



CHEBOYGAN COUNTY PLANNING COMMISSION

870 SOUTH MAIN ST. ■ PO BOX 70 ■ CHEBOYGAN, MI 49721
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CHEBOYGAN COUNTY PLANNING COMMISSION MEETING
WEDNESDAY, MARCH 4, 2020 AT 7:00 PM
ROOM 135 - COMMISSIONERS ROOM
CHEBOYGAN COUNTY BUILDING, 870 S. MAIN ST., CHEBOYGAN, MI 49721

AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF AGENDA

APPROVAL OF MINUTES

SCHEDULED PUBLIC HEARINGS

UNFINISHED BUSINESS

1. Continued discussion regarding proposed Zoning Ordinance Amendment #155 relative to Nonconforming Buildings or Structures, Properties and Uses.

NEW BUSINESS

STAFF REPORT WITH UPDATE ON MASTER PLAN REVISION

PLANNING COMMISSION COMMENTS

PUBLIC COMMENTS

ADJOURNMENT



CHEBOYGAN COUNTY PLANNING COMMISSION

870 SOUTH MAIN ST., ROOM 103 ■ PO BOX 70 ■ CHEBOYGAN, MI 49721
PHONE: (231)627-8489 ■ TDD: (800)649-3777

CHEBOYGAN COUNTY PLANNING COMMISSION MEETING & PUBLIC HEARING WEDNESDAY, FEBRUARY 5, 2020 AT 7:00 P.M. ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

- PRESENT:** Bartlett, Freese, Kavanaugh, Croft, Ostwald, Lyon, Johnson, Delana
ABSENT: Borowicz
STAFF: Mike Turisk, Jen Merk
GUESTS: Eric Boyd, Carmela Boyd, John F. Brown, Carl Muscott, Cal Gouine, Bob Lyon, Russell Crawford, Cheryl Crawford, John Moore, Jay Beers, Charlie Veneros, Steve Crusoe

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

PLEDGE OF ALLEGIANCE

Chairperson Croft led the Pledge of Allegiance.

APPROVAL OF AGENDA

The meeting agenda was presented. **Motion** by Mr. Kavanaugh, seconded by Mr. Bartlett, to approve the agenda as presented. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Croft, Ostwald, Lyon, Johnson, Delana), 0 Nays, 1 Absent (Borowicz)

APPROVAL OF MINUTES

The January 15, 2020 Planning Commission minutes were presented. **Motion** by Mr. Kavanaugh, seconded by Ms. Lyon, to approve the meeting minutes as presented. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Croft, Ostwald, Lyon, Johnson, Delana), 0 Nays, 1 Absent (Borowicz)

PUBLIC HEARING AND ACTION ON REQUESTS

There were no scheduled public hearings.

UNFINISHED BUSINESS

Continued Discussion Regarding Proposed Amendment #155 Relative To Nonconforming Buildings Or Structures, Properties And Uses.

Mr. Turisk stated that the principle purpose of this amendment is to loosen the standards in Article 22 that govern the completion, restoration, reconstruction, extension or discontinuance of nonconformances. Mr. Turisk stated that this seeks to clarify what a property owner may do to continue with a nonconformance. Mr. Turisk stated that there is language that regulates the expansion of nonconformity but a nonconforming lot, use or structure would be permitted to continue. Mr. Turisk stated that the latest draft of this amendment is more condensed and this is due to trying to provide clarity to disregard classifying nonconformances. Mr. Turisk stated that Section 22.3A allows normal maintenance and incidental repairs for nonconforming uses and structures. Mr. Turisk stated that Section 22.3B speaks to the allowance to make improvements to a nonconforming building or structure that has been deemed unsafe or unlawful by the Building Official. Mr. Turisk stated that such a structure may be restored to a safe and habitable condition without concern regarding losing the nonconforming status. Mr. Turisk referred to Section 22.3.C and stated that rebuilding of a nonconforming structure that is damaged or destroyed can be no greater than its original configuration and on its original foundation or footprint. Mr. Turisk stated that a policy decision will need to be made whether or not it is acceptable or if under these circumstances this would be a good opportunity to gain conformance. Mr. Turisk stated that Section 22.3.D speaks to the enlargement or alteration of a nonconforming building. Mr. Turisk stated that a nonconforming building or structure would be allowed to be expanded, altered or enlarged so long as the creation of any new nonconformity does not occur. Mr. Turisk stated that a nonconforming building or structure would be allowed to expand, altered or enlarged so long as it does not increase the degree of nonconformity. Mr. Turisk stated that in regards to Section 22.3.F, it was decided that variance requests for nonconformities will be reviewed by the Zoning Board of Appeals. Mr. Turisk reviewed the application requirements to replace a nonconformity with another nonconforming use, building or structure. Mr. Turisk reviewed the standards for the Zoning Board of Appeals to review and approve a new nonconforming use, building or structure under Section 22.3.F.3. Mr.

Freese stated that this section is allowing an established nonconformity to be replaced by another nonconformity. Mr. Turisk referred to Section 22.3.G and stated that if a nonconforming use, building or structure that is replaced by another nonconforming use, building or structure then it shall not revert to its original nonconforming status. Mr. Turisk referred to Section 22.3.H and stated that this regards the extension of an existing nonconforming use throughout any part of a building in which said use if applicable is located. Mr. Turisk stated if the building was designed for the use and existed at the time the use became nonconforming it must comply with the regulations that result from such expansion.

Mr. Turisk stated that Section 22.4. addresses what a property owner of a nonconforming lot may do to develop, hold, convey or sell the lots. Mr. Turisk reviewed the two options available to a property owner. Mr. Turisk referred to Section 22.4.B.1 and stated that the owner may hold, develop, and convey the nonconforming lots or parcels as separate nonconforming lots of record. Mr. Turisk stated that each individual nonconforming lot or parcel shall comply with all applicable setback regulations. Mr. Turisk referred to Section 22.4.B.2 and stated that the other option is to record a deed restriction that would combine the lots into an undivided lot for the purposes of adherence to the Zoning Ordinance. Mr. Turisk read from Section 22.4.B.2 "Under this option if combining the lots or parcels, or portions of lots or parcels results in a conforming lot, then that undivided lot may be developed as authorized by the zoning district in which it is located." Mr. Turisk explained that a dimensional variance would not be granted if the nonconformity could be remedied by combining the lots. Ms. Johnson asked if this is discrimination because a property owner owns two lots. Mr. Freese stated no. Mr. Freese stated that the property owner either wants to treat the two lots separately and be able to sell them separately with two houses or he wants to disregard the setback requirements. Ms. Johnson stated that someone owning two lots will be treated differently than someone owning one lot. Mr. Freese stated that the property owner is being allowed to make a choice. Mr. Kavanaugh stated his concerns regarding Sections 22.4.B.1 and 22.4.B.2 not being clear. Ms. Johnson questioned why the Zoning Administrator must approve a deed restriction. Discussion was held. Ms. Johnson referred to section B.1 and read "provided however no dimensional variance shall be granted for such lot or parcel." Mr. Turisk stated that if a dimensional variance were granted there would technically still be a nonconformity. Mr. Turisk stated if the property owner combines the lots and therefore conforms, we have achieved compliance. Mr. Freese explained that this section says that a variance for setbacks would not be granted from the interior property line if they want to treat the lots as separate lots. Mr. Kavanaugh stated that the Planning Commission will have to determine if they want to discontinue nonconforming uses as this amendment is the way to do it. Ms. Johnson stated this is discriminatory against a property owner who owns two lots that are contiguous. Ms. Johnson stated that the property owner will not be able to do the same thing that a person who owns one lot will do. Mr. Kavanaugh stated that B1 and B2 are not clear and stated that it should be easier to understand. Ms. Johnson asked why the Zoning Administrator must approve a deed restriction. Mr. Freese stated that there are others ways that this can be done. Ms. Croft noted that if the two parcels meet the minimum lot requirements for a new dwelling then they should not be required to be combined. Mr. Freese stated that this is referring to nonconforming parcels. Mr. Kavanaugh would like to know if zoning approval is required to combine parcels. Discussion was held. Mr. Freese noted that approximately 85% of the variances regarding nonconforming parcels are in subdivisions along a lake. Mr. Freese stated that he originally considered exempting parcels in subdivisions from this provision. Ms. Croft noted that a lot in a subdivision can't be split. Mr. Freese stated that the proposed amendment is forcing property owners to combine the nonconforming lots. Mr. Freese stated that the amendment is not forcing a property owner to split a lot. Mr. Kavanaugh stated that this is the most controversial part of the proposed amendment and that he would like to hear comments from the public and townships before the Planning Commission makes a decision. Mr. Kavanaugh stated that the rest of the changes are exactly what the Planning Commission had requested.

Mr. Freese stated that there is a provision that allows a nonconforming structure that is nonconforming due to setback infringement, to be expanded along the same setback. Mr. Freese explained that the Zoning Board of Appeals has been allowing this type of variance and he believes it should be included in the amendment. Mr. Freese stated that this would eliminate a significant number of variance requests that are considered by the Zoning Board of Appeals. Mr. Kavanaugh stated that this is something to discuss as the setbacks have been reduced in the Lake and Stream Protection Zoning District. Mr. Kavanaugh stated that he believes this is an error that the Planning Commission made by approving these reduced setbacks so the property owner would not have to request a variance from the Zoning Board of Appeals.

Mr. Turisk referred to Section 22.5 and stated that this is regarding abandonment. Mr. Turisk stated that he discussed this with legal counsel and was advised that we definitely need to have provisions for abandonment of a nonconformity. Mr. Turisk read Section 22.5 "If a property owner has an intent to abandon a nonconforming use, building, or structure and in fact abandons this nonconforming use, building, or structure for a period of one (1) year or more, then any subsequent use of the building, structure or property shall conform to the requirements of this Ordinance." Mr. Turisk reviewed the five factors the Zoning Administrator would consider when determining the intent of a property owner abandoning a nonconforming use. Mr. Freese stated that the abandonment can't be determined by the length of time only. Mr. Kavanaugh noted that there are additional standards.

Mr. Turisk stated that he will look into Section 22.4.B.2. Mr. Freese stated that the Planning Commission should consider after the public hearing whether people should be forced to combine nonconforming lots. Mr. Turisk stated that this is a policy decision. Mr. Turisk referred to Section 22.3.C and noted that a nonconforming building or structure that is destroyed or damaged can't be reconstructed to anything greater than its original footprint. Mr. Freese stated that the Planning Commission needs to decide how much they really want to get rid of nonconforming buildings, structures and uses. Mr. Freese stated that he believes if there is a nonconforming building that is completely destroyed it shouldn't be rebuilt as a nonconforming structure. Mr. Turisk stated that this may be a good opportunity to achieve conformance in this type of situation. Mr. Turisk asked whether the property owner should be compelled to build to the applicable standards or should we allow the property owner to build up to the size of the original footprint. Mr. Freese asked how much does the Planning Commission want to bring this back into conformity with the regulation. Discussion was held. Mr. Freese stated that this amendment may possibly eliminate 25% of the variance requests that are reviewed by the Zoning Board of Appeals. Mr. Freese stated that some of these sections can be taken out, but planning training sessions that he has attended advise to reduce the degree of nonconformity or to eliminate the nonconformity.

NEW BUSINESS

Discussion regarding proposed amendment relative to zoning standards for signs.

Mr. Turisk stated this discussion is to get feedback and direction from the Planning Commission given the direction from the Board of Commissioners to look at amending Section 17.19 regarding signs. Mr. Turisk stated that the Planning Commission is to look at dimensional standards for freestanding and pylon signs in the Commercial Zoning District. Mr. Turisk stated that given the current iteration of Section 17.19 and the work that the Planning Commission put into amending the sign ordinance in 2015 he does not see a need for a great deal of amendment language changes. Mr. Turisk stated that there are new technologies that are currently being employed and new technologies on the horizon. Mr. Turisk stated that this may be an opportunity to confirm that our sign standards achieve our aesthetic values and goals and economic development goals. Mr. Turisk stated that the Planning Commission should consider dimensional standards in the Commercial Development Zoning Districts. Mr. Turisk stated that the Planning Commission should consider height and maximum sign fascia. Mr. Turisk stated that the Planning Commission should have a discussion about basing dimensional standards on linear road frontage distance.

Mr. Turisk stated that Section 17.19 allows for 3 freestanding signs per parcel in the Commercial Development Zoning District. Mr. Turisk stated that in this zoning district 80sf of sign face is allowed. Mr. Turisk if the Planning Commission would prefer to allow an option for an applicant to have 3 smaller signs or one larger sign. Mr. Turisk stated that a more detailed definition for sign should be included in Article 2. Mr. Turisk stated that an objective of the Master Plan is to update ordinance provisions to accommodate more potential recreational trail signage improvements. Mr. Turisk stated that another Master Plan goal is to update sign standards to allow sign size to be proportional to building façade size. Mr. Turisk reviewed Section 17.19.8. Mr. Turisk stated that the Planning Commission should examine whether or not these dimensional standards, particularly in the Commercial Development Zoning District, are appropriate given conditions and anticipated future development. Mr. Turisk asked the Planning Commission if they feel that larger signage than what is currently allowed is appropriate or do they want to keep the Zoning Ordinance as it is currently.

Mr. Freese stated that if a large number of variance requests are received for the same category of variance it is a good indication that a review of the ordinance is warranted. Mr. Freese stated that there have been 19 variance requests pertaining to signage received in the past 15 years, which are broken down into 5 major types, i.e.; 10 freestanding sign requests (3 approved, 7 denied), 6 wall sign requests (4 approved, 2 denied), 2 requests for location in right of way (2 approved), 1 setback request (1 approved) and 1 use variance (1 approved). Mr. Freese stated that the number of requests (6) for variances for larger wall signs resulted in the Zoning Board of Appeals bringing the problem to the attention of the Planning Commission with the result that the size limit for wall signs was increased to a maximum of 300sf in a subsequent amendment to the regulation. Mr. Freese stated that this amendment would have eliminated 5 of the 6 variance requests in this category if it had been in place at the time these requests were received.

Mr. Freese stated the only other category of signage receiving a large number of variance requests (10) is freestanding signs and although this number is the largest category of all sign variance requests received, the limitations on size and height for freestanding signs varies greatly depending on the zoning district in which they are located. Mr. Freese stated that of the 10 variance requests received, 3 were located in the Commercial zoning district (limits of 80sf in size and 25ft. in height) with 1 of these approved and 2 denied, 3 were located in the Agriculture and Forestry Management zoning district (limits of 18sf in size and 12ft. in height) with 1 of these approved and 2 denied, 2 were located in the Light Industrial zoning district (limits of 120sf in size and 25ft. in height) with both denied, and 2 were located in the Residential zoning district (limits of 8sf in size and 6ft. in height) with 1 approved and 1 denied.

Mr. Freese stated that the case which precipitated this review pertains to signs in the Commercial zoning district. Of the 3

requests in this category, 1 was actually for a smaller sign, but required a variance for a larger percentage of the sign face, which could be devoted to its electronic face than is allowed (Indian River Trading Post – approved), one requested a sign 255% of that allowed (Meijer, Inc. – denied), and the third requested a sign 125% of that allowed (Burt Lake Marina –denied).

Mr. Freese noted only three variance requests have been approved by the Zoning Board of Appeals for freestanding signs in all zoning districts in the past 15 years, i.e.; one for a larger sign for a church in Topinabee in the Residential zoning district, one for a smaller sign having a larger portion of the size devoted to its electronic face for the menu board for the Indian River Trading Post (McDonalds) in the Commercial zoning district, and one for a larger sign for a nonconforming business (Ginop Sales) in the Agriculture and Forestry Management zoning district. It should be noted that the Ginop Sales parcels were subsequently conditionally rezoned to Commercial and the signs for which the variance request was approved would have been permitted had the conditional rezoning been approved prior to the variance request having been received.

Mr. Freese questioned whether this history really justified a change in the size allowed for freestanding signs in the Commercial zoning district.

Mr. Kavanaugh stated that there were two variance requests for freestanding signs larger than 80sf in the Commercial Development Zoning District in fifteen years. Mr. Kavanaugh stated that Burt Lake Marina has been in business for a long time and this issue came up because they bought a sign that was too large. Mr. Kavanaugh stated that this is the issue that prompted this request to look at the sign regulation. Mr. Kavanaugh stated that wall signs and electronic signs could be reviewed. Mr. Kavanaugh stated that the Planning Commission should consider what the Cheboygan County Board of Commissioners has requested. Mr. Kavanaugh stated that he would like to look at other sign regulations from other counties. Mr. Turisk stated that Emmet County permits one per parcel and the maximum face size is 56sf and the maximum height is 10ft. Mr. Turisk stated that signs in the right of way are not to exceed 32sf in size and 8ft. in height. Mr. Kavanaugh stated that this is significantly less than what is allowed in Cheboygan County currently. Mr. Kavanaugh stated that there have been two variance requests of this type in fifteen years and the Planning Commission needs to decide if they want to amend the Zoning Ordinance for this situation. Mr. Freese asked what is the maximum allowed in Otsego County. Mr. Muscott stated 56sf. Mr. Turisk stated that Otsego County allows for 100sf for shopping centers and malls. Mr. Turisk stated that Otsego County does not allow individual signs for each tenant. Mr. Turisk stated that they allow one sign with individual placards. Mr. Freese stated that the Planning Commission should not have to review wall signs as there was an amended to allow 300sf.

Ms. Johnson asked why there is a difference in square footage between Commercial, Light Industrial and General Industrial. Mr. Freese stated it is based on the type of businesses and the fact that Light Industrial are small areas separated from the general flow of traffic. Mr. Freese stated that Commercial zoning district is located along and measured from the center line of the roadway. Mr. Freese noted that Tuscarora Township requested that Village Center Indian River continue to require smaller signs. Mr. Turisk noted that this is the same for Village Center Topinabee. Discussion was held.

Ms. Lyon asked if we are considering the speed that people drive when determining sign sizes. Ms. Lyon stated that there is a correlation between the size of the words on the sign for the speed that a person is driving. Mr. Kavanaugh stated that it was considered and provided an example of a sign at a mall. Discussion was held.

Mr. Freese stated that he does not believe that along the stretch South Straits Hwy. south of Indian River, that a 100sf sign is necessary to get an advertising message across and stated that there are no other signs in this area anywhere near 100sf. Mr. Freese stated that most signs are 4ft. x 8ft. Mr. Kavanaugh noted that adjacent counties allow a maximum of 56sf and in Village Center Indian River and Village Center Topinabee it is less. Discussion was held.

Mr. Freese asked if the Planning Commission has a problem with the sign ordinance. Mr. Kavanaugh stated that the Cheboygan County Board of Commissioners will probably have a problem with Planning Commission if something is not done with the sign ordinance. Discussion was held.

Ms. Croft asked if this item should be on the next Planning Commission agenda. Discussion was held. **Motion** by Mr. Kavanaugh, seconded by Mr. Delana, to table this decision until the next Planning Commission meeting. Motion carried unanimously.

STAFF REPORT

Mr. Turisk stated that there will be a Risk Management Decision Making training that will be held on Tuesday, March 31, 2020 at the Littlefield Community Building in Alanson. Mr. Turisk stated that a time has not been determined for this training. Mr. Turisk asked that the Planning Commission members let him know if they will be available for this training.

Mr. Turisk stated that distributed information regarding two workshops that will be help on green infrastructure. Mr. Turisk stated that the first workshop will be held on March 23rd, 24th, 25th or April 8th from 1:00pm-3:30pm or 2:00pm – 4:30pm. Mr. Turisk stated that the second workshop will be held on April 23rd or 24th in the afternoon. Mr. Turisk asked that the Planning Commission members let him know their availability for this training.

Mr. Turisk stated that at the January 15, 2020 meeting the Planning Commission directed staff to provide Mr. Peltier a letter of commendation. Mr. Turisk stated that a certificate of commendation has been put together to officially recognize Mr. Peltier.

PLANNING COMMISSION COMMENTS

No comments.

PUBLIC COMMENTS

Mr. Muscott stated that he submitted a letter regarding signs for the Planning Commission to review. Mr. Muscott stated that Mr. LaPrairie usually brings in complete site plans and does not build a pole building and wait to request permission after it is built. Mr. Muscott stated that Mr. LaPrairie went to a dealer show and there was a special on signs. Mr. Muscott stated that Mr. LaPrairie bought the largest sign and saved \$2,000 and the \$12,000 sign has been lying on the side of the parking lot all winter. Mr. Muscott stated that when Mr. LaPrairie applied for permission he was denied permission to install the sign. Mr. Muscott stated that Mr. LaPrairie then sought a variance. Mr. Muscott stated that in December when Mr. LaPrairie's request was to be reviewed by the Zoning Board of Appeals, there was an insufficient quorum. Mr. Muscott stated the meeting was canceled. Mr. Muscott stated that Mr. LaPrairie has to wait another month for the next meeting and the variance request was denied. Mr. Muscott stated that this is a 50 year old business with many employees. Mr. Muscott stated that this is a pylon sign with a 7ft. x 7ft. section on top that is a Bombardier logo and then four brand names below that are 1 1/2ft. x 4ft. Mr. Muscott stated that the Board of Commissioners are requesting the Zoning Ordinance be amended to allow this sign to be installed. Mr. Muscott referred to Section 22.3.F of Amendment #155 and stated his concerns that a nonconforming building or structure is disallowed and then another nonconforming building or structure will be allowed. Mr. Muscott stated that the wording for A, B and C are almost the same statements and just reworded. Mr. Muscott stated that if you want to eliminate nonconforming uses then don't allow nonconforming uses. Mr. Muscott stated that in regards to nonconforming lots of record, he owns 25 platted lots in Topinabee that are 25ft. x 100ft. that were designed as camping lots. Mr. Muscott stated that they can be bought up individually and can be combined into one deed. Mr. Muscott stated that you can split platted lots. Mr. Muscott referred to Hilltop Grocery and Bar on Levering Road, which has been vacant and stripped of its furnishings for several years and is located in the Agriculture and Forestry Management zoning district and is nonconforming and questioned whether this business would have been allowed to reopen under the provisions of this proposed amendment. Mr. Freese stated that the Hilltop Grocery and Bar is a conforming use in Agriculture and Forestry Management zoning district and the provisions of this amendment would not be applicable. Mr. Muscott stated his concerns regarding the criteria used to establish an intent to abandon a nonconforming use.

Mr. Kavanaugh asked for staff to check into splitting subdivision lots. Mr. Kavanaugh stated that there are procedures and approvals that are required to split a subdivision lot. Mr. Kavanaugh asked if it is difficult to combine lots in a subdivision. Mr. Muscott stated that you will create a new legal description with all of the lots in the subdivision that are to be combined.

ADJOURN

Motion by Kavanaugh to adjourn. Motion carried. Meeting was adjourned at 9:21 pm.

Charles Freese
Planning Commission Secretary



CHEBOYGAN COUNTY PLANNING COMMISSION

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CHEBOYGAN COUNTY PLANNING COMMISSION MEETING & PUBLIC HEARING WEDNESDAY, FEBRUARY 19, 2020 AT 7:00 P.M. ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

PRESENT: Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Johnson, Delana
ABSENT: None
STAFF: Mike Turisk
GUESTS: Eric Boyd, John F. Brown, Carl Muscott, Bob Lyon, Cal Gouine, John Moore

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

PLEDGE OF ALLEGIANCE

Chairperson Croft led the Pledge of Allegiance.

APPROVAL OF AGENDA

The meeting agenda was presented. **Motion** by Mr. Kavanaugh, seconded by Mr. Borowicz, to approve the agenda as presented. Motion carried unanimously.

APPROVAL OF MINUTES

There were no minutes to be reviewed.

PUBLIC HEARING AND ACTION ON REQUESTS

Proposed Amendment #154 to Cheboygan County Zoning Ordinance No. 200 that would amend Sections 2.2, 17.21 and 17.23 and regards amended definitions and zoning standards for agricultural, private storage and workshop buildings, and amended zoning standards for home occupation uses.

Mr. Turisk stated that at the February 5, 2020 Planning Commission meeting he presented the revised amendment with all references to Limited Commercial Enterprise uses deleted. Mr. Turisk stated that at this meeting that the Planning Commission determined that the placement of a private storage building shall be situated so as to allow placement of a future dwelling. Mr. Turisk noted that this standard has been added as Section 17.23.1.b.

Mr. Freese noted that Section 17.23 states that a private storage building is a primary use and this sentence should also be included in the definition.

Ms. Croft asked for public comments. Mr. Muscott asked if a private storage building can only be a primary use or can it also be an accessory use. Mr. Freese stated that if it is an accessory building it is not a private storage building under the definition and the regulations. Discussion was held. Mr. Muscott referred to the definition of agricultural building and stated that a building permit is not required for this type of building and is used for hay storage, farm animal and farm implements. Mr. Muscott stated his concerns that a home occupation is allowed in this type of building. Mr. Muscott stated that an agricultural building and private storage building are minimal buildings built with very little control from Department of Building Safety. Mr. Freese noted that both the agricultural building and private storage building require a zoning permit. Mr. Muscott stated that a permit is not required from Department of Building Safety. Mr. Muscott stated his concerns regarding a daycare or lawyer’s office being allowed in these buildings and a building permit or a certificate of occupancy not being required. Mr. Borowicz stated that a building permit is required for the private storage permit. Mr. Muscott stated that that a private storage building is for storage and non-flammable storage and not for human occupancy. Mr. Muscott stated that if a bathroom is installed, then that part of the building will have to brought up to building code. Mr. Freese asked Mr. Turisk if an applicant applying for a home occupation in an accessory building would be turned over to Department of Building Safety. Mr. Turisk stated yes. Discussion was held regarding Zoning Administrator approval of home occupations. Mr. Muscott referred to Section 17.21.4 regarding conditional approvals and noted that there is no definition for conditional approval.

Mr. Brown asked why a private storage building can't be used to house or support animals of any type. Mr. Freese explained that Section 17.23 does not apply to Agriculture and Forestry Management zoning district. Mr. Brown stated he doesn't understand why you can't have a dog or a fish tank. Public hearing closed.

Discussion was held regarding Section 17.23.1.i. Ms. Lyon stated that this applies to private storage buildings in Residential, Rural Character/Country Living and Lake and Stream Protection. Mr. Freese explained that this doesn't apply to Agriculture and Forestry Management. Mr. Kavanaugh asked if the Planning Commission is saying that dogs are not allowed. Mr. Freese stated that he isn't saying that a dog can't be kept in a private storage building. Mr. Freese stated that there are kennel standards if you are considering a kennel. Mr. Freese stated there are standards for an agricultural building if you want to have cows or sheep.

Ms. Johnson asked if a bathroom is allowed in a private storage building not a private storage building/workshop building. Mr. Freese stated that a bathroom is allowed in an agricultural building and private storage building/workshop building. Mr. Freese noted that you can't have a shower or a tub.

Motion by Mr. Freese, seconded by Mr. Kavanaugh, to forward Amendment #154 to the Cheboygan County Board of Commissioners with a recommendation for approval with the wording regarding primary use in Section 17.23 included in the definition of private storage building/workshop building. Motion carried unanimously.

UNFINISHED BUSINESS

Continued discussion regarding possible Zoning Ordinance amendment relative to zoning standards for signs.

Mr. Turisk stated that at the February 5, 2020 Planning Commission meeting there was an informal discussion about amending Section 17.19 that regards signs. Mr. Turisk explained that this discussion came about as a directive from the Cheboygan County Board of Commissioners at their second meeting in January for the Planning Commission to look at the dimensional standards for freestanding signs in the Commercial Development zoning district. Mr. Turisk stated that we currently allow 80sf for each freestanding sign. Mr. Turisk stated that 3 freestanding signs up to 25ft in height are allowed in the Commercial Development zoning district. Mr. Turisk stated that the Planning Commission should consider that there could be 3 freestanding signs that are each 80sf on a parcel in the Commercial Development zoning district. Mr. Turisk stated that the Planning Commission should also consider allowing a measure of flexibility for the sign face area in the Commercial Development zoning district. Mr. Turisk referred to the table under Section 17.19.8 and stated that freestanding signs, marquee signs and roof signs in the Commercial Development zoning district require zoning permits. Mr. Turisk stated that the other signs listed in Section 17.19.8 do not require a zoning permit. Mr. Turisk stated that an option for the Planning Commission to consider is to maintain 80sf sign surface area standard if the property has up to 200ft. of public road frontage, but allow for flexibility by:

- Permitting larger individual sign surface area as a function of distance of public road frontage and/or façade size (Per Master Plan – “Update sign standards to allow sign size to be proportional to building façade size.”)
- Fewer freestanding signs, but allow larger individual sign surface area (larger than current 80 sq.-ft. standard)
- Alternatively (or in conjunction w/larger sign surface area), permit freestanding signs greater than 25-ft. in height
- Permitting larger individual freestanding sign surface in lieu of other permitted signs (e.g., wall & canopy signs)

Mr. Turisk stated that there are ordinances that take road frontage into consideration and it stands to reason that the greater the frontage the stronger the rationale for a larger sign. Mr. Turisk stated that is a reasonable consideration when trying to adopt some measure of flexibility.

Mr. Turisk stated that Ms. Lyon has concerns regarding considering the speed that people drive when determining sign sizes. Mr. Turisk stated that the speed limit varies along the Commercial corridor on M-27 in Cheboygan County. Mr. Turisk stated that in Indian River the speed limit is 35mph and generally there is smaller signage. Mr. Turisk explained that the road is a narrower road and there is a walkable area. Mr. Turisk stated that from the intersection of M-68 coming from the east to the Indian River Pet Resort the speed limit is 45mph and increases to 55mph south of the Indian River Pet Resort. Mr. Turisk stated that it is worthwhile to look at this to see if some flexibility can be exercised.

Mr. Turisk stated that the Planning Commission may consider if the sign's applicability and function serve our tourism economy. Mr. Turisk stated that one community in Michigan takes this into consideration, but he will need to check with legal counsel to see if this would be considered as making a decision based on the content of the sign. Mr. Turisk stated that there are other possible factors for consideration:

- Would the individual sign be part of coordinated or joint signage?
- Would the sign be in harmony with the spirit of the Master Plan?

Mr. Turisk stated that the Zoning Board of Appeals reviews 5 standards for practical difficulty when reviewing a dimensional variance. Mr. Turisk stated that these types of considerations could not be a part of the 5 standards for practical difficulty.

Mr. Kavanaugh stated that the Planning Commission knows what the Cheboygan County Board of Commissioners wants and that is to make certain that the Indian River business gets the size of the sign that they purchased. Mr. Kavanaugh stated that there are a few ways that this can be addressed. Mr. Kavanaugh stated that the Planning Commission can look at the road frontage and allow 100sf. Mr. Kavanaugh stated that the Planning Commission should also look at electronic signs. Mr. Kavanaugh stated that looking at only these two issues is a simple way to address the Cheboygan County Board of Commissioners directive. Mr. Kavanaugh stated that the Zoning Board of Appeals should use the same standards that they have used in the past. Mr. Kavanaugh stated that requests for larger freestanding signs have only resulted twice in fifteen years. Mr. Kavanaugh stated that this is one issue to be address in the Indian River area. Mr. Kavanaugh stated that the Planning Commission should correct it. Mr. Kavanaugh stated that this should be an amendment that is easy to change. Mr. Kavanaugh stated that the sign ordinance has not been problematic to this point.

Mr. Freese agreed with Mr. Kavanaugh and stated that there is no reason to create new rules for the Zoning Board of Appeals regarding signs and that this problem should be corrected by changing the size sign requirements in the Zoning Ordinance. Mr. Freese stated that a freestanding sign can be located on the ground or on a pole which may be located in the right of way. Mr. Freese stated that 100sf sign could have a significant impact on the ability of motorist to see beyond the sign especially if it is located on the ground. Mr. Freese stated most commercial lots in the area along South Straits Highway are 100ft. wide and that a car moving at the speed limit in this area (45mph) would only take 1 1/3 seconds to travel this distance. A 100sf sign, therefore, could cause a significant detrimental impact on the visibility of the signage on adjacent properties. Mr. Freese does not believe this property owner will be happy with a 100sf sign if there is a 100sf sign on the ground on the adjacent parcel. Mr. Freese stated that because the Cheboygan County Board of Commissioners wants this approved, he is suggesting allowing a 100sf sign with the requirement that the parcel must have at least 200 lineal feet of frontage and that the sign cannot be located any closer than 100ft. to the property line. Mr. Kavanaugh asked if Burt Lake Marina has 200ft. of frontage. Mr. Turisk stated yes. Mr. Kavanaugh stated that he believes this is reasonable. Mr. Kavanaugh and Mr. Freese agreed that the maximum sign of an electronic sign should be revised to 60sf. Mr. Borowicz asked if a sign this large should be allowed in the right of way. Mr. Freese stated that this is reviewed by the Road Commission. Discussion was held.

Mr. Kavanaugh stated that the proposed amendment should be forwarded to the Cheboygan County Road Commission to let them know of what changed are being considered to the Zoning Ordinance.

NEW BUSINESS

No comments.

STAFF REPORT

Mr. Turisk stated that there will be a Risk Management Decision Making training that will be held from 6:00pm to 8:30pm on Tuesday, March 31, 2020 at the Littlefield Community Building in Alanson. Mr. Turisk asked that the Planning Commission members let him know if they will be available for this training. Mr. Turisk noted that the registration deadline is March 20, 2020.

Mr. Turisk stated that the Planning Commission has been invited to attend two Green Infrastructure workshops. Mr. Turisk stated that the first workshop will be held from 1:30pm – 4:00pm on March 23, 2020. Mr. Turisk stated that the second workshop will be held from 1:30pm – 4:00pm on April 24, 2020. Mr. Turisk stated that both workshops will be held at the Cheboygan Public Library. Mr. Turisk asked that the Planning Commission members let him know their availability for this training as soon as possible.

PLANNING COMMISSION COMMENTS

No comments.

PUBLIC COMMENTS

Mr. Muscott referred to the proposed Amendment #154 and stated that may be a backdoor loophole to allow someone to build a storage building in the Agriculture and Forestry Management zoning district and then make the necessary modifications for human occupancy to use the building for daycare home or home office. Mr. Muscott questioned if the permitted uses for home occupation should be this broad. Mr. Muscott stated that the footings went in last week for the Burt Lake Marina sign. Mr. Muscott stated he would have to pace it out to see if it is within the center of the property. Mr. Muscott

stated that he believes the property has approximately 400ft. of road frontage and the proposed sign is adjacent to the existing sign. Mr. Freese stated that the proposed sign is more than 100ft. from the property line. Mr. Muscott stated that if Orion Renewable Energy receives approval for a special use permit there is a good chance the project will not be done within a year as they do not have the power sold. Mr. Muscott stated it may be worthwhile for the Planning Commission to extend the expiration date on a special use permits and site plan review approvals for large industrial projects. Mr. Muscott stated that the Planning Commission may want to hire a professional to represent the county who has a degree in engineering to make sure this solar project is done right.

ADJOURN

Motion by Kavanaugh to adjourn. Motion carried. Meeting was adjourned at 8:02pm.

Charles Freese
Planning Commission Secretary

DRAFT



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
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MEMORANDUM

Date: February 26, 2020 for the March 4, 2020 Planning Commission meeting

To: Planning Commissioners

From: Michael Turisk, Planning Director *MT*

Re: *Revised Draft of proposed Zoning Ordinance Amendment #155 -- Article 22; Nonconforming Buildings or Structures, Properties and Uses*

Planning Commissioners,

Attached is the latest draft of proposed Zoning Ordinance Amendment #155 that regards Article 22, Nonconforming Uses, Structures. As you are aware, the purpose of Amendment #155 is to clarify and ease standards governing the continuance, discontinuance and expansion of nonconformities, defensibly the most confusing and misunderstood section of any zoning ordinance.

Recall that zoning nonconformities are existing uses, structures or lots legally established prior to adoption of the Zoning Ordinance (and subsequent amendments), and which do not comply with ordinance standards. Most communities with zoning allow for the continuation of nonconformities despite their arguable harm (to the extent nonconformities, generally speaking, contradict ordinance standards). Because of this contradiction, a common zoning-related rule of thumb seeks to reduce or altogether eliminate nonconformities *over time*. (As an aside, requiring immediate elimination of nonconformities is broadly considered undue hardship, and may provoke legal challenges based on interpretations of the First and Fifth Amendments to the United States Constitution).

During our most recent discussion of Amendment #155 on February 5, Section 22.4 (*Lots of Record*) generated the most comment, including questions regarding possible alternative legal instruments (other than deed restrictions) that might be employed to help advance the long-term policy of reducing nonconformities in Cheboygan County while providing for clear options for property owners wanting to hold, sell and, in particular, develop lots of record, as well as to preclude the separation of lots of record previously combined. Per Article 2 of the Zoning Ordinance, a lot of record is loosely defined by a legal description recorded by the Cheboygan County Register of Deeds on or before the effective date of the Zoning Ordinance (or any applicable amendment).

Subsection 22.4.A, indicates that an owner may hold, develop, and convey their nonconforming lots of record as distinct or separate nonconforming lots of record, and that each nonconforming lot may be individually developed whether held by the owner or conveyed to and developed by a new owner, but with development in compliance with applicable dimensional requirements, namely minimum building setbacks.

Subsection 22.4.A would preclude dimensional variance approval for such lots when the need for the dimensional variance would be eliminated by combining lots into a single, undivided lot. From a Zoning Board of Appeals perspective, this speaks to having “options” that would render compliance with the Zoning Ordinance and thus likely precluding dimensional variance approval.

In addition, Subsection 22.4.B clarifies that if combining nonconforming lots of record results in a conforming lot then that conforming lot may be developed as any other conforming lot in Cheboygan County (recall that a conforming lot is one that *does* conform to minimum applicable dimensional requirements such as lot area, whereas a nonconforming lot is one that *does not* conform to minimum applicable dimensional requirements). As is the case with all conforming lots, development would need to comply with the minimum applicable dimensional requirements, namely building setbacks [as measured from the exterior lot lines of the new lot]).

However, if combining nonconforming lots of record *does not* create a conforming lot, then the newly created lot -- although remaining nonconforming -- may be developed as any other nonconforming lot in Cheboygan County (again, with development that complies with minimum building setbacks).

We will work through the entire draft Amendment #155, including Section 22.4 in detail, on Wednesday evening. As always, feel free to contact me should you have questions.

Sincerely,

A handwritten signature in black ink that reads "Michael Turusk". The signature is written in a cursive, slightly slanted style.

Enclosure(s):

1. “Clean” revised draft of proposed Zoning Ordinance Amendment #155
2. “Mark-up” draft of proposed Zoning Ordinance Amendment #155

CHEBOYGAN COUNTY ZONING ORDINANCE
AMENDMENT #155

AN ORDINANCE TO AMEND CHEBOYGAN COUNTY ZONING ORDINANCE NO. 200 RELATIVE
TO NONCONFORMING BUILDINGS OR STRUCTURES, PROPERTIES AND USES

Section 1. Amendment of Article 22

Article 22 of the Cheboygan County Zoning Ordinance No. 200 is hereby amended to read in its entirety as follows:

ARTICLE 22. – NONCONFORMING BUILDINGS OR STRUCTURES, PROPERTIES AND USES

SECTION 22.1 INTENT AND PURPOSE

Nonconformities are buildings or structures, lots, and land uses that do not conform to one or more of the requirements of this Ordinance or any subsequent amendment, which were lawfully established prior to the effective date of this Ordinance or any subsequent amendment. Such nonconformities are generally incompatible with the current or intended use of land in the district in which located. Accordingly, the purpose of this article is to establish regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of nonconformities, discontinuance and conditions under which nonconformities shall be permitted to continue.

Section 22.2 NONCONFORMING LAND USE PERMITTED; COMPLETION ALLOWED

- A. If the use of a building or structure or the use of the land was lawful at the time of enactment of this Ordinance or any subsequent amendment, then that use may be continued although the use does not conform to the provisions of this Ordinance or any subsequent amendment, under the terms and conditions of this Article.
- B. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of a building or structure on which substantial construction has been lawfully begun prior to the effective date of this Ordinance or any subsequent amendment.

SECTION 22.3 NONCONFORMITY REGULATIONS

The following regulations shall apply to all nonconforming uses, buildings and structures:

- A. Normal maintenance and incidental repairs, including repair or replacement of nonbearing walls, windows, fixtures, wiring, or plumbing, may be performed on any nonconforming building or structure or on any structure containing a nonconforming use.
- B. A nonconforming building or structure or a building or structure that contains a nonconforming use which is unsafe or unlawful due to a lack of repairs or maintenance, as determined by the County Building Official, may be restored to a safe, habitable condition.
- C. If a nonconforming building or structure or a building or structure that contains a nonconforming use is damaged or destroyed by any means or is removed by the property owner, then such nonconforming building or structure may be restored, rebuilt, or repaired to no greater than its original configuration and on its original foundation or footprint.

- D. A nonconforming building or structure or a building or structure that contains a nonconforming use may be enlarged or altered in any way, provided such enlargement or alteration does not:
1. Create any nonconformity that did not exist prior to the enlargement or alteration.
 2. Increase the degree of new nonconformity (i.e., the enlargement or alteration is closer to the property line than the nonconforming building or structure prior to the enlargement or alteration).
 3. Increase the extent of nonconformity (i.e., a larger portion of the nonconforming building or structure is within the setback area than was present prior to the enlargement or alteration).
- E. If a nonconforming sign is damaged or destroyed by any means or is removed by the owner to the extent that the cost of necessary repairs will exceed fifty percent (50%) of the replacement cost of the sign, then such nonconforming sign shall only be repaired or reconstructed in complete conformity with the applicable provisions of this Ordinance.
- F. Except for repairs or maintenance, a nonconforming building or structure or a building or structure or portion of which that contains a nonconforming use shall not be enlarged or altered, unless in complete conformity with the applicable requirements of this Ordinance.
- G. A non-conforming use, building or structure shall not be replaced with another non-conforming building or structure unless approved by the Zoning Board of Appeals pursuant to the requirements of the subsection.
1. The owner of a nonconforming use, building or structure who desires to replace that nonconformity with another nonconforming use, building or structure shall file an application with the Zoning Administrator and shall provide all information necessary to show compliance with the standards contained in Subsection 3, below.
 2. Upon receipt of a complete application, the Zoning Administrator shall schedule a public hearing following the requirements of Section 23.7.2 of this Ordinance.
 3. Following the public hearing the Zoning Board of Appeals shall approve the proposed new nonconforming use, building or structure if it finds that all of the following standards have been met:
 - a. The proposed new nonconforming use, building, or structure would not create any nonconformity that did not exist on the property prior to the requested replacement.
 - b. The proposed new nonconforming use, building, or structure would make the property more conforming to the zoning regulations that made the use, building, or structure nonconforming and/or to the zoning regulations applicable to the property.
 - c. The proposed new nonconforming use, building, or structure would improve the property and would not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

SECTION 22.4 NONCONFORMING LOT OF RECORD

The following regulations shall apply to all nonconforming lots of record:

If two (2) or more contiguous lots, parcels, or portions of lots or parcels are under the same ownership and do not individually meet the lot width, depth, and/or area requirements of this Ordinance, then the owner of those lots or parcels may hold, develop, and convey those lots or parcels under one of the following options:

- A. The owner may hold, develop, and convey those nonconforming lots or parcels as separate nonconforming lots of record. Under this option, each nonconforming lot or parcel may be individually sold and, except as provided herein, may be individually developed as a nonconforming lot of record. Each individual nonconforming lot or parcel shall comply with all applicable setback regulations. Provided, however, no dimensional variance shall be granted for such lot or parcel when the need for that dimensional variance would be eliminated by combining those contiguous lots, parcels, or portions of lots or parcels as an undivided lot or parcel for the purposes of this Ordinance under Subsection B, below.
- B. The owner may prepare and record in the Register of Deed's Office a deed restriction approved by the Zoning Administrator combining those nonconforming lots or parcels, or portions of lots or parcels, into an undivided lot or parcel for the purposes of this Ordinance. Under this option, if combining the lots or parcels, or portions of lots or parcels results in a conforming lot, then that undivided lot may be developed as authorized by the zoning district in which it is located, and all applicable setbacks shall be measured from the exterior lot lines of the undivided lot without regard to any interior lot lines that existed prior to recording the deed restriction. If combining the lots or parcels, or portions of lots or parcels, does not result in a conforming lot, then that undivided lot may be developed as a nonconforming lot of record under Subsection A, above, including the right to seek any needed dimensional variances.

Section 2. Severability.

If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared unconstitutional or invalid.

Section 3. Effective Date.

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the County.

CHEBOYGAN COUNTY

By:
John B. Wallace
Its: Chairperson

By:
Karen L. Brewster
Its: Clerk

CHEBOYGAN COUNTY ZONING ORDINANCE
AMENDMENT #155

AN ORDINANCE TO AMEND CHEBOYGAN COUNTY ZONING ORDINANCE NO. 200 RELATIVE
TO NONCONFORMING BUILDINGS OR STRUCTURES, PROPERTIES AND USES

Section 1. Amendment of Article 22

Article 22 of the Cheboygan County Zoning Ordinance No. 200 is hereby amended to read in its entirety as follows:

**ARTICLE 22. – NONCONFORMING BUILDINGS OR STRUCTURES, PROPERTIES AND USES
NONCONFORMITIES**

SECTION 22.1 INTENT AND PURPOSE

Nonconformities are buildings or structures, lots, and land uses that do not conform to one or more of the requirements of this Ordinance or any subsequent amendment, which were lawfully established prior to the effective date of this Ordinance or any subsequent amendment. Such nonconformities are generally incompatible with the current or intended use of land in the district in which located. Accordingly, the purpose of this article is to establish regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of nonconformities, discontinuance and conditions under which nonconformities shall be permitted to continue. ~~Therefore, nonconforming buildings and structures, lots, and uses shall be provided two classifications—Class A Nonconformities and Class B Nonconformities, with the ultimate intent to eliminate Class B nonconformities over time, while permitting Class A nonconformities to be used, repaired, replaced, and enlarged under less stringent regulations.~~

Section 22.2 NONCONFORMING LAND USE PERMITTED; COMPLETION ALLOWED

- A. If the use of a building or structure or the use of the land was lawful at the time of enactment of this Ordinance or any subsequent amendment, then that use may be continued although the use does not conform to the provisions of this Ordinance or any subsequent amendment, under the terms and conditions of this Article.
- B. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of a building or structure on which substantial construction has been lawfully begun prior to the effective date of this Ordinance or any subsequent amendment.

SECTION 22.3 CLASSIFICATION OF NONCONFORMITIES

~~Classifications of Nonconforming Uses and Buildings or Structures. Pursuant to Section 208 of the Michigan Zoning Enabling Act (Public Act 110 of 2006, as amended), Cheboygan County establishes different classifications of nonconforming uses, buildings or structures as defined and provided for in this article.~~

- ~~A. All nonconforming land uses, buildings or structures shall be designated either a Class A nonconformity or a Class B Nonconformity. A nonconforming use, building or structure shall be automatically deemed a Class B Nonconformity, unless specifically designated a Class A Nonconformity under Subsection B. If a Class B Nonconformity is damaged or destroyed, the property owner may seek a Class A designation under Subsection~~

~~B after such damage or destruction. The Class B Nonconformity shall then be considered for Class A designation based on how the nonconformity existed prior to the damage or destruction.~~

~~B. A property owner who desires that his or her nonconforming land use, building or structure be designated a Class A Nonconformity shall file an application with the Zoning Administrator requesting the designation. The application shall include the names and addresses of all people and legal entities with an interest in the property, the legal description of the property, the facts establishing that the standards for approval of a Class A designation have been met (the burden of proof for establishing a change in classification rests with the property owner) the applicable application fee. After the Zoning Administrator receives a completed application, the application shall be forwarded to the Planning Commission for consideration. The Planning Commission shall then hold at least one (1) public hearing on the application. The notice of the public hearing shall be the same as for a variance application to be considered by the Zoning Board of Appeals. The Planning Commission's decision whether to grant the Class A designation shall be based on written findings of fact made pursuant to the standards contained in Subsection C. The Planning Commission may attach reasonable conditions to the Class A designation to assure compatibility of the nonconforming use, building or structure with surrounding land uses. The property owner shall receive no vested interest or rights in the designation, since that designation may be revoked by the Planning Commission.~~

~~C. The Planning Commission shall grant a Class A designation for a nonconforming land use, building or structure if it finds that all of the following standards are met:~~

- ~~1. The nonconforming land use, building or structure was lawful at the time of its inception;~~
- ~~2. The nonconforming land use, building or structure does not materially increase or perpetuate the nuisance aspects of the use upon adjacent properties (e.g., noise; glare; traffic congestion; overcrowding);~~
- ~~3. The nonconforming land use, building or structure shall essentially retain the character and environment of adjacent premises, and not reduce the value or otherwise limit the lawful use of adjacent premises;~~
- ~~4. The nonconforming land use, building or structure is not located within the waterfront setback, as applicable, and is not located within a wetland regulated by the State of Michigan; and~~
- ~~5. The nonconforming land use, building or structure is determined to be of economic benefit to Cheboygan County.~~

~~D. Upon filing a request by the Zoning Administrator or by the Planning Commission's own action, a Class A designation shall be revoked by the Planning Commission following the same procedures required for the initial designation upon a finding that as a result of any change of conditions or circumstances, the standards for the Class A designation under Subsection C no longer qualify the nonconforming use or structure for Class A designation.~~

SECTION 22.43 CLASS A NONCONFORMITY REGULATIONS

The following regulations shall apply to all **Class A** nonconforming uses, buildings and structures:

A. Normal maintenance and incidental repairs, including repair or replacement of nonbearing walls, windows, fixtures, wiring, or plumbing, may be performed on any nonconforming building or structure or on any structure containing a nonconforming use.

A.B. A nonconforming building or structure or a building or structure that contains a nonconforming use which is unsafe or unlawful due to a lack of repairs or maintenance, as determined by the County Building Official, may be restored to a safe, habitable condition.

B.C. If a nonconforming building or structure (including a nonconforming sign) or a building or structure that contains a nonconforming use is damaged or destroyed by any means or is removed by the property owner, then such nonconforming building or structure may be restored, rebuilt, or repaired to no greater than its original configuration and on its original foundation or footprint.

D. A nonconforming building or structure or a building or structure that contains a nonconforming use may be enlarged or altered in any way, provided such enlargement or alteration does not:

1. Create any nonconformity-in that did not exist prior to increase the degree or extent of any nonconformity the enlargement or alteration.

2. Increase the degree of new nonconformity (i.e., the enlargement or alteration is closer to the property line than the nonconforming building or structure prior to the enlargement or alteration).

3. Increase the extent of nonconformity (i.e., a larger portion of the nonconforming building or structure is within the setback area than was present prior to the enlargement or alteration).

for both the horizontal and vertical planes.

~~C. A nonconforming use shall not be extended to any portion of the lot that was not lawfully occupied by such nonconforming use on the effective date of this Ordinance, or any subsequent amendments, creating such nonconformity, unless in complete conformity with the applicable requirements of this Ordinance. However, a nonconforming use may be extended throughout any part of a structure, which was designed for such use, and which existed at the time the use became nonconforming.~~

~~C.—~~

~~D. A Class A nonconforming use, building or structure may be replaced by another Class A nonconforming use, building or structure if the Planning Commission finds that the new nonconforming use, building or structure qualifies for a Class A designation and that the new nonconforming use, building or structure will not increase the extent or degree of nonconformity.~~

D.— SECTION 22.5 CLASS B NONCONFORMITY REGULATIONS

~~D.— The following regulations shall apply to all Class B nonconforming uses, buildings and structures:~~

~~D.— Normal maintenance and incidental repairs, including repair or replacement of nonbearing walls, windows, fixtures, wiring, or plumbing, may be performed on any nonconforming building or structure or on any building or structure containing a nonconforming use.~~

~~D.—~~

~~D.— A nonconforming building or structure or a building or structure that contains a nonconforming use which is unsafe or unlawful due to a lack of repairs or maintenance, as determined by the County Building Official, may be restored to a safe, habitable condition.~~

~~D.—~~

~~If a nonconforming building or structure (other than a nonconforming sign) or a building or structure that contains a nonconforming use is damaged or destroyed by any means or any portion of the structure is removed by the owner to the extent that the cost of necessary repairs or reconstruction will exceed fifty percent (50%) of the replacement cost of the entire nonconforming building or structure before the damage, destruction, or removal of any portion thereof, as determined by a qualified appraiser, then such nonconforming building or structure or building or structure that contains a nonconforming use shall only be repaired, remodeled, or reconstructed in complete conformity with the provisions of this Ordinance, unless the cost of such repair, remodeling, or reconstruction exceeds 150% of the replacement cost of the entire nonconforming building or structure before any damage, destruction, or removal as determined by a qualified appraiser. If the cost of any repair, remodeling, or reconstruction exceeds 150% of the replacement cost of the entire nonconforming building or structure as specified above, then the Zoning Administrator shall require the nonconforming building or structure or building or structure that contains a nonconforming use to be repaired, remodeled, or reconstructed in such a manner or in such location as to maximize conformity with the applicable provisions of this Ordinance without exceeding the 150% limitation as specified above.~~

E. If a nonconforming sign is damaged or destroyed by any means or is removed by the owner to the extent that the cost of necessary repairs will exceed ~~twenty~~ twenty-five percent (~~20~~ 25%) of the replacement cost of the sign, then such nonconforming sign shall only be repaired or reconstructed in complete conformity with the applicable provisions of this Ordinance.

~~D.~~

D.F. Except for repairs or maintenance ~~authorized under Subsections A and B above~~, a nonconforming building or structure or a building or structure or portion of which that contains a nonconforming use shall not be enlarged or altered, unless in complete conformity with the applicable requirements of this Ordinance.

~~A nonconforming use shall not be extended to any portion of the lot or extended throughout any part of a building or structure in which it is located that was not lawfully occupied by such nonconforming use on the effective date of this Ordinance, or any subsequent amendments, creating such nonconformity, unless in complete conformity with the applicable requirements of this Ordinance.~~

~~A Class B nonconforming use, building or structure may not be replaced by another Class B nonconforming use, building or structure. However, a Class B nonconforming use, building or structure may be replaced with a Class A nonconforming use, building or structure if the Planning Commission finds that the new nonconforming use or structure qualifies for a Class A designation and that the new nonconforming use, building or structure will not increase the extent or degree of nonconformity.~~

SECTION 22.6 CHANGE OF NONCONFORMITY

G. A non-conforming use, building or structure shall not be replaced with another non-conforming building or structure unless approved by the Zoning Board of Appeals pursuant to the requirements of the subsection.

1. The owner of a nonconforming use, building or structure who desires to replace that nonconformity with another nonconforming use, building or structure shall file an application with the Zoning Administrator and shall provide all information necessary to show compliance with the standards contained in Subsection 3, below.

2. Upon receipt of a complete application, the Zoning Administrator shall schedule a public hearing following the requirements of Section 23.7.2 of this Ordinance.

3. Following the public hearing the Zoning Board of Appeals shall approve the proposed new nonconforming use, building or structure if it finds that all of the following standards have been met:

- a. The proposed new nonconforming use, building, or structure would not create any nonconformity that did not exist on the property prior to the requested replacement.
- b. The proposed new nonconforming use, building, or structure would make the property more conforming to the zoning regulations that made the use, building, or structure nonconforming and/or to the zoning regulations applicable to the property.
- c. The proposed new nonconforming use, building, or structure would improve the property and would not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

~~— If a nonconforming use, building or structure is changed to a more conforming use, building or structure or is replaced by a conforming use, building or structure, the nonconforming use, building or structure shall not revert to its original nonconforming status.~~

SECTION 22.74 NONCONFORMING LOT OF RECORD

The following regulations shall apply to all nonconforming lots of record:

If two (2) or more contiguous lots, parcels, or portions of lots or parcels are under the same ownership and do not individually meet the lot width, depth, and/or area requirements of this Ordinance, then the owner of those lots or parcels may hold, develop, and convey those lots or parcels under one of the following options:

- A. The owner may hold, develop, and convey those nonconforming lots or parcels as separate nonconforming lots of record. Under this option, each nonconforming lot or parcel may be individually sold and, except as provided herein, may be individually developed as a nonconforming lot of record. Each individual nonconforming lot or parcel shall comply with all applicable setback regulations. Provided, however, no dimensional variance shall be granted for such lot or parcel when the need for that dimensional variance would be eliminated by combining those contiguous lots, parcels, or portions of lots or parcels as an undivided lot or parcel for the purposes of this Ordinance under Subsection B, below.
- B. The owner may prepare and record in the Register of Deed's Office a deed restriction approved by the Zoning Administrator combining those nonconforming lots or parcels, or portions of lots or parcels, into an undivided lot or parcel for the purposes of this Ordinance. Under this option, if combining the lots or parcels, or portions of lots or parcels results in a conforming lot, then that undivided lot may be developed as authorized by the zoning district in which it is located, and all applicable setbacks shall be measured from the exterior lot lines of the undivided lot without regard to any interior lot lines that existed prior to recording the deed restriction. If combining the lots or parcels, or portions of lots or parcels, does not result in a conforming lot, then that undivided lot may be developed as a nonconforming lot of record under Subsection A, above, including the right to seek any needed dimensional variances.

~~A.—Except as provided in Subsection B, below, any lot that does not meet the dimensional requirements of the district in which it is located may be used for any purpose authorized within that district. Any required variances may be requested pursuant to the applicable procedures and standards of this Ordinance.~~

~~B.—If two (2) or more contiguous lots, parcels, or portions of lots or parcels are under the same ownership and do not individually meet the lot width, depth, and/or area requirements of this Ordinance, then those contiguous lots, parcels, or portions of lots or parcels shall be considered an undivided lot or parcel for the purposes of this Ordinance, and no portion of such undivided lot or parcel shall be used or divided in a manner that diminishes compliance with the lot width, depth, and/or area requirements established by this Ordinance.~~

Section 2. Severability.

If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared ~~to be unconstitutional~~unconstitutional or invalid.

Section 3. Effective Date.

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the County.

CHEBOYGAN COUNTY

By:
John B. Wallace
Its: Chairperson

By:
Karen L. Brewster
Its: Clerk