



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, AUGUST 28, 2019 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.) **Peter and Christie Roe** - The applicants request approval of a 6 ft. side setback variance to construct an addition to an existing dwelling on a waterfront property with 62-ft. average property width in a Lake and Stream Protection (P-LS) zoning district. Per section 17.1 of the Zoning Ordinance, a minimum of 8 ft. of side setback is required except waterfront lots in the P-LS zoning district less than 80 ft. in lot width require each side setback be 10% of the lot width, or 5 ft., whichever is greater. The subject property is located at 4270 Long Point Dr. in Mullett Township; Parcel No. 130-L07-000-034-00; Sections 9 and 10.

UNFINISHED BUSINESS

NEW BUSINESS

- 1.) Annual Meeting – Election of Officers & Verification of Regular Meeting Schedule

ZBA COMMENTS

PUBLIC COMMENTS

ADJOURN

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING
WEDNESDAY, MAY 22, 2019 AT 2:00PM
ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

Members Present: Charles Freese, Ralph Hemmer, John Moore, John Thompson, Nini Sherwood
Members Absent: None
Others Present: Michael Turisk, Jen Merk, Trent Burrus, Sally Gathman, Carl Muscott, Cal Gouine, Russell Crawford, Cheryl Crawford, C. Maziasz, Roger Jacobs, Steve Warfield

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

PLEDGE OF ALLEGIANCE

Chairperson Freese led the Pledge of Allegiance.

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES

Minutes from the December 26, 2018 Zoning Board of Appeals meeting were presented. Ms. Sherwood referred sixth sentence under ZBA Comments on the second page and noted that the word “at” should be deleted. Mr. Moore referred to the sixth line under Public Comments on the second page and stated that the fourth word should be changed to “and”. **Motion** by Mr. Moore, seconded by Ms. Sherwood, to approve the minutes as amended. Motion carried unanimously.

PUBLIC HEARING & ACTION ON REQUESTS

Trent Burrus/David and Luanne Kaufman – The applicant requests approval of a 75-ft. front setback variance to construct a new deck and covered/screened porch on a waterfront property in a Natural Rivers (P-NR) zoning district. Per Section 17.1 of the Zoning Ordinance, a minimum of 150-ft. of front setback is required for waterfront lots on tributaries in the P-NR zoning districts. The subject property is located at 1612 Silery Road in Koehler Township, Parcel No. 171-009-400-016-00, Section 9.

Ms. Merk reviewed information included in the staff report. Discussion was held regarding canals being man made tributaries. Mr. Turisk stated that legal counsel has advised that canals are considered tributaries and a 150ft. front setback is required.

Mr. Freese asked for public comments. Mr. Jacobs stated he would like to see a definition for Natural Rivers as he believes the river is half mile away. Mr. Freese reviewed the definition. Discussion was held. Public comment closed.

Mr. Freese asked if the covered porch will be in the same area as the patio. Mr. Burrus stated yes. Mr. Freese asked if it will be any wider or longer than the existing patio. Mr. Burrus stated yes, it will be 2ft. wider. Mr. Freese reviewed section 10.4.8 from the Lake and Stream Protection Zoning District, “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.” Mr. Freese stated the structure on the parcel to the south is 45ft. 6in. from the water. Mr. Freese stated another structure is 28ft. 6in. from the water. Mr. Freese stated the average is 37ft. Mr. Freese stated that if this was in the Lake and Stream Protection Zoning District, it would be authorized under Section 10.4.8. Mr. Freese stated that in the past the Zoning Board of Appeals has gone by this provision in several cases located in the P-NR Zoning District in authorizing structures to be within the same average distance as the structure on either side. Mr. Freese read an email that was received from Patrick Ertel from the DNR. Mr. Freese stated that the DNR uses the same reasoning criteria in granting variances for setbacks in the P-NR Zoning District in which they have exclusive zoning jurisdiction.

Ms. Sherwood stated that a screened porch and deck are something that should be allowed so the property owner can enjoy it. Mr. Freese stated the question is not if a screened porch and deck can be allowed. Mr. Freese stated the question is where the screened porch and deck can be built based on setback requirements. Mr. Thompson stated that what has prevailed in the past is to take the average distance of the structures on either side of the subject parcel.

Mr. Freese added the following to the General Findings:

5. The structure on the parcel to the south is 45ft. 6in. from the ordinary high water mark. The structure on the parcel to the north is 28ft. 6in. from the ordinary high water mark. The average is 37ft.
6. The DNR email indicates that they are amenable to using an average distance for the parcels on either side as long as the encroachment on the setback is no greater than the average on the two on either side. The average is 37ft.

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 Ms. Sherwood, to approve the variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried unanimously.

Trent Burrus/Larry and Sally Gathman – The applicant requests approval of a 1-ft. side setback variance to construct a covered porch on a waterfront property with 45-ft. width in a Lake and Stream Protection (P-LS) zoning district. Per section 17.1 of the Zoning Ordinance, a minimum of 8-ft. of side setback is required except in waterfront lots in the P-LS zoning district where a lot is less than 80 feet in width, then each side setback shall be 10% of the lot width, or 5-ft., whichever is greater. The subject property is located at 3171 Apple Blossom Street in Tuscarora Township, Parcel No. 162-019-100-028-00, Section 19.

Mr. Merk reviewed information included in the staff report. Mr. Burrus reviewed the site plan, provided pictures of houses in the area and explained that there isn't 5 feet between most of the houses in the area. Mr. Burrus stated that this request would not cause any more of a burden than the average home in the area.

Mr. Freese asked Mr. Burrus if they intended to remove the existing structure. Mr. Burrus stated yes. Mr. Freese asked if Mr. Burrus will rebuild the house on the existing foundation. Mr. Burrus stated yes. Discussion was held regarding moving the location of the house and foundation to meet the 5ft. side setback requirement. Ms. Gathman stated that there is nothing wrong with the foundation and she would like to rebuild on it. Mr. Freese stated that cost can't be considered. Ms. Gathman stated that the existing overhang is dangerous.

Mr. Freese asked for public comments. Mr. Jacobs asked if the house can be rebuilt without complying with zoning. Mr. Freese stated no. Public comment closed.

Mr. Moore stated that the main entrance should be on the back wall of the house and then there are no side setback issues. Mr. Freese stated that if the supports for the roof are at the 5ft. line, the roof can be extended 2ft. into the setback. Discussion was held.

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

7. Existing structure is being removed.
8. Overhang over the existing walkway can extend 2ft. into the setback area, thus providing complete coverage for the existing walk.

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. Freese, to deny the variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried unanimously.

Harold and Shayleen Polzin/Benjamin Mosley – The applicant requests approval of a 5-ft 2-in front setback variance to construct an addition onto an existing dwelling on a non-waterfront property in a Lake and Stream Protection (P-LS) and Agriculture and Forestry Management (M-AF) zoning district. The addition is to be constructed in the P-LS. Per section 17.1 of the Zoning Ordinance, a minimum of 30-ft. of front setback is required for non-waterfront lots in the P-LS zoning district. The subject property is located at 6125 Koral Bay in Benton Township, Parcel No. 104-035-400-011-00, Section 35.

Mr. Turisk stated that the applicant is proposing an addition to an existing single family dwelling. Mr. Turisk stated that there has been discussion regarding what is considered the front of the property and what is the side of the property. Mr. Turisk stated that it was agreed that the side setback is the side where the variance has been requested even though it faces the road. Mr. Turisk stated the applicant must adhere to a minimum side setback of 8ft. Therefore, no variance is needed. Mr. Freese stated that Koral Bay Road faces two sides of the dwelling in question and a portion of the third side. The main dwelling entrance, driveway and mailbox are all on one side of the dwelling. Section 2.3 states that the front setback is determined by the fronting road on which the dwelling is addressed. In this case, the same road name applies to the road on three sides of the dwelling even though the road makes a more than 90 degree turn at one corner of the structure. If the road had another name after the turn there would be no question that the parcel would be considered a

corner lot and the setback in question would be a side setback not requiring a variance. Using this reasoning, it is determined that no setback variance is required in this case.

UNFINISHED BUSINESS

No comments.

NEW BUSINESS

No comments.

ZBA COMMENTS

No comments.

PUBLIC COMMENTS

Mr. Muscott referred to the Kaufman variance application and stated that Emmet County adopted an ordinance that would allow an average setback to be approved administratively rather than submitting an application to the Zoning Board of Appeals. Mr. Muscott questioned if this would be something worthwhile for Cheboygan County to consider. Mr. Freese stated that he can bring this up to the Planning Commission.

Mr. Turisk stated that the Planning Commission has identified home occupations in private storage buildings and tiny homes as a priority and will be discussing these topics in the next several months

Mr. Freese stated Election of Officers is to be included on the next Zoning Board of Appeals agenda.

ADJOURN

Motion by Hemmer to adjourn. Motion carried. Meeting adjourned at 7:50 pm.

John Thompson, Secretary

DRAFT

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

Peter and Christie Roe – *Revised 08/26/19*

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 (4 Pages)
5. Mailing List (2 Pages)
6. Letter from Patricia Richards received July 23, 2019.
7. Staff Report

The following items were added to the exhibit list on 08/26/19:

8. Letter dated 08/21/19 from Peter Roe To Deborah Tomlinson (7 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, August 28, 2019 AT 7:00 P.M.
ROOM 135 – COMMISSIONERS ROOM
CHEBOYGAN COUNTY BUILDING, 870 S. MAIN ST., CHEBOYGAN, MI 49721**

1. **Peter and Christie Roe** – The applicants request approval of a 6 ft. side setback variance to construct an addition to an existing dwelling on a waterfront property with 62-ft. average property width in a Lake and Stream Protection (P-LS) zoning district. Per section 17.1 of the Zoning Ordinance, a minimum of 8 ft. of side setback is required except waterfront lots in the P-LS zoning district less than 80 ft. in lot width require each side setback be 10% of the lot width, or 5 ft., whichever is greater. The subject property is located at 4270 Long Point Dr. in Mullett Township; Parcel No. 130-L07-000-034-00; Sections 9 and 10.

Visit the Planning and Zoning office or visit our website to view the application and the associated plan drawings. Site plans may be viewed at www.cheboygancounty.net/planning. Comments, questions, and correspondence may be sent to 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 Planning and Zoning Director at the above address one week in advance to request mobility, visual, hearing or other assistance.

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

VARIANCE APPLICATION

\$110.00 APPLICATION FEE

RECEIPT #:	6831
CASH/CHECK:	✓ # 8277
ACTION / DATE:	

PLEASE PRINT

PROPERTY LOCATION

Address 4270 LONG POINT	City / Village CHEBOYGAN	Township / Sec. MULLETT / 9+10	Zoning District P-LS
Property Tax I.D. (Parcel) Number 130-207-000-034-00	Subdivision or Condo. Name / Plat or Lot No. 34, 35, 143 & 144		

APPLICANT

Name PETER & CHRISTIE ROE	Telephone 480-577-7012	Fax 623-334-2633
Address 8698 E. CHERYL DR.	City & State SCOTTSDALE, AZ	Zip Code 85258
		E-Mail packroe@cox.net

OWNER (If different from applicant)

Name	Telephone	Fax
Address	City & State	Zip Code

Detailed directions to site, including nearest crossroad:

OFF HIGHWAY 27 ON LONG POINT DRIVE TOWARDS THE SOUTH END OF LONG POINT DR.

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 LOTS 34, 35, 143 & 144 PLAT OF LONG POINT RESORT GREENDS
- C. Present use of the property is: SUMMER 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.

PLANNING ON AN EDITION TO OUR EXISTING SUMMER COTTAGE. STRUCTURE WOULD MEASURE 30x17 AND WOULD INCLUDE A BATH AND 2 BEDROOMS. REQUESTING VARIANCE AS THE ADDITION WOULD BE 0.2' FROM PROPERTY LINE. REQUESTING A 6' SIDE SETBACK VARIANCE ON SOUTH SIDE OF PROPERTY.

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.

PROPERTY IS LOCATED ON LONG POINT AND THE PROPERTY LINES HAVE BEEN DISPUTED FOR YEARS. PLEASE NOTE LOCATION OF EXISTING HOUSE AND ALSO NEIGHBOR'S HOUSE AND GARAGE AS THEY RELATE TO PROPERTY LINES.

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

ADDING TO EXISTING STRUCTURE THAT HAS BEEN IN PLACE FOR OVER 100 YEARS.

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

PLANNED ADDITION WOULD TIE IN W/ EXISTING COTTAGE. FOR

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.

EXISTING STRUCTURE IS ALSO VERY CLOSE TO PROPERTY LINE.

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.

NO ADVERSE IMPACT, AND THE INTENTION IS TO ENHANCE THE NEIGHBORHOOD.

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 7/16/19

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 7/16/19

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:

P-LS

North:

SEE ATTACHED CERTIFICATE OF SURVEY.

CERTIFICATE OF SURVEY

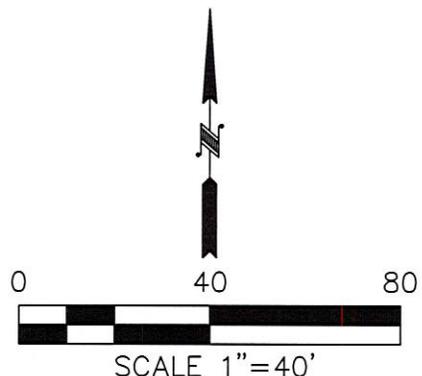
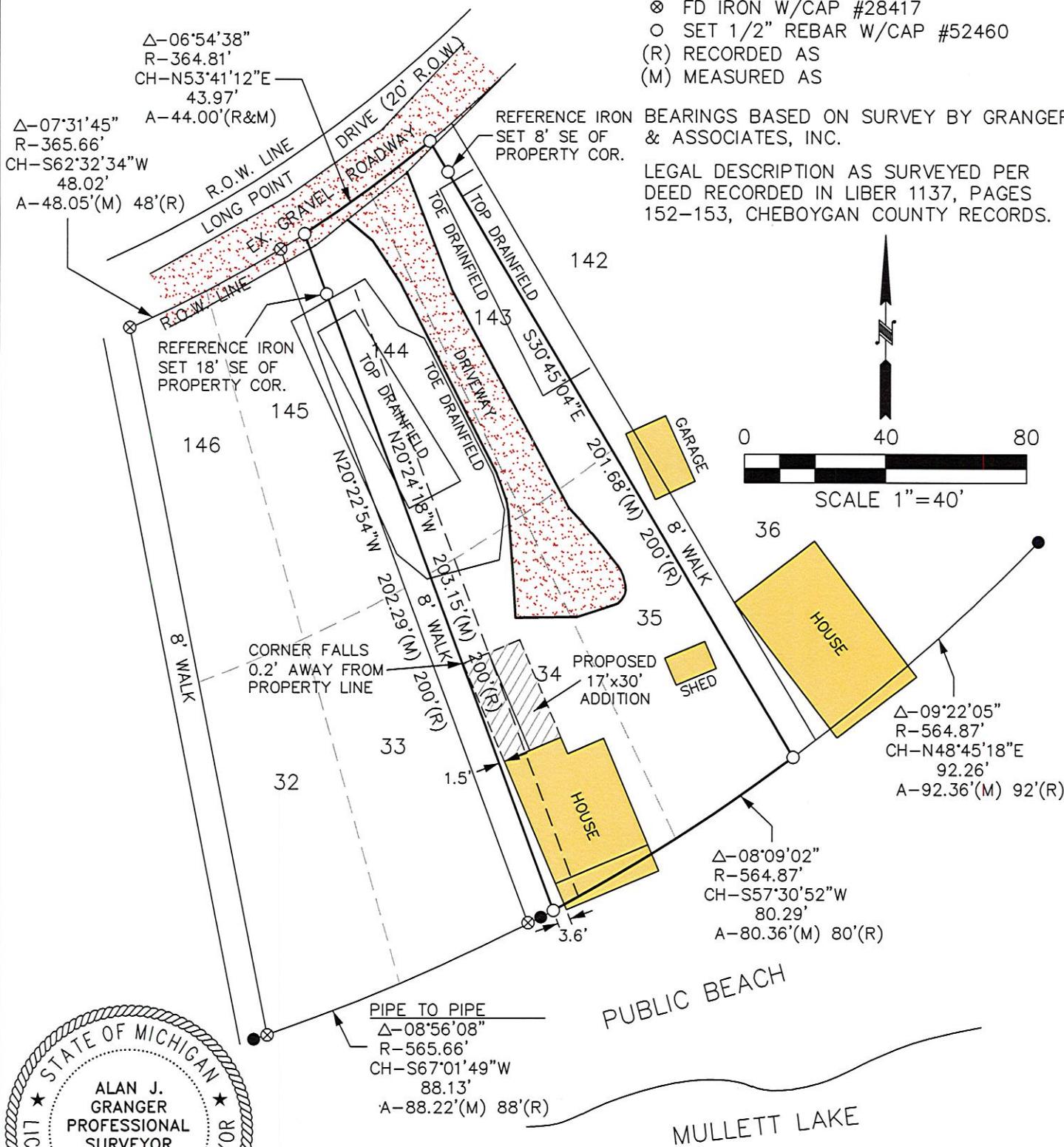
LOTS 34, 35, 143 & 144, PLAT OF LONG POINT RESORT GROUNDS,
MULLETT TOWNSHIP, CHEBOYGAN COUNTY, MICHIGAN

LEGEND

- FD PIPE
- ⊗ FD IRON W/CAP #28417
- SET 1/2" REBAR W/CAP #52460
- (R) RECORDED AS
- (M) MEASURED AS

BEARINGS BASED ON SURVEY BY GRANGER & ASSOCIATES, INC.

LEGAL DESCRIPTION AS SURVEYED PER DEED RECORDED IN LIBER 1137, PAGES 152-153, CHEBOYGAN COUNTY RECORDS.



COPYRIGHTED GRANGER & ASSOCIATES INC. 2018

Alan J. Granger
ALAN J. GRANGER P.S. No. 52460

I, Alan J. Granger, being a Professional Surveyor, hereby certify that I have surveyed and mapped the parcel(s) hereon described and that the relative positional precision of each corner is within the limits accepted by the practice of professional surveying and that I have fully complied with the regulations of P.A. 132 of 1970 as amended.

CLIENT: PETER & CHRISTIE ROE REV.: JULY 9, 2019 DATE: OCTOBER 25, 2018	<p>Granger and Associates, Inc. Engineers • Surveyors 224 S. Main St., Cheboygan, MI 49721 Email: grangerandassociates@gmail.com 231-627-2763</p>	SEC. 9, T36N, R2W DRAWN: AJG SHEET 1 OF 1 JOB NO.: C7724-00
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130-010-100-029-00
MICHIGAN DEPT OF NATURAL RESOURCES
PO BOX 30722
LANSING, MI 48909

130-L07-000-024-00
LARNER, CATHY J & PATRICIA ANN
4706 JUNE BERRY TRL
GAYLORD, MI 49735-8005

130-L07-000-026-00
SHERWOOD, CAROL, TRUSTEE
846 S MAIN
CHEBOYGAN, MI 49721

130-L07-000-027-00
COSTIN, ROBERT & KAREN H/W
4206 W ORCHARD HILL
BLOOMFIELD HILLS, MI 48304

130-L07-000-028-00
GEHRING, ANDREW & JENNIFER H/W
616 WASHINGTON CT
CARMEL, IN 46032

130-L07-000-029-00
GAUTHIER, ROBERTA L/EWPTS 1/2 INT
16302 ORCHARD DR
SOUTHGATE, MI 48195-6812

130-L07-000-031-00
RICHARDS, PATRICIA J L/EWPTS;
616 WASHINGTON ST
TRAVERSE CITY, MI 49686

130-L07-000-032-00
RICHARDS, PATRICIA J L/EWPTS;
616 WASHINGTON ST
TRAVERSE CITY, MI 49686

130-L07-000-034-00
ROE, PETER & CHRISTIE FAMILY TRUST
8698 E CHERYL DR
SCOTTSDALE, AZ 85258-1415

130-L07-000-036-00
MOONEY, MICHELE A
16205 SUNDERLAND RD
DETROIT, MI 48219

130-L07-000-037-00
EHRENS, RONALD & JULIE H/W
321 VINCENT CT
LAKE BLUFF, IL 60044

130-L07-000-038-00
BROGGER, FRANK JR & JODY H/W
12787 WILKINSON RD
FREELAND, MI 48623

130-L07-000-039-00
PRYCHUCKI, STEVEN & DEBORAH H/W
601 W LONG LAKE RD
TROY, MI 48098

130-L07-000-040-00
DESROSIER, DAVID & PEGGY H/W
5174 TAHOE COURT
CLARKSTON, MI 48348

130-L07-000-043-04
PHETTEPLACE, ROBERT & SUSAN H/W
114 SIDNEY ST
WEST BRANCH, MI 48661

130-L07-000-043-05
PHETTEPLACE, ROBERT & SUSAN H/W
114 SIDNEY ST
WEST BRANCH, MI 48661

130-L07-000-043-06
ST HELEN PHARMACY INC
114 SIDNEY ST
WEST BRANCH, MI 48661

130-L07-000-138-00
HART, KEVIN & MARTHA H/W
700 E MAPLE, STE 101
BIRMINGHAM, MI 48009

130-L07-000-203-00
PEDDIE, MICHAEL & JUDITH H/W
1184 ALSTOTT
HOWELL, MI 48843

130-L07-000-204-00
CAREY, JOHN & KATHRYN H/W
17194 KIRKSHIRE AVE
BEVERLY HILLS, MI 48025-3256

130-L07-000-205-00
HAYES, WILLIAM & DIANE HAYES, JT
4267 LONG POINT DR
CHEBOYGAN, MI 49721

130-L07-000-206-00
GAUTHIER, LEONARD & ROBERTA H/W
16050 HOLZ DR UNIT 53
SOUTHGATE, MI 48195--296

130-L07-000-207-00
SOMBATI, PAUL S III & TERESA H/W
10565 SCENIC BLUFF LN, SE
ADA, MI 49301

130-L07-000-208-00
SOMBATI, PAUL S III & TERESA H/W
10565 SCENIC BLUFF LN, SE
ADA, MI 49301

130-L07-000-211-01
SHERWOOD, CAROL, TRUSTEE
846 S MAIN ST
CHEBOYGAN, MI 49721

130-L07-000-247-00
HAYES, WILLIAM J & DIANE M HAYES JT
4267 LONG POINT DR
CHEBOYGAN, MI 49721

130-L07-000-206-00
OCCUPANT
4255 LONG POINT DR
CHEBOYGAN, MI 49721

130-L07-000-024-00
OCCUPANT
4216 LONG POINT DR
MULLETT LAKE, MI 49721

130-L07-000-026-00
OCCUPANT
4224 LONG POINT DR
MULLETT LAKE, MI 49721

130-L07-000-027-00
OCCUPANT
4232 LONG POINT DR
MULLETT LAKE, MI 49721

130-L07-000-028-00
OCCUPANT
4238 LONG POINT DR
CHEBOYGAN, MI 49721

130-L07-000-029-00
OCCUPANT
4250 LONG POINT DR
CHEBOYGAN, MI 49721

130-L07-000-031-00
OCCUPANT
4258 LONG POINT DR
CHEBOYGAN, MI 49721

130-L07-000-205-00
OCCUPANT
LONG POINT DR
CHEBOYGAN, MI 49721

130-L07-000-034-00
OCCUPANT
4270 LONG POINT DR
CHEBOYGAN, MI 49721

130-L07-000-036-00
OCCUPANT
4278 LONG POINT DR
CHEBOYGAN, MI 49721

130-L07-000-037-00
OCCUPANT
4288 LONG POINT DR
CHEBOYGAN, MI 49721

130-L07-000-038-00
OCCUPANT
4294 LONG POINT DR
CHEBOYGAN, MI 49721

130-L07-000-039-00
OCCUPANT
4310 LONG POINT DR
CHEBOYGAN, MI 49721

130-L07-000-040-00
OCCUPANT
4340 LONG POINT RD
CHEBOYGAN, MI 49721

130-L07-000-043-04
OCCUPANT
4343 LONG POINT DR
CHEBOYGAN, MI 49721

130-L07-000-043-05
OCCUPANT
4341 LONG POINT DR
CHEBOYGAN, MI 49721

130-L07-000-043-06
OCCUPANT
4344 LONG POINT DR
CHEBOYGAN, MI 49721

130-L07-000-138-00
OCCUPANT
4324 LONG POINT DR
CHEBOYGAN, MI 49721

130-L07-000-203-00
OCCUPANT
4301 LONG POINT DR
CHEBOYGAN, MI 49721

130-L07-000-204-00
OCCUPANT
4291 LONG POINT DR
CHEBOYGAN, MI 49721

RECEIVED

JUL 23 2019

Cheboygan County
Planning & Zoning Department

JULY 22, 2019

TO: CHEBOYGAN COUNTY ZONING AND PLANNING DEPT.

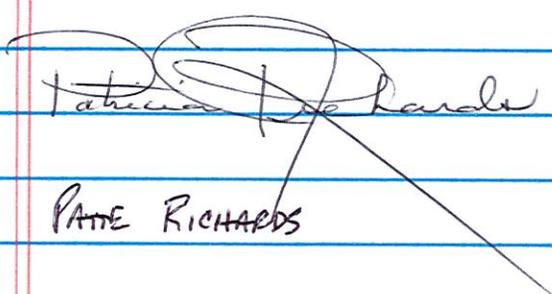
FROM: MRS. PATTE RICHARDS / PATRICIA J. RICHARDS

RE: REQUEST FOR VARIANCE BY PETER & CHRISTIE ROE

I OWN THE PROPERTY DIRECTLY SOUTH OF PETER & CHRISTIE ROE ON LONG POINT DR. IN MULLETT TOWNSHIP, CITY OF CHEBOYGAN. IT IS MY UNDERSTANDING THAT THE ROES ARE REQUESTING A 6 FOOT VARIANCE ON THE PROPERTY LINE WITH THE PURPOSE OF ADDING ON TO THEIR EXISTING SUMMER COTTAGE.

I HAVE NO OBJECTIONS TO THE VARIANCE AS THE PROPOSED ADDITION WILL NOT EFFECT ANY OF THE DWELLINGS ON MY PROPERTY, WHICH ADJAINS ^{THEIR} ~~MY~~ PROPERTY. IF YOU NEED FURTHER INFORMATION MY PHONE NUMBER IS: 231-632-0766.

SINCERELY,



Patricia J. Richards

PATTE RICHARDS



CHEBOYGAN COUNTY PLANNING AND ZONING 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/

DIMENSIONAL VARIANCE STAFF REPORT

Item: Requests a 6-ft. side setback variance to construct an addition to the existing dwelling in a Lake and Stream Protection (P-LS) zoning district.	Prepared by: Jennifer Merk
Date: August 21, 2019	Expected Meeting Date: August 28, 2019

GENERAL INFORMATION

Applicant/Owners: Peter and Christie Roe

Contact person: Same as above

Phone: 480-577-7012

Requested Action: The applicant requests a 6-ft. side setback variance to construct an addition (17-ft. x 30-ft.) to an existing dwelling where a minimum of 6.2-ft. is required, per Section 17.1.J of the Zoning Ordinance.

BACKGROUND INFORMATION

The subject property is a waterfront lot with 62-ft of average lot width on Mullett Lake and located at 4270 Long Point Drive in Mullett Township, and belongs to the Plat of Long Point Resort Grounds. The subject property and existing dwelling are determined to be legal, non-conforming.

The applicant is proposing to construct a 17-ft. x 30-ft. addition to the north side of the existing dwelling. Per section 17.1 of the Zoning Ordinance, a minimum of 8-ft. of side setback is required (except for waterfront lots in the Lake and Stream Protection zoning district (P-LS) where a lot is less than 80-ft. in width, then each side setback shall be 10% of the lot width, or 5-ft., whichever is greater). The proposed dwelling addition will therefore extend 6-ft. into the 6.2-ft. minimum side setback area.

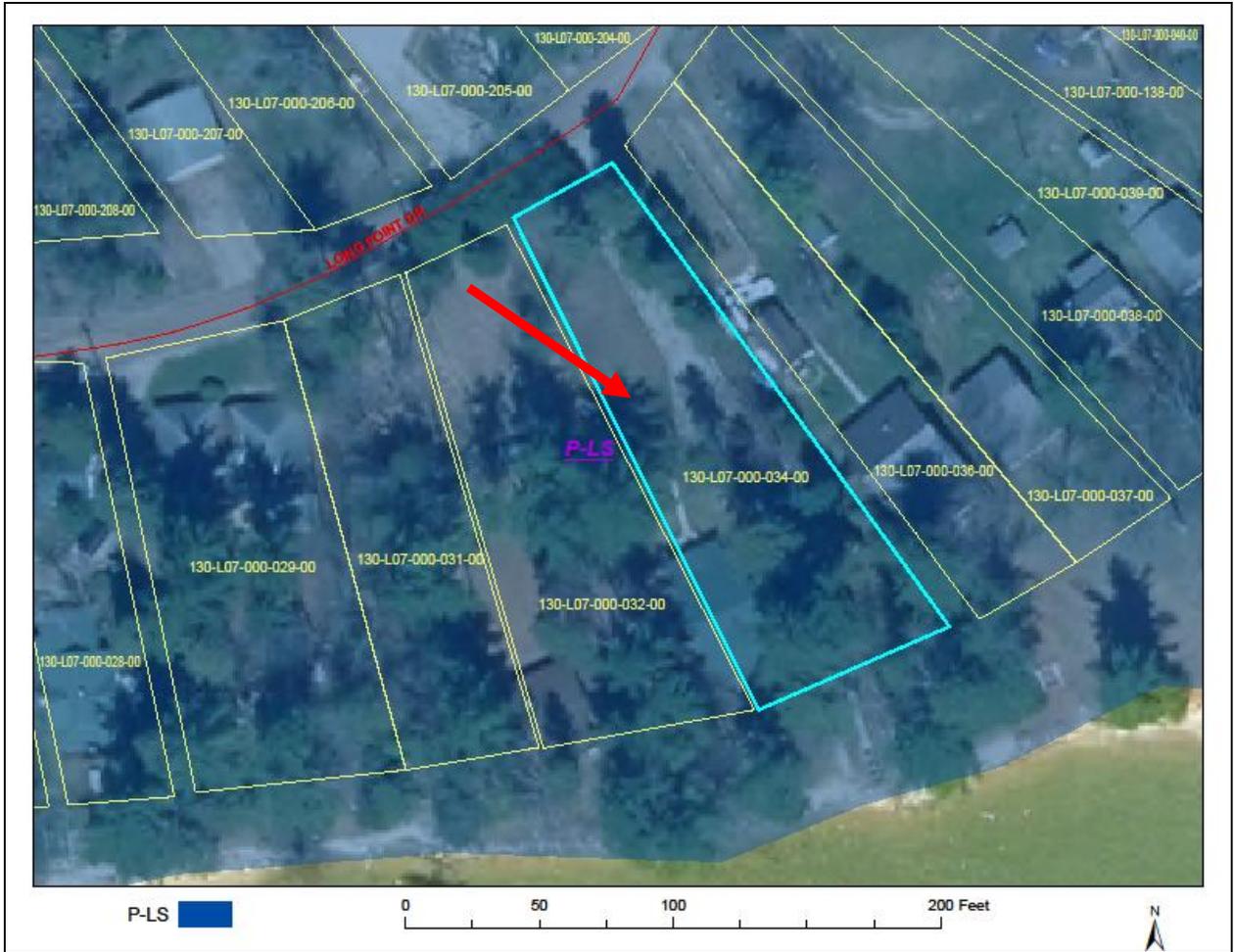


Figure 1. Location and zoning of subject property at 4270 Long Point Dr., Mullett Twp.

Surrounding Zoning:

North: Lake and Stream Protection (P-LS)

East: Same

South: Same

West: Same

Surrounding Land Uses:

Residential land uses exist to the north, east and west. Mullett Lake is located to the south.

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

The subject property is located in a P-LS zoning district on Mullett Lake, and therefore the shoreline area is considered sensitive.

Public comments:

One (1) written comment has been received indicating “no objections” to the variance as requested.

VARIANCE CONSIDERATIONS

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 subject property is located in a Lake and Stream Protection (P-LS) zoning district.
2. The subject property belongs to the Plat of Long Point Resort Grounds.
3. The subject property has a measured and recorded rear lot width of 44-ft.
4. The subject property has a recorded front lot width of 80-ft.
5. The subject property's average lot width is 62-ft.
6. The subject property is a legal non-conforming lot.
7. The existing dwelling on the subject property is legal non-conforming.
8. For lots less than 80-ft. in width the side setback shall be 10% of the lot width or 5-ft. whichever is greater as required in the P-LS zoning districts according to section 17.1.J of the Zoning Ordinance.
9. The applicant is seeking a 6-ft. side setback variance (to allow for 0.2-ft. side setback) to construct a 17-ft. x 30-ft. addition to the north side of an existing dwelling.

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.

A. The physical conditions of the property that support granting the variance request are as follows:

1. The subject property is a legal, non-conforming lot with 62-ft. average lot width.

B. The physical conditions of the property which support denying the variance are as follows:

1. The subject property is less than the minimum 80-ft. lot width standard for lots within the P-LS zoning districts.

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).

- A. Actions that have occurred which support granting the variance which were not caused by the applicant:
 - 1. The subject property is a legal, non-conforming lot with 62-ft. average width, thus requiring a minimum side setback of 6.2-ft.
 - 2. The existing dwelling is legal, non-conforming regarding west side setback.
- B. Actions which the applicant has taken that results in the request for the variance and therefore require denial of the variance:
 - 1. The need for the variance is due to the applicant proposing to build an addition to the north side of the existing dwelling.

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.

- A. Zoning regulation requirements result in the following conditions which prevent use of the property or cause undue hardship:
 - 1. The required minimum side setback of 6.2-ft. would prohibit the owner from building the addition as proposed.
- B. Factors that show no adverse effects caused by the zoning regulation conditions:
 - 1. None identified.

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.

- A. Factors that show the variance cannot be reduced beyond that requested and still meet the needs of the applicant, and still not infringe upon the rights of the surrounding property owners:
 - 1. None identified.
- B. Factors that show the variance requested is more than needed and/or would infringe upon the rights of surrounding property owners:
 - 1. Granting the variance would allow the proposed 17-ft. x 30-ft. addition to the existing dwelling to be within 0.2-ft. of the west side lot line.

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.

- A. Factors that show how granting the variance would not result in unfavorable impacts on the surrounding properties, neighborhood or zoning district:
 - 1. The subject property and existing dwelling are legal, non-conforming like a number of nearby residential properties.
- B. Factors that show how granting the variance would adversely impact the neighborhood or zoning district.
 - 1. Granting the variance as proposed would add to the nonconformance of the existing dwelling.

RECEIVED

AUG 26 2019

**Cheboygan County
Planning & Zoning Department**

August 21, 2019

To: Cheboygan County Planning and Zoning Department

Attn: Deborah Tomlinson

From: Peter and Christie Roe

Re: Request for a 6 foot Variance on 4270 Long Point Dr., Mullett Township, Parcel No. 130-L07-000-034-00 Sections 9 and 10.

Please find enclosed three documents that we would like to be included in our request for the variance on our property with the intention of adding on to our existing summer lake cottage.

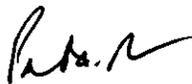
The first is a copy of a letter dated March 1st, 1967 from Doyle Civil Engineers. This letter discusses re-platting Long Point in an "effort to solve some of the many problems of property lines..."

The second is a copy of a letter dated July 7, 1967 from Richards, Findorff & Richards Consulting Engineers to a Mr. and Mrs. Robert Atkins which also talks about the "discrepancies" of the Long Point plat.

The third document is a survey sketch of our property done by Fullford Surveying that we obtained prior to purchase of the property in 2009. This survey would have been done between 2004 and 2009 for the previous owner (Robert Murdock). This survey shows a different property line compared to the survey done by Alan Granger that was provided in the request.

The intent of providing these documents is to only show that the property lines on Long Point are difficult to determine.

Thank you for the consideration.



DOYLE CIVIL ENGINEERS

1 March 1967

Mr. Claire Elliott
RFD 1 Box 343
Cheboygan, Michigan

Dear Claire:

This is to confirm our recent conversation relative to re-platting Long Point.

As early as 1946 we made a concentrated effort to solve some of the many problems of property lines in subject plat at the request of several residents at that time. After spending about \$1200 in labor alone we were firmly convinced that the Plat as is, is utterly impossible of solution. I believe many other surveyors since that time have confirmed our theory. In May 1947 we recommended that Long Point be vacated and re-platted as the only proper solution.

In our survey we found that the Plat was approximately 150 feet short between it's north and south extremities. This would indicate that each lot owner would suffer a very small loss of property on a complete survey. However, there are in the present Plat a series of 8 foot walk-ways which if eliminated could be utilized to make up the shortage. The original Plat would have to be vacated in Circuit Court, Normally this is not a difficult procedure if the surveyor can present a proper case. We have accomplished the same in several instances without difficulty. The Court would have to agree to utilizing the 8 foot walks which I believe they would readily do since as things now stand, no one can determine where the walks are, thus they are useless to the public. In addition, I believe it would be most practical to eliminate the public beach and extend the lakeside lots to the waters edge. Since the public has no way

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DOYLE CIVIL ENGINEERS

of proving where their access rights are, the public beach is of no value to the public as it now stands.

In order to execute a new plat, we would first make a complete topographic map of the area showing all existing features such as buildings, roads, walks, power lines, apparent property lines and property monuments. Once this map was completed, the final lots would be built to fit the property as occupied but also consistent with the number of feet as called for in their deeds. I am aware that in some cases persons are occupying more property than their deeds allow and in these few cases some may lose a few feet of what they hoped to acquire but legally never owned.

There are innumerable advantages for all owners concerned in having this subdivision re-platted. As you know, it is virtually impossible as it now stands, to obtain title insurance or secure any type of loan on the existing property. For the past twenty years we have had scores of requests for surveys at Long Point but because we cannot give anyone a guaranteed job we have found it necessary to refuse this work. Other surveyors in the community have the same reservations. Aside from the difficulties prevalent today one must consider that his heirs and assigns will forever have to face the same problems and many much more severe as development proceeds in this exceptionally desirable lake area.

Our estimated cost of doing this job complete, is \$60 per lot based on the total 247 lots in the plat. There are several ways the project could be done on a cooperative basis. If all property owners would agree in writing to vacating the old plat and paying for the survey on a per lot basis, the matter would be simple. Invariably it is difficult

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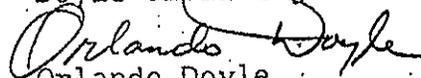
DOYLE CIVIL ENGINEERS

to get all owners to agree either to vacate or to pay his fair share. However, if less than the total number of owners decided to do the job and bear the entire expenses, those who did not participate would share equally in the result. Since the new plat would be a recorded instrument, every lot owner could secure a copy and in addition he would have an automatic survey whether he joined in the effort or not. For this reason it would seem more equitable to do the job as a township project. I believe the township supervisor has the authority to tax each lot an appropriate amount to pay for the work. This would be better taken up with the supervisor and his attorney for final decision and details. The vacation of the present plat can be accomplished in several ways, too lengthy to discuss herein but to say the least, it can be accomplished without consent of all or any of the property owners.

I trust the above will give you a brief outline of our consideration on this matter. If at some time you wish this project discussed at a formal meeting of owners and township officials, I would be pleased to oblige.

Yours very truly

Doyle Civil Engineers


Orlando Doyle

OD/jwd

RICHARDS, FINDORFF & RICHARDS

Consulting Engineers

1237 E. FRONT STREET
TRAVERSE CITY, MICHIGAN

July 7, 1967

TELEPHONE 946-4380

Mr. & Mrs. Robert Atkins
R.F.D. No. 1
Cheboygan, Michigan

Dear Mr. & Mrs. Atkins:

At your request we have reviewed the "Plat of Long Point Resort Grounds in Burt Township, Cheboygan County, Michigan", and the circumstances surrounding the current proposal to vacate said plat, cause the area to be surveyed and replatted.

Reference is often made to the "Public Beach" in this plat. In fact, the beach is owned in common by the lot owners within the boundary of the plat. The beach is in no way "public" to the general public. The dedication on the face of the recorded plat specifically states in part - - - "and the beach thereon designated as "Public Beach" is hereby dedicated as a common beach for the use and benefit of the owners of the several lots - - -".

Likewise, the eight foot walks are dedicated to the "several lot owners" and are not "public" beyond ownership in common by the lot owners within the plat. The Streets and Alleys are specifically dedicated to the use of the public and in this case the "general public" is intended. The only street in question in this category would be the 40 foot street lying between the base line and Lot No. 163. Lot No. 163 is the large point lot which was designated in early brochures as a "Park"; it is in fact a lot. Since this street is completely without general public access, we conclude that the word "public" has been used in the same sense as the designation "public beach" and denotes only common ownership by the lot owners and not rights to be held by the general public.

There are undoubtedly discrepancies between the plat drawing, the lines as originally staked, and the present occupancy. A number of the original iron stakes have been preserved by lot owners and more recently additional original survey information uncovered. We believe that there is a fair possibility that more of the original control monuments can still be located by careful search.

Vacating and replatting is a possibility which must be approached with great caution. The standards of today in regard to land suitability are substantially higher than those of 1911. Specifically to mention a few, today's standards require a minimum of 60 feet of lot width, and that there be a minimum of 4 feet of earth above the ground water table where septic tanks are utilized.

July 7, 1967

Mr. & Mrs. Robert Atkins
Page 2

This latter requirement would mean that substantial portions of the existing plat would be deemed "unsuitable" for platting by today's standards.

The original monuments (1"x18" gas pipe) as placed by the surveyor, W. R. Middleton, are the controlling points in this plat. Any discrepancy between plat drawing measurement and actual measurement must be accounted for proportionately by the lots lying between the monuments in question. When a monument is definitely missing, it must be replaced by whatever means will place it as nearly possible in its original location. Plat drawing information may not accomplish this as well as witness information. One of the complicating factors at Long Point is the large number of various stakes that have been placed by the owners without benefit of survey, to indicate where they feel their lines are. These are frequently difficult if not impossible to distinguish from the true monuments.

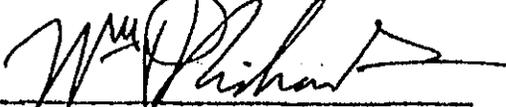
It is our understanding that the main problem created by the fact that much of the original survey is lost or obliterated, is not one of property line disputes but rather one of several individuals being unable to obtain government guaranteed financing to construct improvements without a certified survey. These individual lots can be surveyed. However, the expense to an individual lot owner would probably be prohibitive since much of the original plat may need to be surveyed to definitely locate one parcel.

Much of the area is completely built up and boundaries between parcel owners have been approximately established by occupancy and usage over the years. Benefit to these people of a resurvey would be realized only upon a survey requirement by a prospective buyer or mortgage. Each parcel owner will have to determine for himself the benefits he may derive from a resurvey.

We hope that this will in part answer your questions. If you have further please advise.

Very truly yours,

RICHARDS FINDORFF & RICHARDS



Wm. P. Richards, P.E.

WPR/clh

cc: Mr. Oliver Gauthier

Mr. Wm. Brezeski

