



# 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, NOVEMBER 23, 2016 AT 7:00 P.M.  
ROOM 135 – COMMISSIONERS ROOM  
CHEBOYGAN COUNTY BUILDING, 870 S. MAIN ST., CHEBOYGAN, MI 49721**

## **AGENDA**

### **CALL TO ORDER**

### **PLEDGE OF ALLEGIANCE**

### **APPROVAL OF AGENDA**

### **APPROVAL OF MINUTES**

### **PUBLIC HEARING AND ACTION ON REQUESTS**

- 1.) **Tuscarora Township** – Requests a 9 ft. rear setback variance for a storage building in a Lake and Stream Protection (P-LS) zoning district. The property is located at 6566 Oak Glen St., Tuscarora Township, Section 24, parcel #161-M57-000-007-00, #161-M57-000-009-00, #161-M57-000-010-00, #161-M57-000-023-00. A 12 ft. rear setback is required in this zoning district.
- 2.) **Bruce Biebuyck** - Requests a 3ft. side setback variance, a 5 ft side setback variance and a 1 foot front setback variance for a deck addition to a dwelling in a Lake and Stream Protection (P-LS) zoning district. The property is located at 1430 Topinabee Shore Drive., Mullett Township, Section 30, parcel #130-L05-001-013-00. A 5 ft. side setback is required for this lot in this zoning district. A 9 ft. front setback is required for the deck in this zoning district pursuant to Section 10.4.8. of the Cheboygan County Zoning Ordinance #200 which reads as follows:

On property where existing structures on both sides are within two hundred (200) feet of a new building wall and said structures do not meet waterfront setback standards, the required setback need not be greater than the Average setback on the adjoining developed lots.

### **UNFINISHED BUSINESS**

### **NEW BUSINESS**

### **ZBA COMMENTS**

### **PUBLIC COMMENTS**

### **ADJOURN**

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING  
WEDNESDAY, OCTOBER 26, 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:** Tony Matelski, Debbie Willey, Carl Muscott,

**Others Present:** Scott McNeil

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

**PLEDGE OF ALLEGIANCE**

Chairperson Freese led the Pledge of Allegiance.

**APPROVAL OF AGENDA**

The agenda was presented. **Motion** by Mr. Moore, seconded by Ms. Sherwood, to accept the agenda as presented. Motion carried unanimously.

**APPROVAL OF MINUTES**

Minutes from the September 28, 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**

**Debra Willey** - Requests a 19 ft. front setback variance for construction of a garage and an addition to single family dwelling in a Commercial Development (D-CM) zoning district. The property is located at 6053 Prospect St., Tuscarora Township, Section 24, parcel #161-I31-006-005-00. A 25 ft. front setback is required for in this zoning district.

Mr. McNeil stated that the applicant is requesting a 19ft. front setback variance. Mr. McNeil stated that the property is zoned Commercial Development and there a front setback of 25ft. is required in this zoning district. Mr. McNeil stated that the applicant is proposing to place a structure addition onto the existing dwelling that would serve as a garage and additional dwelling space. Mr. McNeil stated that the structure would be placed 6ft. from the road right of way.

Ms. Willey stated that if the variance is approved, she would still be further back from the road than the neighbor. Ms. Willey stated this is the only location on the property where she is able to build.

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

Mr. Freese stated that every other property owner in the area is closer to the road that what the applicant is proposing in this request.

The Zoning Board of Appeals reviewed the General Findings and added “Adjacent properties have great encroachments on the front setback than what has been requested by the applicant.” as 5 and “The next door neighbor was granted a variance in 2015.” as 6.

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. Motion carried unanimously.

**UNFINISHED BUSINESS**

No comments.

**NEW BUSINESS**

No comments.

**ZBA COMMENTS**

No comments.

**PUBLIC COMMENTS**

Mr. Muscott stated that he owns a platted lot in Topinabee that is 65ft. x 110ft. Mr. Muscott stated this is smaller than the

minimum requirement for a residential lot. Mr. Muscott stated that a 1000sf dwelling could be built along with a septic. Mr. Muscott asked the board if this would be seen as a buildable lot with a variance. Mr. Moore noted that it would be a buildable lot if the parcel was created prior to zoning. Mr. McNeil stated that if it is a platted lot it is non-conforming, but it is a buildable lot. Discussion was held regarding meeting Health Department requirements.

**ADJOURN**

**Motion** by Mr. Hemmer to adjourn. Motion carried. Meeting adjourned at 7:08pm.

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John Thompson, Secretary

# CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

Tuscarora Township – Revised 11/01/16

## 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 (5 Pages)
5. Mailing List (4 Pages)
6. Pictures (2 Pages)

The following items were added to the exhibit list on 11/01/16:

7. E-mail dated 11/01/16 from Carl Muscott (3 Pages)
- 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, NOVEMBER 23, 2016 AT 7:00 P.M.  
ROOM 135 – COMMISSIONERS ROOM  
CHEBOYGAN COUNTY BUILDING, 870 S. MAIN ST., CHEBOYGAN, MI 49721**

- 1.) **Tuscarora Township** – Requests a 9 ft. rear setback variance for a storage building in a Lake and Stream Protection (P-LS) zoning district. The property is located at 6566 Oak Glen St., Tuscarora Township, Section 24, parcel #161-M57-000-007-00, #161-M57-000-009-00, #161-M57-000-010-00, #161-M57-000-023-00. A 12 ft. rear setback is required in this zoning district.
- 2.) **Bruce Biebuyck** - Requests a 3ft. side setback variance, a 5 ft side setback variance and a 1 foot front setback variance for a deck addition to a dwelling in a Lake and Stream Protection (P-LS) zoning district. The property is located at 1430 Topinabee Shore Drive., Mullett Township, Section 30, parcel #130-L05-001-013-00. A 5 ft. side setback is required for this lot in this zoning district. A 9 ft. front setback is required for the deck in this zoning district pursuant to Section 10.4.8. of the Cheboygan County Zoning Ordinance #200 which reads as follows:

On property where existing structures on both sides are within two hundred (200) feet of a new building wall and said structures do not meet waterfront setback standards, the required setback need not be greater than the average setback on the adjoining developed lots.

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

\$110.00 APPLICATION FEE
--------------------------

RECEIPT #:	5363
CASH/CHECK:	026134
ACTION /DATE:	

PLEASE PRINT

**PROPERTY LOCATION**

Address 6566 Oak Glen	City / Village Indian River	Township / Sec. 1 24	Zoning District P-LS
Property Tax I.D. (Parcel) Number 161-MS7-000.010-00	Subdivision or Condo. Name / Plat or Lot No. McHenry's Keystone		

**APPLICANT**

Name Tuscarora Township	Telephone 231-238-7088	Fax 231-238-7955
Address 3546 S. Straits Hwy	City & State Indian River, MI	Zip Code 49749
		E-Mail superior@tuscaroratwp.com

**OWNER (If different from applicant)**

Name As Above	Telephone	Fax
Address	City & State	Zip Code

Detailed directions to site, including nearest crossroad:

S. Straits Hwy to South Blvd/West to W. 7 1/2 blocks  
North to Oak Glen / West to DeVoe Beach

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: Public Beach / Park.
- 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 7/22/13 nature of action requested variance reer set back and the decision modified.
- 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.

Shed was placed four feet from edge of asphalt as a safety measure allowing safe use of side door

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.

Bringing building closer to the asphalt presents safety hazard. Adjacent fence at the asphalt line has been struck by vehicles twice

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

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

Again safety issue regarding traffic & turn radius plus parking.

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.

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.

There is no impact on neighboring properties.

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 Michael S. Polley

Date 10/27/16

**AFFIDAVIT**

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

Applicant's Signature \_\_\_\_\_

Date \_\_\_\_\_

**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: 3' Side: \_\_\_\_\_ Side: \_\_\_\_\_

Zoning District:

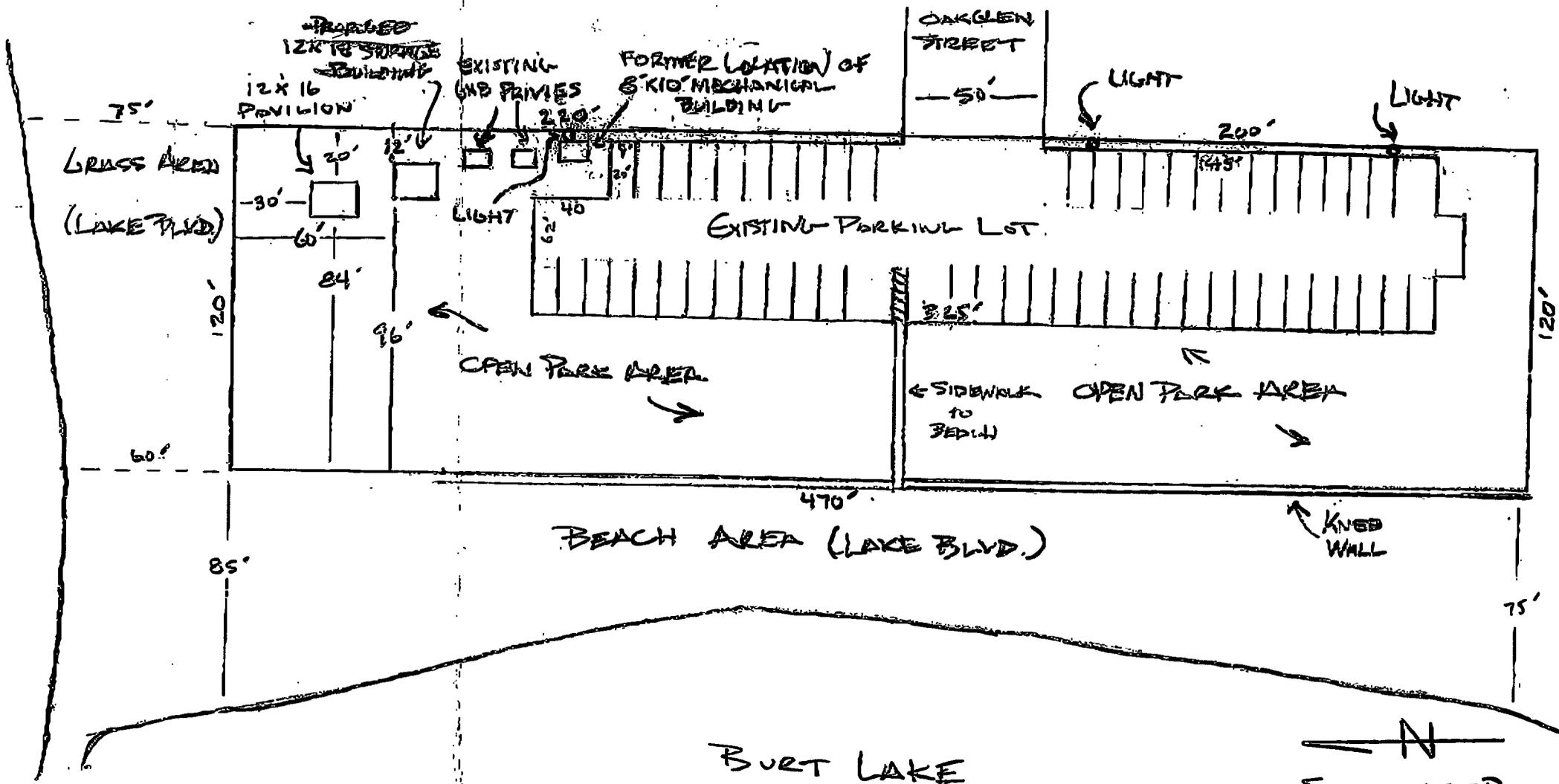
P. LS

North:

*Requesting a 9' variance of rear setback.*

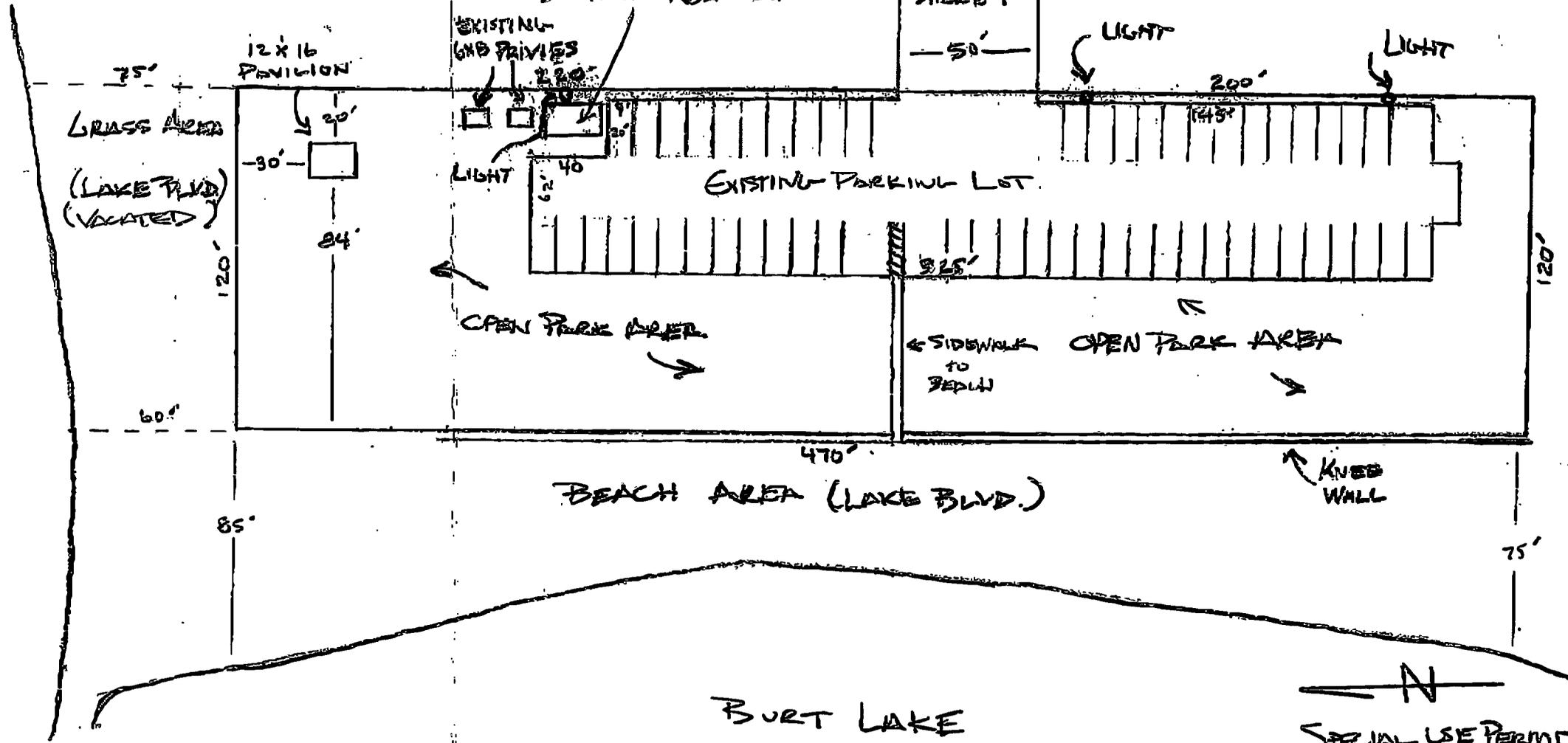
INDIAN RIVER

LOCATION OF FORMER MATH. BUILDING



SPECIAL USE PERMIT SITE PLAN  
 TUSCARORA TOWNSHIP  
 DEVOY BEACH PARK  
 MAY 21, 2013 / AMEND 10/17/14  
 SCALE 1" = 30'  
 Mike Rolley

INDIAN RIVER



N  
 SPECIAL USE PERMIT SITE PLAN  
 TUSCARORA TOWNSHIP  
 DEVON PARK  
 MAY 21, 2013 / AMEND 10/17/14  
 SCALE 1" = 30'  
 Mike Ridley  
 MIKE RIDLEY, SUPERVISOR

16-161-I29-000-006-00 SANFORD, NANCY, TTEE NANCY S 441 MEGUZEE POINT RD ELK RAPIDS MI 49629	16-161-M57-000-010-00 TUSCARORA, TOWNSHIP OF PO BOX 306 INDIAN RIVER MI 49749	16-161-M57-000-025-00 CAGLE, LORI 10535 HOPEWOODS CT CINCINNATI OH 45249
16-161-I29-000-071-00 COLUMBUS BEACH CLUB PO BOX 130 INDIAN RIVER MI 49749	16-161-M57-000-014-00 BURT RIVER, LLC 528 W. GRAND RIVER HOWELL MI 48843	16-161-M57-000-027-00 COVERT, MARTIN & CHRISTINE H/ 13447 WHITE LAKE RD FENTON MI 48430-8401
16-161-M57-000-001-00 WATTSON, MARY JANE PO BOX 751 INDIAN RIVER MI 49749	16-161-M57-000-015-01 POWELL, GARY & BETTY H/W 21580 SUNFLOWER AVE NOVI MI 48375	16-161-M57-000-028-00 NEAR, DALE & RITA H/W 3135 JOHANN DR SAGINAW MI 48609
16-161-M57-000-002-00 SWINK, WILLIAM F JR & JUDITH H/ 6557 GLENDALE TROY MI 48098-1713	16-161-M57-000-016-00 LEGREE, GEORGE 13857 CASTLE DR WARREN MI 48088	16-161-M57-000-029-00 REINECKER, WAYNE & JOYCE, CO- 4252 WALSH RD WHITMORE LAKE MI 48189
16-161-M57-000-003-00 BURT RIVER, LLC 528 W. GRAND RIVER HOWELL MI 48843	16-161-M57-000-017-00 LAKE, ROGER & KAY H/W 322 LAKE ST SAINT CHARLES MI 48655	16-161-M57-000-031-01 SOMOGYI, NANCY 3367 E COOK RD GRAND BLANC MI 48439
16-161-M57-000-004-00 SMITH, CHARLES & CAROLYN CO- PO BOX 986 INDIAN RIVER MI 49749	16-161-M57-000-018-00 K & EJ STAHL TRUST, WAYNE L ST PO BOX 51 INDIAN RIVER MI 49749-0051	16-161-M57-000-034-00 HERENDEE, JUDITH & 3147 MORNINGSIDE DR COLUMBUS OH 43202
16-161-M57-000-005-00 POMEROY, CONSTANCE MARIE, TT 24164 MCKINLEY DEARBORN MI 48124	16-161-M57-000-020-00 REINECKER, WAYNE & JOYCE, CO- 4252 WALSH RD WHITMORE LAKE MI 48189	16-161-M57-000-036-00 TAYLOR, KURT A 3493 PARK ISLAND DR OXFORD MI 48371-5733
16-161-M57-000-005-01 GRUNDEY, JOSEPH PO BOX 246 REYNOLDSBURG OH 43068	16-161-M57-000-021-00 FORMARO, JOSEPH & ROSANNA H/ 2606 JONATHAN DR STERLING HEIGHTS MI 48310	16-161-M57-000-037-00 MILLER, LARRY & WENDY H/W 9769 COOLEY LAKE RD COMMERCE TWP MI 48381-3630
16-161-M57-000-007-00 TUSCARORA, TOWNSHIP OF PO BOX 306 INDIAN RIVER MI 49749	16-161-M57-000-022-00 COVERT, MARTIN & CHRISTINE H/ 13447 WHITE LAKE RD FENTON MI 48430-8401	16-161-M57-000-039-00 MASTROFRANCESCO, LUIGI & AN 44472 ASPEN RIDGE DR NORTHVILLE MI 48168
16-161-M57-000-009-00 TUSCARORA, TOWNSHIP OF PO BOX 306 INDIAN RIVER MI 49749	16-161-M57-000-023-00 TUSCARORA, TOWNSHIP OF PO BOX 306 INDIAN RIVER MI 49749	16-161-M57-000-040-00 DEYOUNG, RONALD PO BOX 1048 INDIAN RIVER MI 49749

16-161-M57-000-045-02

PETRIE, MARY ANN; ROBERT D

11400 KNIGHTS DR

PINCKNEY MI 48169

16-161-M57-000-046-00

PETRIE, MARY ANN; ROBERT D

11400 KNIGHTS DR

PINCKNEY MI 48169

16-161-M57-000-047-00

FLOWERS, JAMES & DAWN H/W L/E

4200 MARIANNE DR

FLUSHING MI 48433

16-161-M57-000-049-00

KINDSVATTER, CHRISTIAN & LORI

460 DEERFIELD LN

INDIAN RIVER MI 49749

16-161-I29-000-006-00  
OCCUPANT  
3723 PIER AVE  
INDIAN RIVER, MI 49749

16-161-M57-000-015-01  
OCCUPANT  
3690 WITT BLVD  
INDIAN RIVER, MI 49749

16-161-M57-000-029-00  
OCCUPANT  
6540 MACK AVE  
INDIAN RIVER, MI 49749

16-161-I29-000-071-00  
OCCUPANT  
3708 CLEVELAND AVE  
INDIAN RIVER, MI 49749

16-161-M57-000-016-00  
OCCUPANT  
6514 OAK GLEN ST  
INDIAN RIVER, MI 49749

16-161-M57-000-031-01  
OCCUPANT  
6520 MACK AVE  
INDIAN RIVER, MI 49749

16-161-M57-000-001-00  
OCCUPANT  
3680 WITT BLVD  
INDIAN RIVER, MI 49749

16-161-M57-000-017-00  
OCCUPANT  
6523 OAK GLEN ST  
INDIAN RIVER, MI 49749

16-161-M57-000-034-00  
OCCUPANT  
6521 MACK AVE  
INDIAN RIVER, MI 49749

16-161-M57-000-002-00  
OCCUPANT  
6522 OAK GLEN ST  
INDIAN RIVER, MI 49749

16-161-M57-000-018-00  
OCCUPANT  
6533 OAK GLEN ST  
INDIAN RIVER, MI 49749

16-161-M57-000-036-00  
OCCUPANT  
6539 MACK AVE  
INDIAN RIVER, MI 49749

16-161-M57-000-003-00  
OCCUPANT  
6535 OAK GLEN ST  
INDIAN RIVER, MI 49749

16-161-M57-000-020-00  
OCCUPANT  
6545 OAK GLEN ST  
INDIAN RIVER, MI 49749

16-161-M57-000-037-00  
OCCUPANT  
MACK AVE  
INDIAN RIVER, MI 49749

16-161-M57-000-004-00  
OCCUPANT  
6540 OAK GLEN ST  
INDIAN RIVER, MI 49749

16-161-M57-000-021-00  
OCCUPANT  
6559 OAK GLEN ST  
INDIAN RIVER, MI 49749

16-161-M57-000-039-00  
OCCUPANT  
6567 MACK AVE  
INDIAN RIVER, MI 49749

16-161-M57-000-005-00  
OCCUPANT  
6560 OAK GLEN ST  
INDIAN RIVER, MI 49749

16-161-M57-000-022-00  
OCCUPANT  
6561 OAK GLEN ST  
INDIAN RIVER, MI 49749

16-161-M57-000-040-00  
OCCUPANT  
6596 SOUTH AVE  
INDIAN RIVER, MI 49749

16-161-M57-000-005-01  
OCCUPANT  
6554 OAK GLEN ST  
INDIAN RIVER, MI 49749

16-161-M57-000-025-00  
OCCUPANT  
6574 MACK AVE  
INDIAN RIVER, MI 49749

16-161-M57-000-045-02  
OCCUPANT  
SOUTH AVE  
INDIAN RIVER, MI 49749

16-161-M57-000-010-00  
OCCUPANT  
6566 OAK GLEN ST  
INDIAN RIVER, MI 49749

16-161-M57-000-027-00  
OCCUPANT  
6564 MACK AVE  
INDIAN RIVER, MI 49749

16-161-M57-000-046-00  
OCCUPANT  
6568 SOUTH AVE  
INDIAN RIVER, MI 49749

16-161-M57-000-014-00  
OCCUPANT  
6536 OAK GLEN ST  
INDIAN RIVER, MI 49749

16-161-M57-000-028-00  
OCCUPANT  
6554 MACK AVE  
INDIAN RIVER, MI 49749

16-161-M57-000-047-00  
OCCUPANT  
6552 SOUTH AVE  
INDIAN RIVER, MI 49749

16-161-M57-000-049-00

OCCUPANT

6526 SOUTH AVE

INDIAN RIVER, MI 49749





## Deborah Tomlinson

---

**From:** carl muscott <carlmuscott@yahoo.com>  
**Sent:** Tuesday, November 01, 2016 9:54 AM  
**To:** Steve Schnell; Scott McNeil  
**Cc:** Deborah Tomlinson; Chuck Freese; Pete Redmond; Sue Allor; Tony Matelski; Cal Gouine; Chris Brown; Bruce Gauthier; John Wallace; Jeff Lawson  
**Subject:** ZBA Notice 11/23-Devoe Beach Shed

Hi Steve,

I see notice published for the 11/23 ZBZ hearing.

Item #1 appears to be another failure of enforcement or a refusal to enforce. Tuscarora Supervisor Mike Ridley appeared before the ZBA seeking a variance to place a storage shed at Devoe Beach. The ZBA attempted a compromise solution suggesting a redesigned shed. Ridley falsely said the shed had already been purchased. The ZBA then approved siting the shed at the edge of the pavement creating a greater setback from the lot line. Months later, the shed was purchased and placed in direct violation of the variance. This issue should not be wasting the time of the ZBA Board. The ZBA ruled and issued a reasonable variance and Ridley or Tuscarora Township employees ignored the variance. This second request for a variance is clearly within the definition of a "self created" action under 23.5.4.2. Your department is failing to enforce a ruling instead of asking Ridley to direct his staff to drag a shed placed on a gravel pad over a few feet. (see attached pics) This is all a waste of taxpayer funds and business as usual as Ridley ignores rulings, votes, and common sense and does what he wants. This second request for a variance appears to be solely his personal action and not a public Tuscarora Board decision to take further legal action.

*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.*

*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 second item #1 (typo-Mullett Township-not Tuscarora) is seeking a variance at 1430 Topinabee Shore Drive for a "deck addition to a dwelling". Although Ordinance #200 fails to provide a concise definition for a dwelling, Under the criteria stated in Section 17.3: "The dwelling is connected to a public sewer and water supply or to such private facilities as approved by the county health department."

I'll remind you that your department had taken the public position that these numerous "boat houses" in the Topinabee area, old or newer, will not become seasonal dwellings. Originally built pre-zoning,

most within this block have minimal or no side yard setback and that already presents an imminent multi-structure fire hazard. Many have had some sort of indoor plumbing/sanitation installed as evidenced by vent stacks. None of the parcels to my knowledge have sufficient room for adequate septic systems.

I do appreciate these historic "boat houses" that are unique and add to the character of Topinabee. They should be restricted to maintenance /repair only until such time as the owners find some method to deal with their illegal grey and black water discharge into Mullet Lake. Their continued use as seasonal dwellings is both a health and a safety hazard. Where is our protection as promised in Ordinance #200?

Thank you,

Carl Muscott





# 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> A 9 ft. rear setback variance for a storage building in a Lake and Stream Protection (P-LS) zoning district.	<b>Prepared by:</b> Scott McNeil
<b>Date:</b> November 14, 2016	<b>Expected Meeting Date:</b> November 23, 2016

### GENERAL INFORMATION

**Applicant:** Tuscarora Township

**Property Owner:** Same

**Contact person:** Mike Ridley, Supervisor

**Phone:** 231-238-7088

**Requested Action:** Allow a 9 ft. rear setback variance for a storage building in a Lake and Stream Protection (P-LS) zoning district. A rear setback of 12 ft. is required in this zoning district per Section 17.1.

### BACKGROUND INFORMATION

The subject parcel contains approximately 120' of depth with a width of 470' on the front lot line. The property is currently used as a municipal park known as DeVoe Beach. The proposed storage building is existing and replaced a former smaller storage building. The board of appeals approved a rear setback for the structure on July 22, 2015, allowing a rear setback variance based on placement at the edge of the existing asphalt. (see a copy of the meeting minutes included with this report)

The application is being brought as a result of enforcement. The applicant is seeking the variance in order to allow the building to remain in its current location which is not consistent to the ruling of the board

**Surrounding Zoning:**

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

**East:** Same

**South:** Same

**North:** Same

**Surrounding Land Uses:**

Residential land uses surround the subject property.

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

The site is located on Burt Lake. There are no other known environmentally sensitive areas.

**Public Comments:**

1. None
- 2.

**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. Property is located in a Lake and Stream (P-LS) zoning district.
2. A rear setback of 12 ft. is required per Section 17.1
3. The applicant is seeking a 9 ft rear setback variance to place a 12 ft. x 24 ft. storage building.
4. The Zoning Board of Appeals approved a rear setback for the structure on July 22, 2015, allowing a rear setback variance based on placement at the edge of the existing asphalt.
- 5.
- 6.
- 7.

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 previous variance granted required the subject structure to be placed at the edge of the existing asphalt which has created a safety concern and is a unique physical condition and is not due to the applicant's personal or economic difficulty.

OR, there are no unique circumstances or physical conditions and/or the circumstances are due to the applicant's personal difficulty.

**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 due to a limited area for placement of the structure and proximity to auto maneuvering, and is not the result of actions of the property owner or previous property owners.

OR, the proposed storage building can be located differently and/or constructed with less width. The variance request is the result of actions of the property owner.

**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.**

Due to limited area for safely placing the structure, conformity with setback regulations is deemed unnecessarily burdensome.

OR, conformance with setback regulations will allow construction of a storage building within the side setback areas and conformity with setback regulations 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.**

Due to the limited area for safely placing the structure, the variance request represents the minimum necessary to grant reasonable relief and do substantial justice to other property owners in the district.

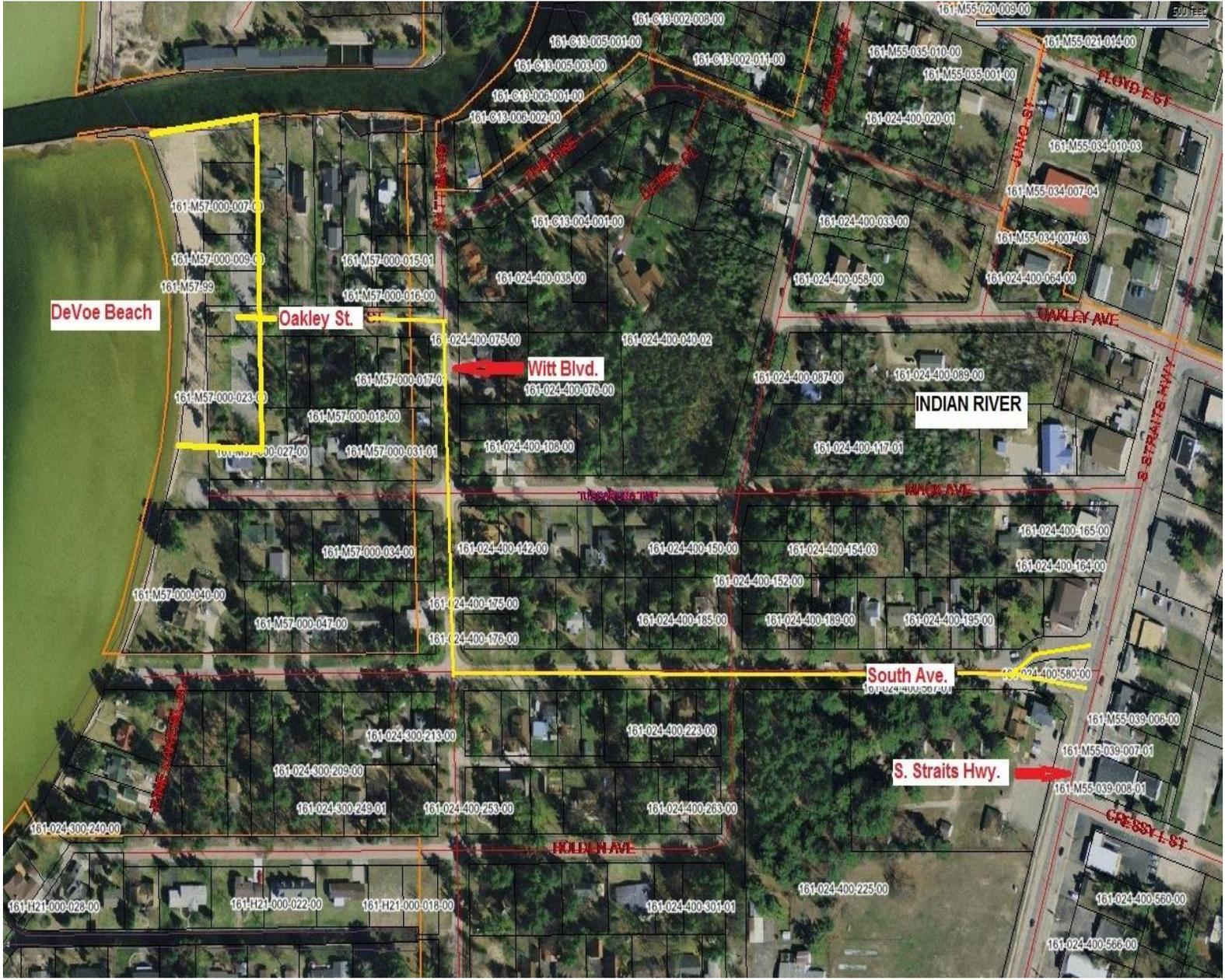
OR, the variance request does not represent the minimum necessary and/or will not do substantial justice to other property owners in the district.

**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.**

Granting the variance will provide a 3.0 ft. rear setback to locate a new storage building where an existing storage building is located and will not cause an adverse impact on surrounding property, property values or the use and enjoyment of property in the neighborhood or zoning district.

OR, the requested variance to allow a 3.0 ft. rear setback will cause an adverse impact on surrounding property and/or on property values and/or on the use and enjoyment of property in the neighborhood or zoning district.

Directions to Subject Location.



# CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

Bruce Biebuyck – Revised 11/22/16

## 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 (3 Pages)

The following items were added to the exhibit list on 11/01/16:

6. E-mail dated 11/01/16 from Carl Muscott (3 Pages)

The following items were added to the exhibit list on 11/01/16:

7. E-mail dated 11/14/16 from Marjorie L. Roberts to Scott McNeil (1 Page)

The following items were added to the exhibit list on 11/21/16:

8. Email dated 11/20/16 from Jeffrey Gietek, Wendy Lamothe, Greg Gietek and Gail Mathieu to Scott McNeil (1 Page)
9. E-mail from Mike Richards to Scott McNeil (3 Pages)
10. Email from Kelly Sucher to Scott McNeil (3 Pages)

The following items were added to the exhibit list on 11/22/16:

11. Letter received 11/22/16 from Scott Wright (1 Page)
- 12.
- 13.
- 14.
- 15.

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

## NOTICE

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING and PUBLIC HEARING  
WEDNESDAY, NOVEMBER 23, 2016 AT 7:00 P.M.  
ROOM 135 – COMMISSIONERS ROOM  
CHEBOYGAN COUNTY BUILDING, 870 S. MAIN ST., CHEBOYGAN, MI 49721**

- 1.) **Tuscarora Township** – Requests a 9 ft. rear setback variance for a storage building in a Lake and Stream Protection (P-LS) zoning district. The property is located at 6566 Oak Glen St., Tuscarora Township, Section 24, parcel #161-M57-000-007-00, #161-M57-000-009-00, #161-M57-000-010-00, #161-M57-000-023-00. A 12 ft. rear setback is required in this zoning district.
- 2.) **Bruce Biebuyck** - Requests a 3ft. side setback variance, a 5 ft side setback variance and a 1 foot front setback variance for a deck addition to a dwelling in a Lake and Stream Protection (P-LS) zoning district. The property is located at 1430 Topinabee Shore Drive., Mullett Township, Section 30, parcel #130-L05-001-013-00. A 5 ft. side setback is required for this lot in this zoning district. A 9 ft. front setback is required for the deck in this zoning district pursuant to Section 10.4.8. of the Cheboygan County Zoning Ordinance #200 which reads as follows:

On property where existing structures on both sides are within two hundred (200) feet of a new building wall and said structures do not meet waterfront setback standards, the required setback need not be greater than the average setback on the adjoining developed lots.

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

\$110.00 APPLICATION FEE

RECEIPT #:	5362
CASH/CHECK:	Credit Card
ACTION / DATE:	

**PLEASE PRINT**

**PROPERTY LOCATION**

Address 1430 Topinabee Shore Dr	City / Village Topinabee	Township / Sec. 130	Zoning District P-15
Property Tax I.D. (Parcel) Number 16-130-405-001-013-00	Subdivision or Condo. Name / Plat or Lot No.		

**APPLICANT**

Name Bruce Diebuyck	Telephone 248 613 6721	Fax	
Address 5705 Sandstone Dr	City & State Oxford	Zip Code mi 48371	E-Mail Bruce.Diebuyck@gmail.com

**OWNER (if different from applicant)**

Name	Telephone	Fax
Address	City & State	Zip Code

Detailed directions to site, including nearest crossroad:

Straits Hwy + Topinabee Mail Rte (crossroads)  
 South - Straits Hwy  
 Left - Topinabee Mail Rte 500st  
 Left Topinabee Shore Dr 70 ft on Rt.

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

**I. Property Information**

- A. List all known deed restrictions: \_\_\_\_\_
- B. This property is  unplatted,  platted,  will be platted. If platted, name of plat \_\_\_\_\_
- C. Present use of the property is: Cottage
- 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.

An 11x14 Deck on Lake side, that encroaches on  
the side yard and Lake side setbacks.

2. A dimensional variance may be granted by the Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following. All variance decisions made by the Zoning Board of Appeals are based on the following five (5) standards of the Cheboygan County Zoning Ordinance. **Please explain how the request meets each standard.**

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

The variance is due to the narrowness of property

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

The cottage has been here for years and is not  
the result of the current home owner or previous

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

We would like the deck to have a level  
place to set patio furniture to keep chairs  
from tipping over when using.

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.

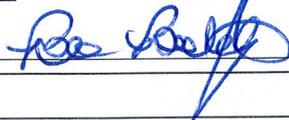
An 11'x14' Deck would give us enough room  
for a small patio set and a barbecue to  
enjoy the lake

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

The deck is smaller than the neighbors and  
is setback farther, ~~it~~<sup>does</sup> not interfere with their  
site line view

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

Owner's Signature



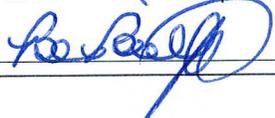
Date

10/26/16

**AFFIDAVIT**

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

Applicant's Signature



Date

10/26/16

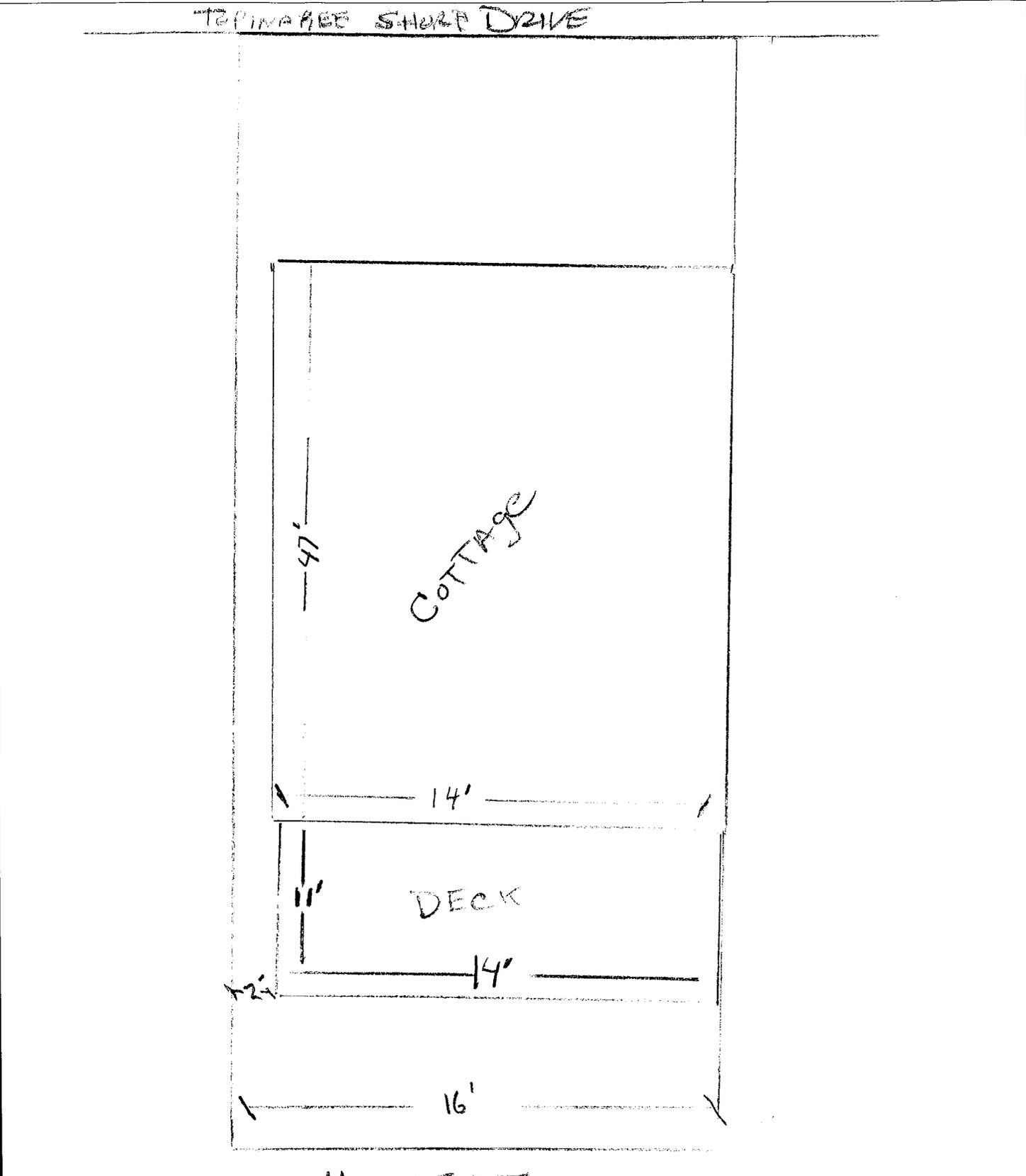
**SITE PLAN INFORMATION** Please include the following on your site plan:

- |   |   |
|---|---|
| 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: 2' Side: 0'

Zoning District: R15

North: 



MULLETT LAKE

16-130-030-100-005-00 MICHIGAN DEPT OF NATURAL RES PO BOX 30722 LANSING MI 48909	16-130-L05-001-010-00 GIETEK, CAMILLE; WENDY GIETEK 8565 GLEN HAVEN DR HOWELL MI 48843	16-130-L05-002-003-01 MULLETT TOWNSHIP PO BOX 328, 1491 N STRAITS HWY TOPINABEE MI 49791
16-130-030-200-013-00 MULLETT TOWNSHIP PO BOX 328, 1491 N STRAITS HWY TOPINABEE MI 49791	16-130-L05-001-011-00 SUCHER, KELLY M 5675 SHAUN RD WEST BLOOMFIELD MI 48322	16-130-L05-002-004-00 BRIGGS, THOMAS P, TRUSTEE 171 HORSESHOE BAY LN, PO BOX 8 SAINT IGNACE MI 49781
16-130-L05-001-002-00 DOCK, ROBERT W L/E & NANCY D 2056 HOWELL RD WILLIAMSTON MI 48895	16-130-L05-001-012-00 RICHARDS, MICHAEL & CYNTHIA 45485 TOURMENT DR NORTHVILLE MI 48168	16-130-L05-003-001-00 HADDEN, KEITH D 52349 CREEK LN CHESTERFIELD MI 48047
16-130-L05-001-003-00 DOCK, ROBERT W L/E & NANCY D 2056 HOWELL RD WILLIAMSTON MI 48895	16-130-L05-001-013-00 BIEBUYCK, BRUCE & LELA AND 5705 SANDSTONE DR OXFORD MI 48371	16-130-L05-003-002-00 HADDEN, KEITH D 52349 CREEK LN CHESTERFIELD MI 48047
16-130-L05-001-004-00 WIDRIG, DAVID G 1/3 INT; LISA CO 302 BLOSSOM AVE CADILLAC MI 49601	16-130-L05-001-014-00 ROBERTS, MARJORIE AND 32599 CADILLAC ST FARMINGTON HILLS MI 48336	16-130-L05-003-003-00 HADDEN, KEITH D 52349 CREEK LN CHESTERFIELD MI 48047
16-130-L05-001-005-00 WIDRIG, DAVID G 1/3 INT; LISA CO 302 BLOSSOM AVE CADILLAC MI 49601-9041	16-130-L05-001-015-00 VANALSTYNE, JEREMY & HEATHE 820 3RD ST ANN ARBOR MI 48103	16-130-L05-003-004-00 MULLETT TOWNSHIP HALL PO BOX 328, 1491 N STRAITS HWY TOPINABEE MI 49791
16-130-L05-001-006-00 NARTKER, RUDOLPH & PHYLLIS H/ 3579 WEDGEWOOD DR LAPEER MI 48446	16-130-L05-001-016-00 ADAMS, DONALD & DEBBIE H/W PO BOX 43 TOPINABEE MI 49791	16-130-L05-003-006-00 MULLETT TOWNSHIP PO BOX 328, 1491 N STRAITS HWY TOPINABEE MI 49791
16-130-L05-001-007-00 PARKER, JULIA; BARBARA DAUER 2 LITCHFIELD LANE CHAMPAIGN IL 61820	16-130-L05-001-017-00 ROBERTS, MARJORIE L AND 27131 GRANT SAINT CLAIR SHORES MI 48081	16-130-P15-001-001-00 GONNE, WILLIAM S JR TRUST 1/2 I 483 HENLEY DR BLOOMFIELD HILLS MI 48304
16-130-L05-001-008-00 MANSON, MARY, TTEE MARY E M 3188 W COON LAKE RD HOWELL MI 48843	16-130-L05-001-018-00 WRIGHT, PETER; ROBIN WRIGHT & PO BOX 4 TOPINABEE MI 49791	16-130-P15-001-002-00 SEELEY, EUGENE & DORIS H/W PO BOX 526 TOPINABEE MI 49791
16-130-L05-001-009-00 GIETEK, CAMILLE; WENDY GIETEK 8565 GLEN HAVEN DR HOWELL MI 48843	16-130-L05-002-001-00 WRIGHT, DOUGLAS SCOTT PO BOX 4 TOPINABEE MI 49791	16-130-P15-006-006-00 CASSIE, CHARLES II & KATHRYN, T 10527 ORCHARD BLOSSOM VIEW FENTON MI 48430

16-130-P15-007-008-00

THOMSON SELF-TRUSTED LIVING

PO BOX 46

TOPINABEE MI 49791

16-130-T25-001-005-00

COMPS, CHARLES J

PO BOX 383

TOPINABEE MI 49791

16-130-030-200-013-00  
OCCUPANT  
1576 N STRAITS HWY  
TOPINABEE, MI 49791

16-130-L05-001-011-00  
OCCUPANT  
1436 TOPINABEE SHORE DR  
TOPINABEE, MI 49791

16-130-L05-003-002-00  
OCCUPANT  
1465 N STRAITS HWY  
TOPINABEE, MI 49791

16-130-L05-001-002-00  
OCCUPANT  
1532 TOPINABEE SHORE DR  
INDIAN RIVER, MI 49749

16-130-L05-001-012-00  
OCCUPANT  
1434 TOPINABEE SHORE DR  
INDIAN RIVER, MI 49749

16-130-L05-003-003-00  
OCCUPANT  
1473 N STRAITS HWY  
TOPINABEE, MI 49791

16-130-L05-001-003-00  
OCCUPANT  
1520 TOPINABEE SHORE DR  
INDIAN RIVER, MI 49749

16-130-L05-001-013-00  
OCCUPANT  
1430 TOPINABEE SHORE DR  
INDIAN RIVER, MI 49749

16-130-L05-003-004-00  
OCCUPANT  
1491 N STRAITS HWY  
TOPINABEE, MI 49791

16-130-L05-001-004-00  
OCCUPANT  
1516 TOPINABEE SHORE DR  
INDIAN RIVER, MI 49749

16-130-L05-001-014-00  
OCCUPANT  
1424 TOPINABEE SHORE DR  
INDIAN RIVER, MI 49749

16-130-P15-001-001-00  
OCCUPANT  
1402 TOPINABEE SHORE DR  
INDIAN RIVER, MI 49749

16-130-L05-001-005-00  
OCCUPANT  
1500 TOPINABEE SHORE DR  
INDIAN RIVER, MI 49749

16-130-L05-001-015-00  
OCCUPANT  
1422 TOPINABEE SHORE DR  
INDIAN RIVER, MI 49749

16-130-P15-001-002-00  
OCCUPANT  
1404 TOPINABEE SHORE DR  
TOPINABEE, MI 49791

16-130-L05-001-006-00  
OCCUPANT  
1484 TOPINABEE SHORE DR  
INDIAN RIVER, MI 49749

16-130-L05-001-016-00  
OCCUPANT  
1418 TOPINABEE SHORE DR  
INDIAN RIVER, MI 49749

16-130-P15-006-006-00  
OCCUPANT  
1428 N STRAITS HWY  
TOPINABEE, MI 49791

16-130-L05-001-007-00  
OCCUPANT  
1464 TOPINABEE SHORE DR  
INDIAN RIVER, MI 49749

16-130-L05-001-017-00  
OCCUPANT  
1412 TOPINABEE SHORE DR  
INDIAN RIVER, MI 49749

16-130-P15-007-008-00  
OCCUPANT  
1439 N STRAITS HWY  
TOPINABEE, MI 49791

16-130-L05-001-008-00  
OCCUPANT  
1450 TOPINABEE SHORE DR  
INDIAN RIVER, MI 49749

16-130-L05-001-018-00  
OCCUPANT  
1408 TOPINABEE SHORE DR  
INDIAN RIVER, MI 49749

16-130-T25-001-005-00  
OCCUPANT  
1523 N STRAITS HWY  
TOPINABEE, MI 49791

16-130-L05-001-009-00  
OCCUPANT  
1440 TOPINABEE SHORE DR  
INDIAN RIVER, MI 49749

16-130-L05-002-001-00  
OCCUPANT  
1456 N STRAITS HWY  
INDIAN RIVER, MI 49749

16-130-L05-001-010-00  
OCCUPANT  
1438 TOPINABEE SHORE DR  
INDIAN RIVER, MI 49749

16-130-L05-002-004-00  
OCCUPANT  
1482 N STRAITS HWY  
TOPINABEE, MI 49791

## Deborah Tomlinson

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**From:** carl muscott <carlmuscott@yahoo.com>  
**Sent:** Tuesday, November 01, 2016 9:54 AM  
**To:** Steve Schnell; Scott McNeil  
**Cc:** Deborah Tomlinson; Chuck Freese; Pete Redmond; Sue Allor; Tony Matelski; Cal Gouine; Chris Brown; Bruce Gauthier; John Wallace; Jeff Lawson  
**Subject:** ZBA Notice 11/23-Devoe Beach Shed

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hi Steve,

I see notice published for the 11/23 ZBZ hearing.

Item #1 appears to be another failure of enforcement or a refusal to enforce. Tuscarora Supervisor Mike Ridley appeared before the ZBA seeking a variance to place a storage shed at Devoe Beach. The ZBA attempted a compromise solution suggesting a redesigned shed. Ridley falsely said the shed had already been purchased. The ZBA then approved siting the shed at the edge of the pavement creating a greater setback from the lot line. Months later, the shed was purchased and placed in direct violation of the variance. This issue should not be wasting the time of the ZBA Board. The ZBA ruled and issued a reasonable variance and Ridley or Tuscarora Township employees ignored the variance. This second request for a variance is clearly within the definition of a "self created" action under 23.5.4.2. Your department is failing to enforce a ruling instead of asking Ridley to direct his staff to drag a shed placed on a gravel pad over a few feet. (see attached pics) This is all a waste of taxpayer funds and business as usual as Ridley ignores rulings, votes, and common sense and does what he wants. This second request for a variance appears to be solely his personal action and not a public Tuscarora Board decision to take further legal action.

### *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.*

*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 second item #1 (typo-Mullett Township-not Tuscarora) is seeking a variance at 1430 Topinabee Shore Drive for a "deck addition to a dwelling". Although Ordinance #200 fails to provide a concise definition for a dwelling, Under the criteria stated in Section 17.3: "The dwelling is connected to a public sewer and water supply or to such private facilities as approved by the county health department."

I'll remind you that your department had taken the public position that these numerous "boat houses" in the Topinabee area, old or newer, will not become seasonal dwellings. Originally built pre-zoning, most within this block have minimal or no side yard setback and that already presents an imminent multi-structure fire hazard. Many have had some sort of indoor plumbing/sanitation installed as evidenced by vent stacks. None of the parcels to my knowledge have sufficient room for adequate septic systems.

I do appreciate these historic "boat houses" that are unique and add to the character of Topinabee. They should be restricted to maintenance /repair only until such time as the owners find some method to deal with their illegal grey and black water discharge into Mullet Lake. Their continued use as seasonal dwellings is both a health and a safety hazard. Where is our protection as promised in Ordinance #200?

Thank you,

Carl Muscott

## Deborah Tomlinson

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**From:** Scott McNeil  
**Sent:** Tuesday, November 15, 2016 8:08 AM  
**To:** Marg  
**Cc:** Deborah Tomlinson  
**Subject:** RE: Comments - Zoning Board of Appeals, 11/23/16

Dear Ms. Roberts;

A copy of your email message will be provided to the members of the Board of Appeals and a copy will be placed in the application file as an exhibit.

Do not hesitate to contact with any questions or comments.

Best 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)

**From:** Marg [<mailto:mlrob19@aol.com>]  
**Sent:** Monday, November 14, 2016 9:30 PM  
**To:** Scott McNeil  
**Subject:** Comments - Zoning Board of Appeals, 11/23/16

Cheboygan County Zoning Board of Appeals,

I am writing in regards to the Zoning Board of Appeals Meeting and Public Hearing being held on Wednesday, November 23, 2016 at 7pm. My interest is in item 2, Bruce Biebuyck, the request for three setback variances for the property located at 1430 Topinabee Shore Drive, Mullett Township, Section 30, parcel #130-L05-001-013-00. I am owner of parcel #130-L05-001-017-00 in the same section (Section 30).

I have no objections to all of the setback variances being requested. Other lots along this section of the shoreline have similar or less setbacks for their deck additions than being requested for parcel #130-L05-001-013-00.

Marjorie L Roberts  
parcel #130-L05-001-017-00  
27131 Grant  
St Clair Shores, MI 48081

**Deborah Tomlinson**

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**From:** Jeffrey Gietek [<mailto:imagietek@sbcglobal.net>]

**Sent:** Sunday, November 20, 2016 1:37 PM

**To:** Scott McNeil

**Subject:** Cheyboygan county zoning board of appeals meeting on Wednesday, November 23 - Item 2

We are writing in regards to the Zoning Board of Appeals Meeting and Public Hearing being held on Wednesday, November 23, 2016 at 7pm. I am writing regarding item 2, Bruce Biebuyck, the request for three setback variances for the property located at 1430 Topinabee Shore Drive, Mullett Township, Section 30, parcel #130-L05-001-013-00. We are the owner of parcels #130-L05-001-009-00 and #130-L05-001-010-00 in the same section (Section 30).

We have no objections to all of the setback variances being requested. Other lots along this section of the shoreline have similar or smaller setbacks for their deck additions than are being requested by Bruce Biebuyck.

Sincerely,

Jeffrey Gietek, Wendy Lamothe, Greg Gietek, and Gail Mathieu

parcel #130-L05-001-009-00

parcel #130-L05-001-010-00

8565 Glen Haven Dr

Howell, MI 48843

## Deborah Tomlinson

---

**From:** Scott McNeil  
**Sent:** Wednesday, November 09, 2016 8:55 AM  
**To:** 'Mike Richards'  
**Subject:** RE: Board of Appeals Meeting - November 23, 2016

Dear Mr. Richards;

I have spoke to the Chairman of the Board of Appeals. A copy of your email message with your request will placed in the file as an exhibit. The Board may consider your request at the November 23 meeting. The Chairman ask that I remind you that they well give full consideration to any written communication.

Best 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:** Mike Richards [<mailto:mike.richards@trilogy.com>]  
**Sent:** Tuesday, November 08, 2016 10:29 PM  
**To:** Scott McNeil  
**Subject:** Re: Board of Appeals Meeting - November 23, 2016

To: Zoning Board of Appeals

Subject: Rescheduling Request

I am writing to request the variance appeal by Bruce Biebuyck, for the property located at 1430 Topinabee Shore Drive scheduled November 23, 2016 be rescheduled to another date. I am strongly against this variance request and I want to be heard at this meeting. However, the appeal is scheduled on the evening before the Thanksgiving break and I have a family vacation scheduled. It will be a hardship for my family if I am forced to reschedule.

I regret imposing on the Board with this request. Please let me know as soon as possible if you are able to grant it.

Kindest regards,

Michael Richards

Mobile: 734.377.5759  
Skype: mdrichards3

On Mon, Nov 7, 2016 at 8:27 AM, Scott McNeil <[scott@cheboygancounty.net](mailto:scott@cheboygancounty.net)> wrote:

Dear Mr. Richards;

Penalties by way of fines can go from \$100 to \$500.

There are side setback requirements as well as front setback requirements. The side setback requirement for lots in the subject area is 5 feet.

Rescheduling of a meeting can only be made by vote of the zoning board of appeals. You can always send a written communication to the board which can be placed in the file as a exhibit. You can send an email message to them through me if you like.

Don't hesitate to contact me with further questions.

Best regards,

Scott McNeil

Community Development Planner

Cheboygan County Planning and Zoning Department

Phone - [231-627-8475](tel:231-627-8475)

Fax - [231-627-3646](tel:231-627-3646)

[scott@cheboygancounty.net](mailto:scott@cheboygancounty.net)

[www.cheboygancounty.net/planning](http://www.cheboygancounty.net/planning)

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**From:** Mike Richards [mailto:[mike.richards@trilogy.com](mailto:mike.richards@trilogy.com)]  
**Sent:** Sunday, November 06, 2016 8:35 PM  
**To:** Scott McNeil  
**Subject:** Board of Appeals Meeting - November 23, 2016

I am a writing regarding the variance request by Bruce Biebuyck, for the property located at 1430 Topinabee Shore Drive, Mullett Township. I have a couple questions and a request regarding this issue:

- Question: What is the penalty for building a structure that violates zoning laws without the appropriate approval?

- Question: What is the specific zoning ordinance regarding side variance? I am guessing a new structure cannot be constructed within a certain distance of an existing property line.
- Request: Somehow this meeting has been scheduled the Wednesday before the Thanksgiving holiday break. I am scheduled to be out of town this date on a family vacation and would not be surprised if this date also conflicted other's plans. I would request this meeting be moved to the next available date. Otherwise, I will be forced to cancel a vacation that has been planned for months. I strongly object to this variance and intend to be present to express my views. Please let me know as soon as possible if my request to move the meeting to another date will be granted.

I appreciate your notice and look forward to attending.

Kindest regards,

Michael Richards

Mobile: [734.377.5759](tel:734.377.5759)

Skype: mdrichards3

**Deborah Tomlinson**

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**From:** Kelly Sucher [<mailto:kelly.sucher@equifax.com>]

**Sent:** Monday, November 21, 2016 11:28 AM

**To:** Scott McNeil

**Cc:** [mike.richards@trilogy.com](mailto:mike.richards@trilogy.com)

**Subject:** Public Hearing - November 23, 2016

Dear Mr. McNeil,

I own the residence(1436 Topinabee Shore Drive) one door north of Mike Richards' boat house. Mr. Biebuyck's residence is two boat houses south of mine.

Mr. Biebuyck constructed an imposing deck as noted in your file without consulting his neighbors, or more importantly without seeking approval from your office. This deck has impacted Mr. Richards' and, to a lesser degree, my privacy This deck has not only impaired the quality of our experience at the lake, but also has without doubt denigrated our property values.

I would request the Board of Appeals deny his request for variance and immediately require him to reduce the footprint of the deck to the absolute minimum size permitted without encroaching the setback codes.

Furthermore, the "boat house row" has traditionally been a family community meaning boat houses are occupied by the owner's families and friends. We are all in close proximity and the security of knowing one another is important. Mr. Biebuyck has been renting his boat house to strangers that have caused disruptions on a regular basis. It

is my understanding short-term renting is also a violation of the county code.

I also would request the Board order Mr. Biebuyck to cease this renting his property immediately.

I appreciate your attention to this matter and look forward to a prompt resolution of this issues. I would also request you attach this correspondence to the file.

Kelly M. Sucher

Equifax Workforce Solutions

Solutions Director

11432 Lackland Road

Saint Louis, Missouri 63146

(248) 757-2537

Cell (248) 320-1432

FAX (248) 757-2540

[Kelly.sucher@equifax.com](mailto:Kelly.sucher@equifax.com)

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text\_0

My name is Scott Wright. I have lived on Topinabee Shore for the past 67 years. Eight years ago I added a mud room to the end of my house. During this time I had to get a building permit and had to go thru a variance meeting to get approval from the Planning and Zoning Department, Which included submitting drawings and having members come to see the site.

This summer a house was bought near me and added a deck to it. The new owner didn't get the required building permit or go thru a variance approval process. The new deck doesn't leave that much room to pass between the house and shore.

All of us down here obey the zoning laws. He should have known better. The porch should be taking down and done right to the law.

Sincerely,

Scott Wright

**RECEIVED**  
NOV 22 2016  
CHEBOYGAN COUNTY  
COMMUNITY DEVELOPMENT DEPT.

||



# 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 3ft. side setback variance, a 5 ft side setback variance and a 1 foot front setback variance for a deck addition to a dwelling in a Lake and Stream Protection (P-LS) zoning district.	<b>Prepared by:</b> Scott McNeil
<b>Date:</b> November 14, 2016	<b>Expected Meeting Date:</b> November 21, 2016

### **GENERAL INFORMATION**

**Applicant:** Bruce Biebuyck

**Property Owner:** Same

**Contact person:** Same

**Phone:** 248-613-6721

**Requested Action:** Allow a 3ft. side setback variance, a 5 ft side setback variance and a 1 foot front setback variance for a deck addition to a dwelling in a Lake and Stream Protection (P-LS) zoning district.

### **BACKGROUND INFORMATION**

This application is being brought as a result of enforcement. The applicant is seeking the subject setback variances to allow an existing deck measuring 11 ft. deep x 14 ft. wide.

The front setback variance has been determined based on measurements taken from the highwater mark to the subject deck and the deck and stair structures on the neighboring properties pursuant to section 10.4.8. which reads as follows.

On property where existing structures on both sides are within two hundred (200) feet of a new building wall and said structures do not meet waterfront setback standards, the required setback need not be greater than the average setback on the adjoining developed lots.

I measured 8 feet from the highwater mark to the subject deck. I measured 10 feet from the highwater mark to the stair structure on the lot to the south. I measured 7 feet from the highwater mark to the deck of the lot to the north. As a result I find a 9 ft. front setback is required pursuant to section 10.4.8.

A five foot side setback is required for this lot pursuant to section 17.1.

The applicant has indicated a lot width of 16 ft. This is constant with the legal description.

You will also note that I have offered conditions of narrowness of the lot, location of the existing dwelling structure and like conditions of neighboring property for the board's consideration but have not cited such conditions in the general findings pending the deliberation and review of the board.

**Surrounding Zoning:**

**North:** P-LS, Lake and Stream Protection District.

**West:** Same

**South:** Same

**East:** Mullett Lake

**Surrounding Land Uses:**

Residential land uses are located to the north and south of the subject property. The North Central State Trail is located to the west. The subject property contains frontage on Mullett Lake to the east.

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

The subject site contains frontage on Mullett Lake. The site does not contain any other known sensitive areas.

**Public Comments:**

**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. Property is located in a Lake and Stream Protection (P-LS) zoning district.
2. The applicant is seeking a 3ft. side setback variance, a 5 ft side setback variance and a 1 foot front setback variance for a deck addition to a dwelling in a Lake and Stream Protection (P-LS) zoning district.
3. The deck addition measures 11 ft. deep and 16 feet wide.
4. A 9 ft. front setback is required for the deck in this zoning district pursuant to Section 10.4.8.
5. A 5 foot side setback is required for this lot per section 17.1.
- 6.
- 7.

**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.**

**Regarding south side setback:**

Due to narrowness of the lot, location of the building **and/or** like conditions in neighboring property the requested variance is necessary to grant reasonable relief and do substantial justice to other property owners in the district.

OR, there are no unique circumstances or physical conditions and the circumstances are due to the applicant's personal difficulty.

**Regarding north side setback:**

Due to narrowness of the lot, location of the building **and/or** like conditions in neighboring property the requested variance is necessary to grant reasonable relief and do substantial justice to other property owners in the district.

OR, there are no unique circumstances or physical conditions and the circumstances are due to the applicant's personal difficulty.

**Regarding front setback:**

Due to the location of the existing dwelling structure **and/or** like conditions in neighboring property the requested variance is necessary to grant reasonable relief and do substantial justice to other property owners in the district.

OR, there are no unique circumstances or physical conditions and the circumstances are due to the applicant's personal difficulty.

**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).**

**Regarding south side setback:**

Due to narrowness of the lot, location of the building **and/or** like conditions in neighboring property the requested variance is necessary to grant reasonable relief and do substantial justice to other property owners in the district.

OR, The need for the variance is due to actions of the property owner.

**Regarding north side setback:**

Due to narrowness of the lot, location of the building **and/or** like conditions in neighboring property the requested variance is necessary to grant reasonable relief and do substantial justice to other property owners in the district.

OR, The need for the variance is due to actions of the property owner.

**Regarding front setback:**

Due to location of the existing dwelling structure **and/or** like conditions in neighboring property the requested variance is necessary to grant reasonable relief and do substantial justice to other property owners in the district.

OR, The need for the variance is due to actions of the property owner.

**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.**

**Regarding south side setback:**

Due to narrowness of the lot, location of the building **and/or** like conditions in neighboring property the requested variance is necessary to grant reasonable relief and do substantial justice to other property owners in the district.

OR conformance with setback regulations will allow continued use of the lot for a permitted purpose and conformity with setback regulations is not unnecessarily burdensome.

**Regarding north side setback:**

Due to narrowness of the lot, location of the building **and/or** like conditions in neighboring property the requested variance is necessary to grant reasonable relief and do substantial justice to other property owners in the district.

OR conformance with setback regulations will allow continued use of the lot for a permitted purpose and conformity with setback regulations is not unnecessarily burdensome.

**Regarding front setback:**

Conformity with setback regulations is deemed unnecessarily burdensome due to location of the existing dwelling structure **and/or** like conditions of neighboring property

OR conformance with setback regulations will allow continued use of the lot for a permitted purpose and conformity with setback regulations 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.**

**Regarding south side setback:**

Due to narrowness of the lot, location of the building **and/or** like conditions in neighboring property the requested variance is necessary to grant reasonable relief and do substantial justice to other property owners in the district.

OR, The variance request does not represent the minimum necessary to grant reasonable relief and other options exist **and/or** granting the variance will not do substantial to other property owners in the district.

**Regarding north side setback:**

Due to narrowness of the lot, location of the building **and/or** like conditions in neighboring property the requested variance is necessary to grant reasonable relief and do substantial justice to other property owners in the district.

OR, The variance request does not represent the minimum necessary to grant reasonable relief and other options exist **and/or** granting the variance will not do substantial to other property owners in the district.

**Regarding front setback:**

Due location of the existing dwelling structure **and/or** like conditions on neighboring property the requested variance is necessary to grant reasonable relief and do substantial justice to other property owners in the district.

OR, The variance request does not represent the minimum necessary to grant reasonable relief and other options exist **and/or** granting the variance will not do substantial 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.**

**Regarding south setback:**

Granting a variance to allow a 3 ft. side setback variance will not cause an adverse impact on surrounding property, property values and/or the use and enjoyment of property in the neighborhood or zoning district.

OR, Granting a variance to allow a 3 ft. side setback variance will cause an adverse impact on surrounding property and/or property values and/or the use and enjoyment of property in the neighborhood.

**Regarding north setback:**

Granting a variance to allow a 5 ft. side setback variance will not cause an adverse impact on surrounding property, property values and/or the use and enjoyment of property in the neighborhood or zoning district.

OR, Granting a variance to allow a 5 ft. side setback variance will cause an adverse impact on surrounding property and/or property values and/or the use and enjoyment of property in the neighborhood.

**Regarding front setback:**

Granting a variance to allow a 1 ft. front setback variance will not cause an adverse impact on surrounding property, property values and/or the use and enjoyment of property in the neighborhood or zoning district.

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