

**THE CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING
SCHEDULED FOR WEDNESDAY, MAY 27, 2020 at (7:00 P.M.)
at 870 S. Main Street, Cheboygan, Michigan
will be conducted via telephone conferencing per
Cheboygan County Resolution
2020-06 and Executive Order 2020-75**

In accordance with Gov. Gretchen Whitmer and the Michigan Department of Health and Human Services's recommendations designed to help prevent the spread of Coronavirus Disease 2019 (COVID-19) and Executive Order 2020-15 declaring public bodies subject to the Open Meetings Act can use telephone conferencing technology to meet and conduct business, the Cheboygan County Zoning Board of Appeals will hold its meeting at **7:00 P.M. on Wednesday, May 27, 2020** via telephone conferencing.

The public may access the meeting by calling:

United States (Toll Free): 1-866-899-4679

Access Code: 129-048-013

Those that are hearing impaired may dial 7-1-1. Please provide the operator the toll free number and meeting access code to be connected to the phone call with help from MI Relay. If other aids and services are needed for individuals with disabilities please contact the County Clerk. The Zoning Board of Appeals packet is available for download at: www.cheboygancounty.net.

ELECTRONIC ZONING BOARD OF APPEALS MEETING PARTICIPATION

The public will be asked to identify themselves. When you call in please state your name until acknowledged for the record.

- Public comment—will be taken only during the Public Comment portion of the meeting agenda.
- Please make your public comment when called upon to do so or state no comment.
- The time limit for an individual's public comments shall be 3 minutes.

The following Zoning Board of Appeals members will be attending the meeting by phone. If you would like to contact a Zoning Board of Appeals member or Staff member about any matter, on the agenda or otherwise, please do so via the email addresses below:

- Charles Freese
- John Moore, jdmoorex1@netzero.com
- Ralph Hemmer
- John Thompson, buckeyeforever@hotmail.com
- Nini Sherwood, Sherwood@sherwoodappraisalservice.com
- Cheboygan County Director of Planning and Zoning – Michael Turisk
mturisk@cheboygancounty.net.



CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

870 SOUTH MAIN ST. ■ PO Box 70 ■ CHEBOYGAN, MI 49721
PHONE: (231)627-8489 ■ FAX: (231)627-3646

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING
WEDNESDAY, MAY 27, 2020 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. **Laura and Jason Mayer** – The applicant requests approval of a 17 ft. setback variance to place a shed onto a vacant waterfront property zoned Lake and Stream Protection (P-LS). Section 17.23.1.g. of the Zoning Ordinance indicates, in part, that a minimum 50 ft. setback from the water's edge is required for private storage buildings in the P-LS zoning districts. The subject property is located at 1988 Lake Shore Dr. in Mullett Township, Parcel No. 130-029-100-037-00, Section 29.
2. **Thomas Finch/Jason Campbell** – The applicant requests approval of a 3 ft. setback variance to remove soil in an area beginning 97 feet from the ordinary high water mark along the mainstream of the Pigeon River on a property zoned Natural River Protection (P-NR). Per Section 11.5.2 of the Zoning Ordinance, a vegetation strip shall be maintained on each side of the stream to a distance of 100 feet along the mainstreams (in this case along the Pigeon River).

The applicant also requests approval of a use variance, per Section 11.9.4 to perform land alterations for viewshed enhancement and erosion mitigation and protection purposes. Section 11.9.4 states in part, that land alteration for building such as grading, dredging and filling of the land outside of the natural vegetation strip is permitted.

The subject property is located at 3248 Bear Paw Ridge in Koehler Township, Parcel No. 171-022-201-010-00, Sections 15 and 22.

UNFINISHED BUSINESS

NEW BUSINESS

ZBA COMMENTS

PUBLIC COMMENTS

ADJOURN

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING
WEDNESDAY, APRIL 22, 2020 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, Mike Bommarito, Roger Neuman, Sue Neuman, Mark Nelson

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. Hemmer, seconded by Mr. Thompson, to accept the agenda as presented. Motion carried unanimously.

APPROVAL OF MINUTES

Minutes from the December 30, 2019 Zoning Board of Appeals meeting were presented. **Motion** by Mr. Moore, seconded by Mr. Hemmer, to approve the minutes as presented. Motion carried unanimously.

Mr. Freese stated that he needed to establish a list all of participating telephonically in this public meeting in that he would ask for names by group interest it in each of the three cases to be heard and additionally those generally interested in the zoning board of appeals proceedings. Mr. Freese asked for the names of any representatives of the Bommarito application Or those wishing to come and on this application with the following response: Mike Bommarito, applicant.

Mr. Freese asked for the names of any present representing the Newman application or those wishing to comment on this application with the following response: Mr. Newman, applicant and Mrs. Newman, applicant's wife.

Mr. Freese asked for the names of any present representing the Nelson application or those wishing to comment on this application with the following response: Colin Mr. Nelson, applicant.

Mr. Freese asked for the names of any others present as members of the general public with the following response: Cal Gouine.

Mr. Freese explained that he would try to address comments to individuals by name in order to keep the meeting orderly individuals should only speak if spoken to directly by name or if asked for open comments at any point any individual was then recognized to speak. Mr. Freese stated that if overlapping comments occurred that he would immediately ask the meeting to come to order and he would then allow each person to express their views. He stated that at the point each individual should begin by stating their name and by stating when they were finished. Mr. Freese stated that the comments from each member of the general public on each application would be limited to 3 minutes.

Mr. Freese stated that section 22 of the zoning ordinance has been reviewed and is in the process of finalization as Amendment #155. This action is a direct result of a request by the Zoning Board of Appeals. The changes Proposed in this amendment concern primarily nonconforming buildings and structures. It should be noted that all 3 of the requested variances this evening involve npnconforming structures. Mr. Freese stated that had this amendment already been approved, the requests this evening probably would not have required a variance.

Mr. Turisk explained the authority granted by the governor of the state of Michigan for conducting remote telephonic meetings for services deemed essential for the functioning of the county has made this meeting possible.

PUBLIC HEARING & ACTION ON REQUESTS

Mike Bommarito – The applicant requests approval of a 26-ft. setback variance from a creek to reconstruct a dwelling on a property within Grand Resort Condominiums in the Lake and Stream Protection (P-LS) zoning district. Per Section 10.4.9 of the Zoning Ordinance, a 40-ft. setback is required for structures from the shoreline’s ordinary high water mark of any stream or pond that can be identified on the U.S. Geological Survey Maps of the 7.5 foot quadrangle series of Cheboygan County. The subject property is located at 2167 Grand Resort Circle in Mullett Township, Parcel No. 130-G01-000-014-00, Section 3.

Ms. Merk presented the staff report on Mr. Bommarito's request for a 26ft. front setback for a dwelling at 2167 Grand Resort Circle in Mullett Township

Mr. Freese stated that a 30.5ft. front setback had been granted for the same proposed welling in 2014. Mr. Moore noted that the requested variance is less than that previously granted. Mr. Bommarito had nothing further to add.

There were no public comments.

Mr. Freese asked for a roll call vote on each of the standards (i.e. 23.5.4.1, 23.5.4.2, 23.5.4.3, 23.5.4.4, 23.5.4.5) and each standard was found to have been met by a unanimous vote. **Motion** by Mr. Moore, seconded by Mr. Hemmer, to grant the 26ft.front variance based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried unanimously by roll call vote.

Roger and Sue Neumann – The applicant requests approval of a 2-ft., 1-in. side setback variance to construct a garage addition onto an existing dwelling on a waterfront property zoned Commercial Development (D-CM) and Lake and Stream Protection (P-LS). The addition is to be confined to the D-CM portion of the subject property. Per section 17.1 of the Zoning Ordinance, a minimum 10-ft. side setback is required in the D-CM zoning district. The subject property is located at 6282 Sunrise Lane in Inverness Township, Parcel No. 091-034-400-018-00, Section 34.

Ms. Merk presented the staff report on Roger and Sue Newman's request for a 2ft. side setback variance for an addition to a dwelling at 6282 Sunrise Lane in Inverness Township.

Mr. Freese asked Mr. Newman if he had anything he wished to add. Mr. Newman concurred with the facts presented in the staff report. Mr. Freese asked Mr. Newman whether he was aware that although he had requested a 2ft. 1in. side setback variance and that his request had been advertised that way, any variance he could be granted was limited to 2ft. 1in. Mr. Freese pointed out that both Mr. Newman's site plan diagram and the ariel photo in the staff report showed the existing dwelling is located at a slight angle to the property line on the north and is actually closer to the property line on the northwest corner, then the northeast corner and that if the proposed addition continues on the same external east/west wall line on the north side it would result in the addition being closer than 7ft. 11in. to the property line. Mr. Freese stated that the only way the addition could be constructed with the 2ft. 1in. variance would be to either angle the new addition parallel to the property line or to offset the addition enough that the northwest corner of the new addition was only 7ft. 11in. from the property line to the north. Mr. Newman stated that he had not realized that the existing dwelling was at an angle to the property line, but he could comply with situating it so that it came no closer than 7ft. 11in. from the property line. Ms. Sherwood stated she felt the parcel should have been zoned Lake and Stream rather than Commercial. Mr. Freese agreed that Lake and Stream would appear to be more appropriate due to its general location, however the zoning is what it is and could only be changed if requested formally by property owners in the area in accordance with proper rezoning regulations.

There were no public comments.

Mr. Freese asked for a roll call vote on each of the standards (i.e. 23.5.4.1, 23.5.4.2, 23.5.4.3, 23.5.4.4, 23.5.4.5) and each standard was found to have been met by a unanimous vote. **Motion** by Mr. Moore, seconded by Mr. Hemmer to grant the 2-ft., 1-in. side setback variance with the stipulation that the garage is to be no closer than 7ft. 11in. to the property line based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried unanimously by roll call vote.

Mark H. Nelson – The applicant requests approval of a 106-ft., 10-in. front setback variance to reconstruct a dwelling on the original foundation on a waterfront tributary property zoned Natural River Protection (P-NR). Per section 17.1 of the Zoning Ordinance, a minimum 150-ft. front setback is required on a waterfront tributary property in the P-NR zoning district. The applicant also requests approval of a 31-ft., 10-in. variance from the 75-ft vegetation strip required along tributaries per section 11.5.2 of the Zoning Ordinance. The subject property is located at 3195 Shirley Lane in Koehler Township, Parcel No. 171-009-400-001-01, Section 9.

Ms. Merk presented the staff report on Mr. Nelson's request for a 106' 10" front setback to reconstruct a dwelling destroyed by fire in 2018 and 31' 10" variance to the 75' requirement for a vegetative strip in the natural river zoning district.

Mr. Freese explained that there are technically two variances being requested, however, since both are necessitated by the proposed location of a reconstructed dwelling They would be considered together rather than separately. Mr. Freese stated that neither of the requested variances covered in additional covered porch in that this addition could not be

considered.

Mr. Turisk read a letter from Mr. Patrick Ertel from the DNR which stated that the reconstruction of the dwelling should be limited to the footprint of the dwelling before it was destroyed by fire.

Mr. Freese asked Mr. Nelson whether, in fact, that the enclosed porch and attach garage were not in fact additions to the footprint of the original dwelling. Mr. Nelson stated that they were.

Discussion was held concerning whether the porch could be relocated to the west end of the dwelling which Mr. Nelson stated was not feasible. Discussion was held regarding repositioning of the dwelling to move it further to the north and thereby further from the water, but this option was not possible due to the location of the drain field.

Mr. Freese questioned how close to the canals other houses in the development were since this information could help support the case for a variance. Mr. Nelson stated he thought the other houses were as close or closer than he was proposing for his dwelling. Mr. Freese stated it did not appear that was the case in the aerial photo in the staff report. Mr. Freese questioned the dimensions shown on Mr. Nelson's site plan since the distance from the proposed dwelling on the southwest corner to the water was shown as 44ft. and that on the southeast corner was shown is 43ft. 7in. but the diagram shows the southwest measurement to be greater. Mr. Nelson stated the dimensions should have been reversed on the site plan. Mr. Freese questioned whether the placement of the dwelling could be rotated 90 degrees and moved as close as possible to the drain field to maximize the set back from the water. Mr. Freese stated that there were several areas where there were questions in the minds of the ZBA members which could not be resolved since they had not been permitted to visit the site due to the Governor's restrictions on travel. Mr. Freese stated that if Mr. Nelson could provide information on how close to the water other dwellings in the development were as well as whether they had garages or not, it might help a ZBA to make a decision. Mr. Freese also indicated that if Mr. Nelson could provide a new site plan showing a relocated dwelling location further from the water it would be beneficial.

Mr. Freese stated that the DNR email along with the questions asked by the ZBA members indicated that the variance request might likely be disapproved. Mr. Freese asked Mr. Nelson whether he would like to proceed with his request as presented or whether he might rather have the request tabled until the May ZBA meeting and allow him to provide additional material. Mr. Nelson asked that the request be tabled. **Motion** by Ms. Sherwood, supported by Mr. Thompson, to table the request until the May 27, 2020 meeting. Motion carried unanimously by roll call vote.

UNFINISHED BUSINESS

No comments.

NEW BUSINESS

Annual Meeting – Election of Officers & Verification of Regular Meeting Schedule

Mr. Freese asked for nominations of officers for the calendar year 2020. **Motion** by Mr. Moore, supported by Mr. Thompson, to nominate the present Chairman Mr. Freese. Motion carried unanimously by roll call vote. **Motion** by Mr. Thompson, supported by Mr. Hemmer, to nominate the present Vice-Chairman Mr. Moore. Motion carried unanimously by roll call vote. **Motion** by Mr. Moore, supported by Mr. Hemmer, to nominate the present Secretary Mr. Thompson. Motion carried unanimously by roll call vote.

Mr. Freese asked whether any members had problems with the schedule of meeting dates for 2020. There were no problems stated. **Motion** by Mr. Freese, seconded Mr. Hemmer, that the Zoning Board of Appeals meetings be scheduled for the 4th Wednesday of each month for the remainder of 2020. Motion carried unanimously by roll call vote.

ZBA COMMENTS

No comments.

PUBLIC COMMENTS

No comments.

ADJOURN

Motion by Ms. Sherwood to adjourn. Motion carried. Meeting adjourned at 9:20 pm.

John Thompson, Secretary

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

Laura and Jason Mayer

Exhibit List

1. Cheboygan County Zoning Ordinance
2. Cheboygan County Master Plan
3. Variance Application (3 Pages)
4. Email from "Laura Makowski" dated April 29, 2020, Subject: pictures from lake lots (9 Pages)
5. Property tax card (1 Page)
6. Real Estate Summary Report for 1988 Lake Shore Drive (1 Page)
7. Mailing List (2 Pages)
8. Staff Report (8 Pages)
- 9.
- 10.
- 11.
- 12.
- 13.
- 14.
- 15.

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

CHEBOYGAN COUNTY
 PLANNING & ZONING DEPT.
 870 SOUTH MAIN ST., PO BOX 70
 CHEBOYGAN, MI 49721
 (231) 627-8489 (TELEPHONE)
 (231) 627-3646 (FAX)

DIMENSIONAL VARIANCE APPLICATION

\$110.00 APPLICATION FEE

\$110.00

RECEIPT #:	7206
CASH/CHECK:	CC
ACTION / DATE:	

PLEASE PRINT

PROPERTY LOCATION

Address 1988 Lakeshore Dr.	City / Village Topinabee	Township / Sec. ML129	Zoning District P-LS
Property Tax I.D. (Parcel) Number 16-130-029-100-037-00	Subdivision or Condo. Name / Plat or Lot No.		

APPLICANT

Name Laura + Jason Mayer	Telephone 231-342-4072 231-622-9865	Fax —
Address 1705 Portage St.	City & State Topinabee, MI	Zip Code 49791
		E-Mail JIM@mttech.com

OWNER (if different from applicant)

Name Same	Telephone	Fax
Address	City & State	Zip Code

Detailed directions to site, including nearest crossroad:

Straits Hwy to Topinabee boat Launch turn North on
 Lk Shore Dr down about 1000 ft on Lake side!

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: Recreational
- 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.

9x15 Storage Building with 5 feet from both property lines and five feet from Road, building will be 16 ft from breakwall (which is 30 inches tall) and 33 feet from the Water

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.

because of the shallowness of the lot & comparison to all other adjacent properties & non-comforming structures, we request your consideration

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

NO, not requesting for anymore than all other non-comforming structures on lake shore Dr

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

yes, requiring strict compliance with regulations on lake shore Dr. where most all structures are non-compliance wood be unreasonable in this case we are trying to comply the best we can with this non-comforming lot.

d. That the requested variance is the minimum variance necessary to grant the applicant reasonable relief as well as to do substantial justice to other property owners in the district.

Yes, we are proposing the storage building be located as far back from the water but not less than 5' from the private road. Not asking for more than the other property owners share.

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, this will not effect any of the other property owners on lake shore Dr.

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

Aura Mayer

Date 3-18-2020

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

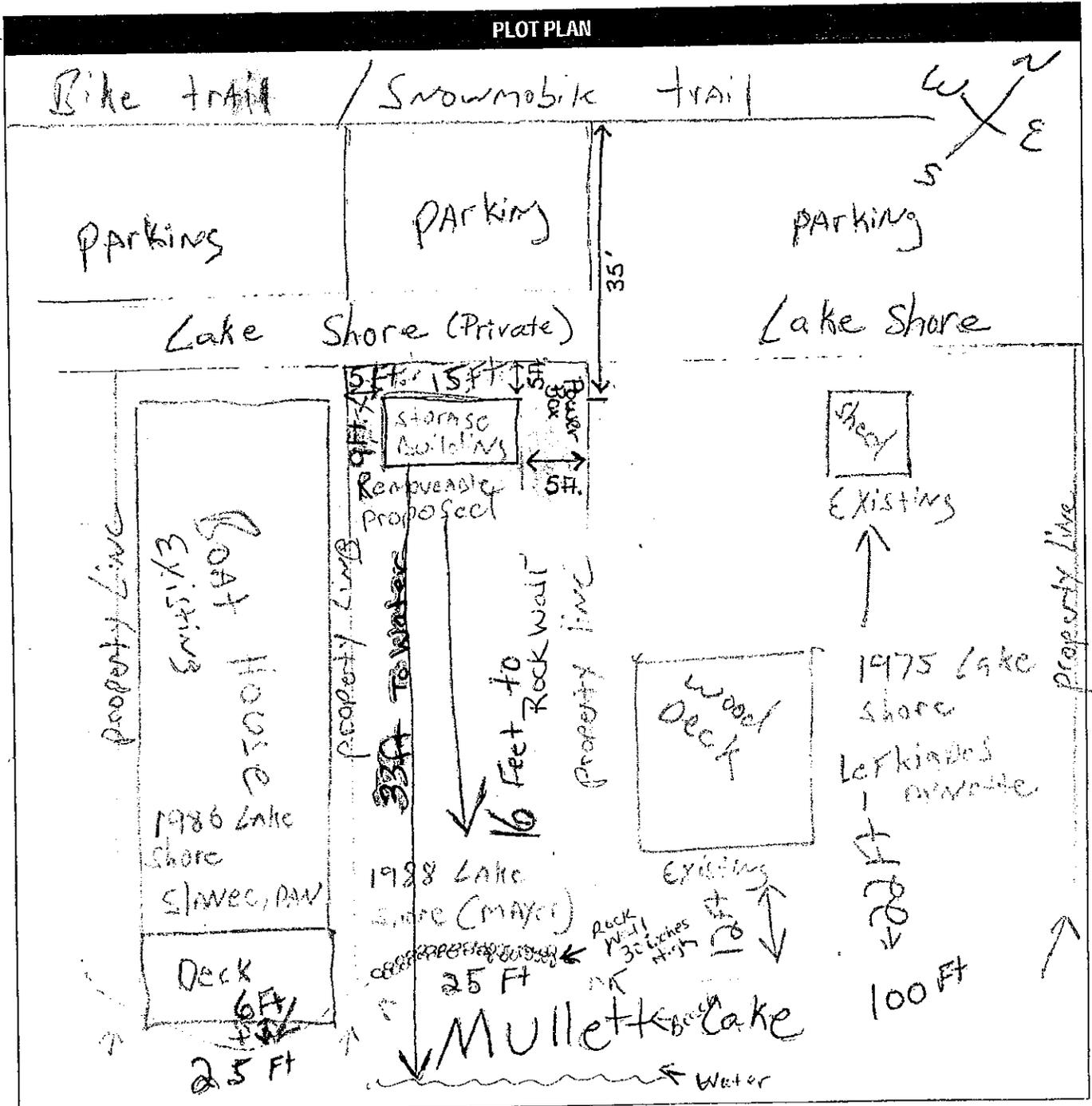
Aura Mayer

Date 3-18-2020

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: <u>16ft</u> ^{to Rock} <u>Wall</u> Rear: <u>35ft</u> Side: <u>5ft</u> Side: <u>5ft</u> _{to Water} _{5ft To Row}	Zoning District: <u>P-LS</u>	North:
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From: [Laura Makowski](#)
To: [Jennifer Merk](#)
Subject: Fw: Pictures from lake lots
Date: Monday, May 04, 2020 11:51:09 AM

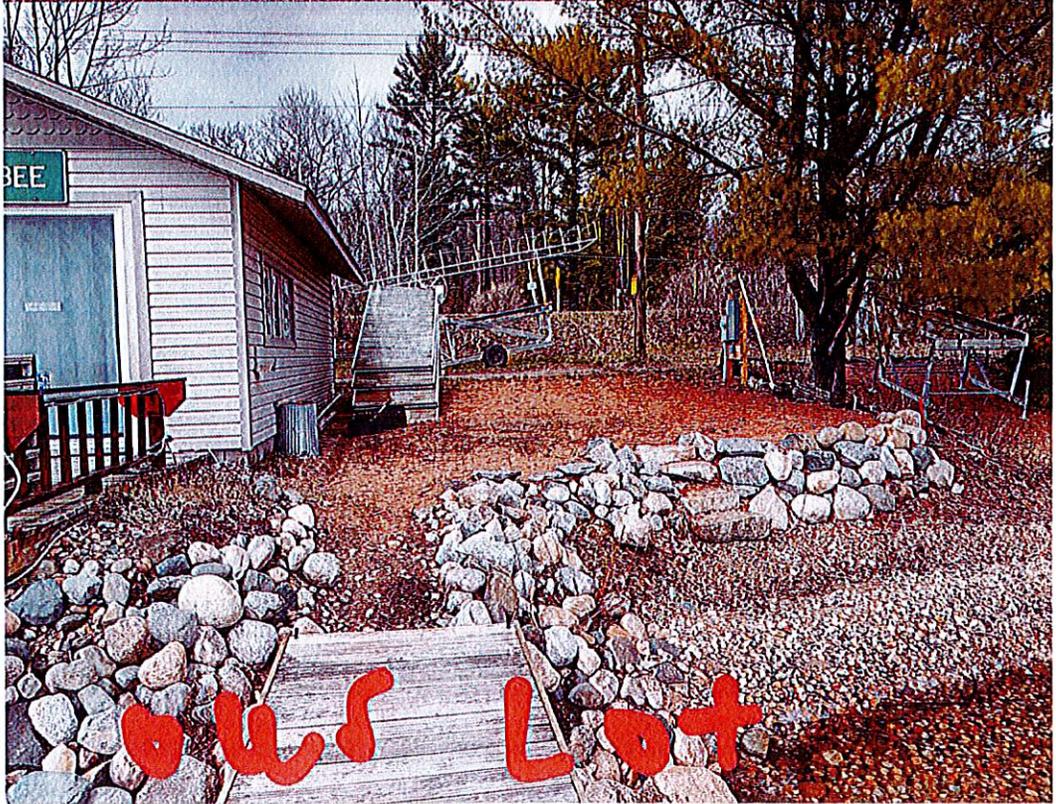
CAUTION: This email originated from outside of the Cheboygan County email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

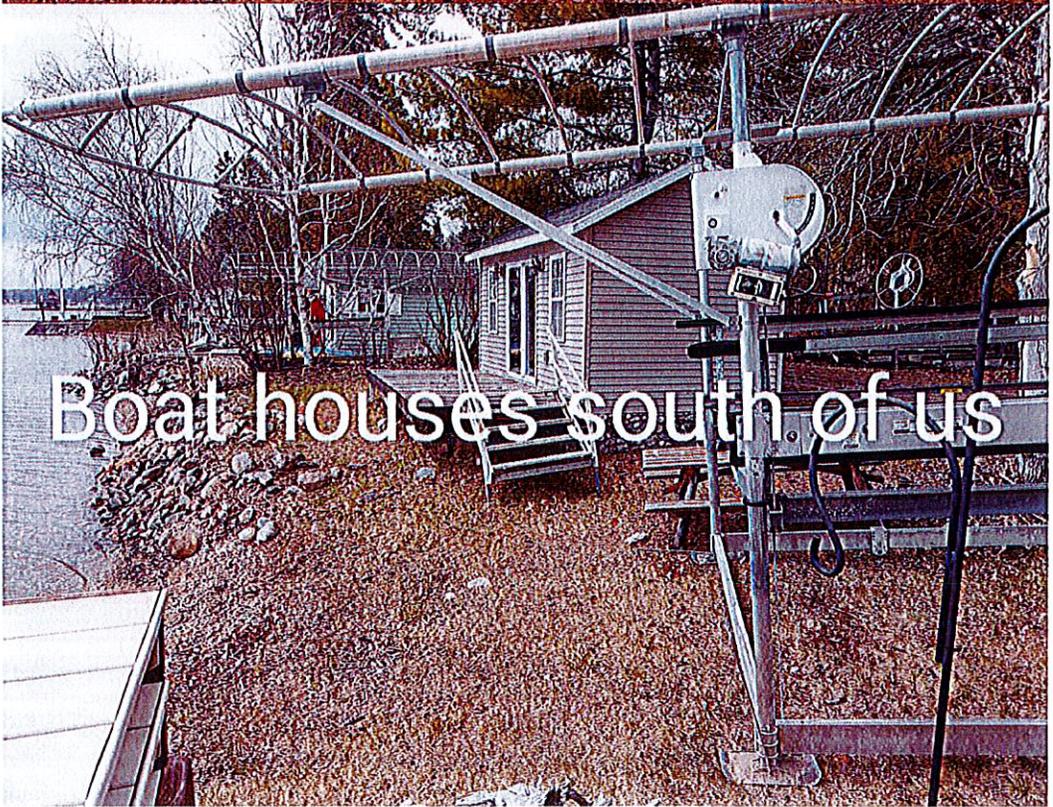
Sent from Yahoo Mail on Android

----- Forwarded Message -----

From: "Laura Makowski" <laura_makowski@yahoo.com>
To: "Jennifer Merk" <jmerk@cheboygancounty.net>
Sent: Wed, Apr 29, 2020 at 12:33 PM
Subject: Pictures from lake lots



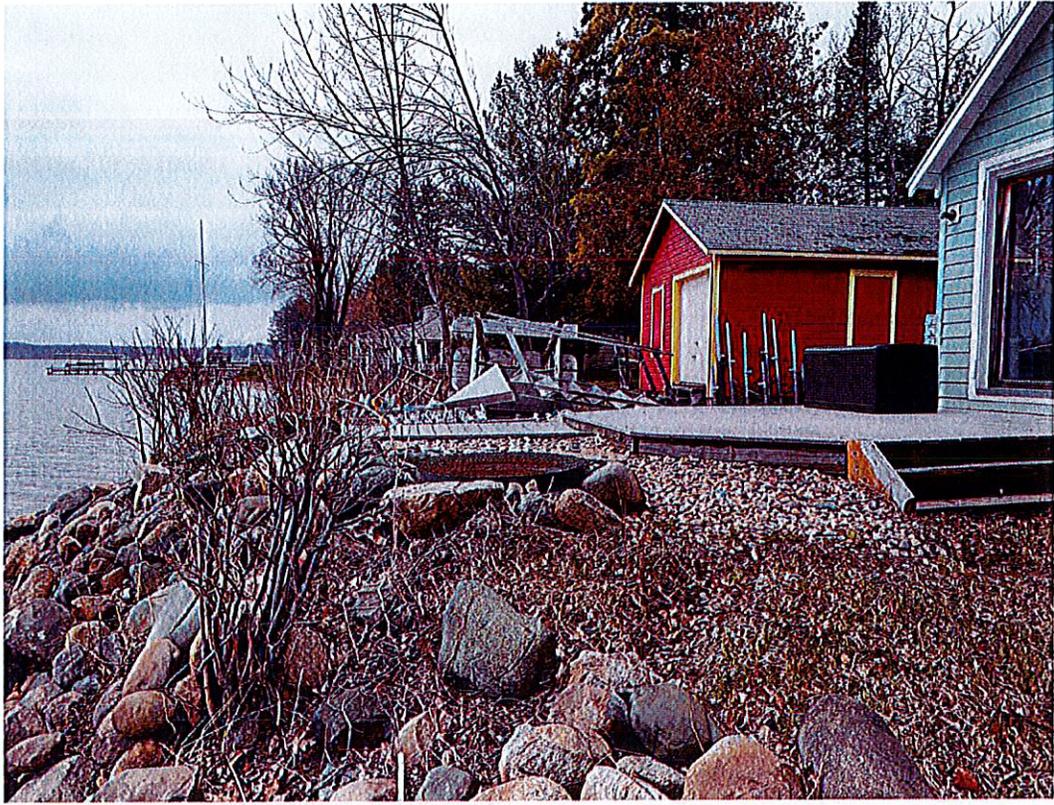


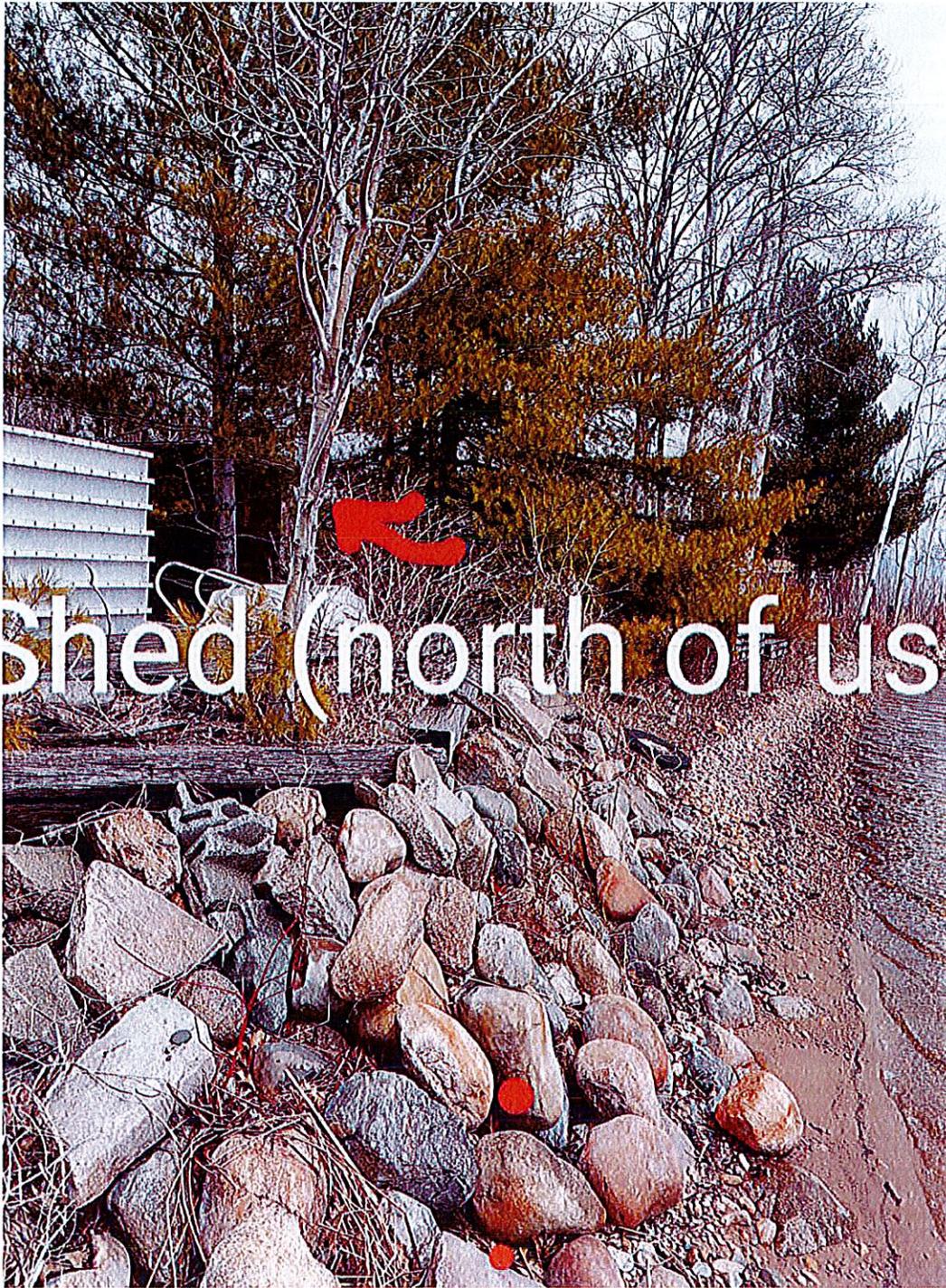


Boat houses south of us

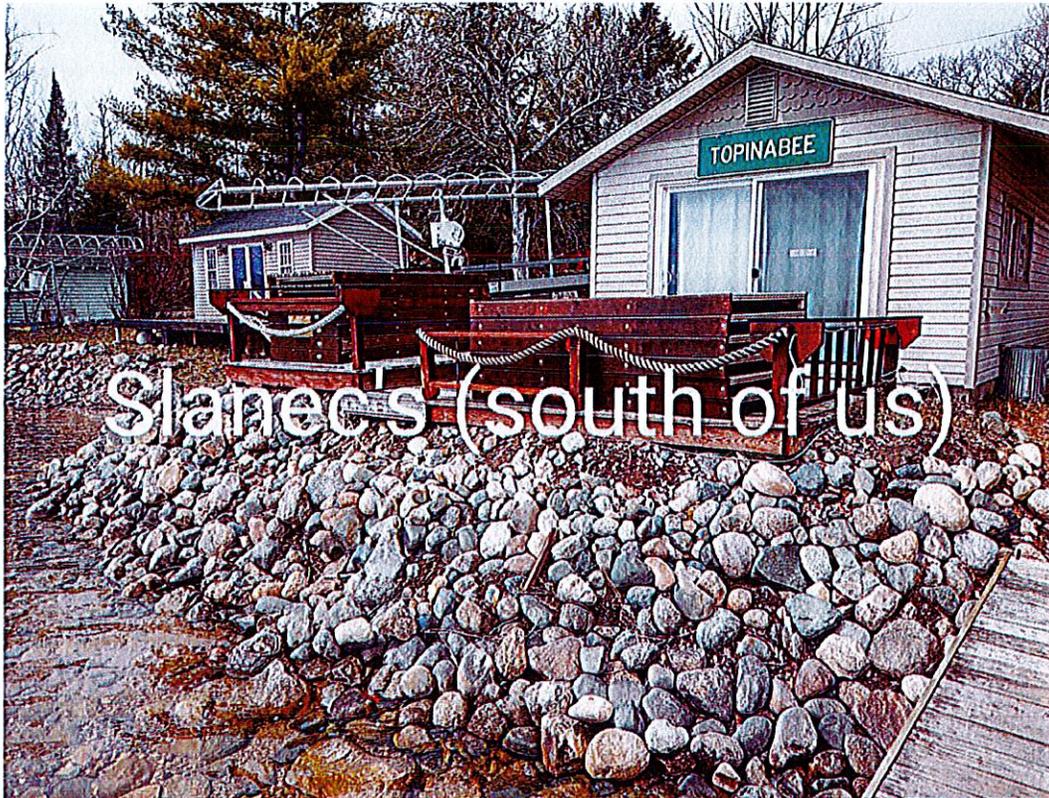








shed (north of us)



Slanecks (south of us)



Staked 9x15



[Sent from Yahoo Mail on Android](#)

Mullett

130-29-100-037

Virginia Durand R
16855 St Pual
Grosse Pte MI 48230

MCB 27

A par of land in Govt Lot 2, also being SEly of 1/4 C RR r/w desc as follows Beg at a 1/4 sec. on SW cor of NW 1/4 of NW 1/4; th S 89°42' E 1237.24 ft to a 3/4" pipe on SEly r/a of RR; th N

51°58'30" E along said r/w line 716.25 ft for POB; th S 38°1'30" E to shore of Mullet Lake; th NEly along said shore 25 ft NorL; th N 38°1'30" W to SEly r/w line of RR; th S 51°58'30" W

along said r/w line 25 ft to a 3/4" pipe & POB.
Sec 29 T 36N R 2W

MISCELLANEOUS INFORMATION

CHEBOYGAN COUNTY

YEAR	PAID TO	DATE	RECEIPT NO.	YEAR	PAID TO	DATE	RECEIPT NO.
67	pd			89	pd		
68	pd			90	pd		
69	pd			91	pd		
70	pd			92	pd		
71	pd			93	pd		
72	pd			94	pd		
73	pd			95	pd		
74	pd			96	pd		
75	pd			97	pd		
76	pd			98	pd		
77	pd			99	pd		
78	pd			2000	pd		
79	pd			01			
80	pd			02			
81	pd			03			
82	pd			04			
83	pd			05			
84	pd			06			
85	pd			07			
86	pd			08			
87	pd			09			
88	pd			10			

Real Estate Summary Sheet

Information herein deemed reliable but not guaranteed

05/19/2020 1:17 PM

Parcel:	130-029-100-037-00	Current Class:	400.400 RESIDENTIAL
Owner's Name:	MAKOWSKI, LAURA	Previous Class:	400.400 RESIDENTIAL
Property Address:	1988 LAKE SHORE DR TOPINABEE, MI 49791	Gov. Unit:	130 MULLETT
		MAP #	
		School:	16050 INLAND LAKES SCHOOL DISTRICT
		Neighborhood:	CTY-R
Liber/Page:	1364/944	Created:	//
Split:	//	Active:	Active
Public Impr.:	None		
Topography:	None		

Mailing Address:

MAKOWSKI, LAURA
PO BOX 545
TOPINABEE MI 49791

Description:

GOVT LOT 2, SEC 29, T36N,R2W, BEING SELY OF MCRR R/W DESC AS: BEG AT SW COR OF NW1/4 OF NW1/4; TH S 89D 42M E 1237.24FT TO SELY R/W OF RR; TH N 51D 58M 30S E ALG SD R/W LI 716.25FT FOR POB; TH S 38D 1M 30S E TO SHORE OF MULLETT LAKE; TH NELY ALG SD SHORE 25FT M/L; TH N 38D 1M 30S W TO SELY R/W LI OF RR; TH S 51D 58M 30S W ALG SD R/W LI 25FT TO A 3/4" PIPE & POB.
482/719;1316/500;1318/783;1364/944

Most Recent Sale Information

Sold on 07/27/2018 for 45,000 by TIP OF THE MITT WATERSHED COUNCIL.

Terms of Sale: ARMS-LENGTH **Liber/Page:** 1364/944

Most Recent Permit Information

None Found

Physical Property Characteristics

2021 S.E.V.:	20,600	2021 Taxable:	20,600	Lot Dimensions:	
2020 S.E.V.:	20,600	2020 Taxable:	20,600	Acreage:	0.01
Zoning:		Land Value:	40	Frontage:	0.0
PRE:	0.000	Land Impr. Value:	0	Average Depth:	0.0

Improvement Data

None

Image



130-029-100-038-00
OCCUPANT
1986 LAKE SHORE DR
TOPINABEE, MI, 49791

130-029-100-037-00
OCCUPANT
1988 LAKE SHORE DR
TOPINABEE, MI, 49791

130-029-105-046-00
OCCUPANT
1975 N STRAITS HWY
TOPINABEE, MI, 49791

130-029-100-041-00
OCCUPANT
1980 LAKE SHORE DR
TOPINABEE, MI, 49791

130-029-100-049-00
OCCUPANT
1964 LAKE SHORE DR
TOPINABEE, MI, 49791

130-029-100-047-00
OCCUPANT
1968 LAKE SHORE DR
TOPINABEE, MI, 49791

130-029-100-046-00
OCCUPANT
1970 LAKE SHORE DR
TOPINABEE, MI, 49791

130-029-100-045-00
OCCUPANT
1972 LAKE SHORE DR
TOPINABEE, MI, 49791

130-029-100-039-00
OCCUPANT
1984 LAKE SHORE DR
TOPINABEE, MI, 49791

130-029-100-043-00
OCCUPANT
1976 LAKE SHORE DR
TOPINABEE, MI, 49791

130-029-100-042-00
OCCUPANT
1978 LAKE SHORE DR
TOPINABEE, MI, 49791

130-029-100-040-00
OCCUPANT
1982 LAKE SHORE DR
TOPINABEE, MI, 49791

130-029-100-029-01
OCCUPANT
1915 N STRAITS HWY
TOPINABEE, MI, 49791

130-029-100-028-01
OCCUPANT
1913 N STRAITS HWY
TOPINABEE, MI, 49791

130-029-100-028-02
OCCUPANT
1917 N STRAITS HWY
TOPINABEE, MI, 49791

130-T35-000-001-00
OCCUPANT
1990 LAKE SHORE DR
TOPINABEE, MI, 49791

130-029-107-065-00
LEFKIADES, MINETTE MARIE
1975 N STRAITS HWY, PO BOX 236
TOPINABEE, MI 49791

130-029-108-071-01
MOSSGROVE, WILLARD B
PO BOX 385
TOPINABEE, MI 49791

130-029-105-046-00
LEFKIADES, MINETTE MARIE
PO BOX 236
TOPINABEE, MI 49791

130-029-100-002-00
MICHIGAN DEPT OF NATURAL RESOURCES
PO BOX 30722
LANSING, MI 48909

130-029-100-049-00
JACQUES, DIANA L; ROBERT T JACQUES;
8300 PREISS CT
FENTON, MI 48430

130-029-100-047-00
KAGE, MARK & SCOTT KAGE, TIC 3/4
1945 TOPINABEE MAIL RTE
CHEBOYGAN, MI 49721

130-029-100-046-00
MILLER, ROGER & BARBARA LIVING TRUS
621 FOREST PARK BEND
SAINT AUGUSTINE, FL 32092

130-029-100-045-00
MILLER, ROGER & BARBARA LIVING TRUS
621 FOREST PARK BEND
SAINT AUGUSTINE, FL 32092

130-029-100-044-00
MILLER, ROGER & BARBARA LIVING TRUS
621 FOREST PARK BEND
SAINT AUGUSTINE, FL 32092

130-029-100-043-00
MILLER, ROGER & BARBARA LIVING TRUS
621 FOREST PARK BEND
SAINT AUGUSTINE, FL 32092

130-029-100-042-00
WENTWORTH, MARK A, TTEE 1/2 INT &
PO BOX 315
TOPINABEE, MI 49791

130-029-100-040-00
RAY, GREGORY SCOTT; LAURIE L
725 LANTERN POST CT
MILFORD, OH 45150

130-029-100-029-01
MEISSEN, STEVEN M & TABITHA H/W
PO BOX 118
TOPINABEE, MI 49791

130-029-100-028-01
HEINS, PAYTON
PO BOX 143
TOPINABEE, MI 49791

130-029-100-028-02
GARRISON, GAIL L/EWPTS; DONNA
PO BOX 124
TOPINABEE, MI 49791

130-T35-000-001-00
CURRY, KENNETH C & LYNN M H/W
7934 TIMBER RIDGE WAY
BLANCHARD, MI 49310

130-029-100-041-00
RAY, DONALD W
725 LANTERN POST CT
MILFORD, OH 45150

130-029-100-039-00
KOHLER, ELLEN A & ELLEN MARIE JONES
5464 HOLLOW CORNERS
DRYDEN, MI 48428

130-029-100-038-00
SLANEC, DAN & LAUREN H/W L/EWPTS;
PO BOX 333
TOPINABEE, MI 49791

130-029-100-037-00
MAKOWSKI, LAURA
PO BOX 545
TOPINABEE, MI 49791

130-029-107-066-01
HAAS, CHRISTINE URTON
4648 OAK TREE CT
BRIGHTON, MI 48116



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 approval of a 17 ft. waterfront setback variance to place a private storage building (shed) onto a vacant waterfront property zoned Lake and Stream Protection (P-LS), per Section 17.23.1.g. of the Zoning Ordinance.	Prepared by: Jennifer Merk
Date: May 21, 2020	Expected Meeting Date: May 27, 2020

GENERAL INFORMATION

Applicant(s): Laura and Jason Mayer

Owner(s): same

Phone: 231-342-4072 and 231-622-9865

Property Address: 1988 Lake Shore Drive, Topinabee, MI 49791

Requested Action: The applicant requests approval of a 17 ft. waterfront setback variance to place a private storage building (shed) onto a vacant waterfront property zoned Lake and Stream Protection (P-LS), per Section 17.23.1.g. of the Zoning Ordinance that indicates, in part, that a minimum 50 ft. setback from the water's edge for private storage buildings in the P-LS zoning districts.

BACKGROUND INFORMATION

The subject property is .04 acres (1,742.4 square feet), is zoned Lake and Stream Protection (P-LS) and located at 1988 Lake Shore Drive in Mullett Township along Mullett Lake. The subject property's dimensions are approximately 25 feet wide by approximately 70 feet long (1,750 square feet) according to the legal description and measurements taken of the subject parcel using the County's Geographic Information System (GIS) mapping program. The applicants have indicated that they do not have a boundary survey of the subject property.

The subject property does not meet the minimum lot size for width (100 feet), area (15,000 square feet) and lake frontage (100 feet) required for properties in the P-LS zoning district per Section 17.1; however, the subject property is a nonconforming lot of record.

Property tax card records, beginning in 1967, show the subject property (parcel no. 130-029-100-037-00) has the identical legal description then as it does today.

The applicant currently uses the subject property as a “day-use lot” and for placement or storage of a retractable dock. The applicant is proposing to place a pre-built shed (9 feet by 15 feet; 135 square feet) on the small lot of record. The proposed shed will be 5 feet from the side lot lines, 5 feet from the private road (Lake Shore Drive) and 33 feet from the water’s edge. Section 17.23.1.g. of the Zoning Ordinance states: “*In the P-LS district, all private storage buildings must meet a minimum setback from the water’s edge of 50 feet and must meet all other applicable setbacks for the zoning district in which located.*”

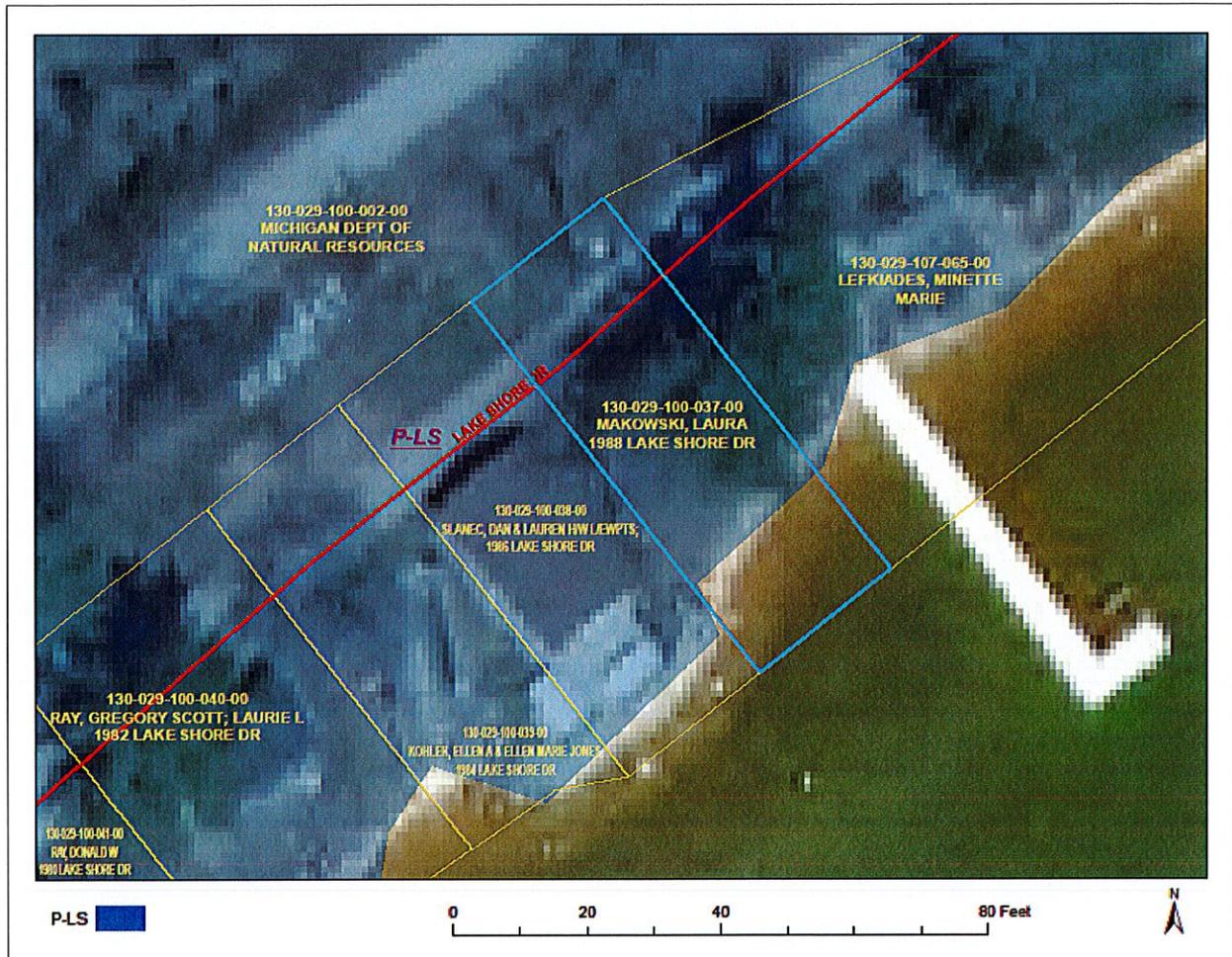


Figure 1. Location and zoning of subject property (highlighted in light blue) 1988 Lake Shore Drive, Mullett Twp.

Surrounding Zoning:

North: Lake and Stream Protection (P-LS)

East: P-LS

South: none - Mullett Lake

West: P-LS

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS
Wednesday, May 27, 2020 at 7:00 PM
Room 135 – Commissioners Room
Cheboygan County Building, 870 S. Main St., Cheboygan, MI 49721

Applicant:

Laura and Jason Mayer
1705 Portage Street
Topinabee, MI 49791

Owner:

Same

Parcel: 130-029-100-037-00

General Findings:

1. The subject property is .04 acres (approximately 1,750 square feet) and located at 1988 Lake Shore Drive in Mullett Township along Mullett Lake.
2. The subject property is zoned Lake and Stream Protection (P-LS).
3. The subject property's dimensions are approximately 25 feet wide by approximately 70 feet long (1,750 square feet) according to the legal description and measurements taken of the parcel using the County's Geographic Information System (GIS) mapping program.
4. The property does not meet the minimum lot size for width (100 feet), area (15,000 square feet) and lake frontage (100 feet) required for properties in the P-LS zoning district per Section 17.1 of the Zoning Ordinance.
5. The current legal description for the subject property (parcel no. 130-029-100-037-00) matches the legal description indicated on the aforementioned parcel's property tax card record that was generated in 1967; therefore, the subject property is a nonconforming lot of record.
6. The applicant is proposing to place a pre-built shed 9 feet by 15 feet; (135 square feet) on the subject property.
7. The proposed private storage building (shed) will be 5 feet from the side lot lines, 5 feet from the private road (Lake Shore Drive) and 33 feet from the water's edge.
8. Section 17.23.1.g. of the Zoning Ordinance states: "In the P-LS district, all private storage buildings must meet a minimum setback from the water's edge of 50 feet and must meet all other applicable setbacks for the zoning district in which located."
9. The applicant requests a 17 foot setback variance to place a private storage building (shed) onto their vacant waterfront property 33 feet from the water's edge.

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 only .04 acres (approximately 1,750 square feet).
 - 2. The subject property's dimensions are approximately 25 feet wide by approximately 70 feet long (1,750 square feet) according to the legal description and measurements taken of the parcel using the County's Geographic Information System (GIS) mapping program.

This standard has been met.

- B. The physical conditions of the property which support denying the variance are as follows:
 - 1. None identified.

This standard has not been met.

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 which have occurred which support granting the variance which were not caused by the applicant:
 - 1. The subject property located at 1988 Lake Shore Drive in Mullett Township is a small parcel of .04 acres (approximately 1,750 square feet) with dimensions of approximately 25 feet wide by 70 feet long according to the legal description and measurements taken of the subject parcel using the County's Geographic Information Systems (GIS) mapping program. The subject property is a nonconforming lot of record. The adoption of the Zoning Ordinance created the practical difficulty.
 - 2. The subject property does not meet the minimum lot size for width (100 feet), area (15,000 square feet) and lake frontage (100 feet) required for properties in the P-LS zoning district, per Section 17.1.

This standard has been met.

- B. Actions which the applicant has taken that results in the request for the variance and therefore requires denial of the variance:

1. The applicant is proposing to place a pre-built shed (9 feet by 15 feet; 135 square feet) on the subject property within 33 feet of the water's edge (where a minimum of 50 feet is required).

This standard has been met.

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. Strict compliance with the required minimum setback of 50 feet from the water's edge for private storage buildings on vacant property in the P-LS zoning district would result in the applicants' inability to place a shed as proposed on the subject property because a zoning permit cannot be approved without a dimensional variance.

This standard has been met.

- B. Factors that show no adverse effects caused by the zoning regulation conditions:
 1. Strict compliance with the zoning regulations would allow the applicants to continue using the subject property as a "day-use lot" and for placement or storage of their retractable dock.

This standard has not been met.

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. The subject property is a small parcel of .04 acres (approximately 1,750 square feet) with dimensions of approximately 25 feet wide by 70 feet long according to the legal description and measurements taken of the subject parcel using the County's Geographic Information Systems (GIS) mapping program.
 2. The applicant is proposing to place a private storage building (shed) (9 feet by 15 feet; 135 square feet) 5 feet from the side lot lines, 5 feet from the private road (Lake Shore Drive) and 33 feet from the water's edge. The variance request of 17 feet from the required minimum 50 feet from the water's edge for private storage buildings is the

minimum variance request possible for the shed as proposed and given the constraints presented by the small, narrow parcel.

This standard has been met.

- B. Factors that show the variance requested is more than needed and/or would infringe upon the rights of surrounding property owners:
 - 1. None identified.

This standard has not been met.

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. It would appear that granting the 17 foot setback variance to place a private storage building (shed) within 33 feet of the water's edge would not result in unfavorable impacts on surrounding properties, neighborhood or zoning district due in large part due to the existence of a number of structures placed in similar locations within the required minimum 50 foot waterfront setback on nearby waterfront properties, so it is suggested that the variance would not adversely impact the neighborhood or zoning district.

This standard has been met.

- B. Factors that show how granting the variance would adversely impact the neighborhood or zoning district.
 - 1. None identified.

This standard has been met.

DECISION

TIME PERIOD FOR JUDICIAL REVIEW

MCLA 125.3606 provides that a person having an interest affected by the zoning ordinance may appeal a decision of the Zoning Board of Appeals to the Circuit Court. Any appeal must be filed within thirty (30) days after the Zoning Board of Appeals certifies this Decision in writing or approves the minutes of its decision.

DATE DECISION AND ORDER ADOPTED

Wednesday, May 27, 2020

Charles Freese, Chairperson

John Thompson, Secretary

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

Thomas Finch/Jason Campbell

Exhibit List

1. Cheboygan County Zoning Ordinance
2. Cheboygan County Master Plan
3. Dimensional Variance Application (2 Pages)
4. Use Variance Application (2 Pages)
5. Site Plan (1 Page)
6. Elevation View of Project Area (1 Page)
7. Property Sketch (1 Page)
8. Partial Topographic Survey (1 Page)
9. Photographs of the slope to Pigeon River on the subject property (3 photographs)
10. Email from Patrick Ertel dated January 22, 2020.
11. Cheboygan County Future Land Map (cropped to the general area of the subject property) and Legend (2 Pages)
12. Mailing List (2 Pages)
13. Staff Report (13 Pages)
- 14.
- 15.
- 16.
- 17.
- 18.
- 19.
- 20.

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

**CHEBOYGAN COUNTY
PLANNING & ZONING DEPT.**
870 SOUTH MAIN ST., PO BOX 70
CHEBOYGAN, MI 49721
(231) 627-8489 (TELEPHONE)
(231) 627-3646 (FAX)

DIMENSIONAL VARIANCE APPLICATION

\$110.00 APPLICATION FEE

RECEIPT #:	\$110.00 7180
CASH/CHECK:	1152
ACTION /DATE:	

PLEASE PRINT

PROPERTY LOCATION

Address 3248 BEAR PAW RIDGE	City / Village INDIAN RIVER	Township / Sec. T35N 15, 22	Zoning District P-NR
Property Tax I.D. (Parcel) Number 171-022-201-010-00		Subdivision or Condo. Name / Plat or Lot No.	

APPLICANT

Name THOMAS FINCH	Telephone 231-445-2893	Fax _____	
Address 8001 BRUDY RD	City & State WOLVERINE MI	Zip Code 49799	E-Mail tfinch371@kmsmail.com

OWNER (If different from applicant)

Name JASON CAMPBELL	Telephone 231-420-1963	Fax _____	
Address 3833 QUINCY RD	City & State AFTON MI	Zip Code 49705	

Detailed directions to site, including nearest crossroad:

M-33 South to HACKETT RD to East MULET LK RD. TURN
LEFT go to SILER RD TURN LEFT TAKE to BEAR PAW RIDGE
PRIVATE DR. TURN RIGHT TAKE ALL THE WAY TO THE END.

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: VACANT LAND
- 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.

Will be building A NEW HOME CONTINGENT ON A VARIANCE OF 3'
from 100' vegetation strip from mainstream per section 11.6.21
to get work done to PROTECT SERIOUS EROSION INTO RIVER AS WELL
as get a FILTERED VIEW OF THE RIVER AS ALLOWED WITH A VARIANCE

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 BLUFF IS VERY STEEP. IT IS PURE SAND WITH A BAD EROSION PROBLEM.
NO GUARANTEED WAY TO DEAL WITH THESE ISSUES WITHOUT
REMOVING SOME OF THE SAND FROM THE TOP.

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

THIS PROBLEM IS CAUSED FROM NATURAL EROSION OF
THE RIVER.

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

ACCESS TO RIVER, VIEWS OF RIVER, DEALING WITH PROTECTING
BANK FROM WASHING INTO RIVER

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.

WE ARE ONLY ASKING FOR MINIMUM NEEDED TO DEAL
WITH ALL THE ISSUES, VERY HARD TO MEASURE, USING A WHEEL
IT MEASURES 97' FROM RIVER

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.

THIS VARIANCE WOULD HAVE POSITIVE IMPACTS FOR ADJOINING PROPERTY
OWNERS, BY CONTROLLING THE TONS OF SAND PER YEAR WASHING INTO
THE RIVER, AS WELL AS WASHING OUT ADJOINING OWNERS BANKS.

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 Jason Campbell Date 2-15-20

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 Tom Finck Date 2-15-20

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

USE VARIANCE APPLICATION

\$110.00 APPLICATION FEE

RECEIPT #:	
CASH/CHECK:	
ACTION / DATE:	

PLEASE PRINT

PROPERTY LOCATION

Address 3248 BEAR PAW RIDGE		City / Village	Township / Sec. T35 ^N / 15/22	Zoning District A-NR
Property Tax I.D. (Parcel) Number 171-022-201-010-00		Subdivision or Condo. Name / Plat or Lot No.		

APPLICANT

Name THOMAS FINCH		Telephone 231-445-2893	Fax	
Address 8001 BRUDY RD		City & State Wolverine mi	Zip Code 49799	E-Mail

OWNER (If different from applicant)

Name JASON CAMPBELL		Telephone 231-420-1963	Fax	
Address 3833 QUINCY RD		City & State AFTON mi	Zip Code 49705	

Detailed directions to site, including nearest crossroad:

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: VACANT LAND
- D. A previous appeal has has no (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.

Will be building NEW HOME NEED 3' VARIANCE FROM
100' VEGETATION STRIP FROM MAIN STREAM TO PROTECT SERIOUS EROSION
INTO RIVER AND LOSS OF HILLSIDE.

2. Where owing to special conditions, a literal enforcement of the provisions of this Ordinance would involve practical difficulties or cause unnecessary hardships within the meaning of this Ordinance, the Board shall have power upon appeal in specific cases to authorize such variation or modification as may be in harmony with the spirit of this Ordinance, will assure that public health, safety and welfare is secured and substantial justice done. No such variance for the use provisions of this Ordinance shall be granted unless all of the following facts and conditions exist. All use variance decisions made by the Zoning Board of Appeals are based on the following five (5) standards of the Cheboygan County Zoning Ordinance. Please explain how the request meets each standard.

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

THE BLUFF IS VERY STEEP. PURE SAND WITH A SERIOUS
EROSION PROBLEM, NEED TO REMOVE PART OF HILL TOP TO DEAL
WITH EROSION PROBLEMS.

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

THIS PROBLEM IS CAUSED BY NATURAL EROSION OF RIVER

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

ACCESS TO RIVER, VIEWS OF RIVER, DEALING WITH
PROTECTING BANK FROM ERODING.

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

WE ARE ONLY ASKING FOR MINIMUM NEEDED TO DEAL WITH
ALL THE ISSUES

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

THIS VARIANCE WOULD HAVE POSITIVE IMPACTS FOR THE RIVER,
HILLSIDE, ~~ADJOINING~~ ADJOINING PROPERTY OWNERS, AND THIS OWNERS PROPERTY.

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

Jason Campbell

Date

5-12-20

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.

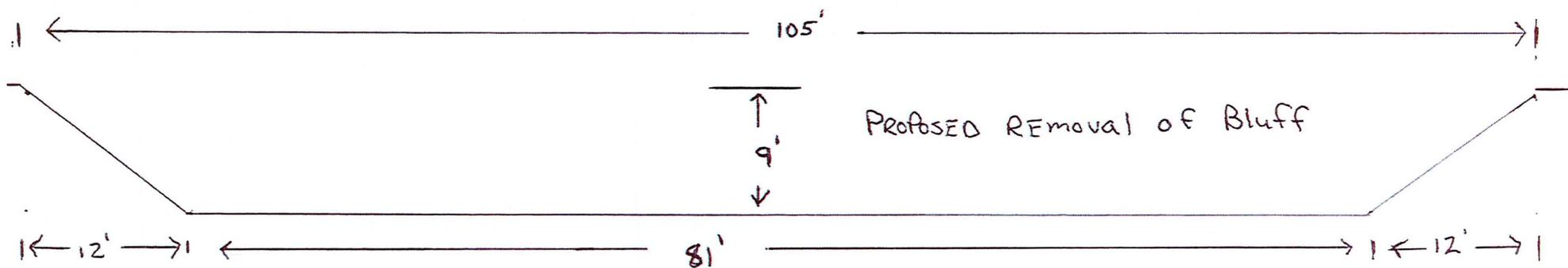
Applicant's Signature

Tom Fink

Date

5-12-20





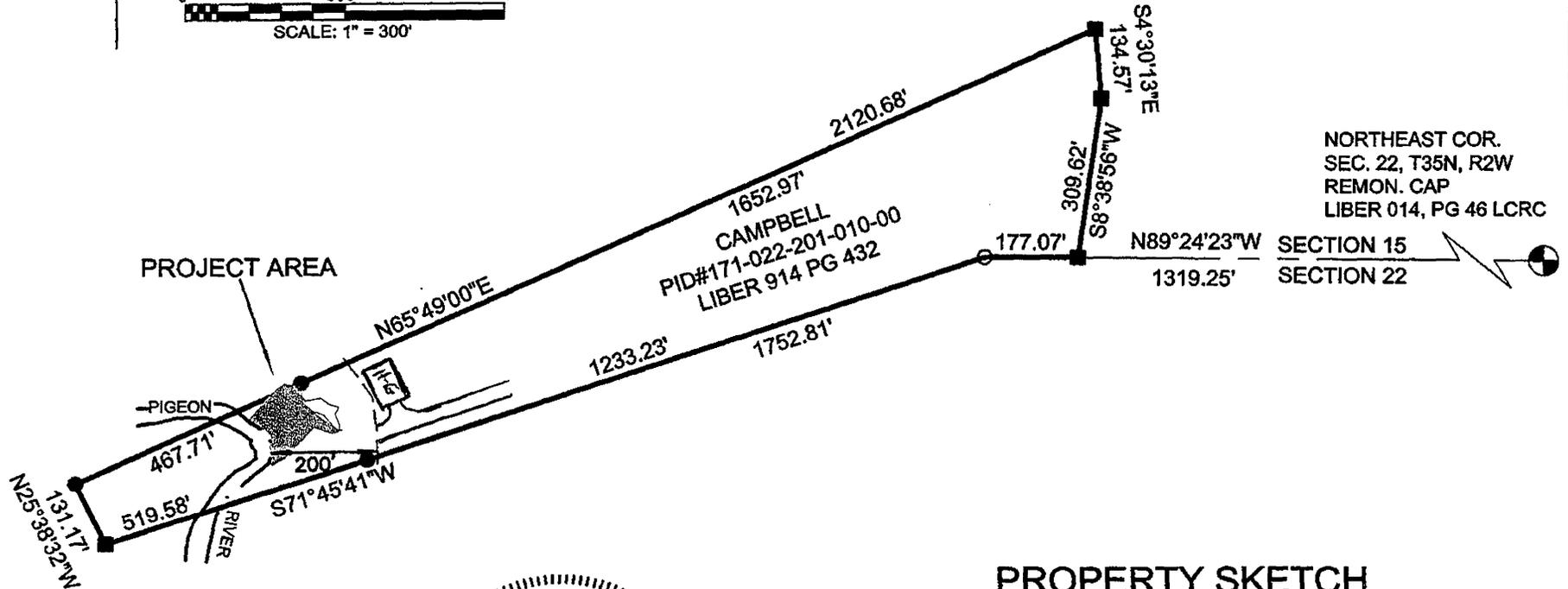
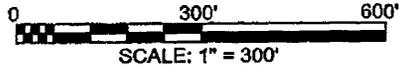
(Planting of NATURAL VEGETATION to PROTECT RIVER FRONTAGE)
W/ POSSIBLE STONE AT BOTTOM OR STEEL

PROJECT AREA TO DEAL WITH EROSION

OWNER: JASON CAMPBELL
3248 BEAR PAW RIDGE
INDIAN RIVER, MI 49749



- GOVERNMENT CORNER
- 1/2" BAR & CAP#41099
- IRON PIPE
- IRON BAR



AUGUST 19, 2019

PROPERTY SKETCH

PARCEL No. 171-022-201-010-00
PART of SEC 15 & 22, T35N, R2W, KOEHLER TOWNSHIP
CHEBOYGAN COUNTY, MICHIGAN

SEC. 15/22, T35N, R2W
FB: CS15

DRAWN: BKF
CHECK: BKF

PROJECT NO.
19-053S

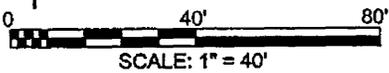


FULLFORD SURVEYING & MAPPING, P.C.

PO BOX 969
5097 S. STRAITS HIGHWAY, SUITE A
INDIAN RIVER, MI 49749
PHONE: 231-238-9199 FAX: 231-238-9195

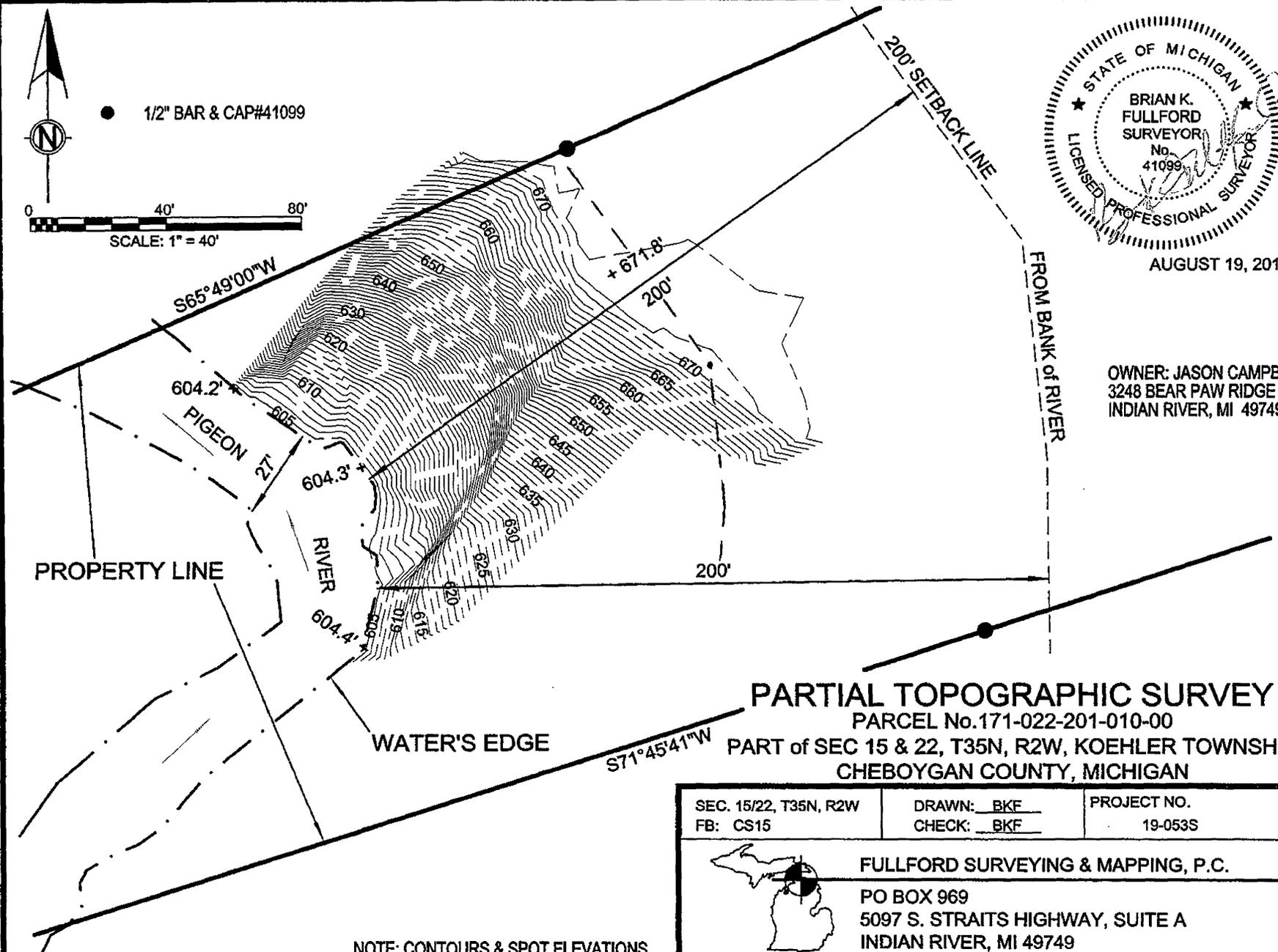


● 1/2" BAR & CAP#41099



AUGUST 19, 2019

OWNER: JASON CAMPBELL
3248 BEAR PAW RIDGE
INDIAN RIVER, MI 49749



PARTIAL TOPOGRAPHIC SURVEY

PARCEL No.171-022-201-010-00
PART of SEC 15 & 22, T35N, R2W, KOEHLER TOWNSHIP
CHEBOYGAN COUNTY, MICHIGAN

SEC. 15/22, T35N, R2W FB: CS15	DRAWN: <u>BKF</u> CHECK: <u>BKF</u>	PROJECT NO. 19-053S
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FULLFORD SURVEYING & MAPPING, P.C.
PO BOX 969
5097 S. STRAITS HIGHWAY, SUITE A
INDIAN RIVER, MI 49749
PHONE: 231-238-9199 FAX: 231-238-9195

NOTE: CONTOURS & SPOT ELEVATIONS
SHOWN ARE REFERENCED TO NAVD 1988.







Deborah Tomlinson

From: Jennifer Merk
Sent: Thursday, May 21, 2020 1:39 PM
To: Deborah Tomlinson
Subject: FW: Potential project in P-NR

Importance: High

Patrick Ertel/DNR email for Finch/Campbell exhibit list.

Jennifer Merk/Planner
Cheboygan County Planning & Zoning
Phone: (231) 627-8475
Fax: (231) 627-3646
jmerk@cheboygancounty.net

From: Ertel, Patrick (DNR) [<mailto:ErtelP@michigan.gov>]
Sent: Wednesday, January 22, 2020 5:44 PM
To: Jennifer Merk
Subject: RE: Potential project in P-NR

Thank you Ms. Merk,

Though I appreciate the landowner's creativity in attempting to conform with the building setback standard, this application, if in State-administered waters, would absolutely be a variance request. This would go before my zoning review board for two variances: land alteration and destruction of the vegetation buffer.

To start, I would need to better understand what the practical difficulty is that prevents the landowner from adhering to the rules.

This proposal would violate our "Land Alteration" clause under Rule 7 (2)(a) which states: "Land alteration shall not occur within the natural vegetation strip, except placement of wood chips for a foot path as provided in R 281.53, on the face or crest of a bluff, in a wetland, in a floodplain, or below the ordinary high-water mark of the river unless associated with bank stabilization or fisheries habitat improvement activities."

Additionally, in order to conduct the earth-moving, this landowner would also be destroying all vegetation within the 100ft vegetation buffer. Though a minor amount of trimming can occur in the vegetation buffer, all of the vegetation within 100ft of the ordinary high water mark is protected.

At its core, the Natural Rivers Program aims to balance human use with a wildlife corridor that parallels the designated river. Human actions should complement the natural values of the river. This proposal is in direct conflict with that.

While conducting my site visit I would also look to see if both adjacent properties have legal non-conforming homes. If each adjacent parcel has a legal non-conforming home within 150ft of the proposed home, I could work with the applicant to reduce the setback to the further of the two adjacent legal non-conforming houses. This is a very rare occurrence.

The described angle of the bank also meets our definition of a bluff, which carries a separate 50ft building setback from the top of the bluff.

I hope this quick review is helpful. Please feel free to send me any additional questions.

Thanks

Patrick

From: Jennifer Merk <jmerk@cheboygancounty.net>

Sent: Wednesday, January 22, 2020 4:47 PM

To: Ertel, Patrick (DNR) <ErtelP@michigan.gov>

Subject: Potential project in P-NR

Importance: High

Patrick Ertel,

I've attached some materials to this email regarding a potential soil erosion and zoning permit in Natural River Protection zoning district (P-NR). While I have found sections of the Zoning Ordinance prohibiting the full scope of the project, we are wondering how you would review it.

The property is located at 3248 Bear Paw Ridge in Indian River. The property owner would like to build a house in the P-NR but wants to view the river which he will not be able to see due to the 200 ft. setback from water's edge and the large slope leading to the Pigeon River. The property owner would like to remove the slope leading down to the river which is illustrated in the attached drawings.

Thank you,

Jennifer Merk/Planner

Cheboygan County Planning & Zoning

Phone: (231) 627-8475

Fax: (231) 627-3646

jmerk@cheboygancounty.net

Cheboygan County

-  Rural Commercial Node
-  UAW
-  Black Mtn Lodge
-  Twin Lakes Rd
-  Bluffs
-  Viau Rd
-  Dense Development
-  Forest/Agricultural
-  General Commercial
-  Commercial-Office Research
-  General Industrial
-  Light Industrial
-  Lake_Stream Residential
-  Natural Resource Protection
-  Public Interest Land
-  Residential
-  Rural Character/Country Living
-  Village Center

171-022-201-010-00
OCCUPANT
3248 BEAR PAW RIDGE
INDIAN RIVER, MI, 49749

171-015-414-140-00
OCCUPANT
2960 SILERY RD
INDIAN RIVER, MI, 49749

171-015-316-160-00
OCCUPANT
3193 BEAR PAW RIDGE
INDIAN RIVER, MI, 49749

171-015-316-157-00
OCCUPANT
3154 BEAR PAW RIDGE
INDIAN RIVER, MI, 49749

171-022-104-040-00
OCCUPANT
3252 BIG SKY TRL
INDIAN RIVER, MI, 49749

171-015-411-110-00
SILER, THEODORE & KRISTA H/W,
1770 SILERY RD
INDIAN RIVER, MI 49749

171-015-414-140-00
GAGNON, JAMES & DALE H/W
30341 SCHOOL SECTION ROAD
RICHMOND, MI 48062

171-022-200-001-00
STATE OF MICHIGAN
PO BOX 30448
LANSING, MI 48909

171-022-201-010-00
CAMPBELL, JASON
3833 QUINCY RD
AFTON, MI 49705

171-022-202-012-00
MARKS, GEORGE JR
1534 SILERY RD
INDIAN RIVER, MI 49749

171-022-203-030-01
PUTNAM, MICHAEL J & MARLA J HARVEY,
6901 POMEROY RD
PARMA, MI 49269

171-022-203-030-01
PUTNAM, MICHAEL J & MARLA J HARVEY,
6901 POMEROY RD
PARMA, MI 49269

171-022-203-030-02
PUTNAM, MICHAEL J & MARLA J HARVEY,
6901 POMEROY RD
PARMA, MI 49269

171-015-316-160-00
METCALF, JAMES & KARA LAKIES
11183 NORTH OAK ROAD
OTISVILLE, MI 48463

171-015-316-157-00
NORI, JOHN & DIALA H/W
1188 ROCHELLE PARK DR
ROCHESTER HILLS, MI 48309

171-022-102-020-00
PUNKIN PROPERTIES, LLC
12377 RAY RD
ORTONVILLE, MI 48462

171-022-103-021-00
SMITH, MURRAY E JR
PO BOX 332
IRON MOUNTAIN, MI 49801-0325

171-022-104-040-00
VALENTE, JAMES & KEVIN WELSH
12377 RAY RD
ORTONVILLE, MI 48462

171-022-107-070-00
MARKS, GEORGE L JR
1534 SILERY RD
INDIAN RIVER, MI 49749



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 AND USE VARIANCE STAFF REPORT

Items:

1. Requests approval of a 3 ft. setback variance to remove soil in an area beginning 97 feet from the ordinary high water mark along the mainstream of the Pigeon River on a property zoned Natural River Protection (P-NR), per Section 11.5.2 of the Zoning Ordinance; and
2. Requests approval of a use variance, per Section 11.9.4 to perform land alterations for viewshed enhancement and erosion mitigation and protection purposes.

Prepared by: Jennifer Merk

Date:
May 21, 2020

Expected Meeting Date:
May 27, 2020

GENERAL INFORMATION

Applicant(s): Thomas Finch

Owner(s): Jason Campbell

Phone: 231-445-2893

Property Address: 3248 Bear Paw Ridge, Indian River, MI 49749

Requested Actions: The applicant requests approval of a 3 ft. setback variance to remove soil in an area beginning 97 feet from the ordinary high water mark along the mainstream of the Pigeon River on a property zoned Natural River Protection (P-NR) and Agriculture and Forestry Management (M-AF); however, the project site is entirely within the P-NR zoning district. Per Section 11.5.2 of the Zoning Ordinance, a vegetation strip shall be maintained on each side of the stream to a distance of 100 feet along the mainstrems (in this case along the Pigeon River).

The applicant also requests approval of a use variance, per Section 11.9.4 to perform land alterations for viewshed enhancement and erosion mitigation and protection purposes. Section 11.9.4 states in part, that land alteration for building such as grading, dredging and filling of the land outside of the natural vegetation strip is permitted.

BACKGROUND INFORMATION

The subject property is 12.67 acres and located at 3248 Bear Paw Ridge in Koehler Township. The mainstream of the Pigeon River flows through the westernmost portion of the property. The subject property is zoned Natural River Protection (P-NR) and Agriculture and Forestry Management (M-AF); however, the project site is entirely within the P-NR zoning district.

The applicant and owner plan to construct a single family home with a garage on the subject property 200 feet from the mainstream of the Pigeon River. The placement of the home complies with the minimum front setback requirements in Sections 17.1 and 11.3.1 of the Zoning Ordinance; but, plans for the home specifically include a walk-out basement facing the river with associated removal of topsoil beginning 97 feet from the ordinary high water mark of the Pigeon River up to the home's walk-out basement. Nine (9) vertical feet of topsoil is proposed for removal in an area of approximately 10,000 square feet of which three (3) feet is within the required 100 foot vegetation buffer. A property zoned P-NR must comply with Section 11.5.2 of the Zoning Ordinance that states: "*A vegetation strip shall be maintained on each side of the stream to a distance of 100 feet along the mainstreams and 75 feet along tributaries.*"

Additionally, under Section 11.9.4, land alteration is permitted for building, such as grading, dredging and filling of the land surface outside of the natural vegetation strip, but does not include activities such as soil removal for viewshed enhancement and erosion mitigation measures. Legal counsel determined the applicant and owner must apply for a use variance from Section 11.9.4. in order to alter the land outside of the natural vegetation strip for the purposes previously cited.

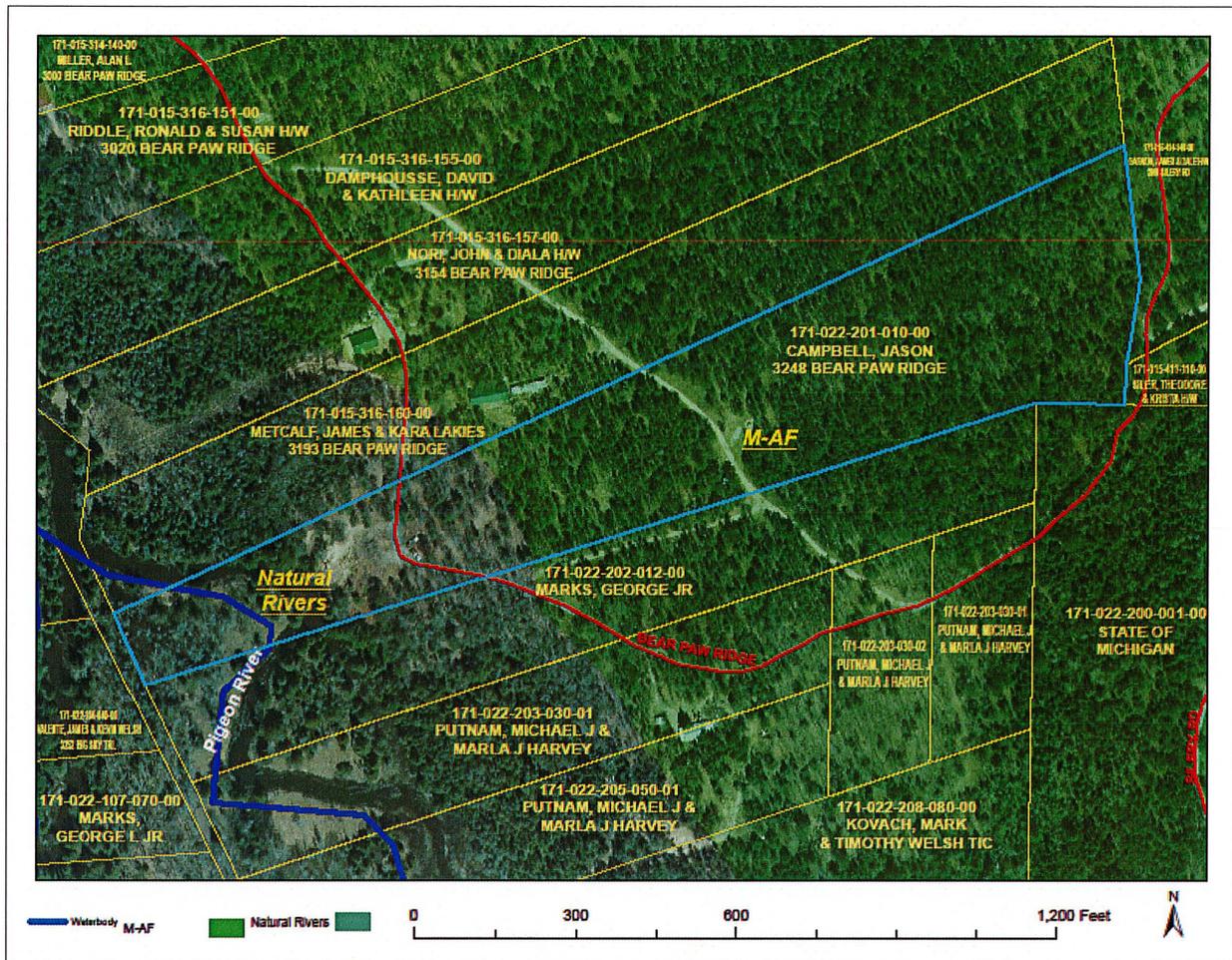


Figure 1. Location and zoning of subject property (highlighted in light blue) at 3248 Bear Paw Ridge, Koehler Twp.

Surrounding Zoning:

- North: Natural Rivers Protection (P-NR) and Agriculture and Forestry Management (M-AF)
- East: M-AF
- South: P-NR and M-AF
- West: P-NR

Surrounding Land Uses:

Large residential or vacant wooded properties define the surrounding area. The mainstream of the Pigeon River crosses through the western extent of the subject property and those adjacent properties north and south.

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

The Pigeon River crossing the westernmost portion of the subject property is deemed environmentally sensitive. Section 11.1.1 of the Zoning Ordinance states in part, “The Pigeon River has been designated as a wild-scenic river, under authority of Part 305 of the Natural Resources and Environmental Resources Protection Act, Public Act 451 of 1994, based on its water quality, resource and recreation values.”

According to the Michigan Department of Environment, Great Lakes and Energy’s (EGLE) Final Wetlands Inventory Database, wetlands may be present across the Pigeon River to the west. Also, steep slopes leading down to the Pigeon River are present on the subject property as presented in the Partial Topographic Survey (see Exhibits 8 and 9).

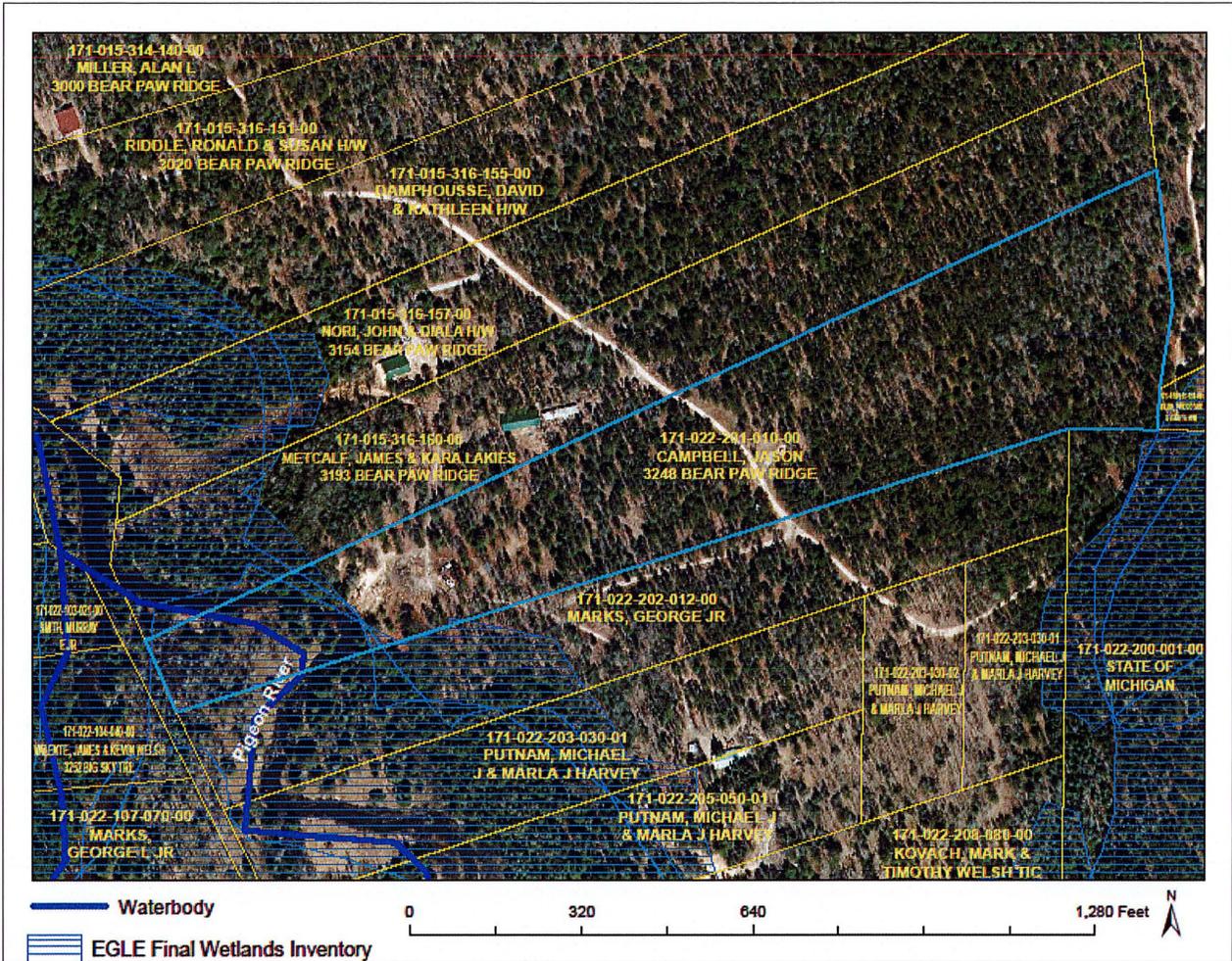


Figure 2. Location of subject property (highlighted in light blue) in relation to Pigeon River.

Public comments:

No public comments have been received as of this writing.

Agency review/comments:

Patrick Ertel, Resource Analyst for Michigan Department of Natural Resources, was contacted months ago about the potential project and stated concerns described in the email dated January 22, 2020 and attached as Exhibit 10.

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS
Wednesday, May 27, 2020 at 7:00 PM
Room 135 – Commissioners Room
Cheboygan County Building, 870 S. Main St., Cheboygan, MI 49721

Applicant:

Thomas Finch
8001 Brudy Road
Wolverine, MI 49799

Owner:

Jason Campbell
3833 Quincy Road
Afton, MI 49705

Parcel: 171-022-201-010-00

General Findings:

1. The subject property is 12.67 acres and located at 3248 Bear Paw Ridge in Koehler Township.
2. The mainstream of the Pigeon River flows through the westernmost portion of the property.
3. The western portion of the subject property is characterized by very steep slopes leading down to the Pigeon River and is cited in the variance applications as an erosion problem.
4. The subject property is located in a Natural River Protection (P-NR) and Agriculture and Forestry Management (M-AF) zoning districts; however, the proposed project site is entirely within the P-NR zoning district.
5. Per Section 11.1.1 (Natural River Protection District [P-NR]) of the Zoning Ordinance states in part, *“The Pigeon River has been designated as a wild-scenic river, under authority of part 305 of the Natural Resources and Environmental Resources Protection Act, Public Act 451 of 1994, based on its water quality, resource and recreation values.”*
6. The applicant and owner plan to construct a single-family home with a garage on the subject property 200 feet from the mainstream of the Pigeon River. The placement of the home complies with the front setback requirements in Sections 17.1 and 11.3.1 of the Zoning Ordinance. (see Exhibits 5, 6, 7, and 8)
7. Plans for the home specifically include a walk-out basement facing the river with associated removal of topsoil beginning 97 feet from the ordinary high water mark of the Pigeon River up to the walk-out basement. (see Exhibit 5)
8. The applicant is proposing to remove nine (9) vertical feet of topsoil in an area of approximately 10,000 square feet of which three (3) feet is within the required vegetation buffer of 100 feet from the Pigeon River. (see Exhibits 5 and 6)
9. Section 11.5.2 of the Zoning Ordinance states: *“A vegetation strip shall be maintained on each side of the stream to a distance of 100 feet along the mainstreams and 75 feet along tributaries.”*

10. Section 11.9.4 of the Zoning Ordinance states, in part: “*Land alteration for building such as grading, dredging and filling of the land surface outside of the natural vegetation strip is permitted.*”
11. The applicant requests a 3 ft. dimensional variance from the 100 ft. vegetation strip required along mainstreams, per Section 11.5.2 of the Zoning Ordinance for viewshed enhancement and erosion mitigation and protection measures.
12. The applicant also requests approval of a use variance, per Section 11.9.4 to perform land alterations for viewshed enhancement and erosion mitigation and protection purposes.

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 western portion of the subject property is characterized by very steep slopes leading down to the Pigeon River and is cited in the variance applications as exacerbating an erosion problem.

This standard has been met.

- B. The physical conditions of the property which support denying the variance are as follows:
 1. The mainstream of the Pigeon River flows through the westernmost portion of the property.
 2. Per Section 11.1.1 (Natural River Protection District [P-NR]) of the Zoning Ordinance states in part, “*The Pigeon River has been designated as a wild-scenic river, under authority of part 305 of the Natural Resources and Environmental Resources Protection Act, Public Act 451 of 1994, based on its water quality, resource and recreation values.*”

This standard has not been met.

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 which have occurred which support granting the variance which were not caused by the applicant:
1. The western portion of the subject property is characterized by very steep slopes leading down to the Pigeon River and is cited in the variance applications as exacerbating an erosion problem.
 2. Section 11.5.2 of the Zoning Ordinance states: “A vegetation strip shall be maintained on each side of the stream to a distance of *100 feet along the mainstreams* and 75 feet along tributaries.”

This standard has been met.

- B. Actions which the applicant has taken that results in the request for the variance and therefore requires denial of the variance:
1. The applicant and owner plan to construct a single-family home with a garage on the subject property 200 feet from the mainstream of the Pigeon River. Plans for the home specifically include a walk-out basement facing the river with associated removal of topsoil beginning 97 feet from the ordinary high water mark of the Pigeon River up to the walk-out basement.
 2. The applicant is proposing to remove nine (9) vertical feet of topsoil in an area of approximately 10,000 square feet of which three (3) feet is within the required vegetation buffer of 100 feet from the Pigeon River.

This standard has not been met.

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. Strict compliance with the required 100-ft. vegetation strip on a mainstream in the P-NR zoning district would not permit the applicant and owner to enhance the view to the river and employ/install erosion mitigation and protection measures as proposed.

This standard has been met.

B. Factors that show no adverse effects caused by the zoning regulation conditions:

1. The applicant could potentially construct the new dwelling on the subject property to provide for better views to the river by reconfiguring the building design.
2. Erosion mitigation and protection measures could be employed or installed without removing nine (9) vertical feet of topsoil in an area of approximately 10,000 square feet.

This standard has not been met.

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.

This standard has not been met.

B. Factors that show the variance requested is more than needed and/or would infringe upon the rights of surrounding property owners:

1. The applicant and owner could potentially construct the new dwelling on the subject property to provide better views to the river by reconfiguring the building design.
2. Erosion mitigation and protection measures could be employed/installed without removing nine (9) vertical feet of topsoil in an area of approximately 10,000 square feet.

This standard has not been met.

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. Granting the 3-ft. variance from the 100-ft vegetation strip required along mainstreams in P-NR would allow the removal of nine (9) vertical feet of topsoil in a

an area of approximately 10,000 square feet to enhance views to the river and employ/install erosion mitigation and protection measures thereby potentially mitigating erosion impacts to the subject property, surrounding properties and Pigeon River.

This standard has been met.

- B. Factors that show how granting the variance would adversely impact the neighborhood or zoning district.
 - 1. Granting the 3-ft. variance from the 100-ft vegetation strip required along mainstrems in P-NR would allow the removal of nine (9) vertical feet of topsoil in a an area of approximately 10,000 square feet to enhance views to the river and employ/install erosion mitigation and protection measures and would be setting precedent for additional projects such as this to go before the Zoning Board which in turn would have impacts on the main purpose of the zoning district described, in part, in Section 11.1.1. of the Zoning Ordinance as: *“The Natural Rivers Protection District is established to preserve, protect and enhance the unique and significant values, qualities and natural resources of the Pigeon River and Upper Black River and to provide measures to protect those invaluable natural assets in the interest of present and future generations.”*

This standard has not been met.

23.5.3. (Rev. 09/11/04, Amendment #36)

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

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

- A. The exceptional or extraordinary circumstances or conditions that support granting the use variance request are as follows:
 - 1. The western portion of the subject property is characterized by very steep slopes leading down to the Pigeon River and is cited in the variance applications as

exacerbating an erosion problem.

This standard has been met.

- B. The exceptional or extraordinary circumstances or conditions that support denying the use variance request are as follows:
1. The mainstream of the Pigeon River flows through the westernmost portion of the property.
 2. The subject property is located in a Natural River Protection (P-NR) and Agriculture and Forestry Management (M-AF) zoning district; however, the project site is entirely within the P-NR zoning district.
 3. Per Section 11.1.1 (Natural River Protection District [P-NR]) of the Zoning Ordinance states in part, “The Pigeon River has been designated as a wild-scenic river, under authority of part 305 of the Natural Resources and Environmental Resources Protection Act, Public Act 451 of 1994, based on its water quality, resource and recreation values.”
 4. The applicant and owner plan to construct a single-family home with a garage on the subject property 200 feet from the mainstream of the Pigeon River. Plans for the home specifically include a walk-out basement facing the river with associated removal of topsoil beginning 97 feet from the ordinary high water mark of the Pigeon River up to the walk-out basement. The applicant is proposing to remove nine (9) vertical feet of topsoil in an area of approximately 10,000 square feet of which three (3) feet is within the required vegetation buffer of 100 feet from the Pigeon River.

This standard has not been met.

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

- A. The factors that show the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the vicinity are as follows:
1. The western portion of the subject property is characterized by very steep slopes leading down to the Pigeon River and is cited in the variance applications as an erosion problem unique to this specific property.
 2. Land alterations for viewshed enhancement and erosion mitigation and protection purposes cannot take place without the use variance.

This standard has been met.

- B. The factors that show the variance is not necessary for the preservation and enjoyment of a substantial property right possessed by other property in the vicinity are as follows:

1. The applicant and owner could potentially construct the new dwelling on the subject property to provide better views to the river by reconfiguring the building design.
2. Erosion mitigation and protection measures could be installed without removing nine (9) vertical feet of topsoil in an area of approximately 10,000 square feet.
3. Generally, property owners do not have a right to a view unless it has been granted in writing by local ordinance.

This standard has not been met.

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

- A. Factors that show granting of the variance will only relate to the property under control of the appellant are as follows:
 1. The appellant is seeking the use variance for land alteration only for the property described in Exhibit 4.

This standard has been met.

- B. Factors that show granting of the variance will not only relate to the property under control of the appellant are as follows:

None identified.

This standard has not been met.

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

The Cheboygan County Master Plan Future Land Use Map identifies the subject property with two future land uses: Natural Resource Protection and Forest/Agricultural, though the project site on the subject property would only be within the Natural Resource Protection future land use category. (see Exhibits 2 and 11)

The following is an excerpt from the Cheboygan County Master Plan, the natural resource and water resource protection future land use category description:

The Natural Resource & Water Protection designation is intended to identify those areas of the County that have natural resources including water resources that would require special considerations when the land is used or developed. These natural features benefit the County by complementing its attractive rural setting and providing an economic resource derived from the recreational benefits residents and visitors seek to experience. These lands include conservation easements (although these cannot be mapped), areas designated as natural rivers and their tributaries, marsh areas, wetland areas, and

generally areas with severe building limitations. This category also includes large tracts of privately owned, undeveloped lands which contain unique or significant natural resources, and areas near prime fish breeding grounds. It is not the intent of this class to prevent the use and development of these lands, but to insure that development is done in a responsible manner with appropriate measures taken to protect the natural resource. This category includes areas like Cornwall Creek Flooding, Stoney Creek Flooding, the breeding grounds for game fish within Mullett Creek, and Dingman Marsh.

Appropriate uses for this area include low density or clustered residential, low-impact outdoor recreation, and some farming and forestry.

- A. Factors that show granting of the variance will not adversely affect the purposes or objectives of the Zoning Plan of the County as follows:
 - 1. Granting the use variance for land alteration within the P-NR zoning district on the subject property to remove nine (9) vertical feet of topsoil in an area of approximately 10,000 square feet to enhance views to the river and install erosion mitigation and protection measures would not adversely affect the purposes or objectives of the Zoning Plan of the County if development is done in a responsible manner with appropriate measures taken to protect the natural resource.

This standard has been met.

- B. Factors that show granting of the variance will adversely affect the purposes or objectives of the Zoning Plan of the County are as follows:
 - 1. Granting the use variance for land alteration within the P-NR zoning district on the subject property to remove nine (9) vertical feet of topsoil in an area of approximately 10,000 square feet to enhance views to the river and install erosion mitigation and protection measures would adversely affect the purposes or objectives of the Zoning Plan of the County if development is *not* done in a responsible manner with appropriate measures taken to protect the natural resource.

This standard has not been met.

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

- A. Factors that show granting of the variance or modification will not be materially detrimental to the public welfare or materially injurious to other property or improvements in the district are as follows:
 - 1. Granting the use variance for land alteration within the P-NR zoning district would allow the removal of nine (9) vertical feet of topsoil in an area of approximately 10,000 square feet to enhance views to the river and install erosion mitigation and protection measures. Doing so would not be materially detrimental to the public

welfare or materially injurious to other property or improvements in the district. The applicant has indicated that the request is due in part to enhance erosion mitigation.

This standard has been met.

B. Factors that show granting of the variance or modification will be materially detrimental to the public welfare or materially injurious to other property or improvements in the district are as follows:

1. Granting the use variance for land alteration within the P-NR zoning district would allow the removal of nine (9) vertical feet of topsoil in an area of approximately 10,000 square feet to enhance views to the river and install erosion mitigation and protection measures will be detrimental to the public welfare or materially injurious to other property improvements in the district if development is *not* done in a responsible manner with appropriate measures taken to protect the natural resource.

This standard has not been met.

DECISION

TIME PERIOD FOR JUDICIAL REVIEW

MCLA 125.3606 provides that a person having an interest affected by the zoning ordinance may appeal a decision of the Zoning Board of Appeals to the Circuit Court. Any appeal must be filed within thirty (30) days after the Zoning Board of Appeals certifies this Decision in writing or approves the minutes of its decision.

DATE DECISION AND ORDER ADOPTED

Wednesday, May 27, 2020

Charles Freese, Chairperson

John Thompson, Secretary