

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING
WEDNESDAY, JULY 27, 2016 AT 7:00PM
ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

Members Present: Charles Freese, Ralph Hemmer, John Moore, John Thompson, Nini Sherwood
Members Absent: None
Others Present: Scott McNeil, Tony Matelski, Brent Mosley, Lorna Mosley, Francis Zurawski, Carl Muscott, Russell Crawford, Charles Maziasz

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 June 22, 2016 Zoning Board of Appeals meeting were presented. Mr. Hemmer stated that the Zoning Board of Appeals Secretary is John Thompson and is to be corrected on the last page. **Motion** by Mr. Hemmer, seconded by Mr. Thompson, to approve the minutes as amended. Motion carried unanimously.

PUBLIC HEARING & ACTION ON REQUESTS

Brent Mosley - Requests a 16 ft. front setback variance and a 4 ft. side setback variance for construction of a single family dwelling and garage in a Lake and Stream Protection (P-LS) zoning district. The property is located at 6823 Grace St., Tuscarora Township, Section 24, parcel #161-S79-000-020-00 and #161-S79-000-021-00. A 40ft. front setback and an 8 ft. side setback is required for the subject property in this zoning district.

Mr. McNeil stated that there are two variance requests. Mr. McNeil explained that the applicant is proposing a 16ft. setback from the garage to the channel and a 4ft. side setback from the proposed dwelling to the edge of Grace Street. Mr. McNeil stated that this parcel is located in the Lake and Stream Protection Zoning District.

Mr. Freese asked if any correspondence has been submitted. Mr. McNeil stated that an updated exhibit list with correspondence has been distributed to the Zoning Board of Appeals members. Mr. Freese asked for public comments. There were no public comments. Public comment closed.

Mr. Freese noted that the regulation has been changed to allow a side setback of 10% of the average lot width. Mr. Freese stated the required setback is 7.18ft.

Mr. Mosley explained that the proposed dwelling will be placed in the same location as the previous cabin. Mr. Mosley also explained that the location is narrow due to the location of the drain field.

Mr. Freese stated that each variance request will be reviewed separately.

The Zoning Board of Appeals reviewed the General Findings and added the following:

5. The present garage is a legal non-conforming structure.
6. The house is a legal non-conforming structure
7. The proposed house with attached garage is 72ft. long (from east to west).
8. The useable building space from the water’s edge to the water well is 132ft.
9. The present house is 3ft 6in. (northwest corner) from the property line and 4ft. on the northeast corner from the property line
10. The edge of the blacktop is approximately 16ft. from the property line on Grace Street.

The Zoning Board of Appeals reviewed and approved the Findings of Fact and the Specific Findings of Fact under Section 23.5.4.

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

Emerald Valley Trust/Robert Daymon - Requests a 5.2 ft. side setback variance for storage building which is accessory to a dwelling in a Lake and Stream Protection (P-LS) zoning district. The property is located at 15562 Island Drive, Nunda Township, Section 22, parcel #251-T07-000-030-00. A 6.2 ft. side setback is required for the subject property in this zoning district.

Mr. McNeil explained that a 6.2ft. side setback is required and Mr. Daymon is requesting a 5.2ft. side setback variance to allow a storage shed to be placed 1ft. from the side property line.

Mr. Freese asked if any correspondence has been submitted. Mr. McNeil stated that an updated exhibit list with correspondence has been distributed to the Zoning Board of Appeals members. Mr. Freese asked for public comments. There were no public comments. Public comment closed.

Mr. Daymon stated that this is just a portable building. Mr. Daymon stated that he planned to build a garage and he was not able to meet the setback requirement. Mr. Daymon stated that he purchased a pre-assembled garage and it is not on a foundation. Mr. Daymon stated it will be use as a storage building. Mr. Daymon stated the structure will be within 9ft. of the house and 1 1/2ft. from the property line. Mr. Daymon stated it can be removed if necessary. Mr. Daymon stated this is a very narrow lot and he did not know that a temporary building (pre-constructed) had to meet setback requirements. Mr. Daymon stated that if he has to meet setback requirements it will put this structure within 4ft. of the house and he would not be able to mow the lawn between the two structures.

Mr. Freese asked if Mr. Daymon is asking for this variance to stand as it is or would he agree to a lesser variance if the Zoning Board of Appeals determines it to be acceptable. Mr. Daymon stated that would be difficult because of the drop off toward the lake. Mr. Daymon explained that a contractor put in a foundation and it would be hard to move over. Mr. Daymon stated the building would have to be removed and a new foundation would have to be constructed. Mr. Daymon stated this would be difficult and he would probably have to remove the structure. Mr. Daymon stated the building is not bolted down and it is not a permanent structure. Mr. Freese explained that one of the questions that the Zoning Board of Appeals will ask is if the situation is self-created. Mr. Daymon stated yes it is self-created. Mr. Freese stated that this one statement will result in the variance request being denied. Mr. Freese stated that the building could be moved to the edge of the stairs. Mr. Freese stated that this would allow for a 6ft. side setback. Mr. Freese stated that the setback requirement is 6.2ft. Mr. Freese stated the Zoning Board of Appeals may consider a .2ft. setback variance. Mr. Freese asked Mr. Daymon if he is willing to accept a lesser variance if the Zoning Board of Appeals determines it to be acceptable. Mr. Daymon stated yes. Discussion was held. Mr. McNeil stated this building is large enough to fall under the building code and a 5ft. separation between the two buildings is required. Mr. Freese stated this would mean a variance of 1.6ft. is necessary. Mr. Daymon stated he talked with the adjacent property owners and they have no issues with this building as it is not permanent. Mr. Moore explained that non-permanent buildings with a maximum of 150sf are allowed. Mr. Moore stated this building is larger than 150sf. Mr. Freese noted that three letters in objection to this request have been submitted. Mr. Moore noted that another question that the Zoning Board of Appeals will ask is if this is the smallest variance possible. Mr. Moore stated it is not the smallest variance possible if the building can be moved even a foot. Mr. Freese asked if Mr. Daymon is willing to accept a lesser variance. Mr. Daymon stated yes.

The Zoning Board of Appeals reviewed the General Findings and added the following:

4. The presently existing storage building is separated from the entrance stairway by approximately 5ft.
5. The applicant is willing to accept a lesser variance than the 5.2ft.

The Zoning Board of Appeals changed General Finding #3 to "The applicant is willing to accept a lesser variance and proposed by the Zoning Board of Appeals is 2.2ft."

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

Donald Maust - Requests a waiver from the 6 foot high solid fence or hedge requirement for construction of a private storage building within 30 feet of a side lot line in a Lake and Stream Protection (P-LS) zoning district. The property is located at 15444 Lakeview Dr., Nunda Township, Section 22, parcel #251-W23-000-218-00. Section 17.18.6. for the Cheboygan County Zoning Ordinance #200 states as follows: "The Board of Appeals may waive or modify greenbelt, wall or fence requirement where in its determination no good or practical purpose would be served, including such reasons as large site area, natural isolation, land ownership patterns and natural barriers and screens." Section 17.23.1.d. regarding standards for private storage buildings in the Lake and Stream Protection zoning district states as follows: If within thirty (30) feet of a side property line, all such private storage buildings must be screened from view of the side property lines with a solid evergreen hedge with a minimum height of six (6) feet or privacy fence with a minimum height of six (6) feet.

Mr. McNeil stated that Mr. Maust is proposing a storage building in a Lake and Stream Protection Zoning District. Mr. McNeil explained that the use of the building will be private storage. Mr. McNeil that section 17.23.1d requires a 6ft. high solid wood fence or hedge if the private storage building is within 30ft. of a site lot line. Mr. McNeil read section 17.18.6, "The Board of Appeals may waive or modify greenbelt, wall or fence requirement where in its determination no good or practical purpose would be served, including such reasons as large site area, natural isolation, land ownership patterns and natural barriers and screens." Mr. McNeil stated that the applicant is asking the Zoning Board of Appeals for a waiver for the screening requirement.

Mr. Freese asked if any correspondence has been submitted. Mr. McNeil stated that an updated exhibit list with correspondence has been distributed to the Zoning Board of Appeals members. Mr. Freese asked for public comments. There were no public comments. Public comment closed.

Mr. Maust stated that he comes up north for the outdoor atmosphere. Mr. Maust stated he talked with neighbors to the left and they do not want him to put up a fence. Mr. Maust stated that he was not able to talk to the property owners of the adjacent lot because it is vacant. Mr. Maust stated he would like to keep the area woody looking.

The Zoning Board of Appeals reviewed the General Findings and revised 2, "The applicant proposes to construct a private storage building six (6) feet from a side lot line." The Zoning Board of Appeals added "The adjacent lot has been cleared directly adjacent to the pole barn location for a possible future dwelling location and could possibly adversely impact that home without adequate screening." as 5.

Mr. Freese stated that he would look more favorably toward an evergreen buffer rather than a solid fence. Mr. Moore noted that requirement allows for a fence or solid hedge. Mr. Maust asked if the evergreen buffer must be 6ft. when it is planted. Mr. Freese stated that since no one is currently building on the adjacent lot, he would consider 3-4ft. pine trees every 8ft. as this would fill in quickly. Mr. McNeil noted that the aerial photo will be added as exhibit 6. Mr. Moore agreed that pine trees are appropriate for the area.

The Zoning Board of Appeals reviewed the Specific Findings of Fact under Section 23.5.4. **Motion** by Mr. Moore, seconded by Mr. Hemmer, that the greenbelt requirement be modified to require a staggered row of 3ft. high pine trees, 8ft. apart and 4ft. past each end of the building. Motion carried unanimously.

Francis Zurawski - Requests a 5ft. side setback variance for construction of a garage in an Agriculture and Forestry Management (M-AF) zoning district. The property is located at 7461 South Extension Rd., Munro Township, Section 25, parcel #080-025-400-001-01. A 10 ft. side setback is required in this zoning district.

Mr. McNeil stated the applicant is proposing to build a garage that would be an accessory to a dwelling. Mr. McNeil stated the side setback requirement is 10ft. in the Agriculture and Forestry Management Zoning District. Mr. McNeil stated that Mr. Zurawski is requesting a 5ft. side setback variance.

Mr. Zurawski presented a drawing showing the topography of the property. Mr. Zurawski explained the change in elevation between his parcel and the adjacent parcel. Mr. Zurawski noted that he has moved the driveway 12ft. closer to the dwelling.

Mr. Freese referred to the site plan and noted that if there is a distance of 9ft. from the proposed garage to the 8ft. driveway, then there should be another 24ft. between the south edge of the driveway and the north projection of the house. Mr. Freese stated if the driveway is moved over 5ft., there would be 19ft. between the house and the south edge of the driveway. Mr. Freese stated there is approximately 2ft. of cut on the back of the proposed garage and there would be approximately 18 inches of fill for the south of driveway if it is moved over the extra 5ft.

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

The Zoning Board of Appeals reviewed the Findings of Fact and added "The distance from the northern most side of the house to the south side of the driveway is approximately 24ft." as 4.

Mr. Moore suggested installing the garage doors on the east end of the building. Mr. Moore stated that the building could easily be moved 5ft. without affecting the driveway at all. Mr. Moore stated another option is to make the garage 28ft. wide and leave the garage doors on the south side. Mr. Moore stated 28ft. is adequate. Mr. Moore stated that he drives a suburban and his garage is 28ft. deep and he has 4ft. behind his vehicle. Mr. Moore stated the footprint of the building can be expanded to the east or west if additional storage space is needed. Discussion was held. Mr. Moore noted that there are many alternative options available.

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

Rose Williamson - Requests a 5 ft. rear setback variance and a 3.5 ft. side setback variance for use of a camper in a Lake and Stream Protection (P-LS) zoning district. The property is located at 9275 Hudson Drive, Benton Township, Section 17, parcel #104-017-300-011-00. A 12 ft. rear setback and an 8 ft. side setback are required for the subject property in this zoning district.

Mr. McNeil stated that Ms. Williamson is requesting a 3.5ft. side setback variance and a 5ft. rear setback variance for the placement of a camper trailer. Mr. McNeil referred to Section 17.7 of the Zoning Ordinance and stated that campers are allowed for use on this property in Lake and Stream Protection Zoning District for three different periods of 30 consecutive days in a calendar year. Mr. McNeil stated that this can be put together to allow 90 days of use in a calendar year. Mr. McNeil stated that standard setbacks must also be met. Mr. McNeil stated that in the Lake and Stream Protection Zoning District there is a 12ft. rear setback requirement and an 8ft. side setback requirement. Mr. McNeil stated that the applicant is requesting a 5 ft. rear setback variance and a 3.5 ft. side setback variance.

Mr. Moore asked if Hudson Drive is a private road. Ms. Williamson stated yes. Mr. Moore asked if Hudson Drive is an easement that has been granted. Mr. McNeil stated yes and it is a 24ft. wide easement. Ms. Williamson stated that she is not sure where the center of the road actually is located.

Mr. Freese asked if any correspondence has been submitted. Mr. McNeil stated that the correspondence is included in the exhibit list. Mr. Freese asked for public comments. There were no public comments. Public comment closed.

Ms. Williamson stated there wasn't a tent and camper ordinance when the camper was brought to the property. Ms. Williamson stated that there is a big hill and that the camper is located in this area for her mother and father who visit 3 times a year. Ms. Williamson stated that they stay for a week each time. Ms. Williamson stated that no one uses the camper the rest of the time. Ms. Williamson stated that she talked to the adjacent neighbors prior to purchasing the camper and they did not have any issues. Ms. Williamson stated that they pay for the snow plowing. Ms. Williamson stated that there have not been any issues with snow plowing. Ms. Williamson noted the location of the drain field and the dwelling.

Mr. Freese stated that the camper can be moved approximately 2ft. towards the driveway. Mr. Freese stated the camper can be moved back 13ft. towards the slope. Ms. Williamson noted that there are a slide-out and an awning on the camper. Ms. Williamson asked how far back should the camper be moved. Mr. Freese stated the camper should be moved back 5ft. and over towards the edge of the blacktop. Discussion was held. Mr. Freese stated a side variance of 1.5ft. may be needed. Mr. Moore suggested a 2ft. variance.

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

6. Approximately 13ft. of level ground is available on the southeast side of the present camper location before the hillside rises sharply to the east.
7. Approximately 2ft. is available to the northeast for locating the camper without seriously restricting the blacktop parking area used for other vehicle parking.
8. The applicant proposes to meet the rear setback.

The Zoning Board of Appeals revised #4, "The applicant is seeking a 2 ft. side lot line variance for use of a camper."

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. Thompson, 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 referred to the variance request for Brent Mosley and stated that the canal is not waterfront property. Discussion was held.

PUBLIC COMMENTS

No comments.

ADJOURN

Motion by Mr. Moore to adjourn. Motion carried. Meeting adjourned at 8:13pm.



John Thompson, Secretary