adverse impacts on the neighboring property.

Area Map



Detail Map to subject site

