

**CHEBOYGAN COUNTY ZONING BOARD OF APPEALS MEETING & PUBLIC HEARING
WEDNESDAY, DECEMBER 22, 2010 AT 7:00 P.M.
ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING**

Members Present: Charles Freese, Ralph Hemmer, John Moore, Chris Brown

Members Absent: Mary Street

Others Present: Jack Keck, Dick Lincoln, John F. Brown, Bill Morgan Jr., Russell Crawford, Cheryl Crawford, Marcia L. Pauly, Dave J. Pauly, Tony Matelski, Tim Paulus

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

APPROVAL OF AGENDA

The agenda was presented. **Motion** by Mr. Moore, seconded by Mr. Brown, to accept the agenda as presented. Motion carried. 4 Ayes (Freese, Hemmer, Moore, Brown), 0 Nays, 1 Absent (Street)

APPROVAL OF MINUTES

Minutes from the November 24, 2010 Zoning Board of Appeals meeting were presented. **Motion** by Mr. Brown, seconded by Mr. Hemmer, to approve the minutes as presented. Motion carried. 4 Ayes (Freese, Hemmer, Moore, Brown), 0 Nays, 1 Absent (Street)

PUBLIC HEARING & ACTION ON REQUESTS

David Pauly – Requests a Use Variance to establish the use of an Assisted Living Convalescent Home in a zoning district that does not permit such a use. The property is located at 6654 Barclay Ave., Forest Township, section 3, parcel #231-003-300-009-02 and is zoned Lake and Stream Protection (P-LS).

Mr. Schnell presented an aerial photo of the parcel and explained the location of the property boundaries and existing buildings. Mr. Schnell stated this is a request for a use variance to establish a use in a zoning district where the use is not allowed. Mr. Schnell stated the request is for an assisted living facility with a maximum of 12 beds. Mr. Schnell stated the current use of the property is a seasonal rental. Mr. Schnell stated if this is approved by the Zoning Board of Appeals the site plan will be reviewed by the Planning Commission.

Mr. Freese asked if there is any correspondence in regards to this request. Mr. Schnell stated no there is no correspondence to be read. Mr. Schnell noted that the Road Commission stated there would be no impact.

Mr. Pauly stated he does not believe there will be a negative impact to the community or the water. Discussion was held regarding the seasonal rental use. Mr. Freese asked when Mr. Pauly purchased the property. Mr. Pauly stated approximately 5 years ago. Mr. Freese asked when did the school use cease. Mr. Pauly stated the school use ceased in the early 1990’s.

Mr. Freese asked for public comments. Mr. Matelski stated he talked with three members of the Forest Township Board today and they are in favor of this request. Mr. Paulus stated he is representing the Forest Township Board and they do not have any issues with this request. Public comment closed.

Board held discussion. Mr. Freese noted that the future land use for this area is Village Center. Mr. Freese stated this use would most likely be allowed in Village Center.

Mr. Brown asked how many employees will be on site. Mr. Pauly stated there will be two other partners so all together there will be 4 employees. Mr. Pauly stated as more rooms are rented out there may be another 4 employees.

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

5. The property has generally been unused since the early 1990's.
6. This area would probably be considered as part of the Village Center if the Village Center is rezoned for Tower.

The Zoning Board of Appeals reviewed and revised the Specific Findings of Fact Under Section 23.5.4. The Zoning Board of Appeals agreed the revised Specific Findings of Fact Under Section 23.5.4 have been met. **Motion** by Mr. Moore, seconded by Mr. Brown, to approve the variance request based on the revised General Findings and the revised Specific Findings of Fact Under Section 23.5.4. Motion carried. 4 Ayes (Freese, Hemmer, Moore, Brown), 0 Nays, 1 Absent (Street)

Richard and Sheree Lincoln – Requests a 20ft. front setback variance and a 3ft. side setback variance for a porch cover. The property is located at 6240 Mack Ave., Tuscarora Township, section 24, parcel #161-024-400-129-00 and is zoned Commercial Development (D-CM). The zoning ordinance requires a 25 ft. front setback and a 10 foot side setback in this zoning district.

Mr. Schnell referred to the elevation drawing and explained the request is to cover an 8' x 10' porch. Mr. Schnell stated this covered porch will be 11ft. from the front property line and 7ft. from the side property line. Mr. Schnell stated the applicant is requesting a 14ft. front variance and a 3ft. side variance.

Mr. Schnell stated that Mike Cherveney from Tuscarora Township Planning Commission had no comments in regards to this request. Mr. Schnell stated there was no additional comments from the Road Commission other than what was provided as part of the special use permit that was approved. Mr. Schnell reviewed the site plan that was approved by the Planning Commission. Discussion was held.

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

Board held discussion. Mr. Hemmer asked if the covered porch is for safety purposes such as the ice and snow coming down off of the roof. Mr. Lincoln explained that this will be the main entry and a covered porch will keep rain and snow off of people entering the building. Mr. Brown asked when was this structure built. Mr. Lincoln stated he believes it was built in the late 1940's but the showroom was added on about 15 years ago. Mr. Schnell stated the township assessor believes the structure was built in 1955. Mr. Moore asked if this parcel will be included in the future rezoning to Village Center. Mr. Schnell stated yes. Mr. Freese and Mr. Moore noted that with the future Village Center rezoning there would be zero setbacks.

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

7. Both the front and side setback variances requested for the porch are less than the already existing building setbacks from the legal non-conforming building.
8. This is an area that is slated for the future rezoning to Village Center.

The Zoning Board of Appeals revised the Specific Findings of Fact Under Section 23.5.4. The Zoning Board of Appeals agreed the revised Specific Findings of Fact Under Section 23.5.4 have been met. Mr. Freese noted that the Planning Commission approval of the site plan was conditional with the applicant coming up with necessary parking and this proposed structure will delete one parking space. Mr. Freese stated that if this is approved it should include a condition that a revised site plan be submitted to the Zoning Administrator for administrative approval for the redistribution of parking spaces. **Motion** by Mr. Brown, seconded by Mr. Hemmer, to approve the variance request based on the revised General Findings and the revised Specific Findings of Fact Under Section 23.5.4 and it is conditioned upon administrative approval for the redistribution of parking spaces. Motion carried. 4 Ayes (Freese, Hemmer, Moore, Brown), 0 Nays, 1 Absent (Street)

T.B. Chapman Construction Inc., Applicant /Jack and Elaine Biller, Owner – Requests a 2ft side setback variance for an enclosed porch. The property is located at 549 East Shore View Lane, Koehler Township, section 4, parcel #172-P21-000-024-00 and is zoned Lake and Stream Protection (P-LS). The zoning ordinance requires an 8 foot side setback in this zoning district.

Mr. Schnell reviewed the site plan and stated the applicant would like to have a 8ft. x 9ft. covered entryway. Mr. Schnell stated the property is zoned Lake and Stream Protection. Mr. Schnell stated there is an easement in the plat called Vinewood. Mr. Schnell stated the easement is 20ft. wide according to the plat but the applicant is declaring that it is 19ft. wide. Mr. Schnell believes the neighboring house is right on the edge of the easement.

Mr. Freese asked how much larger is the proposed entryway compared to the existing entryway. Mr. Chapman stated the existing entryway is 4ft. x 6ft. and they would like to increase it to 9ft. x 7ft. Discussion was held.

Mr. Freese asked if there is any correspondence in regards to this request. Mr. Schnell stated no.

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

Mr. Brown asked if the easement is only used for foot traffic or if it is used for anything else. Mr. Freese stated when he visited the site someone plowed the easement. Mr. Chapman stated the neighbor to the west plows the easement.

Mr. Freese asked Mr. Chapman what is the justification for enlarging the entryway. Mr. Chapman stated the lots in this area are very narrow such as 57ft. wide and the existing entry is really cumbersome. Mr. Chapman stated there is no room in the existing entry for a coat room or to take boots off. Mr. Chapman stated the proposed entry allows room to take boots off and for a couple of closets.

Mr. Moore reviewed an alternate option such as extending the entryway 2ft. to the west and then expanding the entryway along the house. Mr. Moore stated the 8ft. setback requirement could still be met. Mr. Moore stated there will be room for closets and an adequate door. Mr. Freese stated there is no justification for this variance request.

The Zoning Board of Appeals reviewed the General Findings and the Specific Findings of Fact Under Section 23.5.4. The Zoning Board of Appeals deleted 23.5.4.1.2, 23.5.4.2.1, 23.5.4.3.1, 23.5.4.4.1 and 23.5.4.5.2. The Zoning Board of Appeals agreed 23.5.4.1 and 23.5.4.5 have been met and 23.5.4.2, 23.5.4.3 and 23.5.4.4 have not been met. **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. 4 Ayes (Freese, Hemmer, Moore, Brown), 0 Nays, 1 Absent (Street)

Dr. Christopher Latocha – Requests a 145ft. setback variance for a Private Wind Generator. The property is located at 20824 LaTocha Lane, Mackinaw Township, section 19, parcel #011-019-100-006-00 and is zoned Commercial Development (D-CM). The zoning ordinance requires a 180 foot setback from all property lines in this zoning district for this type of wind turbine generator.

Mr. Schnell presented an aerial photo of the area. Mr. Schnell explained the proposed location for the private wind generator. Mr. Schnell stated the applicant is requesting a variance from Section 15.5.6. Mr. Schnell explained that if the standards of section 15.5.3., 15.5.4 and 15.5.5 are met, then the setback can be reduced to 180ft. Mr. Schnell stated the applicant wants to place the wind turbine 35ft. from the side property line. Mr. Schnell noted the height of the tower will be 55ft. and the turbine has a 6ft. radius blade. Mr. Schnell stated the overall height will be 61ft. Discussion was held.

Mr. Freese asked if there is any correspondence in regards to this request. Mr. Schnell stated there is no correspondence to be read.

Mr. Freese asked for public comments. Mr. Keck stated he is the Mackinaw Township Clerk and he met with Dr. LaTocha and reviewed the request. Mr. Keck stated the Supervisor and Treasurer have also reviewed this request. Mr. Keck stated this request is acceptable to the Mackinaw Township Board. Public comment closed.

Dr. LaTocha stated Northern Michigan Windpower chose the proposed location for the wind turbine because the property is so low and the ideal place is within the corridor of the road. Dr. LaTocha noted the wind turbine would be in line with the prevailing winds. Dr. Latocha explained that the wind turbine will be located 60ft. from his

master bedroom window and he is not concerned about vibration and noise. Dr. LaTocha stated the engineers assured him that ice throw is not an issue with this unit.

Mr. Moore stated he is familiar with the Planning Commission's rationale for the required distances and he does not believe that any of those concerns exist at this site. Mr. Brown stated the spirit of the ordinance has been met. Mr. Moore stated the spirit of the ordinance was being nice to your neighbor and being aware of ice throw, blade throw, flicker, noise and protecting birds. Mr. Moore stated there are no neighbors and most likely be no neighbors. Mr. Freese stated it would be acceptable to place it 65ft. from the property line in case it falls down it would only fall on Dr. LaTocha's property. Discussion was held. Mr. Moore asked Dr. LaTocha if he would like to change his request to a 115ft. setback variance request so he would be 65ft. off of the property line. Dr. LaTocha stated he would like to change his request so the wind tower will be 65ft. off of the property line. **Motion** by Mr. Moore, seconded by Mr. Brown to alter the requested variance from 145ft. to 115ft. Motion carried. 4 Ayes (Freese, Hemmer, Moore, Brown), 0 Nays, 1 Absent (Street)

The Zoning Board of Appeals reviewed the General Findings and revised item 1 "The applicant is seeking a setback variance to allow placement of a private wind generation facility 65 ft. from a property line with a 65ft. overall height". The Zoning Board of Appeals added "The property to the west is generally low wetlands and probably could not be developed." as item 4.

The Zoning Board of Appeals reviewed the Specific Findings of Fact Under Section 23.5.4. The Zoning Board of Appeals deleted 23.5.4.1.2, 23.5.4.2.2, 23.5.4.3.2, 23.5.4.4.2 and 23.5.4.5.2. The Zoning Board of Appeals agreed the revised Specific Findings of Fact Under Section 23.5.4 have been met. **Motion** by Mr. Brown, seconded by Mr. Hemmer, to approve the revised variance request of 115ft. with flexibility along the west property line based on the General Findings and the Specific Findings of Fact Under Section 23.5.4. Motion carried. 4 Ayes (Freese, Hemmer, Moore, Brown), 0 Nays, 1 Absent (Street)

UNFINISHED BUSINESS

No comments.

NEW BUSINESS

No comments.

ZBA COMMENTS

No comments.

PUBLIC COMMENTS

No comments.

ADJOURN

Motion by Mr. Brown to adjourn. Motion carried. Meeting adjourned at 8:14pm.

Mary Street, Secretary