

CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING
WEDNESDAY, AUGUST 23, 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, Paul McGillivray, Cal Gouine, Karen Johnson, Mary S. Morell, Christy O’Meara, Walter B. Dyer, Carl Muscott, Russell Crawford, Cheryl Crawford, John Kafer, Dave Peters

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

PLEDGE OF ALLEGIANCE

Chairperson Freese led the Pledge of Allegiance.

APPROVAL OF AGENDA

The agenda was presented. **Motion** by Mr. Moore, seconded by Mr. Hemmer, to accept the agenda as presented. Motion carried unanimously.

APPROVAL OF MINUTES

Minutes from the July 26, 2017 Zoning Board of Appeals meeting were presented. **Motion** by Mr. Moore, seconded by Mr. Thompson, to approve the minutes as presented. Motion carried unanimously.

PUBLIC HEARING & ACTION ON REQUESTS

Paul McGillivray - Requests an 8 ft. side setback variance and a 27 ft. rear setback variance to construct an accessory storage building to a dwelling (24ft x 40ft.). The property is located at 11669 Braidwoods Trail, Grant Township, Section 24, parcel #151-024-400-004-04 and is zoned Lake and Stream Protection (P-LS and Agriculture and Forestry Management (M-AF). A 10 ft. side setback and a 30 ft. rear setback are required in the M-AF zoning district, where this building is located.

Mr. McNeil stated that the applicant is seeking an 8ft. side setback and 27ft. rear setback variance to construct a storage building measuring 24ft. wide and 40 ft. deep in the Agriculture and Forestry Management Zoning District. Mr. McNeil stated that a 10ft. side setback and a 30ft. rear setback are required. Mr. McNeil stated that there are two frontages on this parcel. Mr. McNeil stated that there is a frontage toward the rear of the property that is considered the rear setback. Mr. McNeil stated that a 30ft. setback is required. Mr. McNeil stated that the applicant is requesting to place the building 2ft. from the side lot line and 3ft. from the easement.

Mr. McGillivray stated that he picked this location for the storage building as he would only have to remove two trees. Mr. McGillivray noted that there is a ditch to the right. Mr. Freese asked if Mr. McGillivray owns the lot to the northwest as well. Mr. McGillivray stated yes. Mr. Freese asked if there is any reason that the two lots are separate lots. Mr. McGillivray stated that he just purchased the north lot. Mr. Freese stated that there would be no reason to request a side setback variance if these two lots are combined. Mr. Freese asked if Mr. McGillivray has any objections to the Zoning Board of Appeals making this a condition of approval. Mr. McGillivray stated he planned to leave it a separate lot and for it to remain vacant. Mr. McGillivray stated he did not plan to build on the north lot. Mr. Moore suggested that the property line be redrawn. Mr. Moore stated a small piece can be split off and added to the main parcel. Mr. Moore stated that it could be kept as two separate parcels.

Mr. Freese asked for public comments. Mr. Muscott stated that the parcel in this request and the parcel in the next request are located in two zoning districts. Mr. Muscott stated that this should come down to an interpretation whether there are two different zoning districts. Mr. Muscott stated that it would simplify things if there was only one zoning for the parcel.

Public comment closed.

The Zoning Board of Appeals added “The applicant agrees to combine the two parcels or split off a portion of the northern parcel and add it to the southern parcel to adjust the lot line, therefore eliminating the need for a side setback variance.” as General Finding 4. The Zoning Board of Appeals reviewed and approved the Findings of Fact and the Specific Findings of Fact under Section 23.5.4. **Motion** by Mr. Moore, seconded by Mr. Hemmer, to approve the variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried unanimously.

Walter Dyer - Requests a 15 ft. front setback variance to construct an accessory storage building to a dwelling (11ft x 15ft.). The property is located at 9759 Manitou Lane, Munro Township, Section 21, parcel #080-021-100-005-00 and is zoned Lake and Stream Protection (P-LS) and Agriculture Forestry Management (M-AF). A 40 ft. water front setback is required in the P-LS zoning district, where this building is located.

Mr. McNeil stated that Mr. Dyer is requesting a 15ft. front setback variance for a 15ft. x 11ft. storage building. Mr. McNeil stated that the proposed storage building is located within 25ft. of the front setback which is the high water mark. Mr. McNeil stated that the original permit that was issued was for a 14ft. x 10ft. storage building which is under 150sf and the ordinance allows for setback requirements to not be met as long as it is accessory to a dwelling. Mr. McNeil stated that later it was found that the building is 15ft. x 11ft. Mr. McNeil stated that a 40ft. setback is required as opposed to the 25ft. setback.

Mr. Dyer stated that he called in March and was told that anything under 200sf and not on a permanent foundation would not need a building permit. Mr. Dyer stated that he built the shed and he matched the width of the patio. Mr. Dyer stated that the building is bigger than 150sf but still under 200sf. Mr. McNeil explained that it is a common cause of confusion that a permit isn't required if under 200sf under the building code and that any structure requires a permit under zoning. Mr. Freese asked if 150sf is noted on the zoning permit. Mr. McNeil noted that the zoning permit states 140sf. Discussion was held regarding the zoning permit application. Mr. Freese stated that the zoning permit was for a building that would have been legal. Mr. Freese stated that this request is in excess of what was approved for the zoning permit. Mr. Dyer explained that he put down the length and width of what he expected the size of the building to be but it ended up being a few inches more.

Mr. Freese asked for public comments. Mr. Kafer stated that he lives two doors to the east of Mr. Dyer and he is opposed to this variance request. Mr. Kafer stated that seeking forgiveness instead of permission disrespects the zoning process. Mr. Kafer stated that all citizens benefit from zoning that is well administered. Mr. Kafer stated that he served 6 years on the Tip of the Mitt Watershed Council's board. Mr. Kafer stated that the 40ft. setback was put in place decades ago for good reasons such as soil erosion, chemical runoff, and sewage drainage. Mr. Kafer stated that the best practice today is to use the 40ft. setback as a natural vegetation strip as the ordinance encourages. Mr. Kafer stated that zoning protects property values. Mr. Kafer asked if a soil permit was obtained for the additional excavation. Mr. Freese stated yes. Mr. Kafer asked why the structure couldn't be built somewhere else on this parcel. Mr. Freese stated that the regulation allows a storage building that is 150sf or less and it does not have to meet the 40ft. setback from the water. Mr. Freese stated that there are areas on the property where a larger storage building could have been put and still meet setback requirements. Mr. Freese stated that we are faced with a storage building that doesn't meet the 150sf limit and is located within 40ft. of the water.

Mr. Peters stated that he owns the property to the east. Mr. Peters explained that the property line on the plot plan is incorrect. Mr. Peters stated that every time Mr. Dyer uses his driveway, he is using a triangle of Mr. Peters property. Mr. Peters questioned why there is a hearing when Mr. Dyer was already issued a zoning permit. Mr. Freese stated that Mr. Dyer was granted a zoning permit for a storage building that is 150sf or less. Mr. Freese stated that what Mr. Dyer built is in excess of that. Mr. Peters stated that the cart is before the horse. Mr. Freese stated that an enforcement action is generating the variance request. Mr. Freese stated that what is decided by the Zoning Board of Appeals will determine what will become of the storage building. Mr. Peters asked if Mr. Dyer should submit an accurate site plan. Mr. Freese stated that the location of the shed would not be influenced by that property line. Mr. Peters stated that he is an architect and when he submits a drawing it must be correct. Mr. Freese stated that if the property line would influence this shed he would agree with Mr. Peters. Mr. Freese stated that sealed drawings are not required for a variance application. Mr. Dyer stated that a couple of years ago overhead power lines were buried and this is when it came to light that everyone's property is at an angle and not straight back. Mr. Peters stated that in terms of being neighborly, he is disappointed that Mr. Dyer didn't talk to the neighbors and inform them of what he was planning. Mr. Peters stated the neighbors could have advised him that a building permit is required. Discussion was held.

Public comment closed.

The Zoning Board of Appeals added "The drawing for the original shed was for a 14.5ft. x 10ft. storage building." as General Finding #5. The Zoning Board of Appeals reviewed and approved the Findings of Fact and the Specific Findings of Fact under Section 23.5.4. **Motion** by Mr. Moore, seconded by Mr. Hemmer, to deny the variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried unanimously.

Indian River Hotel Real Estate LLC - Requests a 45 ft. height for a freestanding sign in a Light Industrial Development (D-LI) zoning district. The property is located at 4375 Brudy Road, Tuscarora Township, Section 30, parcel #162-030-100-004-03. The maximum height for a freestanding sign is 25 feet in this zoning district.

Mr. McNeil referred to the picture of the proposed sign and noted that the property is located in a Light Industrial Development zoning district where freestanding signs are limited to 25ft. Mr. McNeil stated that the applicant is seeking approval for a sign that is 70ft. at the top which would require a 45ft. height variance.

Ms. O'Meara stated that they would like to put up a LED sign below the existing sign. Ms. O'Meara stated that they want to bring more attention to the current logo. Ms. O'Meara stated that this sign is visible from the north bound and south bound lanes of I-75 and M-68. Ms. O'Meara stated that the trees have grown since the original sign was erected 20 years ago. Ms. O'Meara presented pictures showing tree growth over the past 20 years. Mr. Freese stated that during the previous request a year ago, the Zoning Board of Appeals recommended combining the two signs on the top. Mr. Freese stated that you want to have visibility up as high as possible. Mr. McNeil stated that there is a section of the ordinance that allows non-conforming signs to be replaced. Mr. McNeil stated that one of the options available is to replace the sign and include a LED sign in the new sign. Ms. O'Meara stated that this property is different from the other hotels and restaurants as people can't see where they are located. Ms. O'Meara stated that this is the reason that they want to add to the existing sign. Discussion was held. Mr. Moore asked what is the size of the proposed sign. Ms. O'Meara stated 5ft. x 10ft. Mr. Moore asked if it will be a single line or multi line sign. Ms. O'Meara stated there will be two lines with a picture. Mr. Moore stated that you could easily add to the top sign with a single line of text which could scroll. Mr. Freese stated the existing sign is hard to see in adverse weather due to the lighting. Mr. Freese stated if this was an LED sign it would stand out regardless of whether or not it is foggy outside. Ms. O'Meara agreed but stated that keeping the same sign and adding to it with brightness or flashing will bring attention to it. Ms. O'Meara stated that they do not want people to think that the business has changed. Discussion was held.

Mr. Freese asked for public comments. Mr. Muscott stated that he understands Ms. O'Meara's argument that there is a branding that people have become used to over the years. Mr. Muscott stated that the sign doesn't show well in inclement weather. Mr. Muscott stated that he doesn't see where the proposed sign will have a detrimental impact on neighboring property values. Mr. Muscott stated that during the last request there was a discussion regarding the square footage of freestanding signs allowed on the property. Mr. Muscott stated that there was also a discussion regarding minimizing or removing a sign in front of the building. Mr. Moore stated it was the number of signs that was discussed. Mr. Freese stated that there would have been four signs and they are only allowed three signs.

Ms. O'Meara stated that she feels that this property is different from others in the area because of the trees. Ms. O'Meara stated that they receive comments from people when they get off of I-75 that they couldn't see this hotel. Ms. O'Meara stated that they have billboards and Michigan logo signs for directions when exiting I-75. Mr. Freese suggested combining the two signs and making it one LED sign.

Mr. Thompson stated that he worked for Marriott for 23 years and this is his background. Mr. Thompson stated that this is a bad sign as you can't see the word "hometown". Mr. Thompson stated that the only word you can see is "inn". Mr. Thompson stated that a LED sign with "hotel" and "vacancy/no vacancy" will change everything and will be visible from I-75. Mr. Thompson explained that the existing sign is poorly lit at night time. Mr. Thompson stated that the sign should not be lowered. Mr. Freese stated that if the sign is lowered even a few feet it would only be visible from the exit ramp.

Ms. O'Meara stated it is a good thing to see the word "inn" and customers have told her they were very thankful to see that sign in a blizzard. Ms. O'Meara stated that something bright nearby would enhance the existing sign. Mr. Freese stated that this is a dull, drab sign. Mr. Freese stated that there are 5 tall signs in the county. Mr. Freese stated two signs are located in Mackinaw, one sign is at the southern end of the county and two are located in Indian River. Mr. Freese stated that all of them stand out better than this sign. Mr. Freese stated that when you are coming from the south you can't see the sign until you are next to it. Discussion was held.

Ms. Sherwood asked if the corporation requires this exact sign with the logo and wording. Ms. O'Meara stated no.

Public comment closed.

The Zoning Board of Appeals deleted General Findings #5 and added "Visibility from the south on I-75 is limited." as General Finding #6. The Zoning Board of Appeals reviewed and approved the Findings of Fact and the Specific Findings of Fact under Section 23.5.4. **Motion** by Mr. Moore, seconded by Mr. Hemmer, to deny the variance request based on the General Findings and the Specific Findings of Fact under Section 23.5.4. Motion carried unanimously.

The zoning administrator requests an interpretation as to whether the Natural Rivers Protection District (P-NR) includes land located north of the East Mullett Lake Road Bridge.

Mr. McNeil presented a zoning map and noted that there is an overlap of Lake and Stream Protection and Natural Rivers Protection for the land located north of the East Mullet Lake Road Bridge. Mr. McNeil stated asked for a determination of the Zoning Board of Appeals whether the Natural Rivers Protection District includes the land located north of the East Mullet Lake Road Bridge. Mr. McNeil stated that Mr. Schnell came across this issue while researching activity on the north side and thought it would be a good idea to bring this to the Zoning Board of Appeals for clarification.

Mr. Freese stated that according to the definition it states that it is from the entrance into Cheboygan County to the East Mullet Lake Road Bridge. Mr. Freese stated that we do not propose that it extends 500ft. from the boundary of Otsego and Cheboygan County into Otsego County, therefore, we shouldn't be interpreting it 500ft. on the other side of the East Mullet Lake Road Bridge. Mr. Freese stated it should be interpreted as 500ft. from the stream edge along a line from the center of the bridge, northeast and southwest. Mr. Moore asked if it should be parallel to the bridge line or perpendicular to the river. Mr. Freese stated that it should be parallel to the bridge line. Mr. Moore stated that he agrees with Mr. Freese. Mr. Moore stated the river itself is the protection concern. Mr. Moore and Mr. Freese agreed that the river ceases to be a river once exits the culvert under the bridge. Mr. McNeil stated that this is how he has administered zoning for this area as there have been a couple of properties to review in the last 8 years.

Motion by Mr. Freese, seconded by Mr. Hemmer, that it should be interpreted as 500ft. from the stream edge along a line from the center of the bridge, northeast and southwest. Motion carried unanimously.

UNFINISHED BUSINESS

No comments.

NEW BUSINESS

No comments.

ZBA COMMENTS

No comments.

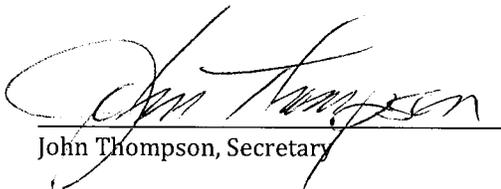
PUBLIC COMMENTS

Mr. Muscott stated that this sign issue is like Meijer's request as they are looking for a variance for bigger signage because they are set so far back from the road. Mr. Muscott stated that by following the strict interpretation of the zoning ordinance you have to deny the request. Mr. Muscott stated that he respects this but there should be some variables in there that would allow variances on signage. Mr. Muscott stated that the request was to place a sign lower on a pole that is already a legal nonconforming sign. Mr. Muscott stated this sign would be added to a pole that has existed for years and would create more visibility. Mr. Muscott stated that he feels strongly about business growth and he hates to see things like this denied because of a strict interpretation of the law. Mr. Muscott stated that he talked with Mr. Schnell and Mr. McNeil about allowing a variance that would not negatively affect anything and that doesn't hurt anyone.

Mr. Muscott stated that the bridge used to be called Coxy's Road Bridge and also Hackelburg Road Bridge. Mr. Freese stated that the regulation was changed to correct it to the East Mullet Lake Road Bridge. Mr. Muscott stated that if you are fishing on the lake side you are fishing in the lake and if you are fishing on the other side you are fishing in the river. Mr. Muscott that he believes the DNR would make the same decision.

ADJOURN

Motion by Mr. Hemmer to adjourn. Motion carried. Meeting adjourned at 8:05pm.


John Thompson, Secretary