

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING
WEDNESDAY, JUNE 28, 2017 AT 7:00PM
ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

Members Present: Charles Freese, Ralph Hemmer, John Moore, John Thompson, Nini Sherwood
Members Absent: None
Others Present: Scott McNeil, Dan Gates, Cal Gouine, Terrie Powers, Susan Dengler, Doris Dengler, Russell Crawford, Cheryl Crawford, Carl Muscott

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

PLEDGE OF ALLEGIANCE

Chairperson Freese led the Pledge of Allegiance.

APPROVAL OF AGENDA

The agenda was presented. **Motion** by Mr. Hemmer, seconded by Ms. Sherwood, to accept the agenda as presented. Motion carried. 3 Ayes (Freese, Hemmer, Sherwood), 0 Nays, 2 Absent (Moore, Thompson)

APPROVAL OF MINUTES

Minutes from the May 24, 2017 Zoning Board of Appeals meeting were presented. **Motion** by Mr. Hemmer, seconded by Ms. Sherwood, to approve the minutes as presented. Motion carried. 3 Ayes (Freese, Hemmer, Sherwood), 0 Nays, 2 Absent (Moore, Thompson)

PUBLIC HEARING & ACTION ON REQUESTS

Mr. Freese stated that only three members are present for the meeting tonight. Mr. Freese stated that any decision that the Zoning Board of Appeals makes tonight must be unanimous. Mr. Freese stated that the applicants can ask for their request to be tabled until the next Zoning Board of Appeals meeting.

Andy Stempky – Requests a use variance for use of a single family dwelling for a lodging house (For a period of 14 weeks per year with a maximum of 6 people) in a Lake and Stream Protection (P-LS) zoning district. The property is located at 5356 Hiawatha Drive, Aloha Township, Section 3, parcel #140-H09-000-014-00.

Mr. Freese stated that the applicant has requested that his application be withdrawn. **Motion** by Ms. Sherwood, seconded by Mr. Hemmer, to approve the request to withdraw the application. Motion carried. 3 Ayes (Freese, Hemmer, Sherwood), 0 Nays, 2 Absent (Moore, Thompson)

Matt Whitener/Whitewood Inc. - Requests an 8 ft. rear setback variance for a land division in a Commercial Development (D-CM) zoning district. The property is located at 3792 South Straits Highway, Tuscarora Township, Section 24, parcel #161-024-400-230-11. A 10 foot rear setback is required in this zoning district.

Mr. McNeil stated that the applicant is requesting an 8 ft. rear setback variance for a land division in a Commercial Development (D-CM) zoning district. Mr. Freese asked if the applicant wishes to table the request. Mr. Whitener stated that he would like to go ahead with the request.

Mr. Freese asked if the well on the corner of lot 2 is a communal well. Mr. Whitener stated yes and it is supplying to three commercial buildings and there will be a shared well agreement between the three buildings. Mr. Freese asked if the used car lot has a driveway. Mr. Whitener stated there is an old driveway that has been abandoned, but he is maintaining ownership and nothing is physically changing in that parking lot and he will still be allowed to use it. Mr. Freese asked if the ownership will remain the same. Mr. Whitener stated yes.

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

Mr. Freese added “The parcel is large and irregular.” as #4 to the General Finding. The Zoning Board of Appeals reviewed and approved the Findings of Fact and the Specific Findings of Fact under Section 23.5.4. **Motion** by Mr. Freese seconded by Mr. Hemmer, to approve the variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried. 3 Ayes (Freese, Hemmer, Sherwood), 0 Nays, 2 Absent (Moore, Thompson)

Susan Dengler/Dengler Family Living Trust - Requests a 12 ft. rear setback variance for a two story addition and a

second story addition to an existing accessory building in a Lake and Stream Protection (P-LS) zoning district. The property is located at 750 South Waubun Beach Road, Tuscarora Township, Section 1, parcel #161-W85-000-001-00. A 12 foot rear setback is required in this zoning district.

Mr. McNeil noted the location of the proposed addition and stated that there is a 12ft setback requirement from the right of way for any new construction. Mr. McNeil stated that this parcel is located in a Lake and Stream Protection Zoning District.

Mr. Freese asked if the applicant wishes to table the request. Ms. Dengler stated that she would like to go ahead with the request.

Mr. Freese asked for public comments. Mr. Gates stated that he owns property at 761 Waubun Beach Road and asked why this non-conforming structure can be expanded, especially when the property owner can build a conforming structure elsewhere on the property. Public comment closed.

Mr. Freese added the following the General Findings:

6. The shed structure (which is the majority of what is already in the right of way) is proposed to be removed and would reduce the existing encroachment into the setback by 10ft - 12ft.
7. The structures that are on the property are legal non-conforming and built prior to zoning.
8. The Cheboygan County Road Commission has provided a letter that they have no objections to building the second story addition as long as the encroachment isn't any further than what is already there.

The Zoning Board of Appeals reviewed and approved the Findings of Fact and the Specific Findings of Fact under Section 23.5.4. **Motion** by Ms. Sherwood, seconded by Mr. Hemmer, to approve the variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried. 3 Ayes (Freese, Hemmer, Sherwood), 0 Nays, 2 Absent (Moore, Thompson)

UNFINISHED BUSINESS

No comments.

NEW BUSINESS

No comments.

ZBA COMMENTS

No comments.

PUBLIC COMMENTS

Mr. Muscott stated that he advised the Cheboygan County Board of Commissioners that they are in violation of the Fair Housing Act because the definition does not include the 25% who are single people living as a family. Mr. Muscott stated that the problem could be corrected by adding a couple of words to that definition. Mr. Muscott stated that the law presently says that he can not live in his house because he is a single person and he was advised that the law would not be enforced. Mr. Muscott stated that although the county may not enforce it, a property owner may enforce it. Mr. McNeil stated that he did not talk about enforcement, he talked about interpretation. Mr. McNeil stated that if a private property owner would choose to do that it wouldn't be because of the Zoning Ordinance it would be because of the property owner's decision to be discriminatory. Mr. McNeil stated that our attorney wrote the language and we can clear up the language and the Planning Commission will be looking at single family uses and two family uses in the near future and can be revisited at that time. Mr. Muscott stated he hopes it will be corrected sooner than that as it is Title 42 and it is a federal law and he can go to court with it and a class action lawsuit is not beneficial to the county.

ADJOURN

Motion by Mr. Moore to adjourn. Motion carried. Meeting adjourned at 7:27pm.



John Thompson, Secretary