



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, 2015 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.) **Dennis Panagopoulos/Frank Foster**- Requests a 49.5ft. front setback variance to construct a porch (22ft. x 24ft.) in an Agriculture and Forestry Management (M-AF) zoning district. The property is located at 4316 Third Street, Aloha Township, Section 8, parcel #140-008-100-021-00. A 50ft. front setback is required in this zoning district.
- 2.) **Mary J. Hebert** - Requests an 8ft. side setback variance for an existing garage. The property is located at 4711 First Street, Aloha Township, Section 8, parcel #140-A01-010-001-00 and is zoned Lake and Stream Protection (P-LS). An 8ft. side setback is required in this zoning district.

UNFINISHED BUSINESS

NEW BUSINESS

ZBA COMMENTS

PUBLIC COMMENTS

ADJOURN

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING
WEDNESDAY, MARCH 25, 2015
ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING**

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

Members Absent: Ralph Hemmer

Others Present: Scott McNeil, Tony Matelski, Bruce Gauthier, Ann Chastain, Steve Crusoe

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. Mr. Freese noted that the request from Burdco has been withdrawn and the request for Panagopoulos/Foster must be advertised again and will be on the next agenda. **Motion** by Mr. Moore, seconded by Mr. Brown, to accept the agenda as amended. Motion carried. 4 Ayes (Freese, Moore, Brown Street), 0 Nays, 1 Absent (Hemmer)

APPROVAL OF MINUTES

Minutes from the February 25, 2015 Zoning Board of Appeals meeting were presented. **Motion** by Ms. Street, seconded by Mr. Brown, to approve the minutes as presented. Motion carried. 4 Ayes (Freese, Moore, Brown Street), 0 Nays, 1 Absent (Hemmer)

PUBLIC HEARING & ACTION ON REQUESTS

Tom Chastain

Requests a 22ft. front setback variance and a 2ft. rear setback variance to construct a dwelling (24ft. x 32ft.) in a Lake and Stream Protection (P-LS) zoning district. The property is located at 1351 Michigami Drive, Beaugrand Township, Section 23, parcel #041-023-100-013-00 and #041-B02-100-047-01. A 40 ft. front setback and a 12 ft. rear setback are required in this zoning district.

Mr. McNeil stated the applicant is request two setback variances. Mr. McNeil stated the parcel is located in a Lake and Stream Protection zoning district. Mr. McNeil noted that a 40ft. front setback and a 12ft. rear setback are required in this zoning district. Mr. McNeil noted that the front property line is Dynamite Creek and the opposite property line is the rear property line. Mr. McNeil stated the applicant is requesting a 22ft. front setback variance and a 2ft. rear setback variance. Ms. Chastain presented a picture of the proposed cabin.

There was no correspondence to be read. Mr. Freese asked for public comments. Mr. Matelski asked if Dynamite Creek is an intermittent stream. Mr. McNeil stated this is a perennial stream. Ms. Rocheleau stated that this creek has water in it all of the time. Public comment closed.

Mr. Freese stated the applicant is proposing to construct a 768 cabin on this parcel. Mr. Freese noted that even the minimum size requirement of 720sf for a dwelling would require a variance. Mr. Freese asked what is the minimum distance requirement between a septic field and a building. Mr. McNeil stated 10ft. is the minimum.

The Zoning Board of Appeals added “The applicant is proposing a 768sf dwelling and a minimum size building of 720sf could not be constructed on the lot without a variance being granted.” to 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. Brown, to approve the variance requests based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried. 4 Ayes (Freese, Moore, Brown Street), 0 Nays, 1 Absent (Hemmer)

UNFINISHED BUSINESS

No comments.

NEW BUSINESS

Mr. Freese stated that Mr. Brown submitted a letter of resignation. Mr. Freese thanked Mr. Brown for his service on the

Zoning Board of Appeals and noted that Mr. Brown served on the Zoning Board of Appeals for 14 years. Mr. Brown stated this has been a great board to work with and is one of the best boards he has served on.

Mr. Freese stated there are six applicants that are being considered for the position that is open on the Zoning Board of Appeals. Mr. Freese stated Mr. Brown discussed the possibility of being an alternate Zoning Board of Appeals member since he is a Commissioner and will be attending the Zoning Board of Appeals meetings. Mr. Freese stated he has not been in favor of increasing the number of members on the board in the past but noted it would be convenient to have an alternate member that could step in when a member is absent. Mr. Freese stated Mr. Brown has the background and could be an alternate member if this can be worked out. Mr. Gauthier stated there is a pending legal opinion on whether a Commissioner can also serve on the Zoning Board of Appeals. Discussion was held.

ZBA COMMENTS

Mr. Moore stated that Dynamite Creek is not the front of the property other than by definition. Mr. Moore stated that this is something that the Planning Commission should consider as they are reviewing lake and stream issues. Mr. McNeil stated that when you look at the way waterfront property is used, Dynamite Creek should be considered the front. Discussion was held.

PUBLIC COMMENTS

No comments.

ADJOURN

Motion by Mr. Moore, to adjourn. Motion carried. Meeting adjourned at 7:20pm.

Mary Street, Secretary

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

Frank Foster / Dennis Panagopoulos

Exhibit List

1. Cheboygan County Zoning Ordinance
2. Cheboygan County Master Plan
3. Variance Application (4 Pages)
4. Letter Dated 03/03/15 from Dennis A. Panagopoulos to Scott McNeil (1 Page)
5. Mailing List (2 Pages)
- 6.
- 7.
- 8.
- 9.
- 10.
- 11.
- 12.
- 13.

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

\$100.00 APPLICATION FEE

RECEIPT #:	4370
CASH/CHECK:	\$100.00
ACTION / DATE:	

PLEASE PRINT

PROPERTY LOCATION

Address 4316 THIRD STREET	City / Village CHEBOYGAN / ALOHA	Township / Sec. ALOHA 8	Zoning District
Property Tax I.D. (Parcel) Number 16-140-008-100-021-00	Subdivision or Condo. Name / Plat or Lot No. LOT 2, SEC 8, T36N, R1W		

APPLICANT

Name FRANK T. FOSTER	Telephone 231 838 4829	Fax	
Address 2604 McDougall ROAD	City & State PETOSKEY MICHIGAN	Zip Code 49770	E-Mail

OWNER (If different from applicant)

Name DENNIS PANAGOPOULOS	Telephone 815 218 4094	Fax 804 784 0338	
Address 10807 COLLINGTON DRIVE	City & State MIDLOTHIAN, VA.	Zip Code 23112	

Detailed directions to site, including nearest crossroad:

M-33 to M-212 to ALOHA - .6 mi TURN LEFT ON THIRD ST - SITE
 LOCATED AT THE END OF STREET.

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 KNOWN
- B. This property is unplatted, platted, will be platted. If platted, name of plat _____
- C. Present use of the property is: VACATION RESIDENTIAL
- 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.

WE WOULD LIKE TO BUILD A 24' X 22' SCREENED IN PORCH
ADDITION TO THE NORTH SIDE OF EXISTING BUILDING.

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 EXISTING BUILDING ENVELOPE IS TOO SMALL TO ACCOMMODATE
THE EXISTING BUILDING AND FUTURE PLANNED ADDITION

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

EXISTING HOUSE & GARAGE WERE BUILT BEFORE ZONING
WAS ENFORCED

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

THE 50' SETBACK FROM SECOND STREET R.O.W. REQUIRES
A VARIANCE

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.

THE NORTH SIDE OF THE EXISTING HOUSE IS OFF OF THE LIVING ROOM
AND THE MOST PRACTICAL PLACE FOR THE SCREENED IN PORCH. THE
AREA CURRENTLY IS USED FOR LAWN.

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.

WE FEEL THAT THE ADDITION WILL ADD VALUE TO THE
EXISTING PROPERTY AND SHOULD NOT IMPACT THE VALUE OF
EXISTING PROPERTY OWNERS

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 Joe Loren of AUTHORIZATION Date 3-3-15

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 Frank Forto Date MARCH 2, 2015

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: 6" Rear: _____ Side: _____ Side: _____

Zoning District:

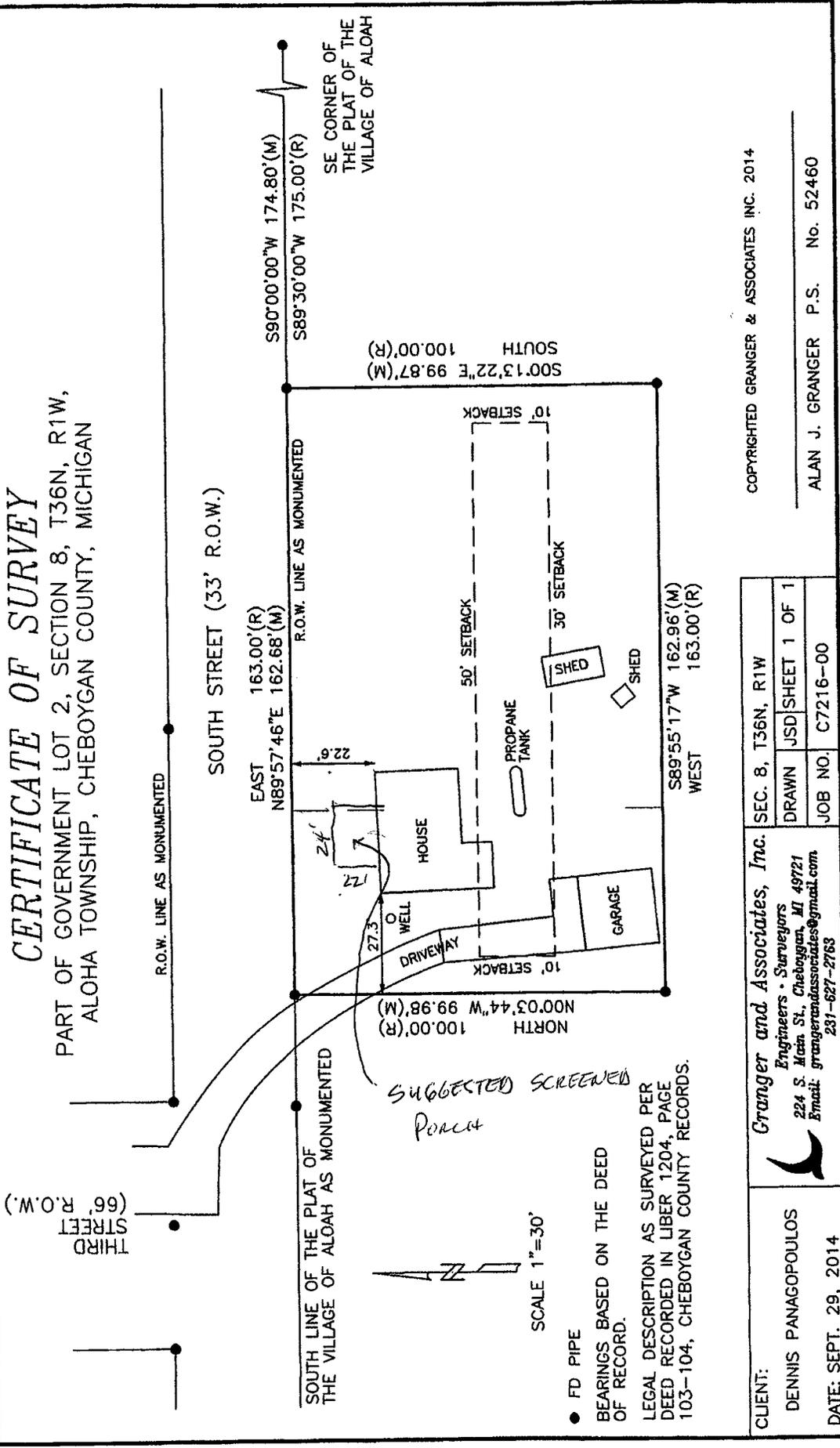
M-DF

North:

SEE ATTACHED SURVEY

CERTIFICATE OF SURVEY

PART OF GOVERNMENT LOT 2, SECTION 8, T36N, R1W,
ALOHA TOWNSHIP, CHEBOYGAN COUNTY, MICHIGAN



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Granger and Associates, Inc. <i>Engineers • Surveyors</i> 224 S. Main St., Cheboygan, MI 49721 Email: grangerandassociates@gmail.com 231-627-2763	SEC. 8, T36N, R1W DRAWN JSD SHEET 1 OF 1	
	DENNIS PANAGOPOULOS DATE: SEPT. 29, 2014	JOB NO. C7216-00

RECEIVED
MAR 03 2015
CHEBOYGAN COUNTY
PLANNING & ZONING

March 3, 2015

Mr. Scott McNeil, Planner
Cheboygan County Planning/Zoning
870 South Main – Room 103
Cheboygan, MI 49721

Dear Mr. McNeil:

Please allow this letter to serve notice to the Cheboygan Michigan Planning and Zoning department, that Petoskey area general contractor, Frank Foster will act as my representative and agent for all matters brought before the Cheboygan County Planning and Zoning Commission relative to my property located at 4316 Third Street – Aloha, Cheboygan, MI 49721.

Further to this notice, I hereby grant access to my property located at 4316 Third Street, Aloha, Cheboygan, MI to the Cheboygan County Planning and Zoning department as part of this variance application and permit process.

If you should require any further information from me, I am at your disposal via email or phone call.

Sincerely,



Dennis A. Panagopoulos
10807 Collington Drive
Midlothian, VA 23112
(day) 804.708.8922
(eve) 815.218.4094

4

16-140-008-100-001-01
MICHIGAN DEPT OF NATURAL RES
PO BOX 30722
LANSING MI 48909

16-140-A01-011-006-01
HEMME, DONALD & EILEEN H/W
1410 MAIN ST
CHEBOYGAN MI 49721

16-140-008-100-020-00
KACZKOWSKI, TIFFIN B 1/2 INT AN
1269 SANDY RIDGE
ROCHESTER MI 48306

16-140-A01-011-007-00
BABIK, HENRY & CAROLE H/W; NA
12750 AGNES
SOUTHGATE MI 48195

16-140-008-100-021-00
PANAGOPOULOS, DENNIS A
10807 COLLINGTON DR
MIDLOTHIAN VA 23112

16-140-A01-011-009-00
CASWELL, RANDOLPH
4369 FOURTH ST
CHEBOYGAN MI 49721

16-140-008-200-009-01
KANE, GERALYN M, TRUSTEE
1504 CENTER - ALOHA
CHEBOYGAN MI 49721

16-140-A01-012-001-00
MICHIGAN DEPT OF NATURAL RES
PO BOX 30722
LANSING MI 48909

16-140-008-300-001-00
ALOHA STATE PARK
DEPT OF NAT RESORCES
LANSING MI 48906

16-140-008-300-002-00
STATE OF MICHIGAN

LANSING MI 48909

16-140-A01-011-001-00
BALLARD, ADRIAN & LINDA H/W
4361 FOURTH ST
CHEBOYGAN MI 49721

16-140-A01-011-003-00
CHARBONEAU, PATRICK & MINDY
1434 MAIN - ALOHA
CHEBOYGAN MI 49721

16-140-A01-011-005-00
HEBERT, EUGENE & JOHN HEBERT
1422 MAIN ST - ALOHA
CHEBOYGAN MI 49721

16-140-A01-011-006-00
HEMME, DONALD & EILEEN
1410 MAIN ST
CHEBOYGAN MI 49721

16-140-008-100-020-00
OCCUPANT
4315 THIRD ST
CHEBOYGAN, MI 49721

16-140-008-100-021-00
OCCUPANT
4316 THIRD ST
CHEBOYGAN, MI 49721

16-140-A01-011-001-00
OCCUPANT
4361 FOURTH ST
CHEBOYGAN, MI 49721

16-140-A01-011-003-00
OCCUPANT
1434 MAIN ST
CHEBOYGAN, MI 49721

16-140-A01-011-005-00
OCCUPANT
1422 MAIN ST
CHEBOYGAN, MI 49721

16-140-A01-011-006-00
OCCUPANT
1410 MAIN ST
CHEBOYGAN, MI 49721

16-140-A01-011-007-00
OCCUPANT
4334 THIRD ST
CHEBOYGAN, MI 49721

16-140-A01-011-009-00
OCCUPANT
4369 FOURTH ST
CHEBOYGAN, MI 49721

16-140-A01-012-001-00
OCCUPANT
4347 THIRD ST
CHEBOYGAN, MI 49721



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 STAFF REPORT

Item: Requests a 45.5 ft. front setback variance to construct a porch (22ft. x 24ft.) in an Agriculture and Forestry Management (M-AF) zoning district.	Prepared by: Scott McNeil
Date: April 13, 2014	Expected Meeting Date: April 22, 2014

GENERAL INFORMATION

Applicant: Frank Foster

Property Owner: Dennis Panagopoulos

Contact person: Frank Foster

Phone: 231-383-4829

Requested Action: Approve a 49.5 ft. variance to allow a .5 ft. front setback for construction of an screen porch.

BACKGROUND INFORMATION

The applicant is seeking a 49.5 ft. front setback variance to construct a 22 ft. x 24 ft. screen porch addition to an existing dwelling structure to be located .5 ft. from the front lot line. The existing dwelling is located 22.6 ft. from the front lot line based on survey included with the application. The front lot line is located on a 33 ft. wide platted right of way with in the Platt of the Village of Aloha called South Street. South Street is not indicated on the Cheboygan County Road Commission certification maps. The subject property is located in an Agriculture and Forestry Management (M-AF) zoning district. A 50 ft. front setback from the South Street right of way is required in this zoning district.

Surrounding Zoning:

North: D-RS, Residential Development District.

West: M-AF, Agriculture and Forestry Managemet

South: Same

East: Same

Surrounding Land Uses:

Residential land uses to the north. Vacant to the east, west and south.

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

The site does not contain any known sensitive areas.

Public Comments:

None

VARIANCE CONSIDERTIONS

Please note that all of the conditions listed below must be satisfied in order for a dimensional variance to be granted.

General Findings

1. Property is located in an M-AF zoning district.
2. A front setback of 50 feet is required per Section 17.1.
3. The applicant is seeking a 49.5 ft. front setback variance to allow a 22 ft. x 24 ft. screen porch addition to an existing dwelling .5ft. from the front lot line.
4. The applicant is requesting the Zoning Board of Appeals to allow a .5 ft. front setback variance.
5. The existing dwelling structure is located 22.6 ft. from the front lot line.
6. The enclosed porch will not extend beyond the front of the existing dwelling.
- 7.

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 existing dwelling structure is located within the required front setback area which is a unique physical condition.

OR, there are no unique circumstances or physical conditions and the circumstances are due to the applicant's personal difficulty.

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).

Regarding side setback:

The need for the variance is due to unique circumstances relative to the location of the existing dwelling structure and is not the result of action of the property owner or previous property owners.

OR, The need for the variance is due to actions of the property owner.

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 location of the existing dwelling structure, strict compliance with front setback regulations will be unnecessarily burdensome.

OR, conformance with setback regulations will allow continued use of the lot for a permitted purpose and conformity with setback regulations is not unnecessarily burdensome.

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.

Due to the location of the existing dwelling structure, the variance request represents the minimum necessary to grant reasonable relief and do substantial justice to other property owners in the district.

OR, The variance request does not represent the minimum necessary to grant reasonable relief and other options exist **and/or** granting the variance will not 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.

Granting a variance to allow a .5 ft. front setback will not cause an adverse impact on surrounding property, property values and/or the use and enjoyment of property in the neighborhood or zoning district due to like conditions in the neighborhood.

OR, Granting a variance to allow a .5 ft. front setback variance will cause an adverse impact on surrounding property and/or property values and/or the use and enjoyment of property in the neighborhood

SUPPLEMENTAL STAFF-SUPPLIED ATTACHMENTS

None

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS

Mary J. Hebert

Exhibit List

1. Cheboygan County Zoning Ordinance
2. Cheboygan County Master Plan
3. Variance Application (6 Pages)
4. Photos (3 Page)
5. Building Permit PC02-0614 Dated 08/08/02 (5 pages)
6. Zoning Permit PZ02-0482 Dated 08/07/02 (2 pages)
7. Zoning Board of Appeals Index Page 26 (1 Page)
8. Cheboygan County Road Commission 02/12/15 Meeting Minutes (1 page)
9. Mailing List (2 Pages)
- 10.
- 11.
- 12.
- 13.
- 14.

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

\$100.00 APPLICATION FEE

RECEIPT #:	
CASH/CHECK:	
ACTION /DATE:	

PLEASE PRINT

PROPERTY LOCATION

Address 4711 First Street Aloha	City / Village Aloha	Township / Sec. AL / 08	Zoning District
Property Tax I.D. (Parcel) Number 140-A01-010-001-00	Subdivision or Condo. Name / Plat or Lot No. Lots 1 & 2, Block 10, Village Plat		P-LS

APPLICANT

Name Mary J. Hebert	Telephone (313) 580-2342	Fax	
Address 4711 First Street Aloha	City & State Cheboygan, MI	Zip Code 49721	E-Mail maryjhebert@yahoo.com

OWNER (If different from applicant)

Name	Telephone	Fax	
Address	City & State	Zip Code	

Detailed directions to site, including nearest crossroad:

The home is in the Village of Aloha, on the water, at the southeast corner of First and Center Streets. Pictures enclosed.

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: No known deed restrictions apply
- B. This property is unplatted, platted, will be platted. If platted, name of plat Village of Aloha
- C. Present use of the property is: residential
- D. A previous appeal has (circle one) 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 8/5/02, nature of action requested variance, and the decision not necessary.
- 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.
See attached.

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.
A garage was added to the property in 2002 pursuant to a building permit being granted by Cheboygan County and a decision of the Zoning Board of Appeals that a zoning variance was not needed. All concerned believed the road right of way was 33 feet when, in fact, it's 66 feet. Present applicant is an innocent purchaser of the property with garage attached. Garage extends into right of way.

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 need is not due to present owner or prior owner as prior owner requested a zoning variance and was told it was not needed. There was a mutual mistake in believing the right of way was 33 feet wide.

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
The garage as built violates the zoning ordinance and the property cannot be used as collateral for loans nor can fee simple clear title be passed on to a subsequent purchaser or heir. Strict compliance with the current setback requirement cannot be achieved without a teardown of the garage by the current innocent owner.

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.
That the variance can be granted with restrictions that no further structure or advancement of the home extend to the north

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.
See attached statement as to non-adverse impact on 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  Christopher F. Lindsay, Date 3/4/2015
Attorney for applicant

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:

Front: _____ Rear: _____ Side: *See attached* Side: _____

Zoning District:

North:

Please see the original building permit application and the Granger & Associates recent survey which was done when current owner applied for a loan from a local bank and a location survey was required by the bank.

This attachment is that referred to under Item II entitled Detailed Request and Justification

The home at the corner of First and Center Streets, with the front lot line actually facing the waters of Mullett Lake, was build some time prior to the year 2002 without an attached garage. Shauna Gahn become the owner of the property and obtained a building permit to build an attached two story garage which building permit was issued on 8/8/2002. The building permit, application, and drawing are enclosed with this zoning variance request. Shauna Gahn also applied for a zoning variance from the Cheboygan County Zoning Board of Appeals and presented a site plan which identified that Center Street was 33 feet wide and which showed that she had measured 58 ½ feet from the house to the edge of Center Street and which variance request identified that a garage would extend out another 28 feet, when constructed, leaving approximately 30 feet between the north edge of the garage and the edge of Center Street.

It's very obvious that Shauna Gahn believed that Center Street right of way was 33 feet.

On 8/5/02 Shauna Gahn appeared at the zoning variance hearing and was told that only 8 feet of setback was required and that the 8 feet only has to be 8 feet from Center Street, but without reference to edge of asphalt or right of way. A copy of the Zoning Board of Appeals index is attached hereto with "FYI" designating that portion of the index that refers to the Shauna Gahn request.

It's believed that the garage was constructed in 2002 and has remained as constructed, and in use, for the past 12 plus years.

Mary Hebert took title to the property pursuant to a warranty deed, dated December 16, 2011, which deed was recorded in Liber 1193, Page 342, Cheboygan County Register of Deeds Records.

In 2014 Mary Hebert went to a local bank to obtain a loan for which the improved real estate at 4711 First Street would be used as collateral. The bank either required or commissioned Alan Granger of Granger & Associates Inc. to do a survey of the property. It was then made known to Mary Hebert that Center Street, as platted, is 66 feet wide even though it appears that Center Street, as constructed, is something in the order of 20 feet wide.

Enclosed with this application are photos of the garage, First Street, and Center Street, demonstrating that the garage is a substantial distance from Center Street as constructed although the Granger survey demonstrates that the northwest corner of the garage extends into the right of way 9 feet, plus or minus, and the northeast corner extends into the Center Street right of way 11 feet, plus or minus.

The encroachment on the right of way renders the home unmarketable and inappropriate for use as collateral and Mary Hebert is the innocent victim of someone else's legitimate mistake.

Mary Hebert has spoken with Michael Charboneau of the Aloha Township Fire Department and he has no concerns with the garage as built as far as the ability of a fire truck to reach the water's edge is concerned.

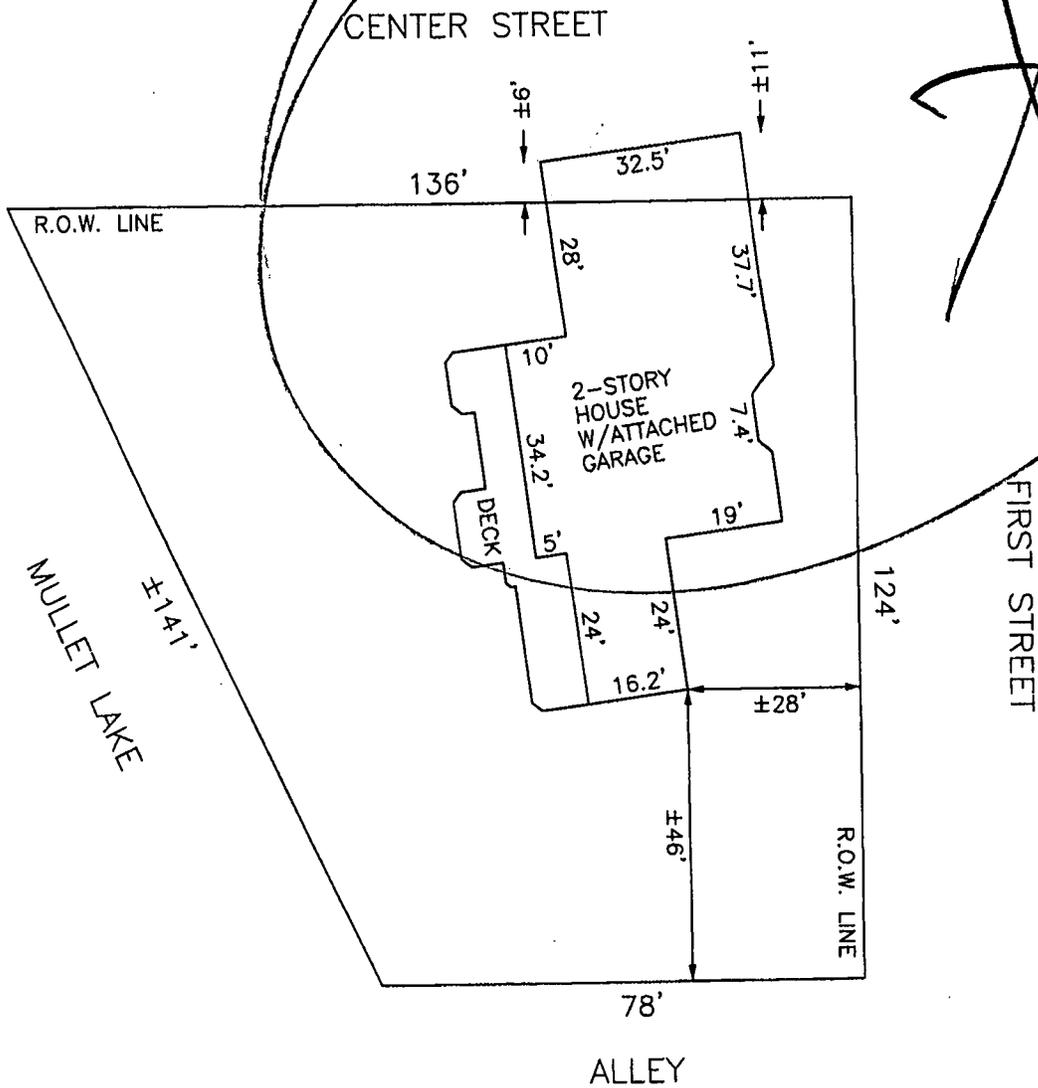
Christopher Lindsay, the drafter of this zoning variance application, has applied to the Cheboygan County Road Commission, met with them on February 12, 2015, and obtained a resolution by that Road Commission, copy attached, stating that the Road Commission has no objection to and no problem with

a zoning variance being granted to Mary Hebert concerning the garage in question. In fact one of the current commissioners worked for the Road Commission as a plow truck driver and plowed Center Street, to the water's edge, in the winter since the date that the garage was constructed, without problem or difficulty.

All that is requested is a variance to the side yard setback requirement allowing the garage to remain as built and with the restriction that no further expansion or addition to occur on the north side of the garage.

As far as subpart e of the detailed request and justification the photos should speak for themselves. The garage has been in existence for more than a dozen years without hassle or problem and it is an attractive addition to the home in question adding value, increase in property taxes, and an enhancement to the surrounding property and property values.

In addition to Center Street there is another public access roadway ending at the water's edge of Mullett Lake about one city block south of Center Street.



MULLET LAKE ±141'

R.O.W. LINE

CENTER STREET

FIRST STREET

R.O.W. LINE

ALLEY



SCALE: 1"=30'

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NO BOUNDARY SURVEY WAS PERFORMED OR CORNERS VERIFIED.
 PROPERTY LINES ARE APPROXIMATE ONLY.
 BEARINGS AND DISTANCES AS SHOWN WERE TAKEN FROM LEGAL DESCRIPTION PROVIDED BY CNB.

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



4





Cheboygan County

Building Permit No: PC02-0614

Construction Code Department
870 S. Main Street, P.O. Box 70
Cheboygan, Michigan 49721

Phone: (231) 627-8813

Fax: (231) 627-8454

Hours: Monday - Friday 8:00 a.m. - 5:00 p.m.

Location: 4711 First St 140-A01-010-001-00	Twp./Sec. AL-08
--	--------------------

Owner: Gahn, Shauna 4711 First St Aloha Cheboygan MI 49721

Issued: 08/08/02

Contractor: Owner Of Property

Building Permits Issued 8:00 a.m. to 10:00 a.m.
All Other Permits Issued 8:00 a.m. to 4:00 p.m.
Please Call (231)627-8813 for an Inspection

Work Description: Garage 28x32+28x32

Paid	Permit Item	Work Type	Fee Basis	Item Total
At Issue	Garage - Second Floor	Residential	896.00	\$62.72
At Issue	Garage, Attached	Residential	896.00	\$62.72

Fee Total: \$125.44
Amount Paid: \$125.44
Balance Due: \$0.00

Don Chase *pc*
Code Official

I agree this permit is only for the work described, and does not grant permission for additional or related work which requires separate permits. I understand that this permit will expire, and become null and void if work is not started within 180 days, or if work is suspended or abandoned for a period of 180 days at any time after work has commenced; and, that I am responsible for assuring all required inspections are requested in conformance with the applicable code.
I hereby certify that the proposed work is authorized by the owner, and that I am authorized by the owner to make this application as his authorized agent. I agree to conform to all applicable laws of the State of Michigan and the local jurisdiction. All information on the permit application is accurate to the best of my knowledge.
Payment of permit fee constitutes acceptance of the above terms.

THIS PERMIT COVERS 4 INSPECTIONS

Additional Inspections - \$30.00 each - Invoice will be mailed.
Certificate of Occupancy will not be issued until fees are paid.

**IT IS UNLAWFUL TO OCCUPY BUILDING PRIOR TO
ISSUANCE OF CERTIFICATE OF OCCUPANCY.**

Payment Validation

Check Number 1094 Date 08/08/2002
Entered By Regina Receipt Number N/A

**CHEBOYGAN COUNTY
CONSTRUCTION CODE DEPARTMENT**

870 South Main Street • P.O. Box 70
Cheboygan, Michigan 49721
Telephone: (231) 627-8813 • Fax: (231) 627-8454

**BUILDING PERMIT
APPLICATION**

8/7/02
Date of Application

Building Permit Number

**NOTE: SEPARATE APPLICATIONS MUST BE COMPLETED FOR
PLUMBING, MECHANICAL AND ELECTRICAL PERMITS**

I. JOB LOCATION:

Name <i>Shauna L. Gahn</i>		Property Tax I.D. No. <i>140-A01-010-001-00</i>	
Site Address <i>4711 First St.</i>		City/ Village <i>Cheboygan</i>	Township <i>Aloha</i>
Section	Between <i>First st.</i>		Cross Street <i>Main St.</i>
And <i>First st.</i>		Cross Street <i>Center St.</i>	

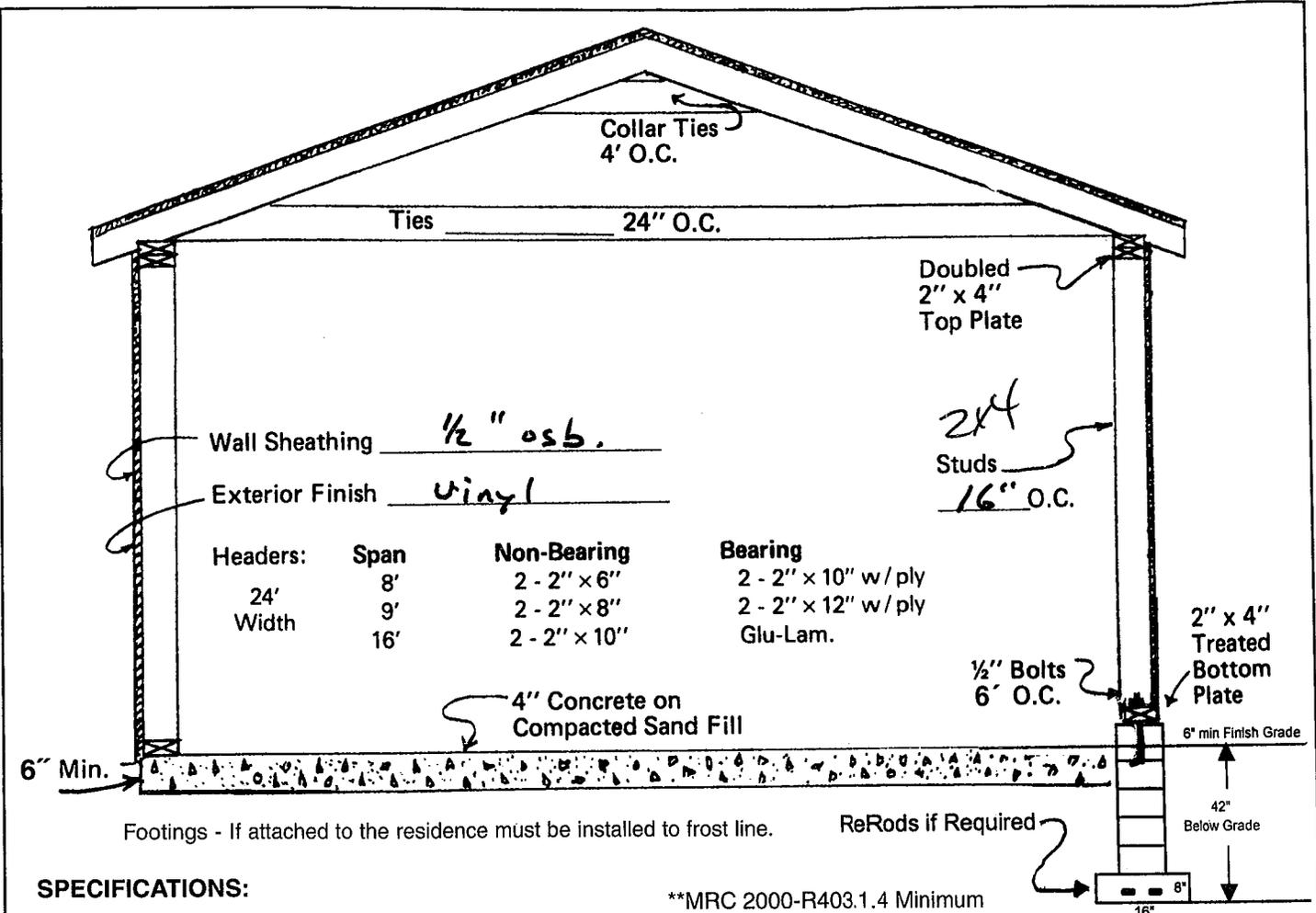
II. IDENTIFICATION:

Owner or Lessee					
Name <i>Shauna L. Gahn</i>			Address <i>4711 First St.</i>		
City <i>Cheboygan</i>	State <i>MI</i>	Zip <i>49721</i>	Telephone Number <i>625-9804</i>	Fax Number	
Architect or Engineer					
Name			Address		
City	State	Zip	Telephone Number	Fax Number	
License Number				Expiration Date	
Contractor					
Name			Address		
City	State	Zip	Telephone Number	Fax Number	
Email		Builders License Number		Expiration Date	
Federal Employer ID Number		MESC Employer Number		Workmans Comp Insurance Carrier	
I hereby certify that the proposed work described on this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. All of the information submitted on this application is accurate to the best of my knowledge.					
Contractor Signature				Date	

III. HOMEOWNER AFFIDAVIT:

I hereby certify that the work described on this application shall be installed by myself in my own single family dwelling in which I am living or about to occupy. Section 23A of the State Construction Code Act of 1972, Act No. 230 of the Public Acts of 1972, being Section 125.1523A of the Michigan Compiled Laws, prohibits a person from conspiring to circumvent the licensing requirements of this State relating to persons who are to perform work on a residential building or a residential structure. Violators of Section 23A are subject to civil fines.	
Homeowner Signature <i>A Shauna Gahn</i>	Date <i>7-8-02</i>

COMPLETE APPLICATION ON BACKSIDE



Footings - If attached to the residence must be installed to frost line.

ReRods if Required

SPECIFICATIONS:

Ground Snow Load 50-60-70 lb./Sq. Foot

* Trusses:
Spacing 24" O.C.
Purchased: Yes No

Rafters: _____ O.C.

* Trusses if owner constructed must be constructed to an approved engineered design.

* Must provide office with a copy of truss specification sheet if truss is designed by a professional engineer.

Building Size: 28' x 32'

Main Door Header:
Size and Span 7' x 7'

Roof Sheathing 1/2" OSB

Roofing Shingles

Floor: Yes No Material: TJI - 3/4 sheathing

Lumber - Stress Grade - Properly Stamped

If attached to the residence shall be completely separated from the dwelling and it's attic by minimum of 1/2" gypsum board attached to the garage side.

**MRC 2000-R403.1.4 Minimum

Depth: All exterior footings and foundation systems shall extend 42" below actual grade. Exceptions:

1. Frost-protected footings constructed in accordance with section R4303.3 of the code and footings and foundations erected on solid rock shall not be required to extend below the frost line.
2. The footings if detached accessory structures not exceeding 400 sq ft in area (37.16m²) or 10 ft in height (3048mm) shall extend 12" (305mm) below grade to undisturbed soil or soils of sufficient bearing capacity. All vegetation and top soil shall be removed for placement of accessory structures.
3. Upon evidence of the existence of any of the following conditions, the building official may modify the footing depth accordingly:
 - a. Freezing temperatures (freezing degree days).
 - b. Soil type.
 - c. Ground water conditions.
 - d. Snow depth experience.
 - e. Exposure to the elements.
 - f. Other specific conditions identified by building official that may effect the foundation system.

Shauna [Signature]
SIGNATURE

8/16/02 Fly poured OK

DATE 8/8/02
 NAME Shawna Gahn
 BY _____
 ADD. 4711 First Street - Alona
 PARCEL CODE 140-401-010-001-00
 PERMIT # PC02-0614
 TYPE-CONST. Garage
 SIZE 25x32 + 25x32

1

Cheboygan County Planning & Zoning Department

Doris Reid Building
825 South Huron, Suite 2
Cheboygan, MI 49721
Phone:(231) 627-2440 Fax (231)627-8190

Location: 4711 First St 140-A01-010-001-00	Twp./Sec. AL-08	Owner: Gahn, Shauna 4711 First St Aloha Cheboygan MI 49721
---	-------------------------------	--

Permit No: PZ02-0482 Issue Date: 08/07/02 Expiration Date: 08/07/2003	Contractor/Applicant: Gahn, Shauna 4711 First St Aloha Cheboygan MI 49721
--	---

Work Description:

Garage 1792sf

Stipulations:

Paid	Permit Item	Work Type	Fee Basis	Item Total
At Issue	Zoning	Residential	1,792.00	\$21.68

Fee Total: \$21.68
Amount Paid: \$21.68
Balance Due: \$0.00

Brian Duvalle dt
Code Official

I agree this permit is only for the work described, and does not grant permission for additional or related work which requires separate permits. I understand that this permit will expire, and become null and void if work is not started within 180 days, or if work is suspended or abandoned for a period of 180 days at any time after work has commenced, and, that I am responsible for assuring all required inspections are requested in conformance with the applicable code.
I hereby certify that the proposed work is authorized by the owner, and that I am authorized by the owner to make this application as his authorized agent. I agree to conform to all applicable laws of the State of Michigan and the local jurisdiction. All information on the permit application is accurate to the best of my knowledge.
Payment of permit fee constitutes acceptance of the above terms.

PAYMENT VALIDATION

Check #: Credit & Cash \$121.68 Date: 08/07/2002
 (\$50.00 Credit)
 Receipt #: N/A Entered By: Debbie

6

PLAN INFORMATION

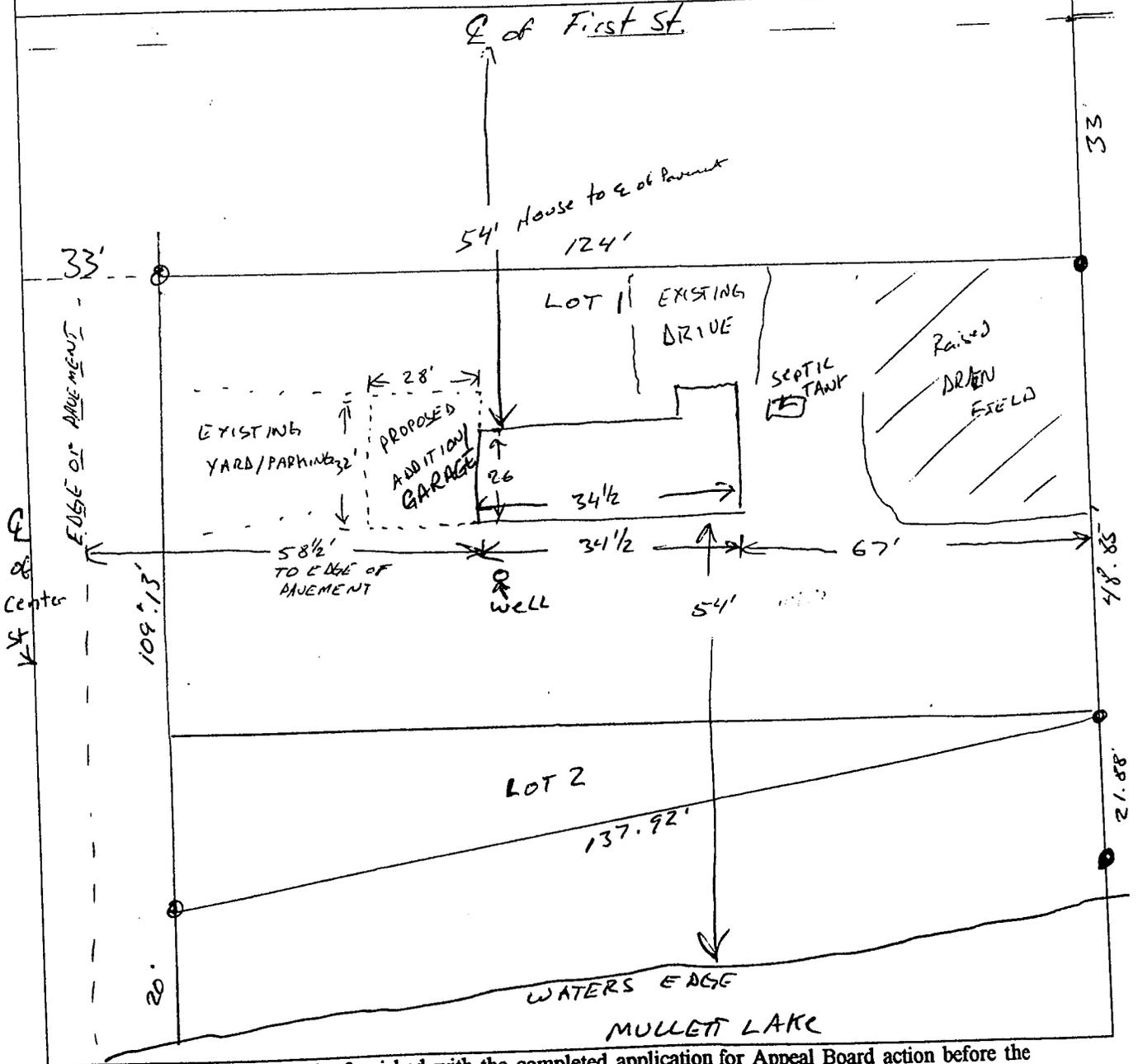
- 1. Property Line dimensions.
- 2. Front, Rear, & Side setback dimensions.
- 3. Location and size of all buildings on property.
- 4. Location of all drives and parking areas.
- 5. Rivers, lakes, wetlands, or streams.

- 6. Road Right-of-way; access or utility easements.
- 7. Indicate any exterior walls to be removed/replaced/added (remodel/expansion).
- 8. Septic tank, drain field, and well.
- 9. Place North arrow in space provided

SITE PLAN

Scale: NOT SCALED

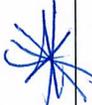
North



The above items must be furnished with the completed application for Appeal Board action before the variance will be processed. Please also mark the property lines and/or corner stakes on the property for Board members to inspect.

Zoning Board of Appeals Index

<u>Date/Applicant</u>	<u>Agenda</u>	<u>Action</u>
		the garage is in line with the house. Motion carried unanimously. 5 ayes (Freese, Hemmer, Laviolette, Brown, Edman) 0 Nays
08/05/02 Northern Resorts	NORTHERN RESORTS, INC. – Mr. Woods appeared and explained his request for a 32.5ft. front variance for a cabin. The property is located at 5446 US-23 West, Beaugrand Township, Section 6, parcel #041-006-100-032-00, and is zoned Lake and Stream.	Mr. Laviolette inquired on the size of the cabin. Mr. Woods confirmed that there is a loft in the cabin and there will be 720sf of living space. Mr. Woods presented a floor plan of the cabin. Mr. Woods stated that he was granted a Special Use Permit for a cabin colony. Mr. Woods advised that this cabin will not be any closer to the water than the previous cabin was that he is replacing. There were no letters to be read. There were no public comments. Board held discussion. Motion by Mr. Freese, supported by Mr. Hemmer to approve this request for a 32.5ft. front variance for a cabin. Motion carried unanimously. 5 ayes (Freese, Hemmer, Laviolette, Brown, Edman) 0 Nays
08/05/02 Gerald Snyder	GERALD SNYDER- Mr. Snyder appeared and explained his request for a 5ft. side variance for a garage. The property is located at 9335 Birch Ridge Rd., Grant Township, Section 27, parcel #153-F08-000-012-00, and is zoned Lake and Stream.	Mr. Snyder stated that his needs have outgrown the existing garage which was built 50 years ago. Mr. Snyder would like to replace the garage and maintain the existing setbacks. Mr. Snyder would like to tear down the existing 18x24 garage and extend it farther north maintaining the same distance on the west and 4 ft. farther east. Mr. Snyder stated that he will maintain the same setback on the south. No letters were to be read and there were no public comments. Board held discussion on all possible options. Mr. Laviolette believes that Mr. Snyder has other options available to him. Mr. Freese commented that Mr. Snyder would stay with the same setbacks that he has currently. Motion by Mr. Hemmer, supported by Mr. Freese to approve this request for a 5ft. side variance for a garage. Motion carried. 4 ayes (Freese, Hemmer, Brown, Edman) 1 Nay (Laviolette)
08/05/02 Shauna Gahn	SHAUNA GAHN- Ms. Gahn appeared and explained her request for an 8ft. side variance for a garage. The property is located at 4711 First Street, Aloha Township, Section 8, parcel #140-A01-010-001-00, and is zoned <u>Lake and Stream</u> .	Mr. Freese asked if the garage would be accessed off of First Street or off of Center Street. Ms. Gahn replied that it would be accessed off of Center Street. Mr. Laviolette advised that this changes the request. Mr. Laviolette inquired on the size of the garage. Mr. Buchanan advised that it will be 28x32 and it would not be as far out towards First Street as the home is. Mr. Freese stated that if Ms. Gahn is not coming any closer to First Street with the garage than the house is currently a variance is not required. Mr. Freese stated that only 8ft. is required on the side to Center Street and there is no problem meeting this requirement. Board held discussion. The board determined that the variance is not required.
08/05/02 Edward Biscok	EDWARD BICSOK, d/b/a NORTHERN EXCAVATING v. CHEBOYGAN COUNTY ZONING BOARD OF APPEALS - The Board of Appeals will determine whether Louis Reichlin is an aggrieved party in reference to the Cheboygan County Planning Commission's approval of a Special Use Permit to Northern Excavating on 11/07/01. The 53rd Circuit Court directed this determination.	Mr. Hemmer read a letter from Mr. Delaney regarding delaying this request.
09/03/02 Bay	BAY WINDPOWER, LLC- Requests a	Mr. Laviolette advised that this request was addressed at the

 FYI

REGULAR MEETING OF THE CHEBOYGAN COUNTY ROAD COMMISSION FEBRUARY 12, 2015

Chairman J. Johnson called the regular meeting to order at 9:00 A.M.

Acting Clerk T. Horrocks took roll call and a Quorum was present.

Pledge of Allegiance was recited.

PRESENT: J. Johnson, C. O'Connor, K. Paquet, D. Spray, Engineer/Manager B. Shank and Acting-Clerk T. Horrocks

ABSENT: D. Brown (excused) Clerk D. Stempky (excused)

VISITORS: T. Matelski, M. Ennes, C. Lindsey, S. Redmond, G. Bunker, C. Veneros, F. Crib, J. Moore, T. Olson, John Varner, R. LaHaie, J. Cronk, D. Tohm

MOTION by D. Spray seconded by K. Paquet to approve minutes of Regular Meeting Minutes 1/15/15, and Special Meeting minutes 1/28/15. 4 Yeas 1 Absent (Brown) CARRIED

MOTION by K. Paquet seconded by D. Spray to approve for payment current payroll vouchers #15-05-\$67,246.24 and #15-07-\$75,608.13 and accounts payable voucher #15-06-\$294,172.55. 4 Yeas 1 Absent (Brown). CARRIED

No additions to the Agenda

Public Comment:

- T. Matelski has heard a Rumor about some ongoing proceedings; J. Johnson replied that we cannot discuss details at this time.
- F. Cribb commented that there is many signs in the Afton area that have been defaced, Foreman G. Bunker stated it is in process of being fixed
- John Vance question speed limit signs in Indian River, and Engineer/Manager B. Shank will Look into it.

First Appointment for Attorney C. Lindsey, He made a Presentation on behalf of his client for the encroachment of a garage, that was built 13 years ago, and has been surveyed, and the garage is infact in the road Right-of-way. Lindsey asked if the Road Commission would entertain the fact of not objecting to use-variance change on the property.

MOTION by D. Spray seconded by K. Paquet, That the Road Commission DOES NOT OBJECT a Use-Variance Change on the Property Located at 4711 First Street in Aloha Township. ROLL CALL VOTE TAKEN: D. Spray Yea, C. O'Connor Yea, J. Johnson Yea, K. Paquet Yea 1 Absent (Brown) CARRIED

Second Appointment Rick LaHaie, Step 4 Union Grievance, Mr. Tohm Presented the Grievance to the Board, Mr. LaHaie wanted to be put back on Night Shift and is requesting Back-Pay compensation for missed overtime.

16-140-A01-005-003-00
OCCUPANT
1284 VACATIONLAND DR
CHEBOYGAN, MI 49721

16-140-A01-009-004-00
OCCUPANT
1256 CENTER ST
CHEBOYGAN, MI 49721

16-140-A01-005-004-00
OCCUPANT
4774 FIRST ST
CHEBOYGAN, MI 49721

16-140-A01-009-005-00
OCCUPANT
4696 FIRST ST
CHEBOYGAN, MI 49721

16-140-A01-005-007-00
OCCUPANT
1243 CENTER ST
CHEBOYGAN, MI 49721

16-140-A01-009-007-00
OCCUPANT
4680 FIRST ST
CHEBOYGAN, MI 49721

16-140-A01-005-010-00
OCCUPANT
1279 CENTER ST
CHEBOYGAN, MI 49721

16-140-A01-009-009-00
OCCUPANT
1265 MAIN ST
CHEBOYGAN, MI 49721

16-140-A01-006-001-00
OCCUPANT
4675 FIRST ST
CHEBOYGAN, MI 49721

16-140-A01-009-010-00
OCCUPANT
1279 MAIN ST
CHEBOYGAN, MI 49721

16-140-A01-006-001-01
OCCUPANT
1206 VACATIONLAND DR
CHEBOYGAN, MI 49721

16-140-A01-009-014-00
OCCUPANT
1303 MAIN ST
CHEBOYGAN, MI 49721

16-140-A01-006-004-00
OCCUPANT
1209 CENTER ST
CHEBOYGAN, MI 49721

16-140-A01-010-001-00
OCCUPANT
4711 FIRST ST
CHEBOYGAN, MI 49721

16-140-A01-006-006-00
OCCUPANT
4731 FIRST ST
CHEBOYGAN, MI 49721

16-140-A01-010-003-00
OCCUPANT
4677 FIRST ST
CHEBOYGAN, MI 49721

16-140-A01-009-001-00
OCCUPANT
4701 SECOND ST
CHEBOYGAN, MI 49721

16-140-A01-009-003-00
OCCUPANT
1266 CENTER ST
CHEBOYGAN, MI 49721

16-140-008-300-002-00
STATE OF MICHIGAN

LANSING MI 48909

16-140-A01-005-003-00
SCOTT, HENRY & CAROL H/W
34543 JOEL
NEW BALTIMORE MI 48047

16-140-A01-005-004-00
BALLARD, LOIS ANN
4774 FIRST ST - ALOHA
CHEBOYGAN MI 49721

16-140-A01-005-007-00
MCKENNA, SANDRA
1243 CENTER ST - ALOHA
CHEBOYGAN MI 49721

16-140-A01-005-010-00
PAPPAS, JOHN & KIMBERLEE H/W
1279 CENTER ST - ALOHA
CHEBOYGAN MI 49721

16-140-A01-006-001-00
STELTER, MICHAEL & KIMBERLY
56 SAWMILL CREEK TRL
SAGINAW MI 48603

16-140-A01-006-001-01
STEMPKY, PETER & MARGARET H/
1206 VACATIONLAND DR
CHEBOYGAN MI 49721

16-140-A01-006-004-00
WOLLANGUR, DARLEEN (PUTNAM
1209 CENTER ST- ALOHA
CHEBOYGAN MI 49721

16-140-A01-006-006-00
HARRIS, GAYLE W
528 N WAUBUN BEACH RD
INDIAN RIVER MI 49749

16-140-A01-009-001-00
SAMSON, DALE & ROBERTA H/W
2846 N LAKEVIEW DR
SANFORD MI 48657

16-140-A01-009-003-00
ROSE, FRANKLIN & JUDY ANN H/W
1266 CENTER ST - ALOHA
CHEBOYGAN MI 49721

16-140-A01-009-004-00
WEBB, LILLIAN A & JUDY ROSE L/E
1266 CENTER ST - ALOHA
CHEBOYGAN MI 49721

16-140-A01-009-005-00
FOX, HAROLD & BERTHA H/W L/E
4696 FIRST ST - ALOHA
CHEBOYGAN MI 49721

16-140-A01-009-007-00
ROSENFELDT, ALFRED & DONNA
4680 FIRST ST - ALOHA
CHEBOYGAN MI 49721

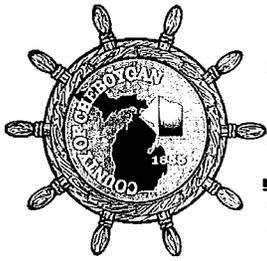
16-140-A01-009-009-00
LABA, JAMES & CATHERINE H/W
5200 RIDGE RD
PALMS MI 48465

16-140-A01-009-010-00
ROSE, FRANKLIN & JUDY, H/W L/E
1266 CENTER ST - ALOHA
CHEBOYGAN MI 49721

16-140-A01-009-014-00
WYATT, BRETT REVOC LIVING TR
4850 LONG LAKE RD
CHEBOYGAN MI 49721

16-140-A01-010-001-00
MCDUFFEE, GREGORY & MARY H/
4711 FIRST ST
CHEBOYGAN MI 49721

16-140-A01-010-003-00
BELLES, LEE H
4677 FIRST ST - ALOHA
CHEBOYGAN MI 49721



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 STAFF REPORT

Item: An 8 ft. variance request to allow a 0 ft. side setback due to construction of a garage over the side lot line. The property is zoned Lake and Stream Protection District (P-LS)	Prepared by: Scott McNeil
Date: April 14, 2015	Expected Meeting Date: April 22, 2015

GENERAL INFORMATION

Applicant: Mary Hebert

Property Owner: Same

Contact person: Same

Phone: 313-580-2342

Requested Action: Allow a 0 ft. side setback due to construction of a garage over a side lot line.

BACKGROUND INFORMATION

The applicant is seeking a side setback variance for an existing garage measuring 28 ft. wide x 32 ft. deep which was built in 2002. Based on information submitted by the applicant it appears that the garage was built into the side setback area and into the adjacent Center Street road right of way (see survey included with the application). The applicant has submitted documents from a zoning permit issued on August 7, 2002 which includes a plot plan. (see exhibit 6) and a construction permit (see exhibit 5) The applicant has also included a copy of the zoning board of appeals meeting index regarding the subject (see exhibit 7) I have attached a copy of the entire minutes from the August 5 2002 for your review. Also attached is a copy of minutes from the February 12, 2015 Regular meeting of the Cheboygan County Road Commission (see exhibit 8) which contains a vote that the Road Commission does not object to a use variance change at the subject property. By review of the minutes preceding the vote you will find that Attorney Chris Lindsay made a presentation to the board relative to the right of way encroachment.

I have also attached a copy a document from a soil sedimentation permit issued for excavation of the garage.

Surrounding Zoning:

North: P-LS, Lake and Stream Protection District.

West: Same

South: Same

East: Mullett Lake

Surrounding Land Uses:

Residential land uses surround the subject property.

Environmentally Sensitive Areas: (steep slopes, wetlands, woodlands, stream corridor, floodplain) The subject site contains frontage on Mullett Lake. The site does not contain any other known sensitive areas.

Public Comments:

VARIANCE CONSIDERTIONS

Please note that all of the conditions listed below must be satisfied in order for a dimensional variance to be granted.

General Findings

1. Property is located in a Lake and Stream Protection (P-LS) zoning district.
2. A side setback of 8 feet is required per Section 17.1.
3. An existing 28 ft. by 38 ft. garage was built in 2002.
4. The applicant has presented a survey indicating that the aforementioned garage was built over a side lot line and encroaches into the right of way of Center Street.
5. The applicant has presented documents from a zoning permit and construction permit issued for the garage on August 7, 2002 and August 8, 2002 respectively (see exhibits 6 and 5)
6. The applicant is requesting the Zoning Board of Appeals to allow 0 ft. side setback.
7. The Cheboygan County Zoning Board of Appeals cannot approve construction in a road right of way.
- 8.
- 9.

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.

Due to circumstances relative to zoning and/or construction approval, and/or the subject property is located on a little used road (Center Street) which does not extend beyond the subject lot to the west and ends at Mullett Lake, which are unique circumstances and/or physical conditions.

OR, there are no unique circumstances or physical conditions exist and/or the circumstances are due to the applicant's personal difficulty.

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).

Due to circumstances relative to zoning and/or construction approval, the need for the variance is not the result of actions of the property owner or previous property owners.

OR, the proposed placement of the garage structure on lot is the result of actions of the previous property owners.

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 circumstances relative to zoning and/or construction approval conformity with setback regulations is deemed unnecessarily burdensome due

OR, conformance with setback regulations would allow construction of a new garage structure within the required setback and conformity with setback regulations is not unnecessarily burdensome.

23.5.4.4 variance necessary to grant the applicant reasonable relief as well as to do substantial justice to other property owners in the district.

Due to circumstances relative to zoning and/or construction approval, the variance request represents the minimum necessary to grant reasonable relief and do substantial justice to other property owners in the district.

OR, The variance request does not represent the minimum necessary to grant reasonable relief and other options exist and/or granting the variance will not 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.

Regarding side setback:

Granting a variance to allow a 0 ft. side setback and will not cause an adverse impact on surrounding property, property values or the use and enjoyment of property in the neighborhood or zoning district.

OR, the requested variances to allow a 0 ft. side setback will cause an adverse impact on surrounding property and/or on property values and/or on the use and enjoyment of property in the neighborhood or zoning district.

SUPPLEMENTAL STAFF-SUPPLIED ATTACHMENTS

Munities from the August 5, 2002 regular meeting of the Zoning Board of Appeals and a copy a document from a soil sedimentation permit issued for excavation of a garage.

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING
& PUBLIC HEARING
MONDAY, AUGUST 5, 2002 AT 7:00 P.M.
ROOM 210 – CIRCUIT COURT ROOM – CHEBOYGAN COUNTY BUILDING**

Members Present: Robert Laviolette, Ralph Hemmer, Charles Freese, Chris Brown and Marshall Edman

Members Absent: None

Others Present: Les Compton, Gerald Snyder, Bonny Lee, Rebecca Perkins, Tony Matelski, Tom O'Hare, Elaine O'Hare, Bruce Gauthier, Quinter Burnette, Jacquelyn Burnette, Linda Ginop, Robert Hoy, Steve Ostwald, Irene Jankoviak, Monica Wendt, Scott Wendt, Christa Newhouse, Shelby Newhouse, Christopher Sangster, Chuck Hoffman, Shauna Gahn, Jodie Buchanan, Steven Smiley, Matt Bonnett, Kelly Alexander, Charlie Antkoviak, Michelle Ostwald, Edward Nye, Paul Nows, Bill Morgan, David Pauly, Joan Moran, Veronica Mahon, Ron Wheelock, Mike Johnson, John Wheelock, Scott Wynn, Shelby Newhouse, Charles Maziasz, John Woods, Janice Blohm, David Monroe, Brian Duvall

Chairman Robert Laviolette opened the meeting at 7:00 P.M.

DAVID PAULY- Mr. Pauly appeared and explained his request of a lot size variance of 5.5 acres for a campground under Section 17.8 of the Zoning Ordinance. The property is located at 6753 Barclay Ave, Forest Township, Section 3, parcel #231-003-300-009-02, and is zoned Natural Rivers. Mr. Laviolette asked how far the campground will be from the water. Mr. Pauly stated that it will be well over 200ft. from the water. Mr. Laviolette stated that Mr. Pauly is requesting two variances. Mr. Laviolette stated that the requirements for a campground are 10 acres or more and 600ft. in width. Mr. Pauly stated that he was not aware of the 600 ft. requirement and that he only has 508 ft. and 5.5 acres. Ms. Moran stated that she is against this request because the pond is too small and it will ruin the ecosystem. Ms. Mahon is against this request because of the noise pollution, traffic and nuisances. Mr. Duvall read a letter from Vincent Pipitone in opposition to this request. Ms. Blohm stated her concerns regarding traffic problems. Board held discussion. Mr. Hemmer believes that Mr. Pauly is requesting a lot more than what can be granted. Mr. Freese stated that this type of request is too major of a request. Mr. Brown feels that it is this Boards responsibility to uphold the Zoning Ordinance and it would not be done by granting this request. Mr. Hemmer is against this request. **Motion** by Mr. Hemmer, supported by Mr. Brown to deny this request. Motion carried unanimously. 5 Ayes (Freese, Hemmer, Laviolette, Brown, Edman) 0 Nays

REBECCA PERKINS- Ms. Perkins appeared and explained her request for a 10ft. front variance for a covered porch. The property is located at 10560 M-68, Forest Township, Section 11, parcel #231-011-200-012-00, and is zoned Agriculture/Forestry. There were no public comments and there were no letters to be read. Ms. Perkins stated that when construction began she believed that she had to maintain 88ft. from the centerline of the road and that when Mr. Duvall inspected he advised her that she has to maintain 110ft. Ms. Perkins stopped the construction and moved it back to 111ft. Ms. Perkins stated that a porch was not in the original plans but it was a decision that was made later. Ms. Perkins stated that she is requesting this variance because she does not want to remove any more trees than needed and the trees are actually on her mother's property. Board held discussion. Mr. Hemmer asked if this building would be lived in. Mr. Perkins advised that it is a stained glass and greenhouse business. Ms. Perkins informed that there would not be restroom facilities. Mr. Freese believes that the building could have originally been moved back and then there would have been sufficient room for the porch. The board believes that this request should be denied because there are other options available, the problem is self-created and that no hardship exists.

BAY WINDPOWER, LLC- Mr. Smiley appeared and explained his request for a 129ft. height variance for a temporary wind monitor tower. The properties are located at 11447 Bonnet Rd, Munro Township, Sections 3 and 11, parcel numbers 080-003-400-002-00 and 080-011-100-001-00, and are zoned Agriculture/Forestry. Mr. Smiley stated that the temporary wind monitoring tower that of 6" diameter pipe that is 164 ft. tall. Mr. Smiley stated that it is temporary in nature because it is used repeatedly, it is installed at one location and moved 6 months to 1 year later to another location. Mr. Smiley advised that there are no

electricity, water or sewer requirements, the anchors are temporary sparring anchors, no concrete is used and there are 6 levels of guy wires used. Mr. Smiley stated that the focus of the tower is to temporarily measure the winds at three different elevations; 32 ft., 101 ft., and 164 ft and the purpose of it is to gather continuous data as to wind speed and direction. Mr. Smiley stated that data is stored in a daily logger at the base of the tower which is then accessed monthly by the data chip or by downloading the data via cell phone. Mr. Smiley stated that they are requesting permission for two locations that are outlined on the application on Matthew Bonnett's property. Mr. Laviolette asked if there is enough wind power at this location what the next step would be. Mr. Smiley responded that the planning process would begin for a commercial zoning and Mr. Smiley stated that he does realize that this will have to go before the Cheboygan County Planning Commission. Mr. Laviolette asked how far these towers would be from the road. Mr. Smiley stated that they would be over 900 ft. Mr. Hemmer asked if the permanent tower would be higher than the temporary tower. Mr. Smiley stated that the permanent tower would be 200ft. to 257ft. in height. Mr. Laviolette advised that public comments would be limited to 3 minutes per person. Mr. Wheelock stated he is opposed to this request because it will block his view. Ms. Burnett asked how many permanent windmills would there be and how tall would they be. Mr. Smiley advised it could be anywhere from 1 to 5 windmills. Ms. Burnett asked if this company is the same company that has the windmills in Mackinaw City and she stated that she is aware that there is a noise problem. Mr. Smiley stated that this is the same company and that the windmills run 90% of the time and on occasion when the wind is in the right direction there may be some disturbance. Mr. Smiley stated that Mackinaw City regulations state 60 decibels and that they are in complete compliance with these regulations and that they try to keep it at 45 decibels. Mr. Laviolette asked what the decibel level is on the highest speed at the property line and at the residence. Mr. Smiley stated that at the property line it was measured at 50 decibels. Ms. Burnett asked if there would be something written into the agreement regarding termination of the contract. Mr. Smiley stated that if they were in violation of the noise ordinance it would be terminated. Ms. Burnett confirmed that she is opposed to this request. Mr. Burnett stated that he is also opposed to this request because peacefulness and serenity of the neighborhood will be taken away and it is an evil thing. Mr. Burnett stated that the sand hill cranes, a rare bird which is protected by federal law, are low flying birds and will be in danger because of these windmills. Mr. Nows in opposed because of the noise. Mr. Sangster is opposed due to the possible noise problems, adverse effect to the property value and the reduction of aesthetic value. Mr. Alexander stated that he has attended other meetings regarding windmills being constructed in the area and he lives near the windmills in Mackinaw City. Mr. Alexander's family has purchased a sound meter and readings were taken this past spring at 1200ft. away and the readings were 60 decibels. Mr. Alexander advised that at his parent's back door the readings were 55 decibels. Mr. Alexander stated that it can be heard in the house with the windows and doors shut and family members have not been able to sleep because of the noise created by windmills. Mr. Johnson is not against the windmills but believes there should be better technology to prevent the noise. Mr. Newhouse and Mr. Ostwald are against the approval of the request because there is only one purpose for this wind monitoring study and that is to eventually erect a permanent windmill. Mr. Maziasz feels that it is the responsibility of the board to look at this request as a variance because it is not natural and it is a deviation. Mr. Maziasz feels that it is the responsibility of the board to listen to the public. There were no letters to be read. Board held discussion. Mr. Laviolette stated that it appears that there is definitely a noise issue with the windmills in Mackinaw City. Mr. Smiley advised that this is a request for a temporary wind monitoring tower. Mr. Laviolette is not against windmills and technology. Mr. Freese is not opposed to a wind study but Mr. Freese believes a plan should be in place for windmills. Mr. Brown is not opposed to technology and windmills but the location is not suitable. Mr. Hemmer referred to another windmill that a variance was approved for and was built for personal use. Mr. Hemmer requested that this windmill be reviewed and a report be brought back to the Zoning Board of Appeals. Mr. Brown commented that the application is for a tower not for a windmill. Motion by Mr. Brown to deny this request. Motion failed for lack of support. **Motion** by Mr. Hemmer, supported by Mr. Freese to table this request until the next meeting. Motion carried. 4 ayes (Freese, Hemmer, Laviolette, Edman) 1 Nay (Brown)

ELAINE O'HARE- Mr. and Mrs. O'Hare appeared and explained the request for a 40ft. front variance for a deck on Mullet Lake. The property is located at 1344 N. Straits Hwy, Mullet Township (Topinabee), Section 30, parcel #130-O13-006-004-00, and is zoned Lake and Stream. Mr. O'Hare stated that the existing deck is 21 years old and is falling down and deteriorating. Mr. O'Hare stated that the lot is only 80ft. wide and 60ft. deep and is not sure how the 40ft. setback could be met. Mr. O'Hare stated that permanent rails were installed for safety purposes. Mr. O'Hare stated the deck is in the same location as the previous deck. Ms. Jankoviak and Mr. Morgan stated that they have no objections to this request. There were no letters to be read. Board held discussion. The board agreed that this problem was not self-created. **Motion** by Mr. Freese, supported by Mr. Hemmer to approve this request for a 40ft. front variance for a deck. Motion carried unanimously. 5 ayes (Freese, Hemmer, Laviolette, Brown, Edman) 0 Nays

DAVID MONROE- Mr. Monroe appeared and explained his request for a 6ft. side variance for a residence addition. The property is located at 1491 Mullet Lake Rd., Inverness Township, Section 26, parcel #092-B03-000-014-00, and is zoned Lake and Stream. Mr. Laviolette referred to the site plan and inquired on the location, size and purpose of the addition. Mr. Monroe advised that he is unsure of the exact square footage of the addition and that it will be the master bedroom. Mrs. Monroe advised that she has arthritis and this will serve as the master bedroom on the first floor. Mr. Edman advised that there would be no way that an emergency vehicle could get through. Mrs. Monroe stated that there are trees between her residence and the neighbor's house so it is virtually impossible for an emergency vehicle to get through there with all the trees. There were no public comments and there were no letters to be read. Board held discussion. Mr. Edman is not in support of this request due to the lot not being big enough and emergency vehicles not being able to get through. Mrs. Monroe asked if they did not extend the addition a couple feet past the existing walls but just squared it if would the board be more acceptable. Motion by Mr. Edman to deny this request for a 6ft. side variance for a residence addition. Motion failed for lack of support. **Motion** by Mr. Freese, supported by Mr. Hemmer to approve this request for a variance with the stipulation that the proposed addition does not extend further than the existing residence. Motion carried. 4 ayes (Freese, Hemmer, Laviolette, Brown), 1 Nay (Edman)

BRUCE GAUTHIER- Mr. Gauthier appeared and explained his request for a 16ft. front variance for a garage. The property is located at 1770 US-23W, Beaugrand Township, Section 23, parcel #041-023-100-001-00, and is zoned Lake and Stream. Mr. Edman inquired if this project was started without a permit. Mr. Gauthier believes that the cement is already poured. The board held discussion regarding the front of the existing house meeting the required setback. There were no public comments and there were no letters to be read. Board held discussion. **Motion** by Mr. Freese, supported by Mr. Hemmer to approve a 12ft. variance with the stipulation that the garage is in line with the house. Motion carried unanimously. 5 ayes (Freese, Hemmer, Laviolette, Brown, Edman) 0 Nays

NORTHERN RESORTS, INC. – Mr. Woods appeared and explained his request for a 32.5ft. front variance for a cabin. The property is located at 5446 US-23 West, Beaugrand Township, Section 6, parcel #041-006-100-032-00, and is zoned Lake and Stream. Mr. Laviolette inquired on the size of the cabin. Mr. Woods confirmed that there is a loft in the cabin and there will be 720sf of living space. Mr. Woods presented a floor plan of the cabin. Mr. Woods stated that he was granted a Special Use Permit for a cabin colony. Mr. Woods advised that this cabin will not be any closer to the water than the previous cabin was that he is replacing. There were no letters to be read. There were no public comments. Board held discussion. **Motion** by Mr. Freese, supported by Mr. Hemmer to approve this request for a 32.5ft. front variance for a cabin. Motion carried unanimously. 5 ayes (Freese, Hemmer, Laviolette, Brown, Edman) 0 Nays

GERALD SNYDER- Mr. Snyder appeared and explained his request for a 5ft. side variance for a garage. The property is located at 9335 Birch Ridge Rd., Grant Township, Section 27, parcel #153-F08-000-012-00, and is zoned Lake and Stream. Mr. Snyder stated that his needs have outgrown the existing garage which was built 50 years ago. Mr. Snyder would like to replace the garage and maintain the existing setbacks. Mr. Snyder would like to tear down the existing 18x24 garage and extend it farther north maintaining the same distance on the west and 4 ft. farther east. Mr. Snyder stated that he will maintain the same setback on the south. No letters were to be read and there were no public comments. Board held discussion on all possible options. Mr. Laviolette believes that Mr. Snyder has other options available to him. Mr. Freese commented that Mr. Snyder would stay with the same setbacks that he has currently. **Motion** by Mr. Hemmer, supported by Mr. Freese to approve this request for a 5ft. side variance for a garage. Motion carried. 4 ayes (Freese, Hemmer, Brown, Edman) 1 Nay (Laviolette)

SHAUNA GAHN- Ms. Gahn appeared and explained her request for an 8ft. side variance for a garage. The property is located at 4711 First Street, Aloha Township, Section 8, parcel #140-A01-010-001-00, and is zoned Lake and Stream. Mr. Freese asked if the garage would be accessed off of First Street or off of Center Street. Ms. Gahn replied that it would be accessed off of Center Street. Mr. Laviolette advised that this changes the request. Mr. Laviolette inquired on the size of the garage. Mr. Buchanan advised that it will be 28x32 and it would not be as far out towards First Street as the home is. Mr. Freese stated that if Ms. Gahn is not coming any closer to First Street with the garage than the house is currently a variance is not required. Mr. Freese stated that only 8ft. is required on the side to Center Street and there is no problem meeting this requirement. Board held discussion. The board determined that the variance is not required.

Mr. Duvall advised that there was variance granted to Keith Phillips with the wrong parcel number. **Motion** by Mr. Freese, supported by Mr. Brown, to correct the parcel number to conform with the map. Motion carried unanimously. 5 ayes (Laviolette, Freese, Hemmer, Brown, Edman) 0 Nay

EDWARD BICSOK, d/b/a NORTHERN EXCAVATING v. CHEBOYGAN COUNTY ZONING BOARD OF APPEALS – The Board of Appeals will determine whether Louis Reichlin is an aggrieved party in reference to the Cheboygan County Planning Commission’s approval of a Special Use Permit to Northern Excavating on 11/07/01. The 53rd Circuit Court directed this determination. Mr. Hemmer read a letter from Mr. Delaney regarding delaying this request.

Mr. Duvall advised that the next scheduled meeting day in September falls on Labor Day. Mr. Laviolette suggested that the meeting be held on Tuesday, September 3, 2002.

Motion by Mr. Hemmer, supported by Mr. Edman to adjourn. Motion carried unanimously. Meeting adjourned at 9:40pm.

A. Robert Laviolette, Chairman

dt

Cheboygan County Planning & Zoning Department

Doris Reid Building
825 South Huron, Suite 2
Cheboygan, MI 49721
Phone: (231) 627-2440 Fax (231) 627-8190

Location: 4711 First St 140-A01-010-001-00	Twp./Sec. AL-08	Owner: Gahn, Shauna 4711 First St Aloha Cheboygan MI 49721
Permit No: PG02-0148 Issue Date: 08/06/02 Expiration Date: 08/06/2003	Contractor/Applicant: Gahn, Shauna 4711 First St Aloha Cheboygan MI 49721	

Work Description:

Excavate For Garage

Stipulations:

Paid	Permit Item	Work Type	Fee Basis	Item Total
At Issue	Residential	Standard Item	1.00	\$0.00

Hank Janowski dt.

 Code Official

Fee Total: \$0.00
Amount Paid: \$0.00
Balance Due: \$0.00

I agree this permit is only for the work described, and does not grant permission for additional or related work which requires separate permits. I understand that this permit will expire, and become null and void if work is not started within 180 days, or if work is suspended or abandoned for a period of 180 days at any time after work has commenced, and, that I am responsible for assuring all required inspections are requested in conformance with the applicable code.
 I hereby certify that the proposed work is authorized by the owner, and that I am authorized by the owner to make this application as his authorized agent. I agree to conform to all applicable laws of the State of Michigan and the local jurisdiction. All information on the permit application is accurate to the best of my knowledge.
Payment of permit fee constitutes acceptance of the above terms.

PAYMENT VALIDATION

Check #: Credit \$ 50.00 **Date:** 08/06/2002

Receipt #: N/A **Entered By:** Debbie