

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING
WEDNESDAY, JUNE 25, 2014 AT 7:00PM
ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

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

Members Absent: None

Others Present: Scott McNeil, Michael Vizina, Sharon Staffan, John Staffan, Tony Matelski, David Riley, Dolores Dombrowski, Ron Tebo, William Carver, Dana Carver

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. Mr. McNeil suggested adding “McDade Request To Withdraw Application” to Unfinished Business. **Motion** by Mr. Moore, seconded by Mr. Brown, to accept the agenda as presented. Motion carried unanimously.

APPROVAL OF MINUTES

Minutes from the May 28, 2014 Zoning Board of Appeals meeting were presented. **Motion** by Mr. Hemmer, seconded by Ms. Street, to approve the minutes as presented. Motion carried unanimously.

PUBLIC HEARING & ACTION ON REQUESTS

Ferrellgas/Patrick Kolb- Requests use variance and a 22 ft. front setback variance for construction of a 16 ft. x 20 ft. office structure for a gas storage facility in an Agriculture and Forestry Management (M-AF) zoning district. The property is located at 401 North Straits Highway, Mullett Township, Section 31, parcel #130-031-300-006-00. The Cheboygan County Zoning Ordinance #200 does not provide for a gas storage facility use by right or by special use permit in a M-AF zoning district and the current use is nonconforming with the zoning ordinance. A 50 foot front setback is required in a M-AF zoning district.

Mr. McNeil stated Ferrellgas is requesting a use variance for expansion of a nonconforming use. Mr. McNeil stated there is a fuel storage facility that is located south of Topinabee which was approved under a special use permit. Mr. McNeil stated since it was approved the ordinance has changed and fuel storage is not allowed in the Agriculture/Forestry Management zoning district. Mr. McNeil stated the use is allowed in the industrial zoning districts. Mr. McNeil stated Ferrellgas is proposing an office building that will be 16ft. x 20ft. and would constitute an expansion of a nonconforming use. Mr. McNeil stated the Zoning Board of Appeals should make a decision regarding the use variance first. Mr. McNeil stated if the use variance is approved then the Zoning Board of Appeals can review the dimensional variance request. Mr. McNeil reviewed the site plan.

Mr. Tebo stated he is with United Design Associates and they designed the project for Ferrellgas. Mr. Tebo stated the right of way is 150ft. from the center line on North Straits Highway and there is a 50ft. front setback requirement. Mr. Tebo stated it is difficult to fit in an office and still be able to maneuver the big trucks. Mr. Tebo explained that if the front setback of 50ft. is observed for the construction of the proposed office it will make it difficult and dangerous to move the large transport trucks that load the storage tanks. Mr. Tebo stated this is why they are requesting the dimensional variance. Mr. Tebo explained that they have no control over the nonconforming use. Discussion was held regarding a previous office building that had burned.

Mr. Freese asked for public comments. There were no public comments. Public comment closed. There was no correspondence to be read.

Mr. Freese stated this wide right of way is the same problem for this area on Straits Highway as that to the south of Indian River. Mr. Freese stated that most of the businesses along Straits Highway are built right up to the right of way or have no parking outside the right of way. Mr. Moore stated that the Quilt Shop won in court and had the right of way altered by court order.

Mr. Freese asked if there will be any other type of office use other than a dispatch office. Mr. Tebo stated no and that the office is for the drivers to pick up their route slips, be dispatched for the day and to come back in to log in their route deliveries. Mr. Freese asked if there will be any staff in the office. Mr. Tebo stated no. Mr. Freese asked if this work is being done in the trucks at this time. Mr. Tebo stated yes as there is no place for them to work. Mr. Freese asked if the public will ever be in the office. Mr. Tebo stated no. Mr. Freese stated that Ferrellgas used to keep all of the tanks inside of the fence and there are tanks in front of the fence and a row of used tanks. Mr. Tebo stated he is not able to address this concern.

Mr. Freese stated he does not have a problem with the setback and the building is a minimal use. Mr. Moore stated it is less than what they were using under their prior approval.

The Zoning Board of Appeals added the "The proposed office building will be a minimal increase in the use of the property and is a use that was present prior to the demolition of the previous office building." as General Finding #7. The Zoning Board of Appeals reviewed and approved the Specific Findings of Fact under Section 23.5.3. **Motion** by Mr. Moore, seconded by Mr. Brown, to approve the use variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.3. Motion carried unanimously.

The Zoning Board of Appeals added the "The proposed building is no closer to the right of way than the current fence on the existing operation." as General Finding #4. The Zoning Board of Appeals reviewed and approved the Specific Findings of Fact under Section 23.5.4. **Motion** by Mr. Moore, seconded by Ms. Street, to approve the dimensional variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried unanimously.

William & Diane Weckesser/Thomas & Amy Macksood– Requests an 88 ft. front setback variance for dwelling in a Natural Rivers Protection (P-NR) zoning district. The property is located at 5001 Big Sky Trail, Koehler Township, Section 27, parcel #172-P23-000-039-00. A 200 ft. front setback is required in this zoning district.

Mr. McNeil explained that this request is for an 88ft. front setback variance for a dwelling in a Natural Rivers Protection zoning district. Mr. McNeil stated there is a 200ft. front setback requirement and the applicant is asking for a setback of 112ft. to the front of the proposed dwelling.

Mr. Vizina stated the lot was platted in 1959 and noted that in 1972 the Natural Rivers Act (revised in 1994 and 2011) made this a nonconforming lot. Mr. Vizina stated he has presented similar variance requests to the Zoning Board of Appeals in the past. Mr. Vizina explained this lot was platted in 1959 and the building site by the original developer is on the bluff. Mr. Vizina stated anything closer to the river would be a bottomland/wetland and anything further would obstruct the view to the river and create a burden.

Mr. Freese asked if there is any other correspondence. Mr. McNeil stated no. 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:

6. This lot is a legal conforming lot.
7. The lot contains enough area to build a house of the size requested and still meet the setback requirements.

Mr. Vizina stated the parcel is currently assessed at \$50,000 and a back lot that does not have a view of the river is assessed at \$4,000. Mr. Vizina stated this is the difference in the value of the two lots if one can have a view of the river which was the developer's intent back in 1959. Mr. Vizina stated by maintaining the 200ft. setback you are building on the road and it would not be considered a riverfront lot. Mr. Vizina does not believe this is the best use of the land for the developer's intent. Mr. Vizina stated the land is not the same and the use is therefore restricted by view and by enjoyment. Mr. Vizina stated you may as well build on the \$4000 lot and then use the walkway to the river. Mr. Vizina stated this lot has been for sale since 2002 for \$76,500 and they have not been able to sell the lot. Mr. Vizina stated they finally have an offer dependent upon where they can build. Mr. Vizina explained that this is a hardship on the owner. Mr. Freese stated this is self-created as the purchaser is buying the lot knowing that there is a 200ft. setback requirement. Mr. Vizina stated he has requested variances from the 200ft. setback requirement for others lots in this subdivision and they were approved. Mr. Freese stated there were some that were built on the lower level and variances were approved if the structure was pushed back to the hill on the lower level. Mr. Freese stated this was the minimum variance that could be granted. Mr. Vizina stated a variance was approved for Rogers for 91ft. Ms. Street suggested removing trees to improve the view. Mr. Freese stated the DNR may not allow removing trees. Ms. Street questioned if the lot is overpriced.

Mr. Vizina stated that it is an issue with buyers wanting to know where they can build on a lot in the Natural Rivers District and the only way to answer the question is to ask the Zoning Board of Appeals. Discussion was held regarding the site plan and the proposed location for the house. Mr. Freese noted that the parcel is approximately 200ft. wide by the cul-de-sac which is sufficient for the 70ft. wide dwelling.

The Zoning Board of Appeals reviewed and approved the Specific Findings of Fact under Section 23.5.4. **Motion** by Mr. Brown, seconded by Mr. Hemmer, to deny the variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried unanimously.

Mr. Vizina asked if he should or should not submit an application if a lot is conforming. Mr. Freese stated you can build if there is an area available that meets all of the setback requirements. Mr. Vizina stated this decision affects the value of the lot. Mr. Freese stated the Zoning Board of Appeals does not take the value of the lot into consideration when making a variance decision. Discussion was held.

John & Sharon Staffan - Requests a 7.5 ft. side setback variance for construction of garage which is accessory to a dwelling in a Commercial Development (D-CM) zoning district. The property is located at 3258 Gatewood Ave., Tuscarora Township, Section 24, parcel #161-131-003-00. A 10ft side setback is required in this zoning district.

Mr. McNeil stated this request is for a 7.5 ft. side setback variance for construction of garage. Mr. McNeil noted that a 10ft. side setback is required in the Commercial Development zoning district.

Ms. Staffan stated there is an existing storage building that is 2.5ft. from the property line. Ms. Staffan is asking to keep the same setback for the proposed garage due to the slope of the lot. Ms. Staffan stated 1/3 of the lot is not useable due to the slope. Ms. Staffan stated there is only one access to the lot due to the location of the drain field and septic. Ms. Staffan stated the well is located at the front of the lot. Ms. Staffan stated she would have to drive around the well to get into the garage if the garage is moved over too far. Ms. Staffan stated a variance was approved for the adjacent parcel for a 1ft. setback. Ms. Staffan stated the property owner was allowed to continue the non-conformance for an additional 24ft. to construct a garage with a 1ft. setback.

There was no correspondence to be read. Mr. Freese asked for public comments. An audience member stated the applicants should be able to build on their property. Public comment closed.

Mr. Freese asked where the septic is located. Ms. Staffan stated it is approximately 40ft. from the property line and 28ft. from the back of the house. Discussion was held. Mr. Moore noted that the Health Department requires 10ft. setback from the drain field. Ms. Staffan stated that the excavator suggested moving the garage forward due to the slope at the back so they would not have to fill over the drain field. Mr. Moore stated his concerns about not being able to access the septic and drain field if there is a need for repair in the future. Ms. Staffan stated the neighbor will allow them to access the lot from the back. Mr. Freese asked if the neighbor has planted roses in the alley. Ms. Staffan stated yes and she would have to replace the rosebushes and grass for the neighbor. Ms. Staffan noted that Mr. Wamsley has made the alley a driveway and he has access to the other side of his garage from the alley. Mr. Freese noted that Mr. Wamsley comes in from the alley and swings in to the garage. Mr. Freese stated Mr. Wamsley has a tighter turn to get into the garage due to the width of the alley than Ms. Staffan will have from the well to the front of the proposed garage. Ms. Staffan noted that Mr. Wamsley also has doors and another driveway on the other side. Ms. Staffan noted that she only has one way to access the lot. Mr. Freese stated that the distance from the well to the front of the proposed garage is three times what Mr. Wamsley has on the alley. Ms. Staffan stated she will have enough room to drive a lawn mower between the back of the house and the front corner of the proposed garage. Discussion was held regarding the location of the septic and drain field. Mr. Moore asked what is the distance from the house to the north property line. Ms. Staffan stated it is approximately 28 feet. Ms. Staffan noted there will be a garage door at the front and back of the garage. Ms. Street stated this is a narrow lot. Mr. Freese stated the garage can be moved forward to be in line with the house. Discussion was held regarding the existing storage building being torn down. Mr. Moore stated this lot is narrow. Mr. Brown stated the 66ft. lot does not allow a lot of room for a house and garage. Ms. Street believes this is a sensible request. Mr. Brown agreed with Ms. Street.

The Zoning Board of Appeals reviewed the General Findings. The Zoning Board of Appeals reviewed and approved the Specific Findings of Fact under Section 23.5.4. **Motion** by Mr. Moore, seconded by Mr. Hemmer, to approve the variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried. 4 Ayes (Brown, Moore Street, Hemmer), 1 Nay (Freese), 0 Absent

David Riley - Requests a 15 ft. front setback variance for construction of an addition to a dwelling and a 9 ft. rear setback variance for construction of an addition to a storage building which is accessory to the dwelling in a Residential Development (D-RS) zoning district. The property is located at 9287 Charles St., Forest Township, Section 10, parcel #231-S02-002-009-00. A 30ft front setback and a 12 ft. rear setback are required in this zoning district.

Mr. McNeil stated this request is for a 15ft. front setback variance for an addition to a dwelling and a 9ft. rear setback variance for an addition to a storage building.

Mr. Riley stated he would like to expand his kitchen from 9ft. wide to 14ft. wide and he would like to construct and addition to his storage building.

There was no correspondence to be read. Mr. Freese asked for public comments. An audience member stated that this parcel is non-conforming and the applicant is only asking for a little more space for a kitchen. The audience member read a letter from Forest Township (see attachment A). Public comment closed.

Mr. Freese stated the shed is a temporary structure not requiring permits. Mr. Freese stated it is a portable shed and the proposed addition makes it a non-conforming structure. Mr. Freese stated the building could have been moved to another location and the addition could be built and can be conforming. Mr. Freese stated there is no justification for allowing this variance request.

Mr. Freese stated there is an existing structure that it 15ft. from Charles Street property line and the applicant is proposing a 19ft. setback for the addition. Mr. Freese stated this type of addition has been allowed in the past. Mr. Freese stated the 4ft. x 4ft. proposed addition will not be any extend any further than the existing structure.

Mr. Moore noted a temporary use could be approved for the shed addition would have to be removed when construction is completed on the addition to the dwelling. Mr. Moore stated that the temporary storage building could be moved to meet the rear setback. Mr. McNeil stated another storage building could be built that is less than 150sf as two are allowed. Discussion was held regarding a temporary use being approved by the Zoning Board of Appeals. Mr. McNeil stated his concerns regarding the request for a temporary use not being noticed. Mr. Brown stated that the way the Zoning Board of Appeals is dealing with this issue is within their scope. Discussion was held. Mr. Freese asked if Mr. Riley would agree with the use of the shed being a temporary use until the construction of the addition to the residence is completed. Mr. Riley stated yes. Mr. Freese stated after the addition to the residence is completed, the addition to the storage building will be dismantled or moved forward to meet the setback requirements.

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

7. The applicant proposes to use the addition to the shed for a temporary period until completion of the construction of the house addition and at that time will either remove the addition to the shed or conform.
8. The addition to the residence is no closer to the front setback than the existing structure.

The Zoning Board of Appeals reviewed and approved the Specific Findings of Fact under Section 23.5.4. **Motion** by Mr. Brown, seconded by Mr. Hemmer, to approve the front and side variance requests based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried unanimously.

UNFINISHED BUSINESS

McDade Request To Withdraw Application

Mr. Freese stated Mr. McDade submitted a letter to withdraw his variance application. Mr. Freese stated his letter does not totally comply with the withdrawal of what was requested. Mr. Freese noted that Mr. McDade does not intend to split the lot. Mr. Freese stated if the lot is not split there is no basis for a variance. **Motion** by Mr. Freese, seconded by Ms. Street, to accept Mr. McDade's letter as a withdrawal of a variance request. Motion carried unanimously.

NEW BUSINESS

Mr. McNeil stated a letter was received from Wayne Stahl and Gail Hartung. Mr. McNeil stated this letter should be made part of the record as a response to their concerns about a variance that was granted. **Motion** by Mr. Freese, seconded by Mr. Moore, to make the letter from Wayne Stahl and Gail Hartung part of the record. Motion carried unanimously.

ZBA COMMENTS

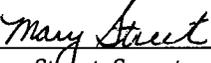
No comments.

PUBLIC COMMENTS

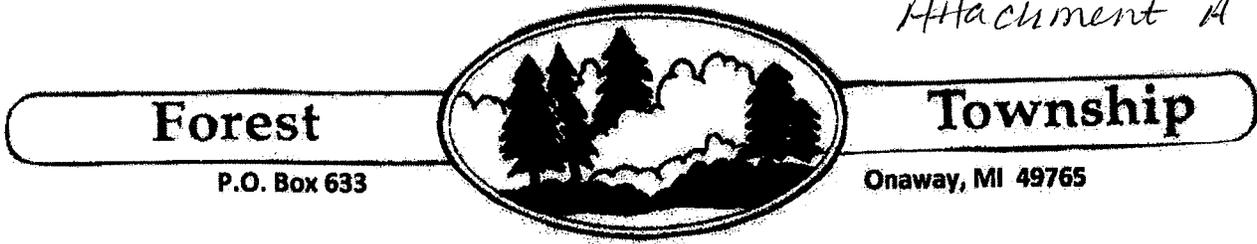
No comments.

ADIURN

Motion by Mr. Moore, to adjourn. Motion carried. Meeting adjourned at 8:26pm.



Mary Street, Secretary



RECEIVED
JUN 06 2014
CHEBOYGAN COUNTY
PLANNING & ZONING

May 19, 2014

Cheboygan County
 Community Development Department
 870 S. Main Street, PO Box 70
 Cheboygan, MI 49721

This letter is in response to the April, 2014 letter and survey sent out by the Cheboygan County Community Development Department. As a township board we feel strongly that it is time to stand up and say "enough"! Although the idea of a limited county wide effort to co-ordinate the planning and development of infrastructure within the county by the various government entities was probably a noble idea, we have all watched how this concept has evolved into its current attempt to control what private citizens do with their private property. Trying to apply these "one size fits all" controls to a county as varied and diverse as Cheboygan County can only end in conflict. Most of these concepts could probably more appropriately be dealt with by home or Lake Owner's associations that people voluntarily buy into when they purchase property. Most of us that live in these more rural areas live here by choice; we do not wish to have government intruding into our daily lives trying to police what we do on our private property. People who wish to live under that type of scrutiny are perfectly free to move into the urban areas of the county and be under the control of a more urban government.

In conclusion, we would like to go on record as asking our county commission to rein in county wide planning and zoning and redirect those funds to more needed areas of the county budget. The concept of government always continuing to grow is not sustainable, it takes true leadership to step up during tough times and say "we choose to go a different direction"!

Forest Township Board

Tim Paulus, Supervisor
Judy Stevens, Treasurer
Jim Crowe, Trustee
Judith S. Church, Clerk
Marlene Hopkins