

**THE CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING  
SCHEDULED FOR WEDNESDAY, APRIL 22, 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 2020-48**

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, April 22, 2020** via telephone conferencing.

**The public may access the meeting by calling:**

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

**Access Code: 375-713-165**

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](http://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](mailto:jdmoorex1@netzero.com)
- Ralph Hemmer
- John Thompson, [buckeyeforever@hotmail.com](mailto:buckeyeforever@hotmail.com)
- Nini Sherwood, [Sherwood@sherwoodappraisalservice.com](mailto:Sherwood@sherwoodappraisalservice.com)
- Cheboygan County Director of Planning and Zoning – Michael Turisk  
[mturisk@cheboygancounty.net](mailto: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, April 22, 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.) **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.
- 2.) **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.
- 3.) **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.

### 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**  
**MONDAY, DECEMBER 30, 2019 AT 7:00PM**  
**ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING**

**Members Present:** Charles Freese, Ralph Hemmer, John Moore, John Thompson, Nini Sherwood

**Members Absent:** None

**Others Present:** Michael Turisk, Jen Merk, Carl Muscott, John Wallace, Ty LaPrairie, Lisa LaPrairie

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 October 23, 2019 Zoning Board of Appeals meeting were presented. **Motion** by Mr. Moore, seconded by Ms. Sherwood, to approve the minutes as presented. Motion carried unanimously.

**PUBLIC HEARING & ACTION ON REQUESTS**

**Omega Electric and Sign Company/Burt Lake Marina** – Requests a variance from section 17.19.8 of the Zoning Ordinance that indicates the maximum sign surface area is 80 sq.-ft. for freestanding signs in the Commercial Development (D-CM) zoning districts. The applicant proposes replacing the current freestanding sign with a new freestanding sign with 98 sq.-ft. of sign surface area. The property is zoned Commercial Development (D-CM) and located at 4879 S. Straits Hwy. in Tuscarora Township; Parcel No. 161-139-000-037-00; Section 25.

Ms. Merk reviewed information included in the staff report.

Mr. Freese asked the applicant if he has anything he wishes added to the information provided in the staff report. Mr. Freese asked Mr. LaPrairie what circumstances had instigated the requirements for the new sign. Mr. LaPrairie stated that the new sign is being required by Bombardier due to changes in their franchise requirements for dealer signage. Mr. LaPrairie stated that the sign had been ordered at a dealer meeting during which a special deal had been offered by Bombardier on new signage. The new signage is a requirement for meeting Bombardier’s conditions for platinum dealer status. Mr. Freese pointed out that the signage requirement form provided by Bombardier indicated there were three options available for four line dealers those being BT-DF-C-7 (99.75sf), MT-DF-P-7 (82.65sf) and MT-DF-S-7 (63sf). Mr. Freese asked Mr. LaPrairie whether he had elected to just purchase the sign or to have Bombardier furnish the sign along with ensuring compliance with all necessary permits, fees and engineering requirements. Mr. LaPrairie indicated that they were only purchasing the larger sign and they were handling the installation of this sign. Mr. Thompson stated that he had contacted a sign designer, Sign and Design, Inc. in Petoskey, and was told that their procedures for providing any sign requires that they ensure it is designed in compliance with all applicable zoning and regulatory requirements. Mr. LaPrairie stated that when they bought the sign they never thought it wouldn’t comply with zoning.

Mr. Freese asked for public comments.

Mr. Muscott stated that he feels the sign is a good looking sign and should be approved since it only marginally greater in size than allowed by the Zoning Ordinance. Mr. Muscott stated that such approval would be furthering the business opportunities within the County. Mr. Muscott stated that a sign variance had been requested for the proposed Meijer store but had not been approved by the Zoning Board of Appeals and such actions are significant detriment to commercial growth within the County.

Mr. Wallace stated he feels that this sign is a great improvement over the existing sign and the fact that it exceeds the sign limitations should not preclude its approval.

Public comment closed.

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

9. The applicant stated the products he wishes to advertise and sell are Ski-Doo, Sea Doo, Can-Am and Evinrude.
10. Bombardier Corporation offers three preapproved pylon style sign packages for dealers carrying four brands:
  1. BT-DF-C-7 (99.75sf)
  2. MT-DF-P-7 (82.65sf)
  3. MT-DF-S-7 (63sf)
11. Bombardier Corporation offers the signage package with installation which includes zoning compliance checks, zoning permits and engineering stamps, or supply only which places responsibility for zoning compliance, permits, engineering stamps and installation on the dealer.
12. The applicant chose to contract with an independent sign company and assumes responsibility for compliance with all regulatory standards and Bombardier Corporation signage requirements.
13. There are two other recreation vehicle dealers in Cheboygan County both of which have freestanding signs which are less than 80sf in surface area.
14. The original zoning sign application was signed September 12, 2019 and was disapproved on October 9, 2019 by the Planning and Zoning Department.

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

#### **UNFINISHED BUSINESS**

##### **Discussion Regarding Final Rules Of Procedure**

Mr. Moore asked if Section 10 would preclude discussions with staff or whether it only applies to discussions with the general public or the applicant. Mr. Freese stated that discussions with staff would not be subject to restrictions under Section 10, however, would apply to discussions with the applicant or any other members of the general public. Mr. Freese stated the wording of this section is directed by legal counsel and has been discussed with him on several occasions with a result that this wording is probably not open to further discussion. **Motion** by Mr. Freese, seconded by Mr. Moore, to approve the Zoning Board of Appeals Rules of Procedure with an effective date 30 days from the date of approval of the minutes. Motion carried unanimously.

#### **NEW BUSINESS**

Mr. Turisk stated that the draft Burt Township Master Plan is available for review. Mr. Turisk stated that the draft is open for public comment until February 6, 2020 and a public hearing will be held on February 12, 2020. Mr. Turisk stated that the draft Burt Township Master Plan is available on the Burt Township website.

#### **ZBA COMMENTS**

No comments.

#### **PUBLIC COMMENTS**

Mr. Muscott stated that zoning is hindering commercial development in Cheboygan County.

Mr. Wallace stated this has been a difficult decision for the Zoning Board of Appeals to make and feels that a review of the sign regulation would be appropriate with a view towards relaxation of size limitations.

Mrs. LaPrairie stated she felt that Mr. Freese should have recused himself from this matter since he was obviously prejudiced against this application as evidenced by the facts he presented which were not in favor of granting the variance. Mrs. LaPrairie stated that there was a lack of cooperation and they had paid for the variance application and she felt that it should have been approved.

#### **ADJOURN**

**Motion** by Mr. Hemmer to adjourn. Motion carried. Meeting adjourned at 8:30pm.

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John Thompson, Secretary

# CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

Mike Bommarito

## Exhibit List

1. Cheboygan County Zoning Ordinance
2. Cheboygan County Master Plan
3. Variance Application (5 Pages)
4. Mailing List (3 Pages)
5. Staff Report (7 Pages)
6. 2014 Dimensional Variance Application (Greg Elliott/parcel no. 130-G01-000-014-00) (5 Pages)
7. Dimensional Variance Staff Report (Greg Elliott/parcel no. 130-G01-000-014-00) (2 Pages)
8. ZBA Meeting Minutes for Wednesday, October 22, 2014 re: Greg Elliott and Christopher Sangster (3 Pages)
- 9.
- 10.
- 11.
- 12.

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 #:	7175
CASH/CHECK:	CC
ACTION / DATE:	

**PLEASE PRINT**

**PROPERTY LOCATION**

Address 2167 Grand Resort Circle	City / Village Cheboygan	Township / Sec. Mullett, 03	Zoning District  P-LS
Property Tax I.D. (Parcel) Number 16-130-G01-000-014-00	Subdivision or Condo. Name / Plat or Lot No. Grand Resort		

**APPLICANT**

Name Mike Bommarito	Telephone 810-569-0073	Fax n/a	
Address 6453 Morrish Rd.	City & State Swartz Creek, MI	Zip Code 48473	E-Mail mike.bommarito@ymail.com

**OWNER (If different from applicant)**

Name SAME	Telephone	Fax	
Address	City & State	Zip Code	

Detailed directions to site, including nearest crossroad:

Grand Resort Condominiums is 8 minutes South of Cheboygan off of M-27/Straits Hwy. The Grand Resort sign is on the right side of the highway. Turn left (East) onto Birchwood Drive and the resort is in front of you with the parking lot entrance on the left.

**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 Grand Resort Condominiums
- C. Present use of the property is: Vacant / Was previously a summer vacation home.
- D. A previous appeal has ~~been~~ 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 10/22/14, nature of action requested same request and the decision Approved *(setback variance)*
- E. Attach a site plan drawn per the attached directions.

*Please see attached.*

**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. Old cottage structure was deteriorated past repair due to it's old age, so was demolished in 2019. We are planning on re-building within the same footprint. Proposed building 14 ft. from the creek. Section 10.4.9 in the P-LS zoning requires a 40 ft. setback from the creek. Requesting a 26 ft. variance from sec. 10.4.9.
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 property is within 9.5 feet of the small creek behind the property. It is a zoning issue (P-LS, section 10.4.9). Asking for a variance to rebuild within the same footprint.
- b. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created). The request for variance to rebuild is due to how deteriorated the old cottage was. Nothing was self-created.
- c. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome We are rebuilding within the same footprint of the old existing cottage, so nothing should change regarding restrictions or intended use of the property. Without the setback variance to rebuild, the property would not be able to be used for it's intended purpose as it is required to rebuild within the existing footprint in the resort.
- 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. Request for variance is strictly to rebuild within the same footprint. We are planning on building 14 ft. from the creek, further away from the creek than the previous structure, but still within the previous structure's footprint.
- 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 request for variance will improve the property value as well as the property values of the surrounding properties.

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

Owner's Signature *Michelle Bonnard* Date 2/25/2020

**AFFADAVIT**

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 *Michelle Bonnard* Date 2/25/2020

**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:

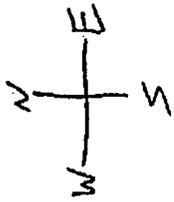
Front: \_\_\_\_\_ Rear: \_\_\_\_\_ Side: \_\_\_\_\_ Side: \_\_\_\_\_

Zoning District:

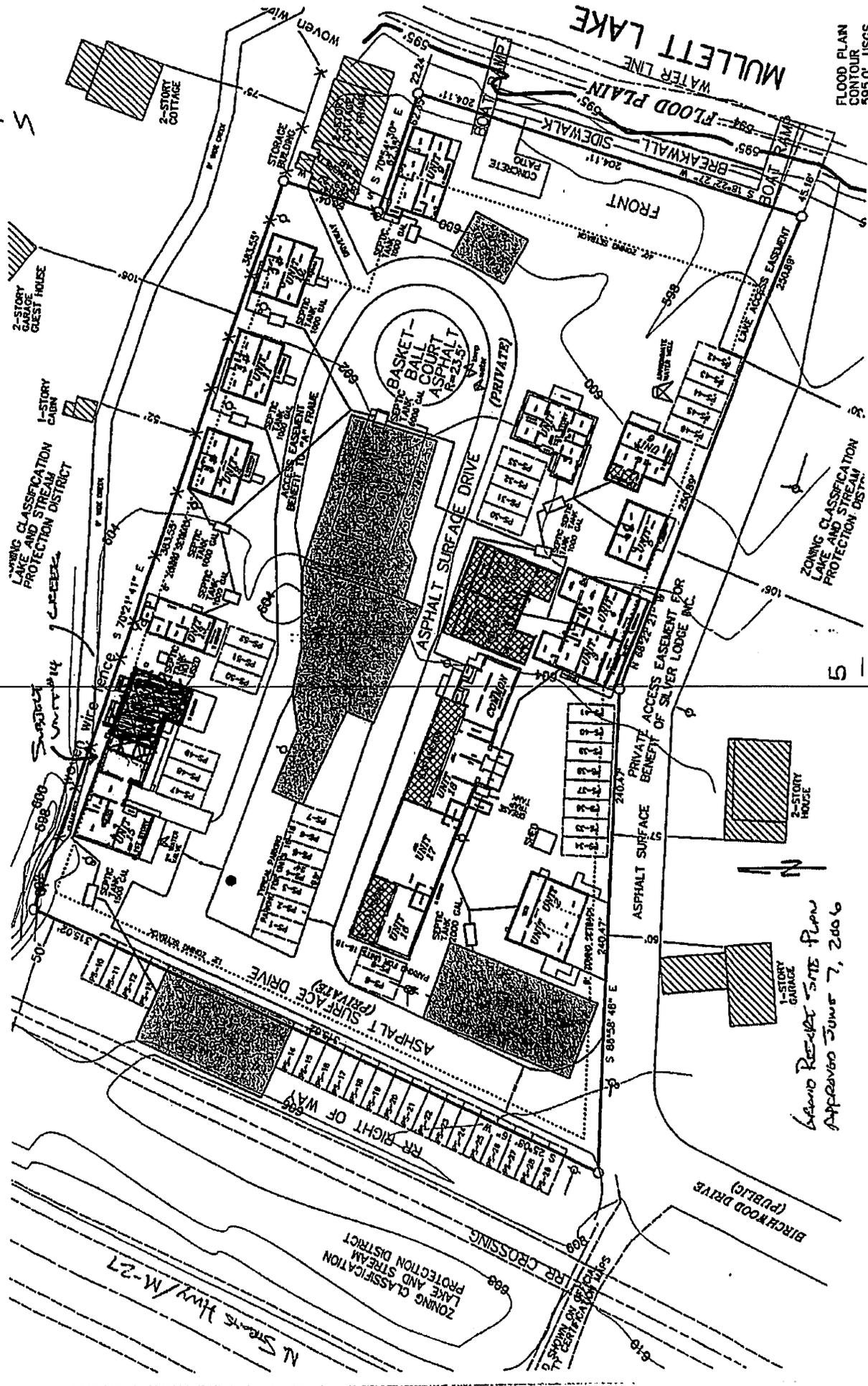
P-LS

North:

*please see attached.*



New Footprint over old Footprint.



FLOOD PLAN  
CONTOUR  
405.0' 11500'

ZONING CLASSIFICATION  
LAKE AND STREAM  
PROTECTION DISTRICT

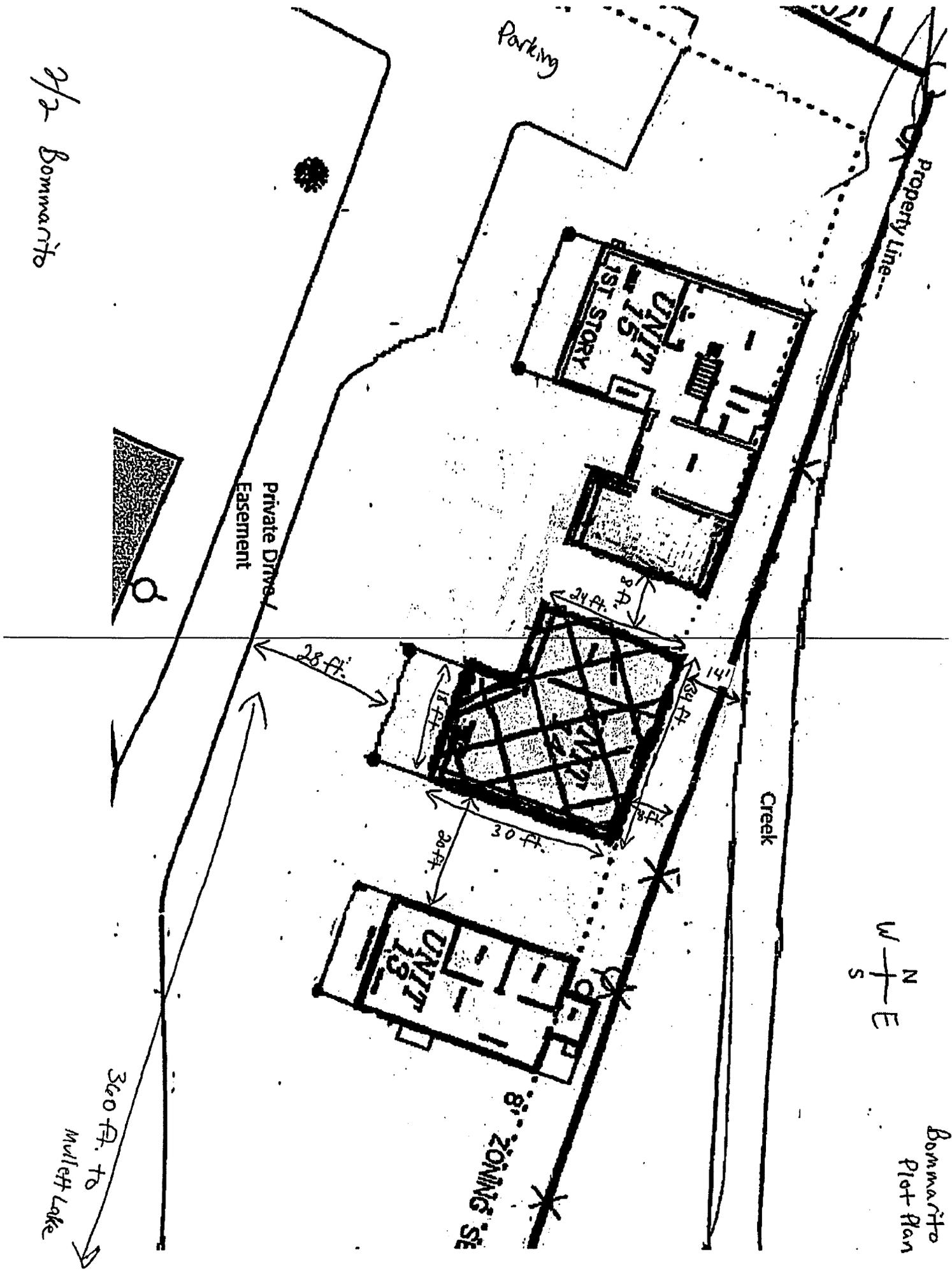
ZONING CLASSIFICATION  
LAKE AND STREAM  
PROTECTION DISTRICT

1-STORY GARAGE  
2-STORY HOUSE  
1-STORY CABIN  
2-STORY GUEST HOUSE  
2-STORY COTTAGE

1/2 Bonmarito

Site Plan  
Approved June 7, 2006

2/2 Bonmarito



W  
N  
E  
S

Bonmarito  
Plot Plan

091-034-200-017-00  
MICHIGAN DEPT OF NATURAL RESOURCES  
PO BOX 30722  
LANSING, MI 48909

130-003-100-005-00  
KARP, WENDY N  
62 HURLINGHAM RD  
LONDON, ENGLAND, SW63RQ

130-003-100-006-00  
DENNY, RAY & MIRIAM H/W  
PO BOX 1632  
PITTSBURG, CA 94565

130-003-200-006-00  
WARNER, DANIEL JR & CONNIE H/W  
5019 LIGHTFOOT RD  
HARBOR SPRINGS, MI 49740

130-003-200-001-00  
BYBROOK, LLC  
21779 TAHOE LN  
LAKE FOREST, CA 92630

130-003-200-003-00  
KARP, WENDY  
62 HURLINGHAM RD  
LONDON, ENGLAND, SW63RQ

130-003-200-004-00  
PAUL, DEAN & ANN H/W 1/2 INT &  
5036 W CEDAR DR  
SAULT SAINTE MARIE, MI 49783

130-003-200-005-00  
KARP, WENDY NASON  
62 HURLINGHAM RD  
LONDON, ENGLAND, SW63RQ

130-003-200-010-00  
RILEY, STEPHEN & KAREN H/W  
5880 BIRCHWOOD DR, PO BOX 141  
MULLETT LAKE, MI 49761

130-003-200-008-01  
WOOLLEY, RUTH D, TRUSTEE  
PO BOX 292619  
KETTERING, OH 45429

130-003-200-008-00  
ALTENBURG CORP  
6776 ENFIELD TRACE  
DUBLIN, OH 43017

130-003-100-004-00  
DENNY, RAY & MIRIAM H/W  
PO BOX 1632  
PITTSBURG, CA 94565

130-003-207-061-00  
BAIER, JOHN E ET UX  
15247 MARKESE  
ALLEN PARK, MI 48101

130-003-100-007-01  
SBE MEADOW, LLC  
333 W FORT ST, STE 1200  
DETROIT, MI 48226

130-003-100-029-00  
MICHIGAN DEPT OF NATURAL RESOURCES  
PO BOX 30722  
LANSING, MI 48909

130-003-200-011-00  
KROMER, JOHN & CAROL TRUST  
15160 GARY LN  
LIVONIA, MI 48154

130-003-207-061-00  
BAIER, JOHN E ET UX  
15247 MARKESE  
ALLEN PARK, MI 48101

130-G01-000-001-00  
BAILEY, GEORGE & CHARLYN H/W L/EWPTS  
898 S SANDALWOOD CIR  
MUSKEGON, MI 49441

130-G01-000-002-00  
BOMMARITO, MICHAEL AND  
6453 MORRISH RD  
SWARTZ CREEK, MI 48473

130-G01-000-003-00  
GREEN, RICHARD & KATHIE H/W  
3405 GREEN CORNERS RD  
LAPEER, MI 48446

130-G01-000-004-00  
PARK, ADAM & ELIZABETH H/W  
16869 MEADOWBROOK  
HASLETT, MI 48840

130-G01-000-005-00  
PETERSEN, CORY R & SHERI H H/W  
8624 WHEATDALE DR  
LANSING, MI 48917-7876

130-G01-000-006-00  
HARDT, BRETT & KATHLEEN H/W  
20760 WAHRMAN RD  
NEW BOSTON, MI 48164

130-G01-000-007-00  
MCGRANE, CHRISTOPHER & BARBARA  
1542 MOUNTMEEKER AVE  
BERTHOUD, CO 80513

130-G01-000-008-00  
SCRASE FAMILY AMENDED & RESTATED  
2366 COVE POINT CT  
POWELL, OH 43065

130-G01-000-018-00  
DAHLEEN, LEIF  
2265 GRAND RESORT CIR  
CHEBOYGAN, MI 49721

130-G01-000-017-00  
HOMSI, TERENCE & NATALIE H/W  
14039 CONWAY LANDING  
CYPRESS, TX 77429-8216

130-G01-000-016-00  
HOMSI, RAY & MICHELLE, CO-TTEES  
1024 MEADOW THRUSH DR  
CLAYTON, OH 45315

130-G01-000-009-00  
SCRASE FAMILY AMENDED & RESTATED  
2366 COVE POINT CT  
POWELL, OH 43065

130-G01-000-010-00  
ESTIS, BRENDA  
5091 W CARPENTER RD  
CHEBOYGAN, MI 49721

130-G01-000-011-00  
YOUNG, CURTIS  
1338 AUTUMN DR  
FLINT, MI 48532

130-G01-000-012-00  
MATTHEWS, STEVEN & JANICE H/W  
5255 VASSAR RD  
GRAND BLANC, MI 48439

130-G01-000-013-00  
REGORRAH, JOHN & TERI H/W  
11833 FAIRWAY DR  
SOUTH LYON, MI 48178

130-G01-000-014-00  
BOMMARITO, MICHAEL J  
6453 MORRISH RD  
SWARTZ CREEK, MI 48473

130-G01-000-015-00  
ROY, STEPHEN & GALINA H/W & MAVIS  
2157 GRAND RESORT CIR  
CHEBOYGAN, MI 49721

091-034-400-018-00  
OCCUPANT  
6282 SUNRISE LN  
CHEBOYGAN, MI, 49721

091-034-400-019-01  
OCCUPANT  
6272 SUNRISE LN  
CHEBOYGAN, MI, 49721

091-034-400-024-00  
OCCUPANT  
6190 SILVER BEACH RD  
CHEBOYGAN, MI, 49721

091-034-400-022-00  
OCCUPANT  
6242 SUNRISE LN  
CHEBOYGAN, MI, 49721

091-034-400-021-00  
OCCUPANT  
6252 SUNRISE LN  
CHEBOYGAN, MI, 49721

091-034-400-023-00  
OCCUPANT  
6230 SUNRISE LN  
CHEBOYGAN, MI, 49721

091-034-400-020-00  
OCCUPANT  
6262 SUNRISE LN  
CHEBOYGAN, MI, 49721

091-034-400-019-00  
OCCUPANT  
6313 SUNRISE LN  
CHEBOYGAN, MI, 49721

091-034-400-017-00  
OCCUPANT  
6290 SUNRISE LN  
CHEBOYGAN, MI, 49721

091-034-400-016-00  
OCCUPANT  
6406 N SILVER BEACH RD  
CHEBOYGAN, MI, 49721



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

### DIMENSIONAL VARIANCE STAFF REPORT

<b>Item:</b> Requests a 26-foot dimensional variance to the 40-foot minimum setback standard from the ordinary high-water mark for structures in the Lake and Stream Protection (P-LS) zoning districts, per Section 10.4.9. of the Zoning Ordinance.	<b>Prepared by:</b> Jennifer Merk
<b>Date:</b> April 15, 2020	<b>Expected Meeting Date:</b> April 22, 2020

#### GENERAL INFORMATION

**Applicant(s):** Mike Bommarito

**Owner(s):** same

**Phone:** 810-569-0073

**Location:** 2167 Grand Resort Circle; Mullett Township

**Requested Action:** The applicant requests a 26-foot dimensional variance from Section 10.4.9. of the Zoning Ordinance that requires 40-foot minimum setbacks in the Lake and Stream Protection (P-LS) zoning districts for any structures from the shoreline's ordinary high water mark of any stream or pond identified on the U.S. Geological Survey Maps of the 7.5' quadrangle series of Cheboygan County. The applicant proposes to reconstruct a dwelling on the subject property that is within Grand Resort Condominiums. The proposed dwelling would be 14-feet from a creek located to the north of the subject property.

#### BACKGROUND INFORMATION

The subject property is 0.03 acres (approximately 1,307 square feet) located at 2167 Grand Resort Circle in Mullett Township, described as Unit 14 of the Grand Resort Condominiums. The Grand Resort Condominiums special use permit was approved as a conversion from a resort by the Planning Commission on June 7, 2006.

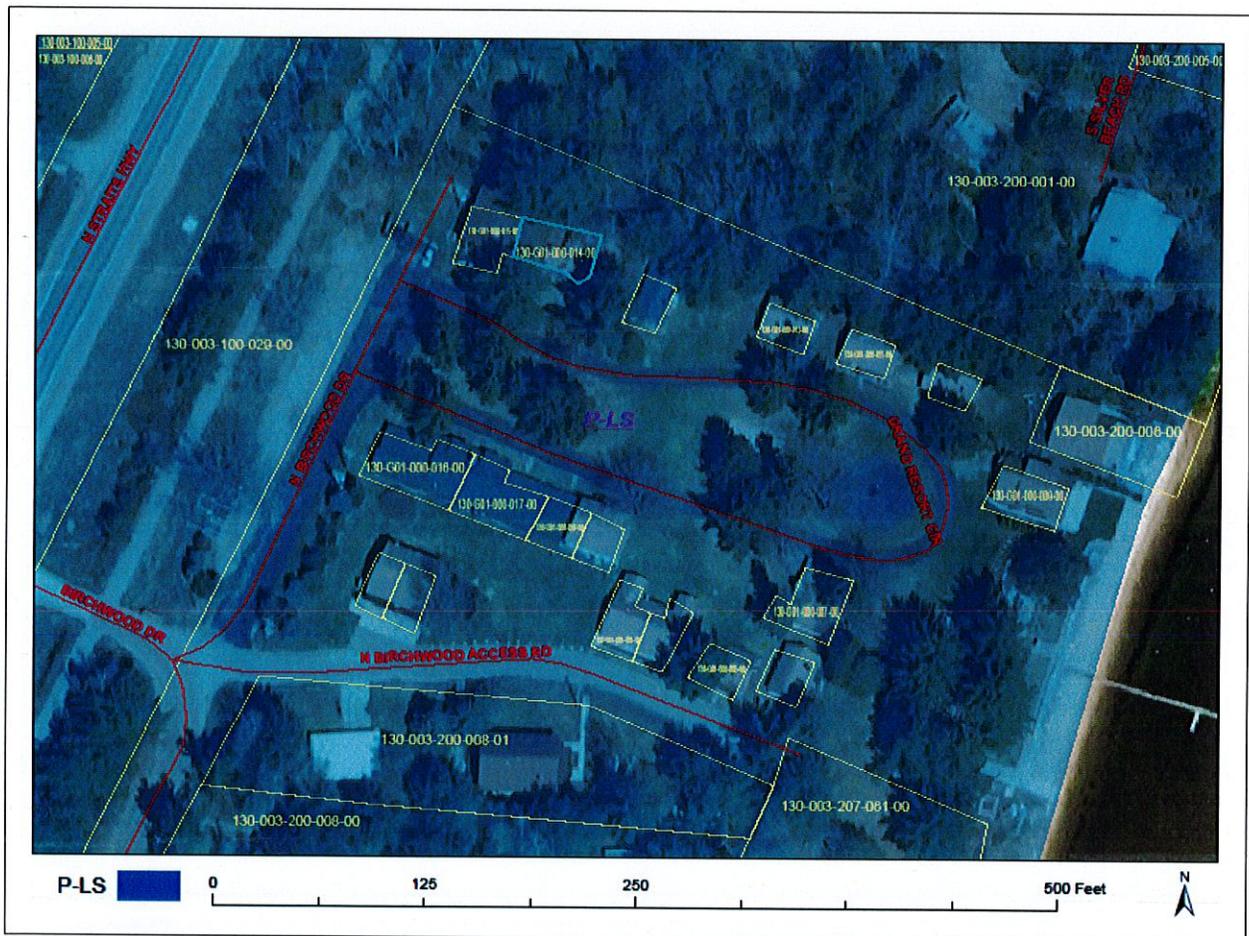
A Zoning Permit was approved on May 1, 2014 to build an addition within the existing condominium's footprint at the aforementioned address. The Zoning Board of Appeals (ZBA) later approved a 30.5-foot setback variance on the same property to reconstruct a dwelling 9.5-feet from a nearby creek on October 22, 2014 (see Exhibits 6, 7 and 8), and according to the

meeting minutes, the applicant intended to demolish the existing building and rebuild it due to Building Safety Department requirements.

On January 17, 2019 demolition and soil and sedimentation pollution control permits were issued to remove the existing 20-foot x 30-foot cabin structure. The new property owner, Mike Bommarito, submitted a Zoning Permit application dated February 14, 2020 for construction of a dwelling on the subject property. However, the application could not be approved due to the proposed dwelling's location 14-feet from the nearby creek, as, again, Section 10.4.9. of the Zoning Ordinance requires a minimum 40-foot setback.

Although a dimensional variance was previously approved on October 22, 2014 to allow for a 9.5-foot setback from the creek, it had expired per Section 23.6. of the Zoning Ordinance, (That indicates no order of the Board of Appeals permitting the erection of a building shall be valid for a period longer than one year, unless a building permit is obtained within such period, and the project is started and proceeds to completion.)

Of note is the approval of a 31-foot variance on October 23, 2013 for a neighboring property owner at 2157 Grand Resort Circle, Unit 15 (also within the Grand Resort Condominiums) to reconstruct a dwelling 9-feet from the creek.



*Figure 1. Location and zoning of subject property at 2167 Grand Resort Circle, Mullett Twp. (shown in blue)*

**Surrounding Zoning:**

North: Lake and Stream Protection (P-LS)

East: same

South: same

West: same

**Surrounding Land Uses:**

Residential is the principal land use located to the north, west and south. Mullett Lake exists to the east. A commercial land use, Mullett Lake Self Storage, is located northwest of the subject property.

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

The nearby creek to the north along with Mullett Lake to the east are deemed environmentally sensitive, hence the 40-foot minimum setback requirement for dwellings and accessory structures.

**Public comments:**

No public comments have been received as of this writing.

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS**  
**Wednesday, April 22, 2020 at 7:00 PM**  
**Room 135 – Commissioners Room**  
**Cheboygan County Building, 870 S. Main St., Cheboygan, MI 49721**

**Applicant:**

Mike Bommarito  
6453 Morrish Rd.  
Swartz Creek, MI 48473

**Owner:**

Same

**Parcel:**

130-G01-000-014-00

**General Findings:**

1. The subject property is 0.03 acres (approximately 1,307 square feet) located at 2167 Grand Resort Circle in Mullett Township and is described as Unit 14 of the Grand Resort Condominiums.
2. The Grand Resort Condominiums special use permit was approved as a conversion from a resort by the Planning Commission on June 7, 2006.
3. The subject property is located in a Lake and Stream Protection (P-LS) zoning district.
4. The subject property meets the minimum P-LS building setbacks from the established Grand Resort Condominiums property lines.
5. A zoning permit was approved for the subject property (Unit 14) on May 1, 2014 for a building addition within the condominium's footprint.
6. A 30.5-foot variance was approved by the Zoning Board of Appeals on October 22, 2014 to reconstruct a dwelling on the subject property (Unit 14) 9.5-feet from a nearby creek. (see Exhibits 6,7 and 8)

7. Demolition and soil and sedimentation pollution control permits were issued for the subject property on January 17, 2019.
8. The property owner, Mike Bommarito, submitted a Zoning Permit application on February 14, 2020 to reconstruct a new dwelling on the subject property; the permit application could not be approved due to the proposed dwelling's location within 14-feet of a nearby creek identified on the U.S. Geological Survey Maps of the 7.5' quadrangle series of Cheboygan County.
9. Section 10.4.9. of the Zoning Ordinance states that a 40-foot minimum setback is required for any structures from the shoreline's ordinary high-water mark of any stream or pond identified on the U.S. Geological Survey Maps of the 7.5' quadrangle series of Cheboygan County.
10. The applicant requests a 26-foot variance from Section 10.4.9. of the Zoning Ordinance to reconstruct a dwelling on the subject property within the Grand Resort Condominiums and the proposed dwelling will be 14-feet from a creek located to the north of the subject property.
11. A 31-foot variance was approved on October 23, 2013 for a neighboring property owner at 2157 Grand Resort Circle, Unit 15 (also within the Grand Resort Condominiums) to reconstruct a dwelling 9-feet from the creek.

**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 small parcel of 0.03 acres (approximately 1,307 square feet) within the Grand Resort Condominiums, and thus presents building constraints.
  2. A creek (identified on the U.S. Geological Survey Maps of the 7.5' quadrangle series of Cheboygan County) runs very close to the subject property.

**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 is 0.03 acres (approximately 1,307 square feet) located at 2167 Grand Resort Circle in Mullett Township, and is described as Unit 14 of the Grand Resort Condominiums.
2. The subject property meets the P-LS minimum building setbacks from the Grand Resort Condominiums property lines.
3. A creek (identified on the U.S. Geological Survey Maps of the 7.5' quadrangle series of Cheboygan County) runs very close to the subject property.
4. A 30.5-foot variance was approved by the ZBA on October 22, 2014 to reconstruct a dwelling on the subject property (Unit 14) 9.5 feet from the nearby creek.

**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. None identified.

**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 40-foot minimum setback from the nearby creek would prevent the dwelling from being built on the subject property (Unit 14 of the Grand Resort Condominiums).

**This standard has been met.**

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

1. None identified.

**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 0.03 acres or 1,307 square feet within the Grand Resort Condominiums; therefore, the 26-foot variance request is the minimum required to build as proposed within the Unit 14 boundary.

**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. Granting a 26 foot variance from the 40-foot setback required from the creek located north of the subject property would allow the applicant to reconstruct a dwelling within the subject property similar to an adjacent neighboring property.
2. A 31-foot variance was approved by the ZBA on October 23, 2013 in order for a neighboring parcel within Grand Resort Condominiums (2157 Grand Resort Circle, Unit 15) to reconstruct a dwelling 9-ft. from a creek.

**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 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, April 22, 2020

\_\_\_\_\_  
Charles Freese, Chairperson

\_\_\_\_\_  
John Thompson, Secretary

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

\$100.00

\$100.00 APPLICATION FEE

RECEIPT #:	4203
CASH/CHECK:	60168
ACTION / DATE:	

PLEASE PRINT

**PROPERTY LOCATION**

Address 2157 Grand Resort Circle #14	City / Village CHEBOYGAN	Township / Sec. MULLETT	Zoning District D-LS
Property Tax I.D. (Parcel) Number 130 - 601 - 000 - 014 - 00	Subdivision or Condo. Name / Plat or Lot No. Grand Resort Condo Assoc		

**APPLICANT**

Name GREG ELLIOTT	Telephone C 231-420-1723 231-627-4725	Fax 231-627-7871
Address 110 MAYNARD RD	City & State CHEBOYGAN, MI	Zip Code 49721
		E-Mail greg@elliott-saugster.com

**OWNER (if different from applicant)**

Name SAME	Telephone	Fax
Address	City & State	Zip Code

Detailed directions to site, including nearest crossroad;

US 27, Grand Resort Condominiums, 8 minutes south of town (Cheb)  
 off of US 27, The Grand Resort sign is on Rt side of  
 Hwy, then left on to Birchwood Rd and resort is  
 in front of you

**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: VACATION SUMMER HOME
- 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.

SEE ATTACHED

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.

THE PROPERTY STRUCTURAL BEAMS ARE DETERIORATING DUE TO AGE. PART OF THE UNIT WAS ADDED ON. THERE IS A SMALL SECTION OF LAND THAT WE WANT TO INCORPORATE INTO THE UNIT TO SQUARE UP WITHIN SAME FOOTPRINT

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 PROPERTY IS WITHIN 1/2 FEET OF A SMALL CREEK BEHIND THE PROPERTY. IT IS A ZONING ISSUE SO I'M ASKING FOR A VARIANCE TO REBUILD WITHIN THE SAME FOOTPRINT.

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

THE REQUEST FOR VARIANCE TO REBUILD IS DUE TO OLD AGE AND DETERIORATION OF CURRENT STRUCTURE. NOTHING WAS SELF-CREATED.

c. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome

I PLAN TO BUILD ON THE SAME FOOTPRINT SO NOTHING SHOULD CHANGE REGARDING RESTRICTIONS OR INTENDED USE OF PROPERTY

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.

REQUEST FOR VARIANCE IS STRICTLY TO REBUILD ON SAME FOOTPRINT TO MAKE THE DWELLING SAFE.

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

THE REQUEST FOR VARIANCE WILL IMPROVE THE PROPERTY VALUE AS WELL AS THE SURROUNDING PROPERTIES.

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

Owner's Signature

Date

AFFIDAVIT

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

Applicant's Signature

Date

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

- |   |   |
|---|---|
| 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:**

**Zoning District:**

**North:**

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

SEE ATTACHED

MCCR RAILROAD

E DRIVE

315.02' 12' ZONING SETBACK

TYPICAL PARKING FOR UNITS 16-18

PS-1	16
PS-2	17
PS-3	18
PS-4	19
PS-5	20
PS-6	21
PS-7	22

SEPTIC TANK 1500 GAL

2" WATER VALVE

UNIT 15 1ST STORY

SUBJECT UNIT 14

9.5 FT SETBACK FROM CREEK

ZONING CLASSIFICATION LAKE AND STREAM PROTECTION DISTRICT

1-STORY CABIN

2-STORY GARAGE GUEST HOUSE

Wire fence

8' WIDE CREEK

S 70°21' 41" E

604

8' ZONING SETBACK

383.55'

604

SEPTIC TANK 1000 GAL

SEPTIC TANK 1000 GAL

SEPTIC TANK 1000 GAL

ACCESS EASEMENT BENEFIT TO "A" FRAME

SEPTIC TANK 1000 GAL

UNIT 12

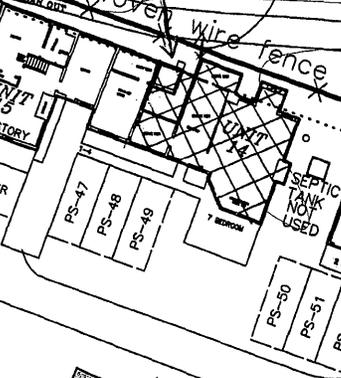
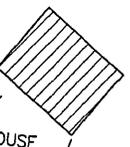
UNIT 11

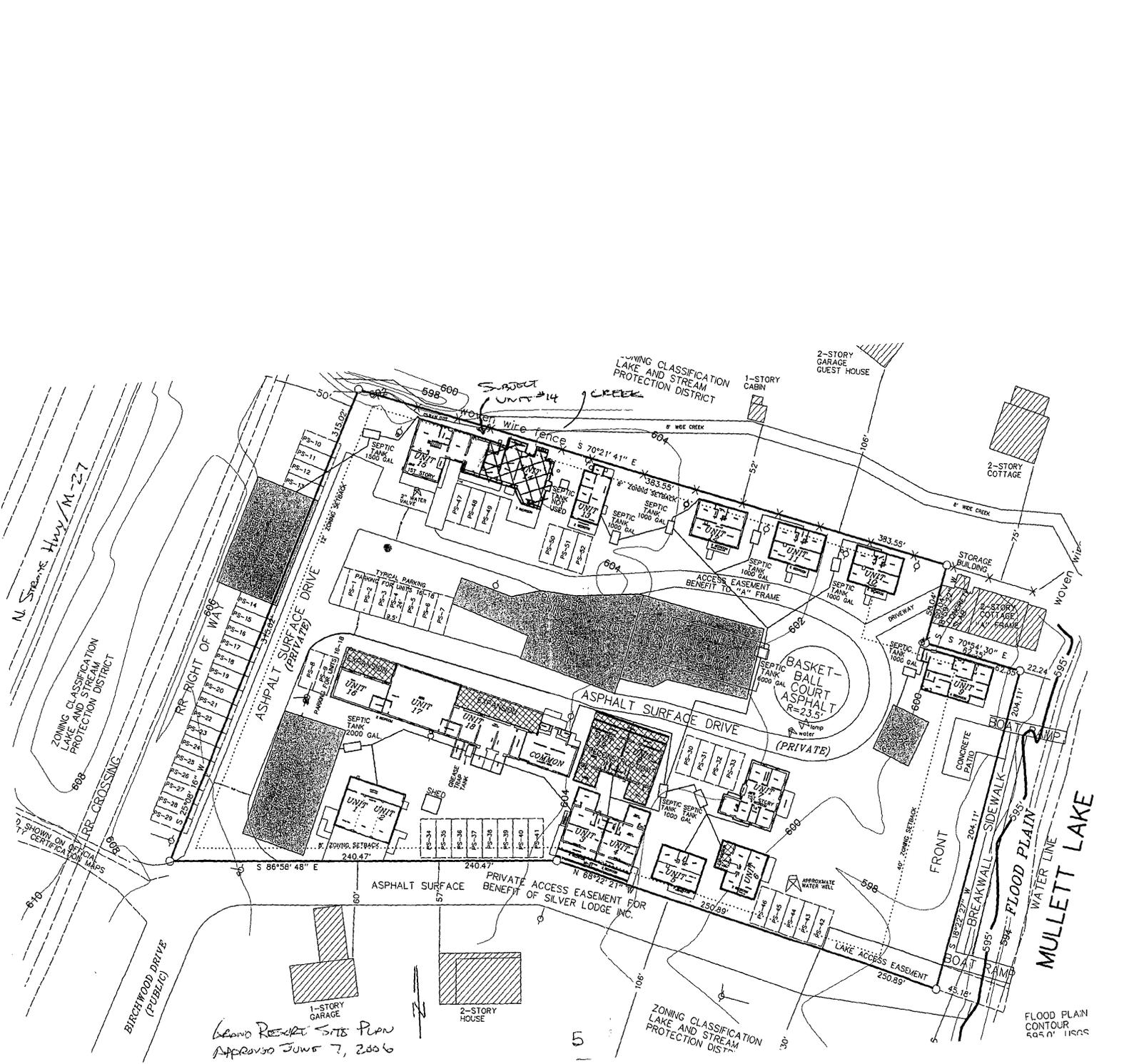
SEPTIC TANK 1000 GAL

UNIT 10

383.55'

106'

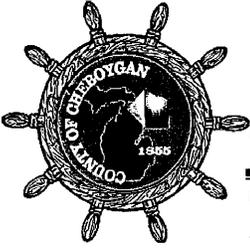




Grand Resort S718 Plan  
 APPROVED JUNE 7, 2006

5

FLOOD PLAIN  
 CONTOUR  
 595.0' 11855



# CHEBOYGAN COUNTY COMMUNITY DEVELOPMENT DEPARTMENT

CHEBOYGAN COUNTY BUILDING ■ 870 S. MAIN STREET, PO BOX 70 ■ CHEBOYGAN, MI 49721  
PHONE: (231)627-8489 ■ FAX: (231)627-3646  
www.cheboygancounty.net/planning/

## DIMENSIONAL VARIANCE

### Applicant

Greg Elliott  
1110 Maynard Road  
Cheboygan, MI 49721

### Owner

Greg Elliott  
1110 Maynard Road  
Cheboygan, MI 49721

**Parcel:** 130-G01-000-014-00, 2157 Grand Resort Circle #14

### **General Findings**

1. The property is in a Lake and Stream P-LS zoning district. A front setback of 40' from the ordinary high water mark is required.
2. The applicant is proposing to replace a dwelling unit 9.5 ft. from the highwater mark of a creek.
3. A 30.5 ft. front setback variance is required per the applicant's request.
4. The dwelling unit is Unit #14 of the Grand Resort Condominium.
5. The Planning Commission approved a special use permit for the Grand Resort Condominium on June 7, 2006.
6. The Grand Resort Condominium was converted from a former resort.
7. The applicant proposes to replace the dwelling unit in its current location.

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

**A dimensional variance may be granted by the Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following:**

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

The subject property possesses unique circumstances relative to its location to a creek in an approved condominium.

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

The unique circumstance of the property is not the result of actions by the property owner or previous owners, and is not self-created.

**23.5.4.3 That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent**

**the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.**

Due to the unique circumstances of the property and the location of the dwelling unit, strict compliance with the requirements would prevent the property owner from reasonable use of the property for the permitted purpose.

**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.**

Do to unique circumstances of the property, the variance is the minimum necessary to grant the applicant reasonable relief and will do substantial justice to other property owners in the district.

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

The variance will not cause an adverse impact on surrounding property.

#### **DECISION**

Motion by Mr. Moore, seconded by Mr. Hemmer, to approve the variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried unanimously.

#### **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**

October 22, 2014

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Charles Freese, Chairperson

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Mary Street, Secretary

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING**  
**WEDNESDAY, OCTOBER 22, 2014**  
**ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING**

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

**Members Absent:** None

**Others Present:** Scott McNeil, Neil Marzella, Tony Matelski, Rob Soeder, Joe Bahmer Sue Bahmer, Russell Crawford, Cheryl Crawford, Mike Ridley, Phil Chamberlain, Clay Warner, Mary Jo Warner, Gretchen Chamberlain, Greg Elliott, Michael Lebutt, Vicki Lebutt

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. Brown, to accept the agenda as presented. Motion carried unanimously.

**APPROVAL OF MINUTES**

Minutes from the September 24, 2014 Zoning Board of Appeals meeting were presented. **Motion** by Mr. Hemmer, seconded by Ms. Street, to approve the minutes as presented. Motion carried unanimously.

**PUBLIC HEARING & ACTION ON REQUESTS**

**Greg Elliott and Christopher Sangster** - Requests a 30.5 ft. front setback variance to reconstruct a dwelling. The property is located at 2167 Grand Resort Circle, Mullett Township, Section 3, parcel #130-G01-000-014-00 and is zoned Lake and Stream Protection (P-LS). A 40ft. front setback is required in this zoning district.

Mr. McNeil reviewed the site plan and noted that a 40ft. setback is required from the stream. Mr. McNeil stated the applicant is requesting to rebuild the dwelling 9.5ft. from the stream. Mr. McNeil explained that the applicant is requesting a 30.5ft. setback variance.

Mr. Elliott explained that he will be rebuilding in the same footprint.

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

Mr. Brown asked if part of the existing building will remain or if the building will be torn down completely. Mr. Elliott stated the building will be torn down completely. Mr. Elliott stated the building is on a cement slab and the Department of Building Safety requires footings under the structure if a wall will be changed.

Mr. Freese stated that this development was previously approved by the Planning Commission in 2008 with a stipulation that future changes had to be within the footprint of the existing buildings. Mr. Freese stated that the Zoning Board of Appeals approved a variance for the other half of the building.

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

**Clay Warner** - Requests a 10ft. front setback variance to construct a dwelling. The property is located at 3620 Edgewater Drive, Beaugrand Township, Section 4, parcel #041-A01-000-001-06. The site is zoned Lake and Stream Protection (P-LS). A 30ft. front setback is required for this lot in this zoning district.

Mr. McNeil stated that the applicant is requesting a 10ft. front setback variance. Mr. McNeil referred to the subdivision plat submitted by the applicant. Mr. McNeil stated that property owners access their lots through Edgewater Drive. Mr.

McNeil noted that the subject parcel is not a water front lot due to Straits Park. Mr. McNeil noted the front of the parcel is Au Sable Lane and would require a 30ft. setback. Mr. McNeil stated the applicant is requesting a 10ft. front setback variance.

Mr. Marzella stated he is representing Clay and Mary Jo Warner. Mr. Marzella stated there is nothing wrong with the setback requirements in the Lake and Stream District and there is nothing wrong with this lot as it is a decent size lot. Mr. Marzella stated when determining what is the front and rear of the lot it results in a terrible situation in which everyone loses. Mr. Marzella stated the only way to fix this is to apply for a variance. Mr. Marzella stated the purpose of the Lake and Stream District is to protect the water. Mr. Marzella stated all of the cottages in this area are set back a great distance. Mr. Marzella stated there is a 16ft. wide alley that has never existed. Mr. Marzella stated it appears that there has been a misapplication of what is considered the front and what is considered the rear. Mr. Marzella stated the purpose of this district is to protect the lake and not the alley. Mr. Marzella stated if the area near the water is the rear we could be 12 1/2ft. from Straits Park and 30ft. from the road. Mr. Marzella stated there would then be a problem of being way in front of the other houses in the areas and cutting off the view of the neighbors. Mr. Marzella stated Point Nipigon Association and the Building Department want all of the houses to be in a straight line. Mr. Marzella stated that they are okay with this requirement. Mr. Marzella stated the previous cottage was closer than 20ft. to the alley. Mr. Marzella stated the nearest house on the left is only 7ft. from the alley and the house next to that is 20ft. from the alley. Mr. Marzella stated the alley has been treated as the back and the lake side has been treated as the front. Mr. Marzella stated that by switching the front and rear setback requirements and by applying for a 10ft. setback variance, they will satisfy Point Nipigon Association, the neighbors and the applicants are happy. Mr. Marzella stated that when applying the five standards, all of the neighbors will benefit from this structure being closer to the road. Mr. Marzella stated the 10ft variance request will allow the residence to be in a line with the other houses.

Mr. Brown asked if this is a dedicated plat. Mr. Marzella explained that this is a dedicated plat that is made up of four platted subdivisions. Mr. Marzella stated that he also represents the association with 70 property owners. Mr. Brown asked if these are all private roads. Mr. Marzella stated yes the roads are all private. Mr. Marzella stated Edgewater Drive has a 66ft. right of way but he does not know if it was ever dedicated to the public. Discussion was held. Mr. Marzella stated this past summer the owners voted to get rid of Au Sable Lane and to vacate it. Mr. Marzella stated the problem is that owners are not able to vote to vacate. Discussion was held. Mr. Marzella explained how the applicant accesses the parcel.

Mr. Freese asked for public comments. Mr. Chamberlain stated he is Mr. Warner's neighbor and he owns lot 17 and 70ft. of lot 5. Mr. Chamberlain stated that the road has been closed for 45 years. Mr. Chamberlain stated that he has reviewed Mr. Warner's plan and the proposed dwelling will be even with buildings on other properties in the area and there will be access to the lot on the side. Mr. Chamberlain stated the resort and the neighbors approved the plans. Public comment closed.

There was no correspondence to be read.

Mr. Freese stated that the Zoning Board of Appeals is not granting a variance that is any different than what is existing in this area. Mr. Freese stated he might have reservations if the building would encroach further. Ms. Street stated the definition of front and back is skewed. Mr. Moore stated he finds the use of the of the definition in this request troublesome. Mr. Brown stated there are not many situations like this in the county.

The Zoning Board of Appeals added "Point Nipigon Resort is a unique situation as far as the access to the lots." as #8 in the General Findings. The Zoning Board of Appeals reviewed and approved the Specific Findings of Fact under Section 23.5.4. **Motion** by Mr. Brown, seconded by Mr. Moore, to approve the variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried unanimously.

**Margaret Soeder** - Requests a variance from Section 17.2.2.d.1) which requires fences within a waterfront setback to have opacity of no more than 50% of the fence surface area. The property is located at 3370 Nabanois Trail, Tuscarora Township, Section 19, parcel #162-141-005-009-00 and is zoned Lake and Stream Protection (P-LS). Fences located in a required waterfront setback shall have an opacity of no more than fifty percent (50%) of the fence surface area (the area calculated between the surface of the ground and the top of the fence posts) as determined within each eight (8) feet segment of the fence. A 40ft. water front setback is required in this zoning district. The proposed fence is a solid privacy fence with 100% opacity.

Mr. McNeil stated that Ms. Soeder is requesting a variance from the opacity requirement for fences. Mr. McNeil stated the ordinance allows fences, up to 8ft. in height, to be put into setback areas. Mr. McNeil explained that there is a caveat that requires fences in a water front setback to be at least 50% opaque as measured in each 8ft. section. Mr. McNeil stated the applicant is requesting approval for a solid fence in the waterfront setback.

Mr. Soeder stated this used to be private property and noted that the township put in a public boat launch. Mr. Soeder stated the public boat launch is 6-7ft. off of the water and Ms. Soeder's dock is 18in. off of the water. Mr. Soeder stated everyone was using their property to park their boats and to go to the public launch. Mr. Soeder explained there has been property damage and altercations with their young children. Mr. Soeder stated they need to put in a fence down to the river to prevent people from coming on the property. Mr. Soeder stated that as cars come through the parking lot the headlights come through to the cottage.

Mr. Freese asked for public comments. Mr. Ridley stated that Tuscarora Township does not have any problems with this request. Mr. Ridley stated the township split the cost of the fence with the Soeders as they understand that there is a problem. Public comment closed. There was no correspondence to be read.

Mr. Freese stated the fence regulation was established to help with disturbing the sight of neighbors. Mr. Freese stated this is a unique circumstance where the neighbor is actually a public parking lot that is used all hours of the day. Mr. Brown noted that a berm would be required if the parking lot was a commercial property.

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

#### **UNFINISHED BUSINESS**

No comments.

#### **NEW BUSINESS**

No comments.

#### **ZBA COMMENTS**

Mr. Moore stated that the definition of front lot line should be reviewed by the Planning Commission. Mr. Freese stated this definition applies in 95% of the cases and the Zoning Board of Appeals will review variance requests from the other 5%.

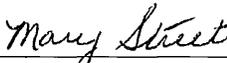
Discussion was held regarding rescheduling the November and December Zoning Board of Appeals meetings.

#### **PUBLIC COMMENTS**

No comments.

#### **ADIJOURN**

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

  
\_\_\_\_\_  
Mary Street, Secretary

# CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

Roger and Sue Neumann

## Exhibit List

1. Cheboygan County Zoning Ordinance
2. Cheboygan County Master Plan
3. Variance Application (8 Pages)
4. Mailing List (2 Pages)
5. Staff Report (7 Pages)
- 6.
- 7.
- 8.
- 9.
- 10.
- 11.
- 12.

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

\$110.00 APPLICATION FEE

RECEIPT #:	7173
CASH/CHECK:	Cash
ACTION / DATE:	

PLEASE PRINT

PROPERTY LOCATION

Address 6282 Sunrise Ln	City / Village Cheboygan	Township / Sec. Ironerness 34	Zoning District D-CM
Property Tax I.D. (Parcel) Number 091-034-400-018-00	Subdivision of Condo. Name / Plat or Lot No.		

APPLICANT

Name Roger Sue Neumann	Telephone 231-818-3366	Fax	
Address 6282 Sunrise Ln	City & State Cheboygan, Mi.	Zip Code 49721	E-Mail mch14977@sbeglobal.net

OWNER (If different from applicant)

Name Same as above	Telephone	Fax	
Address	City & State	Zip Code	

Detailed directions to site, including nearest crossroad:

1/2 mile south of polish line rd on Straits Hwy to Sunrise Ln.  
 turn left on sunrise straight down to 6282

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: Home
- D. A previous appeal has has not (circle one) been made with respect to these premises in the last one (1) year. If a previous appeal, rezoning or special use permit application was made, state the date \_\_\_\_\_, nature of action requested \_\_\_\_\_, and the decision \_\_\_\_\_.
- E. Attach a site plan drawn per the attached directions.

II. Detailed Request and Justification

1. State exactly what is intended to be done on, or with the property which necessitates a variance from the Zoning Ordinance.

add attached garage to home

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.

Home is on a 60' lot with sloping from old garage to home

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

Home was built in the 1950's prior to new zoning laws

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

Home was built in 1950's on a 60' lot and garage would conform to home leaving room for driveway and access into garage

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.

Will conform with already existing home and would look the best for neighbors and have room for new driveway

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.

Will not affect neighbors and will beautify the surrounding area

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

Owner's Signature

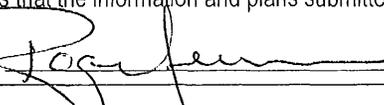


Date 2/24/2020

**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



Date 2/24/2020

**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.                     |

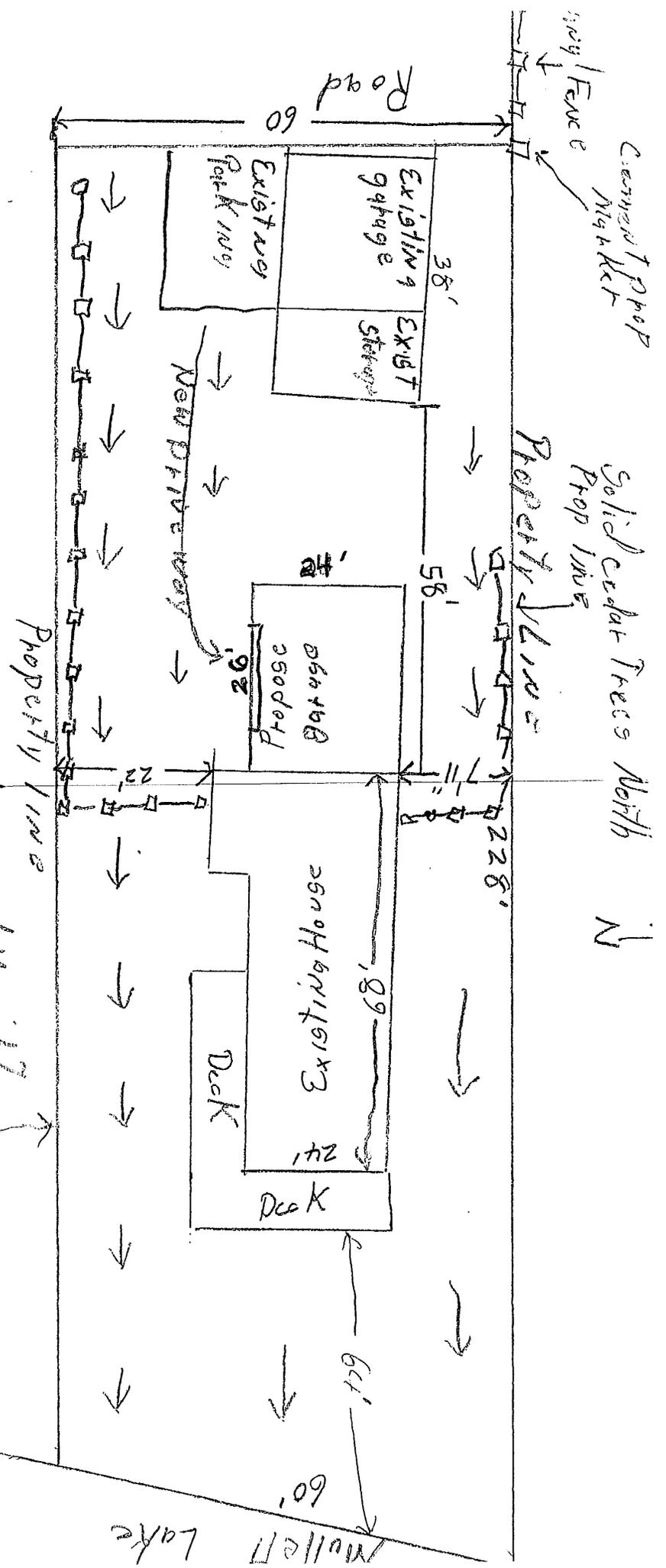
**Distance from property line to proposed structure:**

**Zoning District:**

**North:**

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

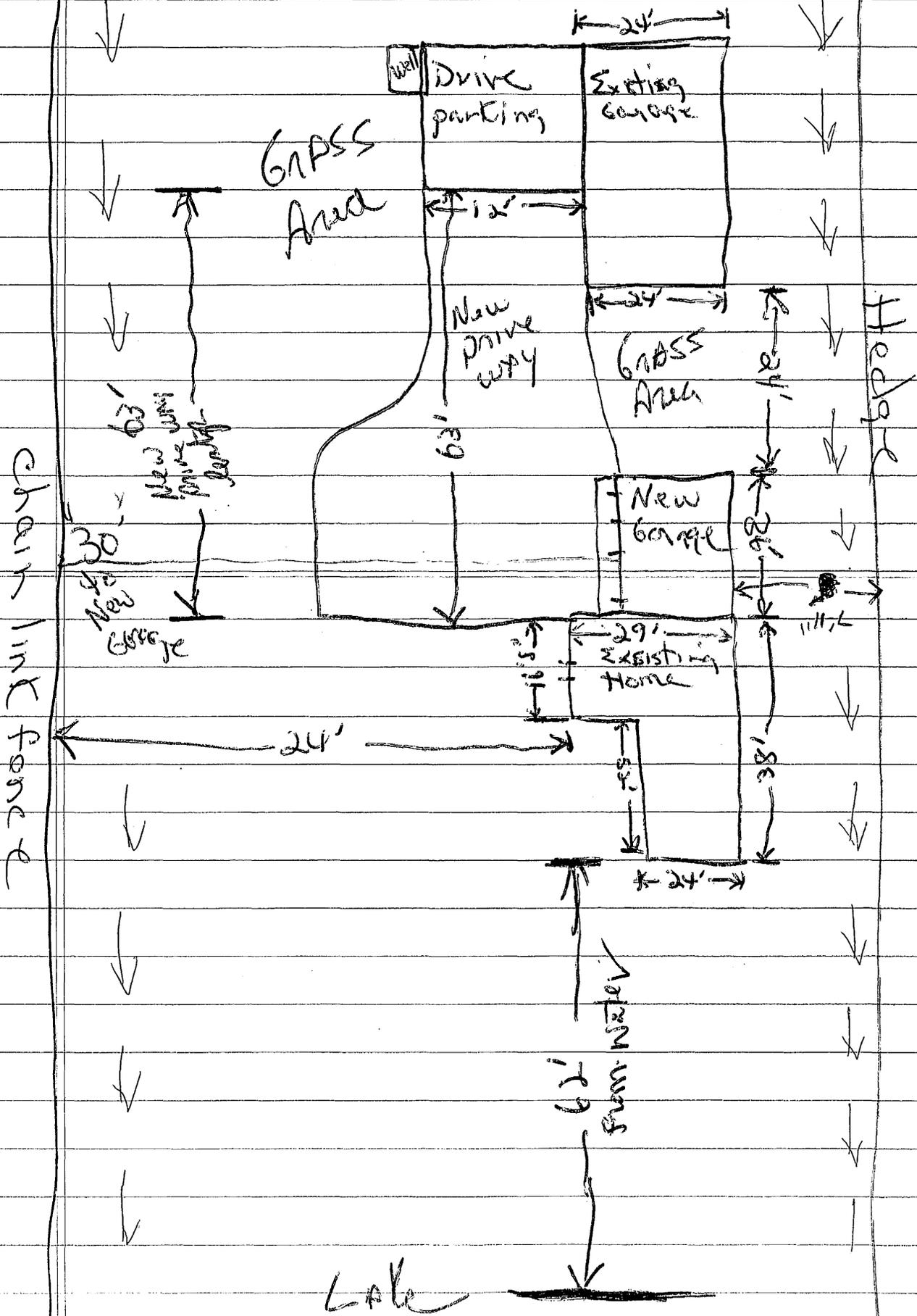
*See attached*



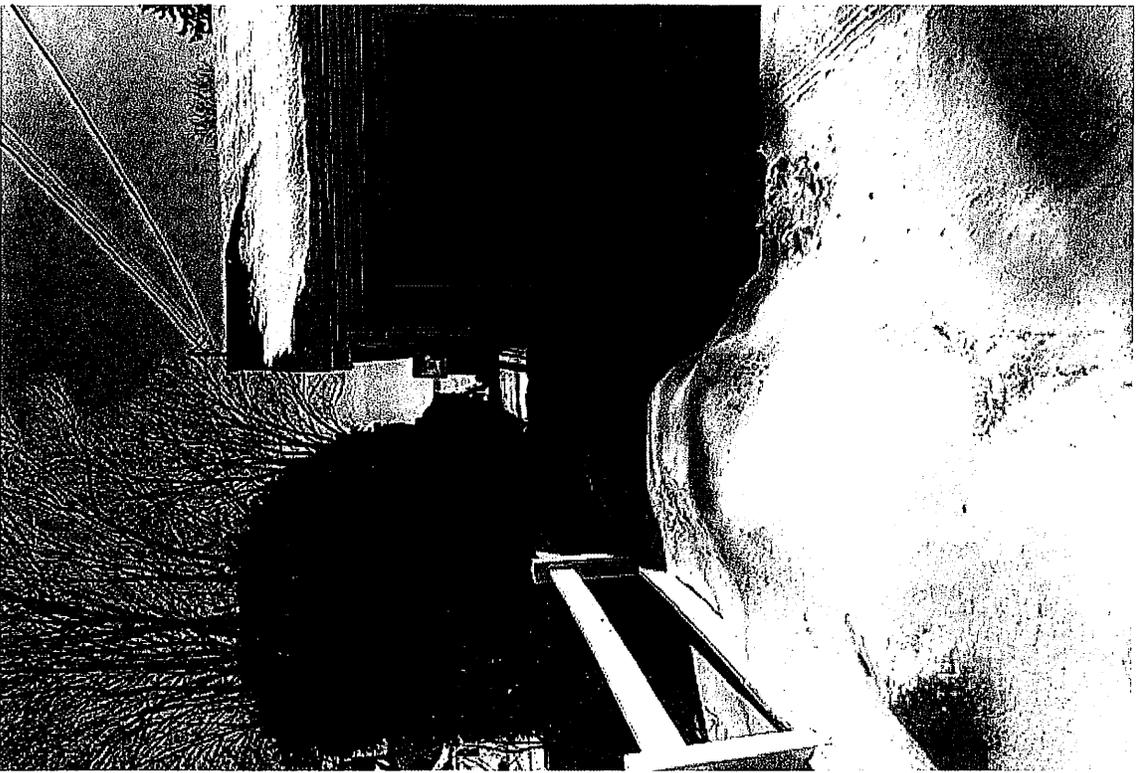
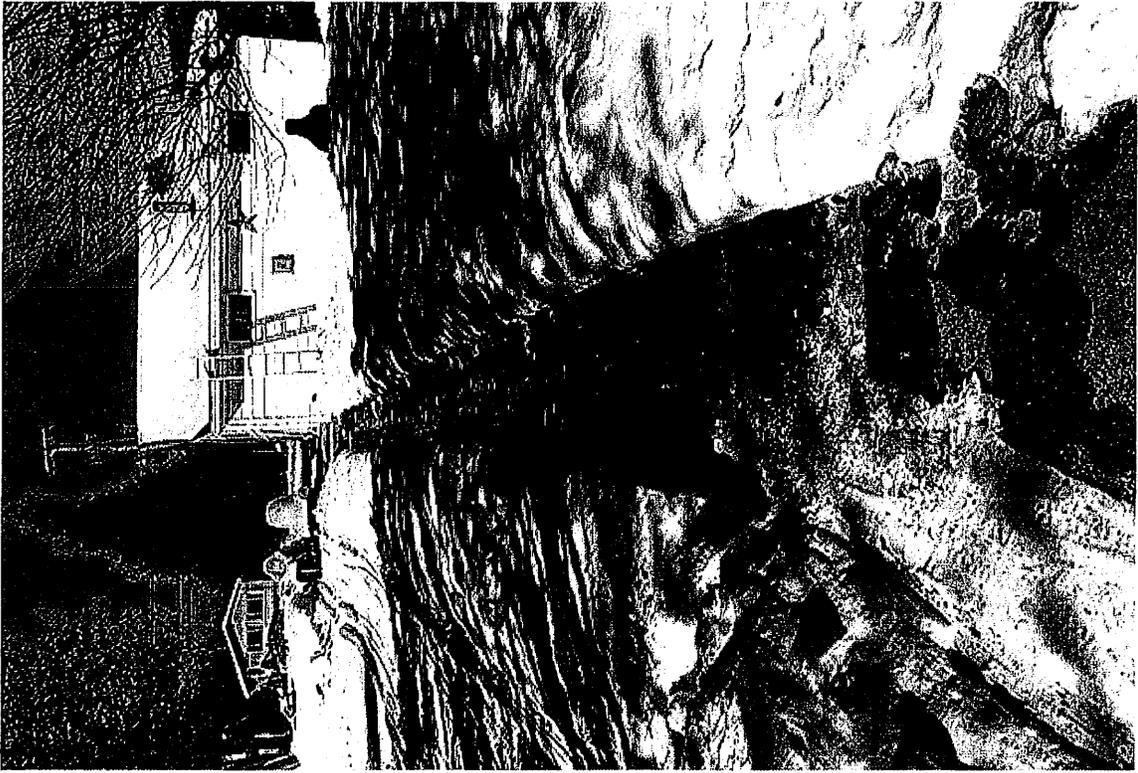
Put Perimeter Footing & Drain a Top and Bottom  
 Tie into Existing Drains around House  
 Put in Drain on South side of Property  
 No Soil to be Piled on Site  
 Metal Fence South side prop line

# Sunrise Ln

~~11/11/11~~  
D









091-034-400-018-00  
NEUMANN, ROGER & SUSAN H/W L/EWPTS;  
PO BOX 267  
TOPINABEE, MI 49791

091-034-400-019-02  
CLARKE, KEVIN & JANET REVOC LIV TRU  
36133 QUAKERTOWN LANE  
FARMINGTON, MI 48331

091-034-400-019-01  
CLARKE, KEVIN & JANET REVOC LIV TRU  
36133 QUAKERTOWN LN  
FARMINGTON, MI 48331

091-034-400-024-00  
CLARKSON, JAMES & CHERYL, TTEES  
6190 SILVER BEACH RD  
CHEBOYGAN, MI 49721

091-034-400-022-00  
EVERETT, JOHN K LIVING TRUST  
6242 SUNRISE LN  
CHEBOYGAN, MI 49721

091-034-400-021-00  
VANCAMP, ROBERT & SUSAN H/W  
6252 SUNRISE LN  
CHEBOYGAN, MI 49721

091-034-400-023-00  
MIKESSELL, RICHARD & KATHLEEN H/W  
11921 BROADBENT RD  
LANSING, MI 48917

091-034-400-020-00  
JONSKI, DENNIS & MARY MARGARET H/W  
PO BOX 74  
TOPINABEE, MI 49791

091-034-400-019-00  
ECKHART, ELEANOR  
6313 SUNRISE LN  
CHEBOYGAN, MI 49721

091-034-200-017-00  
MICHIGAN DEPT OF NATURAL RESOURCES  
PO BOX 30722  
LANSING, MI 48909

091-034-400-017-00  
LIVY, BARBARA M ESTATE OF  
6290 SUNRISE LN  
CHEBOYGAN, MI 49721

091-034-400-016-00  
STAFFORD, FRANCIE EVANS, TRUSTEE  
PO BOX 83  
MULLETT LAKE, MI 49761-0083

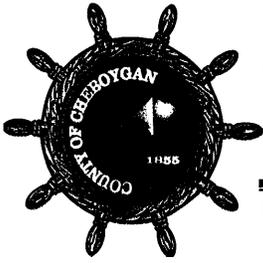
130-G01-000-011-00  
YOUNG, CURTIS  
1338 AUTUMN DR  
FLINT, MI 48532

130-G01-000-012-00  
MATTHEWS, STEVEN & JANICE H/W  
5255 VASSAR RD  
GRAND BLANC, MI 48439

130-G01-000-013-00  
REGORRAH, JOHN & TERI H/W  
11833 FAIRWAY DR  
SOUTH LYON, MI 48178

130-G01-000-014-00  
BOMMARITO, MICHAEL J  
6453 MORRISH RD  
SWARTZ CREEK, MI 48473

130-G01-000-015-00  
ROY, STEPHEN & GALINA H/W & MAVIS  
2157 GRAND RESORT CIR  
CHEBOYGAN, MI 49721



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

## DIMENSIONAL VARIANCE STAFF REPORT

<b>Item:</b> Requests 2-foot, 1-inch side setback variance in a Commercial Development (D-CM) zoning district to construct a garage addition onto an existing dwelling.	<b>Prepared by:</b> Jennifer Merk
<b>Date:</b> April 15, 2020	<b>Expected Meeting Date:</b> April 22, 2020

### GENERAL INFORMATION

**Applicant(s):** Roger and Sue Neumann

**Owner(s):** same

**Phone:** 231-818-3366

**Location of Subject Property:** 6282 Sunrise Lane; Inverness Township

**Requested Action:** The applicant requests 2-foot, 1-inch side setback variance to construct a 24 feet W x 26 feet L garage addition onto an existing dwelling where a minimum of 10 feet is required in the Commercial Development (D-CM) zoning districts, per Section 17.1 of the Zoning Ordinance.

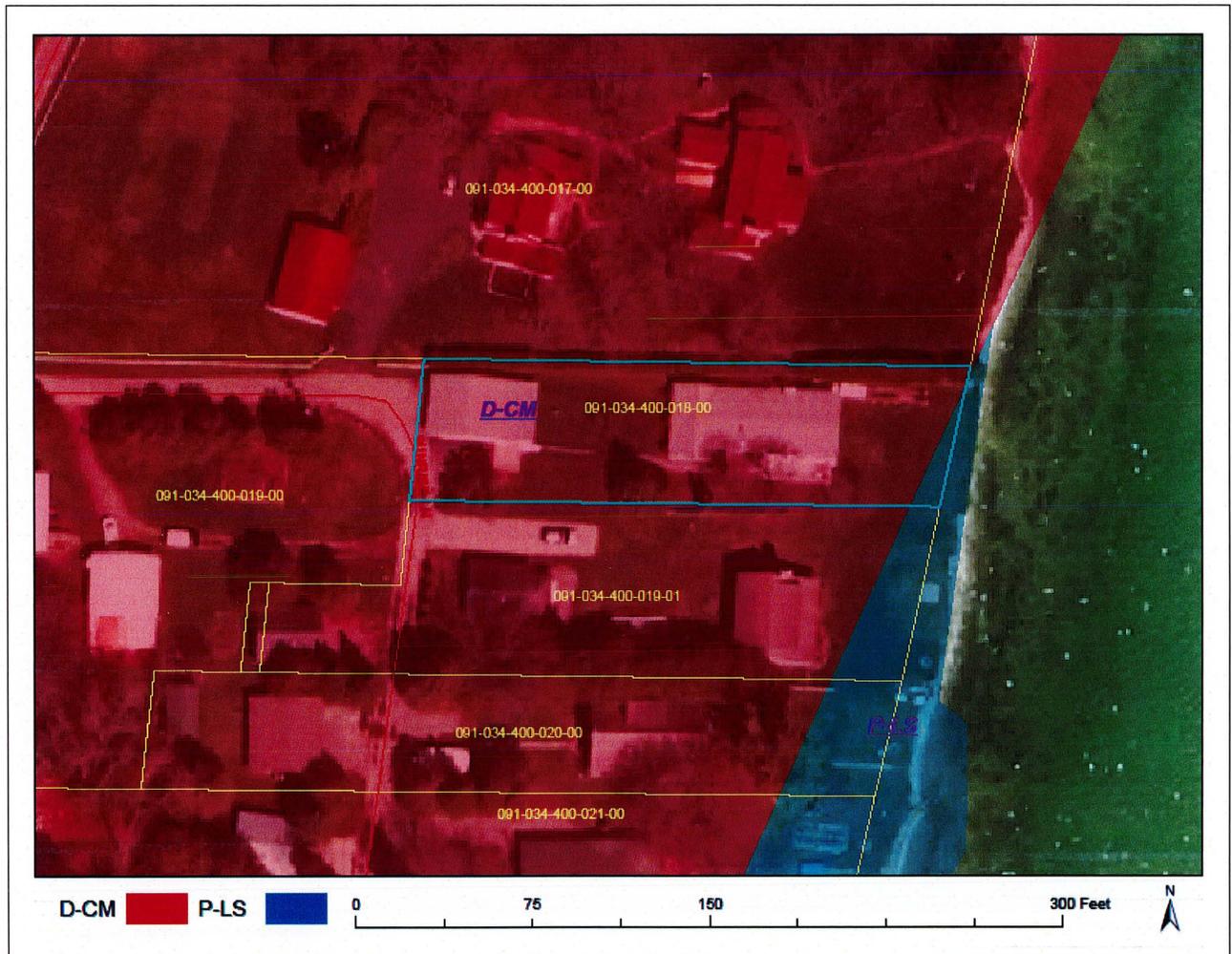
### BACKGROUND INFORMATION

The 0.31 acre (13,504 square feet) subject property is primarily zoned Commercial Development (D-CM) with a comparatively small portion zoned Lake and Stream Protection (P-LS), located at 6282 Sunrise Lane in Inverness Township. The dwelling and proposed 24 feet W x 26 feet L garage would be confined to that portion of the subject property zoned D-CM and attached to the existing single family dwelling.

Aside from the dwelling there is a detached garage sited closer to Sunrise Lane to the west. No zoning or building permit history exists for either in the County's permit tracking system. The applicant states in the dimensional variance application that both were built in the 1950s; thus they are considered legal, nonconforming structures. The dwelling and detached garage do not conform to the minimum 10 feet side setback standard for structures in D-CM. The dwelling to which the garage would be attached is located 7-ft., 11-in. from the north side lot line. The

proposed attached garage would extend the existing nonconforming setback along the same plane.

The subject property is narrow given its approximate width of 60 feet and length of 225 feet. The D-CM zoning district does not have minimum lot size nor lot width standards. It is noted as a lot of record, defined by a legal description and recorded by the Cheboygan County Register of Deeds on or before the effective date of the Zoning Ordinance or any applicable amendment thereof.



*Figure 1. Location and zoning of subject property at 6282 Sunrise Ln., Inverness Township (defined by blue boundaries)*

**Surrounding Zoning:**

North: Commercial Development (D-CM)

East: none - Mullett Lake

South: D-CM and Lake and Stream Protection (P-LS)

West: D-CM

**Surrounding Land Uses:**

Residential is the majority land use located to the north, west and south. Mullett Lake exists to the east. A commercial land use, Mullett Lake Self Storage, is located southwest of the subject property.

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

The subject property is located along Mullett Lake, the shoreline of which is zoned P-LS and thus considered environmentally sensitive. The garage addition would be constructed outside of this more sensitive shoreline area along the west side of the dwelling.

**Public comments:**

No public comments have been received as of this writing.

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS  
Wednesday, April 22, 2020 at 7:00 PM  
Room 135 – Commissioners Room  
Cheboygan County Building, 870 S. Main St., Cheboygan, MI 49721**

**Applicant:**

Roger and Sue Neumann  
6282 Sunrise Lane  
Cheboygan, MI 49721

**Owner:**

Same

**Parcel:**

091-034-400-018-00

**General Findings:**

1. The subject property is located in a Commercial Development (D-CM) and Lake and Stream Protection (P-LS) zoning district.
2. The subject property is approximately 60 feet wide and 225 feet long.
3. The subject property is a lot of record.
4. The applicant has stated in number 2.c. of the dimensional variance application that the dwelling was built in the 1950s; therefore, the existing dwelling is a legal, nonconforming structure with respect to current minimum setback standards for structures in the D-CM zoning districts.
5. The existing dwelling is 68 feet long with an average width of 26.5 feet (approximately 1,802 square feet) and located 7-ft., 11-in. from the north side lot line.
6. The applicant is requesting a 2-ft., 1-in. side setback variance (to allow a 7 feet, 11 inch side setback) to construct a garage addition (24 feet W x 26 feet L [624 square feet]) onto the existing dwelling.
7. As proposed, the attached garage would increase the extent of setback nonconformance, but not the degree of setback nonconformance.
8. The proposed attached garage would be confined to the D-CM portion of the subject property.
9. A minimum side setback of 10-ft. is required in the D-CM zoning districts, per Section 17.1 of the Zoning Ordinance.

**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 existing dwelling is stated to have been built in the 1950s before the Zoning Ordinance was adopted; therefore, the existing dwelling is a legal, nonconforming structure with respect to current minimum side setback standards which may be considered a unique circumstance.

**This standard has been met.**

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

1. With approximately 60 feet of lot width the garage may be built in compliance with the minimum 10 feet side setback standard.

**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 is a lot of record with an approximate width of 60 feet and length of 225 feet.
2. The existing dwelling is stated by the applicant to be built in the 1950s before the Zoning Ordinance was adopted; therefore, the existing dwelling is a legal, nonconforming structure with respect to its 7 feet, 11 inch setback from the north side lot line.

**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 need for the variance is due to the applicant proposing to build a 24 feet W x 26 feet L attached garage along the west side of the dwelling that would essentially extend the existing nonconforming setback along the same plane (but would not increase the degree of setback noncompliance).

**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 D-CM minimum side setback standard of 10 feet would require the owner to offset the proposed attached garage to the south infringing on space for a driveway extension and access to the proposed garage.

**This standard has been met.**

- B. Factors that show no adverse effects caused by the zoning regulation conditions:
  - 1. The proposed garage addition could be offset to the south in order to meet the minimum side setback standard of 10 feet in the D-CM zoning districts.

**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 requested variance of 2 feet, 1 inch would allow the property owners to essentially extend the build line along the same plane of their legal, nonconforming dwelling for the proposed garage addition.

2. The proposed garage addition is 24 feet W x 26 feet L or 624 square feet compared to the existing dwelling's approximate square footage of 1,802 square feet; therefore, the proposed garage addition would not increase the side setback nonconformance of the structure beyond what is already existing.

**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. The variance request could be reduced further by offsetting the proposed garage addition to the south. While this might not be aesthetically pleasing, it *could* fulfill the needs of the property owner.

**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. Several properties along Sunrise Lane are narrow and appear on aerial photos to have structures within the 10 foot side setback, thus the proposed garage addition to an existing nonconforming dwelling is not unique to the neighborhood and would not result in unfavorable impacts on surrounding properties, 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. Granting the 2-ft., 1-in. side setback variance for the proposed garage addition would allow the extension of a nonconforming side setback.

**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, April 22, 2020

\_\_\_\_\_  
Charles Freese, Chairperson

\_\_\_\_\_  
John Thompson, Secretary

# CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

Mark H. Nelson

## Exhibit List

1. Cheboygan County Zoning Ordinance
2. Cheboygan County Master Plan
3. Variance Application (3 Pages)
4. Mailing List (2 Pages)
5. Staff Report (8 Pages)
- 6.
- 7.
- 8.
- 9.
- 10.

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 #:	7209
CASH/CHECK:	CC
ACTION /DATE:	

**PLEASE PRINT**

**PROPERTY LOCATION**

Address <b>3195 SHIRLEY LANE</b>	City / Village <b>INDIAN RIVER</b>	Township / Sec. <b>1</b>	Zoning District
Property Tax I.D. (Parcel) Number <b>171-009-400-001-01</b>	Subdivision or Condo. Name / Plat or Lot No.		

**APPLICANT**

Name <b>MARK H NELSON</b>	Telephone <b>(517) 927-3673</b>	Fax
Address <b>464 SCOTT'S BAY DR.</b>	City & State <b>INDIAN RIVER, NE</b>	Zip Code <b>49149</b>
		E-Mail <b>COYOTE CREEK FARMS 16 @ GMAIL</b>

**OWNER (if different from applicant)**

Name <b>SAME</b>	Telephone	Fax
Address	City & State	Zip Code

Detailed directions to site, including nearest crossroad:

**EAST MULLET LAKE RD. TO SILERY RD 1/8 MILE TO SHIRLEY LANE**  
**PROPERTY END OF ROAD**

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

**I. Property Information**

- A. List all known deed restrictions: NONE
- B. This property is  unplatted,  platted,  will be platted. If platted, name of plat \_\_\_\_\_
- C. Present use of the property is: VACANT
- 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.

REPLACE HOUSE THAT WAS TOTALLY DESTROYED BY FIRE ON  
AUGUST 27 2018

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.

REPLACING THE HOUSE IN THE SAME LOCATION AS PREVIOUS  
HOUSE WILL NOT MEET SET BACKS DUE TO SIZE OF LOT  
THERE IS NO PLACE ON PROPERTY THAT WILL MEET SET BACKS

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

HOUSE DESTROYED BY FIRE. FIRE WAS DETERMINE BY  
INSURANCE INVESTIGATOR TO BE CAUSED BY A  
ELECTRICAL ISSUE

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

LOT SIZE IS 155' X 150'. CURRENT SET BACK  
FROM WATER IS 150'

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.

CURRENTLY THE PROPERTY HAS LITTLE TO NO VALUE  
WITHOUT BEING ABLE TO REPLACE HOUSE

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.

REPLACING THE HOUSE WILL INCREASE THE VALUE  
OF SURROUNDING 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

Date

03/22/2020

**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

Date

03/22/2020

**DISTRICT HEALTH DEPARTMENT NO. 4  
SITE PLAN  
(Proposal)**

Date 03/22/2020

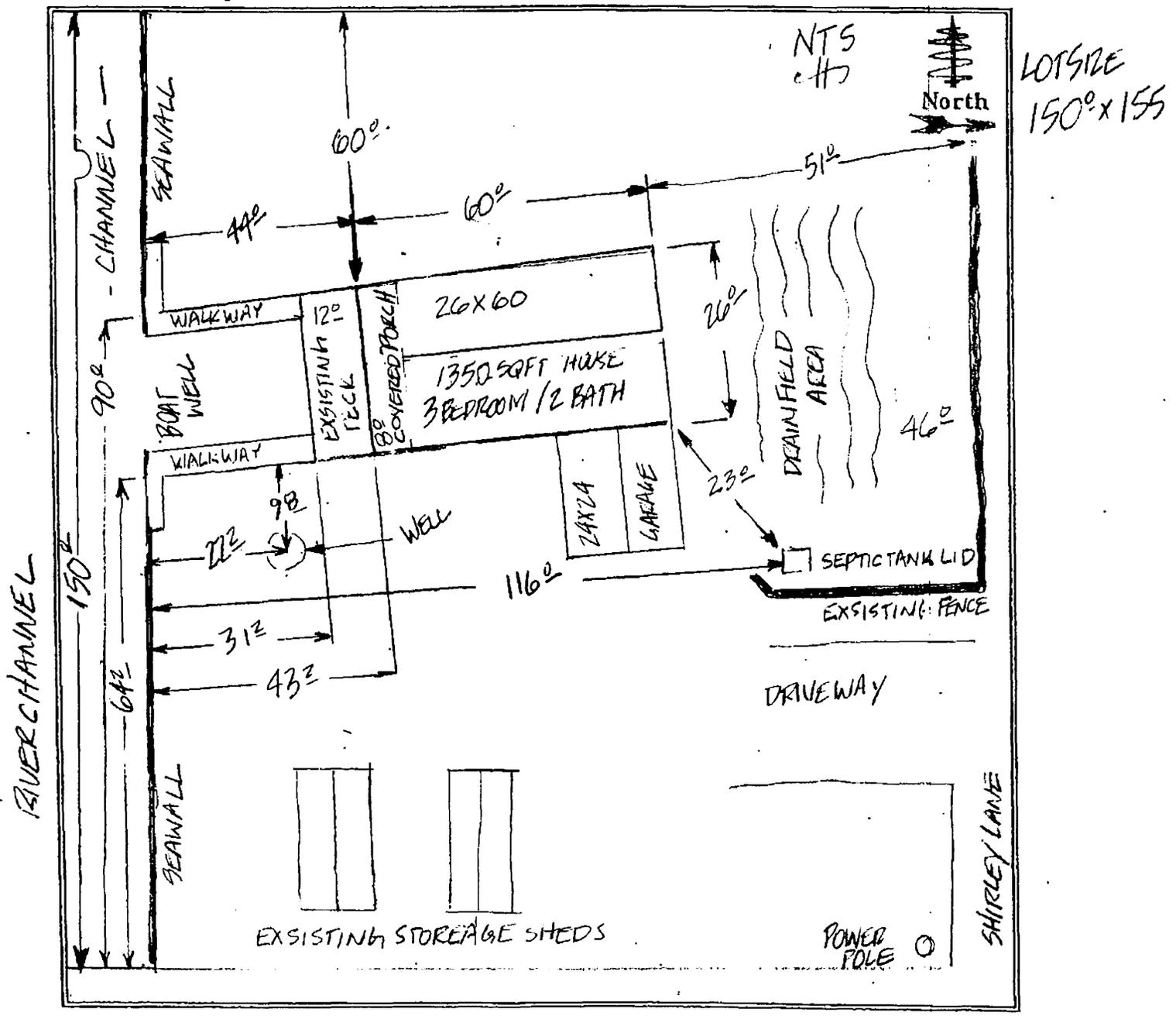
Onsite Sewage Permit # \_\_\_\_\_

Water Well Permit # \_\_\_\_\_

Owner Name MARK & SANDE NELSON

Applicant Name SAME

Include: Lot dimensions, building, driveways, easements, water well, septic area and a replacement area, surface water, soil boring locations, etc.



Site plan accepted  Site plan revised  Date: \_\_\_\_\_  
Environmental Sanitarian

DHD No. 4 EH-98 R-07/02

Original - w/Septic Permit    Yellow - w/Water Permit    Pink - Owner/Applicant Septic    Gold - Owner/Applicant Water

171-009-400-001-06  
THOMSEN, KRISTA  
1500 SILERY RD  
INDIAN RIVER, MI 49749

171-009-400-022-00  
STATE OF MICHIGAN  
PO BOX 30448  
LANSING, MI 48909

171-009-400-018-00  
JACOBS, ROGER  
PO BOX 296  
INDIAN RIVER, MI 49749

171-009-200-015-01  
JACOBS, ROGER  
PO BOX 296  
INDIAN RIVER, MI 49749

171-009-400-001-01  
NELSON, MARK & SANDRA H/W  
9741 E CUTLER RD  
LAINGSBURG, MI 48848

171-009-200-012-00  
GOSSARD, ARTHUR & BEVERLY H/W  
3112 COUNTY LAKE DR  
SEBRING, FL 33876

171-009-400-001-00  
JACOBS, ROGER  
PO BOX 296  
INDIAN RIVER, MI 49749

171-009-400-003-00  
KRZESZAK, TIMOTHY & SANDRA H/W  
3065 OTTER  
TROY, MI 48083

171-009-400-004-00  
LANDWEHR, HENRY & SHERYL H/W  
333 CARDINAL RD  
SEBRING, FL 33876

171-009-400-005-00  
ROBBINS, MILO; JANEEN ROBBINS &  
47669 JEFFERSON AVE  
CHESTERFIELD, MI 48047

171-009-400-006-00  
LEESE, DENISE I  
11429 BILDER RD  
WOLVERINE, MI 49799

171-009-400-008-00  
MARKS, GEORGE L JR & SHELLY H/W  
1534 SILERY RD  
INDIAN RIVER, MI 49749

171-009-400-001-06  
OCCUPANT  
1500 SILERY RD  
INDIAN RIVER, MI, 49721

171-009-400-001-01  
OCCUPANT  
3195 SHIRLEY LN  
INDIAN RIVER, MI, 49721

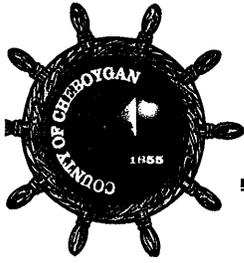
171-009-400-003-00  
OCCUPANT  
3144 CANDY LN  
INDIAN RIVER, MI, 49721

171-009-400-004-00  
OCCUPANT  
3174 CANDY LN  
INDIAN RIVER, MI, 49721

171-009-400-005-00  
OCCUPANT  
3197 CANDY LN  
INDIAN RIVER, MI, 49721

171-009-400-006-00  
OCCUPANT  
3177 CANDY LN  
INDIAN RIVER, MI, 49721

171-009-400-008-00  
OCCUPANT  
3137 CANDY LN  
INDIAN RIVER, MI, 49721



# 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

<b>Item:</b> Requests a 106-foot, 10-inch front setback variance on a waterfront tributary property zoned Natural Rivers Protection (P-NR) and a 31-foot, 10-inch variance from the 75-foot vegetation strip required along tributaries in P-NR, per Sections 17.1 and 11.5.2 respectively.	<b>Prepared by:</b> Jennifer Merk
<b>Date:</b> April 15, 2020	<b>Expected Meeting Date:</b> April 22, 2020

### GENERAL INFORMATION

**Applicant(s):** Mark H. Nelson

**Owner(s):** same

**Phone:** 517-927-3673

**Location:** 3195 Shirley Lane, Indian River; Koehler Township

**Requested Action:** The applicant requests approval of a 106-foot, 10-inch front setback variance to reconstruct a dwelling in the same location of a previously existing dwelling on a waterfront tributary property zoned Natural River Protection (P-NR). Per section 17.1 of the Zoning Ordinance, a minimum 150-foot front setback is required on a waterfront tributary property in the P-NR zoning district. The applicant also requests approval of a 31-foot, 10-inch variance from the 75-foot vegetation strip required along tributaries per section 11.5.2 of the Zoning Ordinance.

### BACKGROUND INFORMATION

The subject property is 0.45 acres (19,602 square feet) located at 3195 Shirley Lane in Koehler Township on a canal connected to the Pigeon River. The canal is considered a tributary of the Pigeon River. The subject property is zoned Natural River Protection (P-NR).

The subject property does not meet the minimum lot size for area (30,000 square feet) required of waterfront tributary properties in the P-NR zoning district per section 17.1; however, the subject property is a nonconforming lot of record. Property tax card records that begin in 1967

show the subject property (parcel no. 171-009-400-001-01) has the identical legal description then as it does today.

The dimensional variance application states the existing home on the subject property was destroyed by fire on August 27, 2018. The applicant is proposing to reconstruct a dwelling in the same location as the original dwelling which is 43-feet, 2-inches from the seawall at the nearest point. The subject property's dimensions are 150-feet wide by 155-feet deep. Per section 17.1 of the Zoning Ordinance, a minimum 150-foot front setback is required on a waterfront tributary property in the P-NR zoning district. Additionally, properties zoned P-NR must also 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."

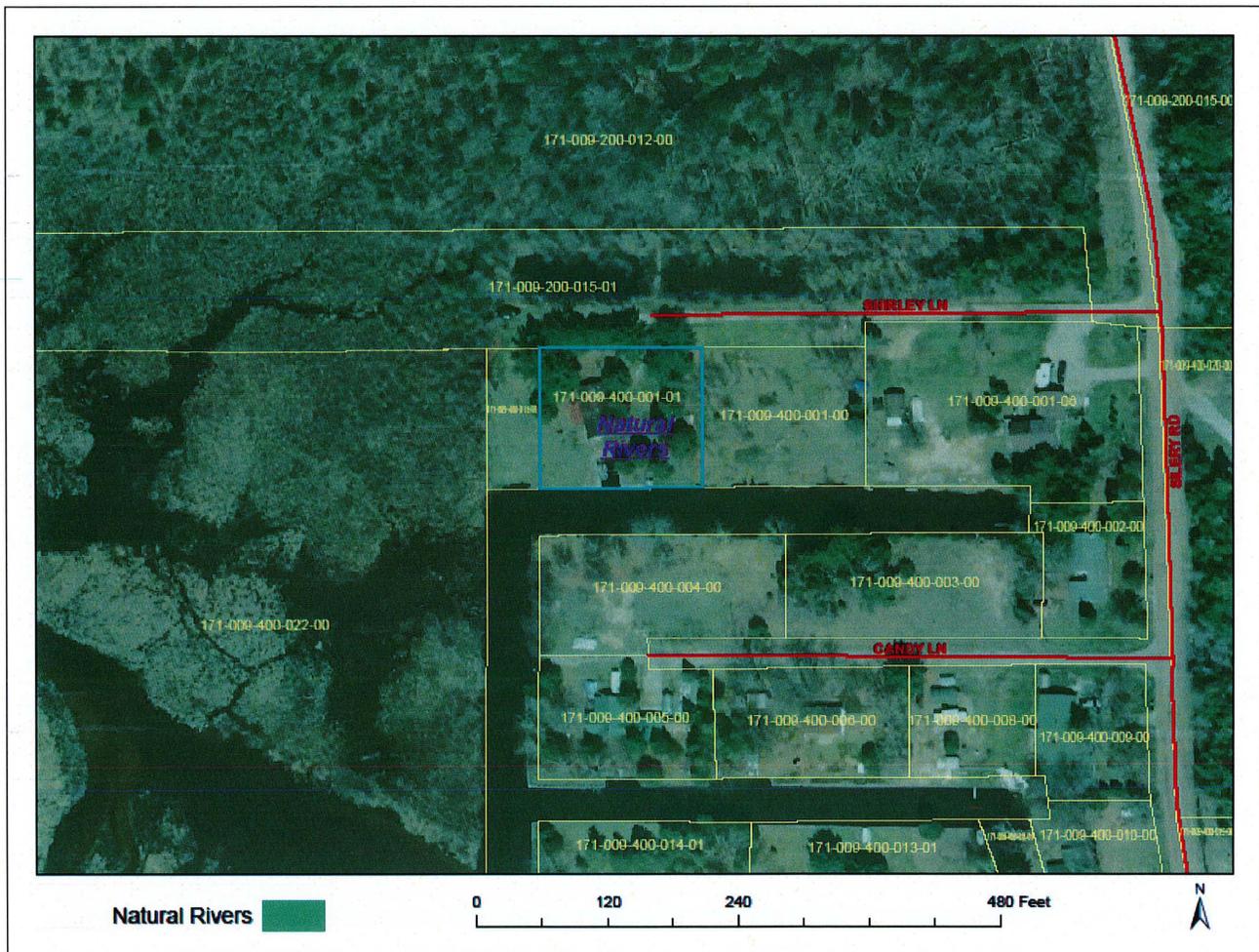


Figure 1. Location and zoning of subject property (highlighted in light blue)  
3195 Shirley Lane, Koehler Twp.

**Surrounding Zoning:**

North: Natural Rivers Protection (P-NR)

East: same

South: same

West: same

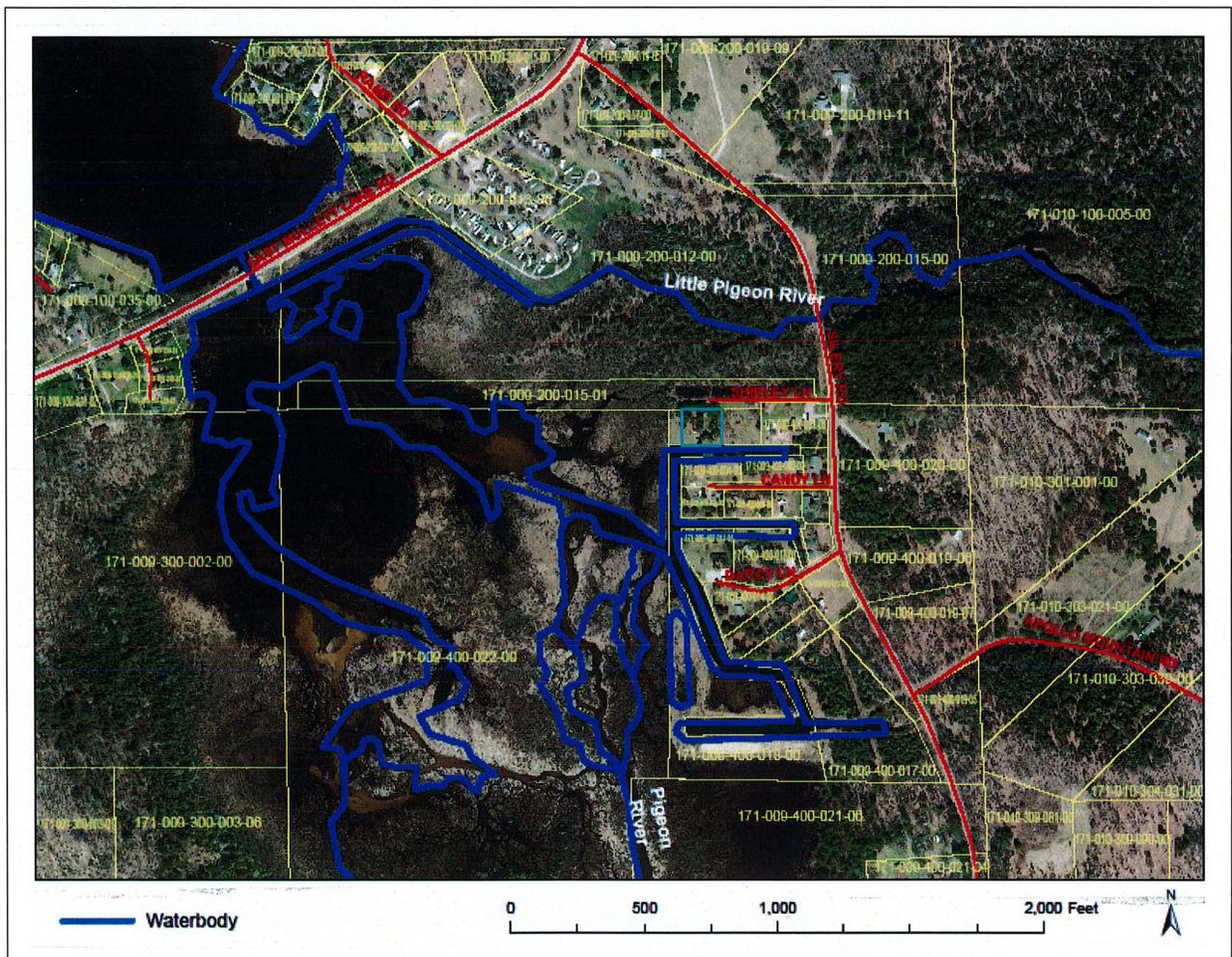
**Surrounding Land Uses:**

A campground and recreational property are situated to the north. Residential is the majority land use located to the east and south. The Pigeon River is located to the west.

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

The Pigeon River to the west and the Little Pigeon River to the north is deemed environmentally sensitive. The subject property is on a canal connected to the Pigeon River. Canals are considered to be tributaries of the river they are connected to, and thus require a minimum of 150-foot of waterfront setback.

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.”



*Figure 2. Location of subject property (at center, highlighted in light blue) in relation to Pigeon River and Little Pigeon River.*

**Public comments:**

No public comments have been received as of this writing.

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS**  
**Wednesday, April 22, 2020 at 7:00 PM**  
**Room 135 – Commissioners Room**  
**Cheboygan County Building, 870 S. Main St., Cheboygan, MI 49721**

**Applicant:**

Mark H. Nelson  
464 Scotts Bay Drive  
Indian River, MI 49749

**Owner:**

Same

**Parcel:**

171-009-400-001-01

**General Findings:**

1. The subject property is 0.45 acres (19,602 square feet) and located at 3195 Shirley Lane, Indian River Michigan in Koehler Township.
2. The subject property dimensions are 150-feet wide by 155-feet deep.
3. The subject property is located on a canal connected to the Pigeon River; the canal is considered a tributary of the Pigeon River.
4. The subject property is located in a Natural River Protection (P-NR) zoning district.
5. The subject property does not meet the minimum lot size for area (30,000 square feet) required of waterfront tributary properties in the P-NR zoning district, per Section 17.1.
6. The current legal description for parcel no. 171-009-400-001-01 matches the legal description contained in the aforementioned parcels property tax card record that begins in 1967; therefore, the subject property is a nonconforming lot of record.
7. The dimensional variance application states the home on the subject property was destroyed by fire on August 27, 2018.
8. The applicant is proposing to reconstruct a dwelling in the same location as the original dwelling which is 43-feet, 2-inches from the seawall at its nearest point.
9. Per section 17.1 of the Zoning Ordinance, a minimum 150-foot front setback is required on a waterfront tributary property in the P-NR zoning district.
10. 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.*”
11. The applicant is requesting a 106-foot, 10-inch front setback variance.

12. The applicant requests a 31-foot, 10-inch variance from the 75-foot vegetation strip required along tributaries per section 11.5.2 of the Zoning Ordinance.

**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 0.45 acres (19,602 square feet).
2. The subject property dimensions are 150-feet wide by 155-feet deep.
3. The subject property is located on a canal connected to the Pigeon River; the canal is considered a tributary of the Pigeon River.

**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 3195 Shirley Lane in Koehler Township is a small parcel of 0.45 acres (19,602 square feet) in a Natural Rivers Protection (P-NR) zoning district.
2. The subject property is a nonconforming lot of record.
3. Amendment #113 of the Zoning Ordinance established minimum lot size, building setbacks, height of structures, etc. permitted in the P-NR zoning district on June 28, 2012.

4. The subject property does not meet the minimum lot size for area (30,000 square feet) required of waterfront tributary properties in the P-NR zoning district per section 17.1.
5. Per section 17.1 of the Zoning Ordinance, a minimum 150-foot front setback is required on a waterfront tributary property in the P-NR zoning district.
6. 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.*”
7. The subject property dimensions are 150-feet wide by 155-feet deep.
8. The previously existing dwelling was located 43-feet, 2-inch from the seawall at the nearest point.
9. The dwelling on the subject property was destroyed by fire on August 27, 2018.

**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 reconstruct a dwelling in the same location as the original dwelling destroyed by fire which is 43-foot, 2-inch from the seawall at the nearest point.

**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 150-foot front setback for dwellings and accessory structures on a tributary in the P-NR zoning district would result in no development on the subject property because the property is 155-foot deep.
  2. Strict compliance with the required 150-foot front setback and 75-foot vegetation strip for dwellings and accessory structures on a tributary in the P-NR zoning district would not permit the applicant to reconstruct a dwelling in the location of a previously existing dwelling destroyed by fire and located 43-foot, 2-inch from the seawall at the nearest point.

**This standard has been met.**

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

1. The applicant could potentially reconstruct a new dwelling on the subject property to meet the 75-foot vegetation strip required along tributary properties in P-NR zoning district by reconfiguring the building's orientation.

**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 zoned Natural Rivers Protection (P-NR).
2. The subject property dimensions are 150-foot wide by 155-foot deep.
3. The required 150-foot front setback for dwellings and accessory structures on a tributary in the P-NR zoning district would result in no development on the subject property.
4. The applicant is proposing to reconstruct a dwelling in the same location as the original dwelling which is 43-feet, 2-inches from the seawall at its nearest point.
5. A septic tank and drain field are located north of the proposed and previously existing dwelling imposing space constraints to the north.

**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. The applicant could potentially reconstruct a new dwelling on the subject property to meet the 75-foot vegetation strip required along tributary properties in P-NR zoning district by reconfiguring the building's orientation and thereby reduce the front setback variance requested.

**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 106-foot, 10-inch front setback variance and 31-foot, 10-inch variance from the 75-foot vegetation strip required along tributaries in P-NR would not result in unfavorable impacts on surrounding properties, neighborhood or zoning district since all of the surrounding residential canal property structures do not meet the required 150-foot front setback and many do not meet the required 75-foot vegetation strip setback (as measured on GIS aerial photos).

**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 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, April 22, 2020

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Charles Freese, Chairperson

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John Thompson, Secretary