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1. *Suane Beard*

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COUNTY OF MARQUETTE
OFFICE OF COUNTY PLANNER
AND
BUILDING CODE DEPARTMENT
Marquette County Courthouse, Marquette, MI 49855

Phone: 228-8500

ZONING BOARD OF APPEALS
MINUTES

December 27, 1978

The meeting was called to order by Berle LaPin shortly after 7:00 P.M. since the Chairman was not present. At 7:05 P.M., Chairman Peterson arrived and assumed control of the meeting. Roll call was taken by the secretary, present were Board Members Lapin, Robinson, DeShambo, Olson, and Peterson. Planning Staff members present were Les Ross and Ann Ternus.

Motion was made by Earl Robinson and supported by Wm. DeShambo that the minutes of the November 29, 1978 meeting be adopted as presented. Motion carried.

There was no public comment at this time. At the last meeting, two appeals had been tabled because more information was needed. One of the appeals by the Upper Room Ministeries, 66-AP-SK-18 had been withdrawn. The letter of withdrawal from Timothy Miller was read by Les Ross. The other appeal by Ron Perreault, 67-AP-TI-1, which was tabled was reviewed by the Board since Mr. DeShambo had been absent at the last meeting.

Petition, 67-AP-TI-5, Ron Perreault requests a variance from Sec. 29, of the Marquette County Zoning Ordinance to construct a garage 22 feet to a side lot line and to construct a residential addition 8 feet to a side lot line where 30 foot setbacks are required on the following described property: That part of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Sec. 36, T47N-R28W, more particularly described as follows: Beginning at a point of the East ROW line of County Road 581 that is 133 feet NWly, and measured along the East ROW line of County Road 581 100 feet; thence East 170 feet; thence South 94.0 feet to a point directly East of the P.O.B.; thence West 157 feet more or less to the POB.

Public hearing opened. Staff's opinion on the appeal was that both structures could be located elsewhere on the lot and/or that the structure could be reduced in size so as to be located within the area. Staff did not feel there was substantial hardship or practical difficulty and recommended that the appeal be denied. Slides were shown of the trailer; it was also shown that the garage in question had already been built. Mr. Ross suggested that possibly the addition could be built alongside the trailer as an alternative. The hardship is self-imposed as far as the garage is concerned, and it was built without a permit.

Board members LaPin, Robinson, and Olson stated that they had received letters from the Township Supervisor, Mr. Aho, stating he was opposed to the appeal.

Mr. Perreault, the applicant, stated he was previously from Ontonagon where a permit was not needed to build, so he didn't realize one was needed here. He also gave some information which was requested at the last meeting. It is 38 feet from Beale's trailer to his. 30 feet from corner of Beale's to his addition. The setback is 30 feet from the structure to the lot line.

Ms. Ann Block, attorney for the Beale's made some statements. She stated that the Courts in Michigan are clear that to obtain a variance the petitioner must show there is some kind of practical difficulty. It cannot be self-imposed. The case in question is self-imposed. The construction of a garage was imposing difficulty on the petitioner.

Mr. LaPin stated that the trailer owned by Mr. Perreault was put in before the zoning went into effect. The main issue was on the addition to the garage.

The letter from Mr. Aho was read. It was dated December 1, 1978 and stated that the variance should be denied because the Perreault's are only 22 feet from the property line now, and will leave only 8 feet from the Beale's property line. It is his opinion that the Beale's have the right to protest.

Les Ross stated that there is a possibility that a zoning compliance permit was issued to locate the trailer on the property, but the staff is still in opposition to the variance.

Ann Trudell from Tilden Township, stated she was present at the last Township Board meeting, and at the meeting Mr. Aho said he had signed a building permit giving Mr. Perreault permission to build the garage.

Mr. DeShambo said he felt that the zoning should protect the people, and the Beale's were asking for protection of their property, and that the Board should go along with them. The Township Supervisor, and the Beale's are against the variance.

John Olson disagreed. Said he felt that it would be a hardship because the garage is already built and did not think that Mr. Perreault should have to tear up his property because of the location of the driveway and garage.

Motion was made by John Olson that the variance for the garage be approved, supported by Earl Robinson. A roll call vote was taken, motion passed 4-1. Members Olson, DeShambo, Robinson, and LaPin in favor. Board member Peterson against.

Motion was made by Berle LaPin that the variance for the addition be granted, supported by John Olson. Motion was defeated by a vote of 3-2. Members LaPin, Olson, voting in favor. Members DeShambo, Robinson, and Peterson against.

Staff read the legal add for variance requested by Leon Rochon, 68-AP-EL-18. Mr. Rochon requests a variance from Section 29, Height and Placement regulations of the Marquette County Zoning Ordinance. Petitioner wishes to have the 30 foot front setback requirement reduced to 20 feet, and the 25 foot rear setback requirement reduced to 20 feet in an R-2 Zoning District for placement of a 66 foot mobile home on the following property: The NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 8, T47N-R28W; beginning at a point which is the NW corner of lot 4 which is 522.4' South and 1591.7' East of the NW corner of Section 8, T47N-R28W; thence North 65 degrees, 25' East for 75.5' thence South 0 degrees 08' East for 106', thence South 65 degrees, 25' West for 75.5', thence North 0 degrees 08' West for 106' to POB.

Public hearing opened. Applicant made his statement. Wants to put 70 foot trailer, including tongue, on lot 106 feet long. With trailer hitch off it would give him 20 foot front and back setbacks. Wants to put the trailer parallel on the property. Applicant would like to purchase more land adjoining the property but there is a dispute involved legally.

Staff gave their presentation. The property is located in Ely Township, South of US 41 on .18 acres. Staff feels that: (1) a smaller mobile home could be used or another structure could be put there, (2) Staff was under the impression Mr. Rochon owned adjacent land, and could add more land to the lot size. (3) If a variance is granted, the mobile home should not exceed 66 feet and because of proximity to US 41 and the power easement, the front (northerly) setback should remain 30 feet. In the event the 25 foot rear (south) setback cannot be met, the structure should be situated 30 feet from the front property line.

A verbal communication was given by Ely Township Supervisor, Ken Tuominen, there are no objections by the Ely Township Board regarding the variance. A written statement is forthcoming.

Mr. LaPin asked Mr. Rochon if the 30 foot setback would be agreeable. Mr. Rochon said yes.

Public hearing was closed. Motion was made by John Olson that the variance be granted with the stipulation that the petitioner abide by the 30 foot front setback requirement. Supported by Berle LaPin. A roll call vote was taken, all members voted unanimously in favor, and the motion was passed.

Legal add for variance 69-AP-RE-8, Republic Non-Profit Housing Corporation was read by the staff. The variance request is from Section 29, Height and Placement regulation of the Marquette County Zoning Ordinance to locate two structures 18 feet and 23.5 feet respectively to the front lot line where 30 foot setbacks are required. The legal description of the property is as follows:

LAND TO BE OCCUPIED BY REPUBLIC TOWNSHIP
HOUSING AUTHORITY RURAL RENTAL HOUSING

A parcel of land in Government Lot 4, Section 19, T 46 N, R 29 W, Republic Township, Marquette County, Michigan, described as follows: Commencing at the Center of said Section 19; thence South a distance of 2320.03 feet; thence East a distance of 514.89 feet to the East R/W line (120-ft. R/W) of Old Highway M-95 (County Road LLL); thence on a 01° 30' (Chord Definition) curve to the right along said East R/W line (120-ft. R/W) a distance of 141.12 feet (Long Chord Bearing: N 01° 58' 24" W, Long Chord Length: 141.11 feet) to the Point of Beginning of the parcel herein described; thence on a 01° 30' (Chord Definition) curve to the right along said East R/W line (120-ft. R/W) a distance of 423.13 feet (Long Chord Bearing: N 02° 19' 33" E, Long Chord Length: 422.91 feet) to the PC of said curve; thence N 05° 33' E along said East R/W line (120-ft. R/W) a distance of 41.87 feet; thence S 72° 03' 50" E a distance of 396.27 feet; thence S 00° 58' 50" E a distance of 344.63 feet; thence N 89° 37' 50" W, parallel to the South line of said Section 19, a distance of 404.13 feet more or less to the Point of Beginning; said parcel containing 3.69 acres more or less.

Public hearing was opened. Mr. Henry Adams representing the Housing Corporation, gave a few statements. He said that a variance was needed because the architect told him he was within the boundaries for the housing for elderly. Also, the project had been presented to the County Board before there was any zoning ordinance in effect. He did not know anything about setbacks. The County Road Commission said they would grant them a permanent easement but FMA would not accept that.

Staff is in basic agreement with statement of hardship and practical difficulty. The small lot size (3.69) acres coupled with sloping topography to the east presents a congestion problem regarding structure location.

County Road LLL, which is the Old M-95, which was once a main arterial through the area, has a 120 foot right-of-way, (most County Roads in the area have a 66 foot ROW). Since the roadway no longer serves the original function, the intent of the Ordinance can be met by allowing the requested front setbacks.

Public hearing closed.

Motion was made by Earl Robinson and supported by Berle LaPin that the variance be granted. A roll call vote was taken, all members voted unanimously to grant the variance.

Legal add for variance 70-AP-SK-19, petitioner Leslie Libby read. Mr. Libby requests a variance from Sec. 38.6 of the Marquette County Zoning Ordinance to place a 4'x6' sign on the following described property: The North 350' of the West 400' of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 32, T46N-R23W.

Public hearing was opened. Applicant could not be present at the meeting.

Staff then gave their presentation. It is felt that the request to locate a sign within the confines of the existing structure is not unreasonable. Assuming the sign will be no more than 4 feet vertically, nor more than 6 feet wide, and that the copy will be as presented, staff does not disapprove of the variance as requested. The property is located in Skandia Township, East of County Road 541.

Earl Robinson, Skandia Township Supervisor, stated the Township does not oppose it.

Public hearing closed. Motion was made by John Olson that the variance be granted, supported by Wm. DeShambo. A roll call vote was taken and all members voted unanimously to grant the request.

Legal add for variance 71-AP-MI-5, was read by the Staff for a variance requested by Arthur Hamel. Petitioner requests a variance from Section 24.2 of the Marquette County Zoning Ordinance, Permitted Principal Uses in a Resource Production District on the following described property: The East 660' of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ lying North of D.S.S. & A. ROW, Sec. 22, T48N-R30W. Mr. Hamel requests a variance to allow construction of a single family residence, and the placement of four mobile homes on a 14.8 acre lot in a C-3 Zoning District.

Arthur Hamel gave his statements - He has 15 acres and wants to make 5 lots to build a house in the future and place four mobile homes on the property. He has been digging a pond and using the dirt to build up the housing sites, and wanted to know if he should continue with the project.

Staff gave their presentation. The property is located North of Lake Michigan and South of US 41 Highway. The intent of a C-3 District is to establish and preserve areas for a variety of relatively large commercial and light industrial uses. Since such operations are basically incompatible with residential environments, single family residences and mobile homes are not permitted principal or conditional uses in the C-3 District. Granting use variances that are more properly matters of rezoning have been well discussed with the Board in the past. This variance request does not show an unnecessary hardship, in that the petitioner can reasonable use his land in a manner consistent with the existing zoning.

The staff therefore asks the Board for a denial of the request.

Property adjoining that in question is owned by US Steel, Mead Lumber Company, large corporations.

Mr. Hamel stated he would like to put a model home on the corner lot.

Michigamme Township is in favor of the petition.

Mr. Olson stated that across the railroad tracks there are several camps located that are utilized. There are 100 foot lots on Lake Michigamme which are all also utilized. Mr. Hamel has been advised of what he would have to do in order to make the land conducive for septic systems, and since he has the machinery to use it would not be an expensive undertaking.

Staff responded, the property to the South of the petition is zoned LS/R. which allows for relatively high intensity residential use primarily because of the Lake. The property in question is buffered from the lake residences by the railroad tracks and high land. It was also stated that the unimproved road providing access to the petitioner's property is not presently a County Road. Staff went on to again point out that, these factors aside, the most important issue was that of the use variance request not showing substantial unnecessary hardship.

Mr. Olson stated that the Mead Lumber Yard is probably located in that area only temporarily. Public hearing was closed.

Motion was made by Berle LaPin that the variance be granted as requested. Supported by John Olson. A roll call vote was taken, members Olson, LaPin, Robinson, and DeShambo voting in favor, Peterson against. Motion was passed.

It was noted that at this time there were no new appeals for next month. Motion was made by John Olson that should any appeals come in before the deadline that they be accepted. Supported by Karol Peterson and passed unanimously.

A listing of the proposed meeting dates for 1979 were presented. Mr. Ross asked the Board if it would prefer meeting dates of the 4th Wednesday of each month as presented in the listing or the last Wednesday of each month. General response was that the 4th Wednesday of each month is acceptable. Motion was made by John Olson and supported by Berle LaPin that the dates be approved. Motion was carried unanimously.

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MARQUETTE COUNTY ZONING BOARD OF APPEALS MINUTES

November 29, 1978

Chairperson Karol Peterson called the meeting to order. Members of the board present were; Chairperson Karol Peterson, Vice Chairperson Berle LaPin, John Olson and Earl Robinson. Absent was William DeShambo. Also present was Les Ross, Local Development Coordinator, Marquette County Planning Commission Staff.

John Olson made a motion, Berle LaPin supported and it was passed unanimously 4 to 0 to approve the minutes of October 25, 1978 as written.

There was no public comment at this time. Chairperson Karol Peterson gave an outline of the procedure to be followed during the public hearing. The public hearing was opened with two appeals scheduled to be heard.

Les Ross read the legal advertisement for the first appeal; which was printed twice in The Mining Journal, Marquette, Mi., November 11th and November 27, 1978:

1). Petition #66-AP-SK-18, petitioner Upper Room Ministries, Inc. requests a variance from Section 29 of the Marquette County Zoning Ordinance to locate an educational structure 12 feet from a side property line and 18 feet from the rear property line where 30 foot setbacks are required on the following described property: The North 208.7' of the South 416.14' of the West 208.7' of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, Section 18, T46N - R23W, Skandia Township.

Upper Room Ministries, Inc. (Timothy O. Miller), 100 North Third Street, Marquette, Michigan. Upper Room Ministries, Inc. was not present at the public hearing. Statement of hardship or practical difficulty encountered if the Ordinance is strictly applied, as stated on the Petition for Variance, "Existing Zoning Ordinance prohibits building within 30 feet of section line and also, not more than one building per acre. We desire variance of zoning to accommodate education building for existing chapel on property, to be located twelve feet or greater from the south section line." Les Ross reported that, he had talked with Timothy Miller and they don't plan to build an educational structure as requested because they have other sources for the present time. Les Ross stated, the other source for the educational structure may not be placed on the subject property.

Les Ross presented the Planning Commission Staff's opinion: He stated; the property is located in a RR-1 Zoning District, between Junction U. S. 41 and Old U. S. 41, north of Skandia. Although, it is described as containing one square acre, County Road OC (Old 41) R.O.W. accounts for approximately 1/3 of the tract. He went on to say, the parcel is a nonconforming lot of record and the petitioner requests reduction of the setbacks (30 feet side and rear) to place an educational structure. The Staff does not see the unnecessary hardship or practical difficulty in this case to grant a 12 foot side setback, and a 18 foot rear setback. The Staff feels the proposed structure could be located elsewhere on the lot and conform to the requirements set forth in the Ordinance.

Mr. Jim Hank, Box 105, Skandia Township, Michigan. Jim Hank commented that, the property line marker had been removed. He stated, he had no objections to the request but his concern was the location of the property line. At this time, Les Ross went on to say, an engineer's or surveyor's site plan would be required before a Zoning Compliance Permit could be issued.

Correspondence received concerning the petition for variance was from a Mr. Bert W. Hanson, a property owner within 300 feet. He wrote, "Please be advised: I have no objection to the request."

Berle LaPin made a motion to table the variance until the next scheduled meeting, and request the presence of the petitioner at the public hearing. John Olson supported. By a unanimous roll call vote of 4 to 0, the petition was tabled until the next scheduled meeting of December 27, 1978.

Les Ross read the legal advertisement for the second appeal; which was also printed twice in The Mining Journal, Marquette, Mi., November 11th and November 27, 1978:

2). Petition #67-AP-TI-5, petitioner Ronald A. Perreault requests a variance from Section 29 of the Marquette County Zoning Ordinance to construct a garage 22 feet to a side lot line and to construct a residential addition 8 feet to a side lot line where 30 foot setbacks are required on the following described property: That part of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 36, T47N - R28W, more particularly described as follows: Beginning at a point of the East R.O.W. line of County Road 581 that is 133 feet NWly. and measured along the East R.O.W. line of said County Road 581 from the South line of Section 36; thence NWly. along said East R.O.W. line of County Road 581 100 feet; thence East 170 feet; thence South 94.0 feet to a point directly East of the P.O.B.; thence West 157 feet more or less to the P.O.B..

Mr. Ronald A. Perreault, Rt. 3 - Box 810, Ishpeming, Michigan. Mr. Perreault stated, he would like to add a garage for extra storage space, and an addition to his mobile home (extra bedroom). He went on to say that, the lot size and shape would create a hardship if the requirements of the Ordinance is met.

Mr. Wilfred Beale; Rt. 3 - Box 691, Tilden Township, Michigan. Wilfred Beale questioned the petitioner on the location of the door on the proposed addition. Mr. Perreault commented, the door will be on the West side. Mrs. Edna Beale stated, an oxygen tank is located on their property because of her health. She went on to say, she felt on behalf of both parties the proposed structure would be to close to the property line, and it would create a fire hazard.

Les Ross presented the Planning Commission Staff's opinion: He stated, the property is located in a RR-1 Zoning District which requires 30 foot setbacks from all property lines. The parcel is a nonconforming lot of record (approximately 1/3 acre). The Staff feels, the proposed structures could better conform to the Ordinance's setback requirements through changes in the structural design and/or location. He went on to say, the Staff recognizes that an ordinance's setback requirements often creates an inconvenience regarding structure location on very small lots. The Staff does not see how a non-self imposed hardship or practical difficulty is associated with the locations as proposed by the petitioner, and

where a practical difficulty or unnecessary hardship exists, we believe that the least nonconforming alternative be accepted.

Correspondence received concerning the petition for variance was from a Mr. William T. Mantela, a property owner within 300 feet. He wrote, "Do to previous commitment, I can not come to the meeting. I can only comment that I feel neutral about this matter."

Members of the board felt, the location of the oxygen tank with the proposed structure would not create any additional problems. At this time, Mr. & Mrs. Wilfred Beale commented that the location of the existing structure had created enough problems, and their only objection was the distance of the proposed structure to their adjoining property.

Mrs. Patricia Perreault, a nurse, gave her opinion on the use and location of the oxygen tank. Members of the board felt, the existing structure should not be brought any closer to the property line.

Berle LaPin made a motion to grant the variance as requested. Earl Robinson supported. By roll call vote the motion was split. Berle LaPin and Earl Robinson in favor. John Olson and Chairperson Karol Peterson not in favor.

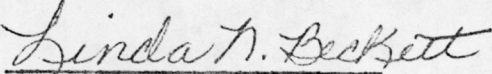
John Olson made a motion to grant the variance for the garage. Chairperson Karol Peterson supported. By roll call vote the motion was split. Berle LaPin and Earl Robinson not in favor. John Olson and Chairperson Karol Peterson in favor.

Earl Robinson made a motion to table the variance until the next scheduled meeting. Berle LaPin supported. By a unanimous roll call vote of 4 to 0, the petition was tabled until the next scheduled meeting of December 27, 1978.

The board unanimously agreed to accept all petitions for variance within the deadline.

There was no Old business, or New business to be discussed, and no additional public comment.

The meeting adjourned around 8:30 P.M..


Linda N. Beckett

COUNTY OF MARQUETTE

OFFICE OF COUNTY PLANNER
AND
BUILDING CODE DEPARTMENT
Marquette County Courthouse, Marquette, MI 49855

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MARQUETTE COUNTY ZONING BOARD OF APPEALS AGENDA

November 29, 1978

1. Call meeting to order.
2. Roll call.
3. Minutes of the previous meeting.
4. Public comment.
5. Appeals to be heard:
 - (1). 66-AP-SK-18 -- Upper Room Ministries, Inc., Skandia Township
Petition for variance.
 - (2). 67-AP-TI-5 -- Ronald A. Perreault, Tilden Township
Petition for variance.
6. Schedule new appeals.
7. Old business; New business.
8. Public comment.
9. Adjournment.

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MARQUETTE COUNTY ZONING BOARD OF APPEALS MINUTES

October 25, 1978

Chairperson Karol Peterson called the meeting to order. All members of the board were present; Berle LaPin, John Olson, William DeShambo, Earl Robinson, and Chairperson Karol Peterson. Also present were members of the Marquette County Planning Commission Staff; Jim Kippola, Cartographer and Linda Beckett, Secretary.

Earl Robinson made the motion, John Olson supported and it was passed unanimously to accept the minutes of August 30, 1978 and September 27, 1978 as distributed.

There were no public comments at this time. Chairperson Karol Peterson discussed the procedure to be followed during the public hearing. The public hearing was opened with two appeals scheduled to be heard by the board.

Jim Kippola read the legal advertisement for the first appeal; which was printed twice in The Mining Journal, Marquette, Mi., October 5th and October 29, 1978:

1). Petition #65-AP-SK-17, petitioner Gary Shane requests a variance from Section 24 of the Marquette County Zoning Ordinance. Petitioner requests reduction of the minimum lot size requirement in a RP Zoning District from 20 acres to 18.63 acres for the purpose of constructing a year-round residence on the following described property: SW $\frac{1}{4}$ of SE $\frac{1}{4}$ except the North 300' of West 200'; Section 9, T46N - R23W, Skandia Township.

Gary Shane; Box 346, Dalton Road, Skandia, Mi.. Mr. Shane stated, he has 38.63 acres and would like to divide it into two parcels (20 acres and 18.63 acres). Mr. Shane stated, there is a small house on one side of the property and he would like to have it divided so that he can build a residence on the otherside of the lot.

Jim Kippola presented the Planning Commission Staff's opinion: He stated, the request was for a reduction in the minimum lot size requirement of the RP Zoning District from 20 acres to 18.63 acres for the purpose of constructing a year-round residence. Jim Kippola stated, the Planning Commission Staff recommends denial of this petition for three reasons: (1). No practical difficulty or non-self imposed hardship exists pertaining to this particular parcel (38.63 acres). (2). Both of the proposed parcels could be made conforming if additional property were purchased by the petitioner. (3). The staff feels, the parent surveyed 40 acre tract, of which the subject property is part of, is currently divided into four lots of record, three of which are nonconforming (.23, .69, and .46 acre). Mr. Shane's property comprises the remaining conforming lot (38.63 acres). Located in the "Forty" are two year-round residences and there is potential for two more residences on the two remaining nonconforming lots of record. If all four lots were developed for year-round residences, double the residential use allowed in

the RP Zoning District would be the result, therefore, the staff feels granting this variance would contradict the intent of the RP Zoning District by allowing development on an additional nonconforming lot.

John Olson indicated that, if property were purchased from an adjoining parcel, problems would be created for the seller with respect to future division of the parcel.

There were no correspondence received concerning this petition.

William DeShambo made the motion, the variance be granted due to the fact that, the lot was only short 1.37 acres in meeting the minimum requirement. Earl Robinson supported.

By roll call vote the variance was granted unanimously.

Jim Kippola read the legal advertisement for the second appeal, which was also printed twice in The Mining Journal; Marquette, Mi., October 5th and October 19, 1978:

2). Petition #64-AP-SK-16, petitioner George McMaster requests a variance from Section 29 of the Marquette County Zoning Ordinance to construct a storage building 6 feet from a property line where a 30 foot setback is required on the following described property: The East 630' of the North 210' of the S½ of the SE¼ of the NE¼ of Section 3, T45N - R23W.

George McMaster, Route 1, Skandia, Mi.. Mr. McMaster was not present at the public hearing. Jim Kippola read the applicant's request for variance. A variance is hereby requested from Section 29 of the Marquette County Zoning Ordinance to permit the following use or structure: "Storage building." Statement of hardship or practical difficulty encountered if the Ordinance is strictly applied: "I would have to cut may big apple trees, I would have problems with snow removal, and the rest of the land is to muddy in the spring to build the building on."

Jim Kippola presented the Planning Commission Staff's opinion: He stated, the staff feels the petitioner has alternative sites on the lot (3 acres) where the proposed structure could be place within the required setbacks of the RP Zoning District. He also stated, the staff feels the petitioner's statement of hardship or practical difficulty is invalid because of three reasons: (1). Considerable vacant lot area exists whereby the storage shed could be constructed without necessitating removal of the large apple trees. (2). The proposed site already requires additional snow removal activites. (3). Soil conditions on the proposed building site do not vary considerably from other area on the lot, therefore, the staff recommends denial of this petition.

Jim Kippola stated that, Mr. McMaster's neighbor, Victor Mattson, who owns 20 acres to the North of the petitioner, had offered to sell the petitioner 25 feet of his property, so that, the petitioner could meet the requirements of the Ordinance. Jim Kippola further stated that, Mr. V. Mattson could not legally sell 25 feet because he would be in violation of Section 55 of the Zoning Ordinance.

There was no correspondence received concerning this petition.

William DeShambo made the motion, the variance be granted with the stipulation, the storage shed be built 20 feet from the property line (North). Berle LaPin supported.

By roll call vote the variance was granted; 3-2, Berle LaPin, William DeShambo, and Earl Robinson in favor. John Olson and Chairperson Karol Peterson not in favor. Chairperson Karol Peterson closed the public hearing.

The meeting proceeded according to the agenda. Ron Koshorek, Acting Director of the Planning Commission Staff, discussed the procedure for scheduling the petitions for variance to be heard at Zoning Board of Appeals' public hearings. He stated that, the Rules of Procedure for scheduling Petitions for Variance were adopted at the Marquette County Zoning Board of Appeals' meeting on March 29, 1977. He stated, the publication requirements were set forth at that time: ".....a notice shall be placed in.....no less than 20 days.....and a second notice no less than 8 days prior to the public hearing....." Ron Koshorek also stated that, the rules were consistent with the statutory requirements of the Planning Commission when they meet on rezonings, but there were no notice requirements in the statute for the Zoning Board of Appeals. He stated, the Planning Commission Staff could not accept Petitions for Variance up through the 20th day because the staff would not be able to meet the requirements set forth by The Mining Journal for publishing legal advertisement.

John Olson made a motion to amend the rules. The motion, "the Planning Commission Staff accept Petitions for Variance up to 20 days, so that the legal advertisement can be published in The Mining Journal, 17 days prior to the public hearing and a second notice 8 days before the public hearing. Earl Robinson supported.

By roll call vote the amendment was passed 4-1; Berle LaPin, John Olson, William DeShambo and Earl Robinson in favor. Chairperson Karol Peterson not in favor.

There was one tentative appeal scheduled for next month's meeting:

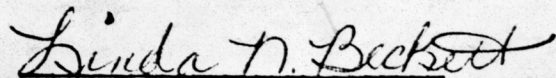
- (1). Upper Room Ministries, Inc. - Skandia Township. Petition for Variance.

There was no Old business to be discussed. New business was opened for discussion: Chairperson Karol Peterson questioned, if the materials had been forwarded to Mr. Al Budinger, Director of the Marquette County Health Department, as requested? Jim Kippola stated, a list of eleven townships that must comply with the County's Zoning Ordinance, detailed maps and procedures for obtaining residential, non-residential, and multi-family building permits had been forwarded to Mr. Budinger. He also stated that, Mr. Donald LaFreniere had obtained a building permit. Berle LaPin questioned, if the staff had obtained notary public service? Ron Koshorek stated, the staff has two notaries, Linda Beckett and Ann Ternus.

There were no additional New business to be discussed, and no public comments.

The meeting adjourned around 8:30 P.M..

A copy of the Rules of Procedure for the Zoning Board of Appeals, and the Amendment to those rules is attached.



Linda N. Beckett

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MARQUETTE COUNTY ZONING BOARD OF APPEALS AGENDA

October 25, 1978

1. Call meeting to order.
2. Roll call.
3. Minutes of the previous meetings.
4. Public comment.
5. Appeals to be heard:
 - (1). 64-AP-SK-16 -- George McMaster, Skandia Township
Petition for variance.
 - (2). 65-AP-SK-17 -- Gary Shane, Skandia Township
Petition for variance.
6. Review procedure for scheduling public hearing.
7. Schedule new appeals.
8. Old business; New business.
9. Public comment.
10. Adjournment.

PROCEDURE OUTLINE
FOR
VARIANCE OR INTERPRETATION OF THE COUNTY ZONING

1. Call the meeting to order.
2. Roll call.
3. Explanation of procedure to be used during the meeting:
 - a. Applicant will be allowed to submit an oral or written statement concerning his request. Board of Appeals will be allowed to ask questions or rebut any evidence presented. The Planning Commission will be allowed to ask any questions or rebut any questions asked. All interested persons will be allowed to submit oral or written statements, or ask questions or rebut any evidence.
 - b. The Planning Commission staff shall present a written and oral statement. The Board of Appeals will be allowed to ask the Planning Commission any questions, the applicant will be allowed to ask any questions and all interested citizens will be allowed to ask any questions.
 - c. Any interested person will be allowed to submit an oral or written statement regarding the petition, the Board of Appeals will be allowed to ask any questions of any evidence submitted. The applicant will be allowed to ask any questions. The Planning Commission staff will be allowed to ask any questions and any interested citizens may ask any questions.
4. The legal ad, which was placed in the paper, will be read stating the name of the applicant giving the location of the applicant, the date and place of meeting, and date published.
5. The applicant presents case.
6. Planning Commission presents findings and recommendations.
7. Any interested citizen wishing to make a statement--3 calls.
8. Public testimony portion of the hearing will be closed.
9. The Board of Appeals will then make a decision based on the evidence presented. The Board of Appeals will either approve, reject, approve with conditions, or if needed delay decision until further information is presented. The vote will be a roll call vote.
10. Receive applications for variances or interpretations for scheduled public hearings.
11. Meeting adjourned.

An application for a variance or interpretation of the Zoning Ordinance is submitted to the Zoning Administrator who will present the application to the Board of Appeals at its next regular meeting. The Board of Appeals shall schedule a public hearing. A notice shall be placed in the paper of general circulation in the County not more than 30 days, nor less than 20 days before the hearing, and a second notice not more than 8 days before the hearing. This notice shall state the time, place, and nature of the appeal as well as where the application and supportive documents can be reviewed by the general public. Notice by certified mail must be given at least 20 days in advance to all public utilities that register with the Zoning Commission for this purpose, and to each railroad. All property owners within 300 feet of the property to be directly affected by a zoning decision will be notified by personal service or by mail. Such notification shall set forth the time, place, nature of the meeting, and geographic area included in the zoning proposal.

During the public hearing, interested parties will have a chance to present and rebut information either supporting or opposing the zoning action.

A complete comprehensive summary, minutes of the meeting including the exact record of motions, votes, and roll call and other official action, and written notice shall be sent to the applicant stating in detail whether the action was denied, approved, or conditionally approved, and the facts supporting such decision.

The file, written testimony, or documents, tape recordings of the hearing, will be placed on file and open to public inspection with the County Clerk and Planning Commission Office.

After all evidence is submitted, the Board of Appeals votes on the matter. The decision of the Board of Appeals can be overruled only through court action.

Amendment to the Rules of Procedure for the Marquette County Zoning

Board of Appeals

The Marquette County Zoning Board of Appeals at their October 25, 1978 meeting amended the Rules of Procedure.

John Olson made a motion to amend the rules as follows:

"The Planning Commission Staff shall accept Petitions for Variance up to Twenty (20) days prior to the next regular meeting date. The first publication shall be made in the Mining Journal not less than Seventeen (17) days prior to the meeting date at which the public hearing will be held."

Earl Robinson supported, and it was passed by roll call vote 4-1;

Berle LaPin, John Olson, William DeShambo, and Earl Robinson in favor and Chairperson Karol Peterson not in favor.

Karol Peterson

CHAIRPERSON, MARQUETTE COUNTY ZONING BOARD OF APPEALS

COUNTY OF MARQUETTE

OFFICE OF COUNTY PLANNER
AND
BUILDING CODE DEPARTMENT
Marquette County Courthouse, Marquette, MI 49855

Phone: 228-8500

MARQUETTE COUNTY ZONING BOARD OF APPEALS MINUTES

September 27, 1978

Chairperson Karol Peterson called the meeting to order. All members of the board were present; Berle LaPin, John Olson, William DeShambo, Earl Robinson, and Chairperson Karol Peterson. Also present were members of the Marquette County Planning Commission Staff; Jim Kippola, Cartographer and Linda Beckett, Secretary.

Chairperson Karol Peterson briefly discussed the responsibility and authority of the Marquette County Zoning Board of Appeals.

John Olson made the motion, Earl Robinson supported and it was passed unanimously to hold the minutes of August 30, 1978 for review and approval until the next scheduled meeting of October 25, 1978.

There were no public comments at this time. Chairperson Karol Peterson stated the procedure to be followed during the public hearing. The public hearing was opened with three (3) appeals scheduled to be heard by the board.

Jim Kippola read the legal advertisement for the first appeal; which was a tabled petition for variance from August 30, 1978 public hearing for the purpose of obtaining more information, and to have the applicant present at the public hearing. This petition was printed twice in The Mining Journal; Marquette, Mi., August 8th, and August 25, 1978:

1). Petition No. 61-AP-CA-2, petitioner Donald LaFreniere requests a variance from Section 29 of the Marquette County Zoning Ordinance to allow construction of a cabin on the following described property: SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 35, T49N - R29W, except the North 660 feet thereof.

Donald LaFreniere; 342 Rail Street, Negaunee, Mi.. Mr. LaFreniere stated, he purchased 20 acres of land to build a camp. He stated, when he applied for a building permit, he was told that he needed a variance to build because 2.8 acres of his lot (20 acres) is under water.

Berle LaPin questioned Mr. LaFreniere, if he had started construction on the proposed camp? Mr. LaFreniere stated; yes, he started construction after he applied for the variance because he could not see any reason for denial of his variance. William DeShambo questioned, if Mr. LaFreniere had started construction in the County before and had to obtain a variance for that structure? Mr. LaFreniere stated; yes, but actually he did not start construction before the variance was granted, he placed a trailer (mobile home) on a lot and he did not know that a building permit was required before doing so.

Jim Kippola presented the Planning Commission Staff's opinion: He stated, the request was for a reduction in the minimum lot size requirement of the Open Space Zoning District from 20 acres to 17.2 acres for the purpose of constructing a recreational structure. Jim Kippola stated, the Planning Commission Staff recognizes the following facts concerning the applicants request: (1). The lot is non-conforming because 2.8 acres of it lies under water (Wolf Lake). (2). The petitioner knowingly purchased less than 20 acres. (3). The lot in question could only be made conforming if the applicant were to purchase additional property. It is the Staff's opinion that a practical difficulty exists concerning this variance because 2.8 acres of Mr. LaFreniere lot lies under water. The staff recognizes that there is a point where a decision must be made as to whether a particular parcel substantially conforms to the requirements of the Ordinance. In this case the staff feels that substantial conformance does exist and granting this variance would not contradict the intent or compromise the integrity of the Ordinance.

Chairperson Karol Peterson asked the staff, if a Stop Work Order was issued on the existing structure? Jim Kippola answered, there is a Stop Work Order issued on this structure, but the building inspector has not been able to get access to the structure.

Berle LaPin questioned, if more work was done on the structure other than the footings? Mr. LaFreniere answered; yes, he has been progressing on this camp whenever he can get help because he can not build in the area during the winter and he has to have an operation next year.

John Olson made the motion the variance be granted on the recommendation by the Planning Commission Staff. Berle LaPin supported.

By roll call vote the variance was granted unanimously.

Jim Kippola read the legal advertisement for the second appeal, which was printed twice in The Mining Journal; Marquette, Mi., September 7th, and September 21, 1978:

2). Petition No. 63-AP-SK-15, petitioner James Dippary requests a variance from Section 29 of the Marquette County Zoning Ordinance to construct a garage 12 feet from a property line where a 30 foot setback is required on the following described property: Commencing at N.E. corner of Section 9, T46N - R23W, thence W 392 feet along the N section line to the POB; thence S 208 feet, thence W 208 feet, thence N 208 feet, thence E 208 feet to the POB, Twp. of Skandia, Marquette County, Michigan.

James Dippary; Box 356C - Yalmer Road, Skandia, Mi.. Mr. Dippary stated, he would like to attach a garage to his house and there is not enough room on his lot to meet the requirements. He stated, his gravel driveway and culvert are already in place, the well is located in the back yard and his drain field is in the front yard. He stated, it would cost him about \$1,000.00 to relocate the proposed structure.

Jim Kippola presented the Planning Commission Staff's opinion: He stated, the request was for a reduction of the side setback requirement in a Resource Production Zoning District from 30 feet to 12 feet for the purpose of constructing a garage. He stated, although sufficient lot area is available to construct the proposed garage within the required setbacks, the staff recommends approval of the petition with the exception that the petitioner build no closer than 16 feet from his West property line.

Jim Kippola stated the following reasons were the basis for the staff's decision: (1). Detailed soil surveys of the Yalmer Road area indicate the soil conditions are poor on the property. These soil types have a hardpan at shallow depths causing a high water table at various times of the year. These soils also have a poor bearing capacity which can result in cracked footings, foundations, slabs and etc. which, we feel makes them unsuitable for intensive development. (2). There is a small area immediately West of the house which has been filled and would be suitable for construction of a garage. (3). The staff feels in this case that, the soil conditions create a practical difficulty if the Ordinance were strictly applied. We also feel that the proposed structure could be built attached to the residence and come four (4) feet closer to complying with the Ordinance than the petitioner requests.

Correspondence received concerning this petition was a letter from Harold J. Haglund, Sr.; Box 354, Skandia, Michigan, dated August 8, 1978, which stated, "I have no objections to James Dippary building his garage closer than 30 ft. from my property line." Also a letter from Michael Rowland; Rt. 1, Skandia, Michigan, dated August 8, 1978, which stated, "I have no objections to James Dippary building his garage closer than 30 feet from his property line."

William DeShambo made the motion the variance be granted with the stipulation that the garage be attached and no closer than 16 feet from the West property line. John Olson supported.

By roll call vote the variance was granted unanimously.

Jim Kippola read the legal advertisement for the third appeal, which was also printed twice in The Mining Journal; Marquette, Mi., September 7th, and September 21, 1978:

3). Petition No. 1-NC-SK-1, petitioner, the County Zoning Administrator requests a Class A Non-Conforming Use Designation to allow expansion of a church in a RP Zoning District on the following described property: Emanuel Lutheran Church - Section 30, T46N - R23W, South 208.56 feet of the North 1,000 feet of the East 208.56 feet of the North 1/2 of the SE 1/4.

Jim Kippola presented the request for a Class A Non-Conforming Use Designation submitted by the County Zoning Administrator. Jim Kippola stated that because of Section 47 of the Zoning Ordinance, the Zoning Administrator was requesting that a Class A Non-Conforming Use Designation be granted to Emanuel Lutheran Church in order that it can expand. He stated, this property is in a Resource Production Zoning District, making the "church use" non-conforming. Portions of the property are currently used as a cemetery; therefore, it is the opinion that, this property should not remain a Class B Non-Conforming type because it is not likely that it can ever be converted to one of the allowable uses in the RP Zoning District, primarily because of the cemetery on the grounds. The existing church building is in good repair and its existence is not contrary to the public health, safety, or welfare of the community. The church is constructed approximately 24 feet from U.S. 41 Highway right-of-way, therefore, the church is non-conforming in its placement. He stated, it is the staff's request that the Class A Non-Conforming Use Designation be granted with the following conditions: (1). That the building may be altered or enlarged to the extent that parking requirements set forth in the Zoning Ordinance be met for all structures

on the property. (2). That the minimum setback of 30 feet be adhered to for any new structures or alterations on the property. (3). That the principal use of the property remain that of religious, education, and/or community service activities.

At this time, Mr. Otto Hurskaine, P. O. Box 21, Skandia, Mi., spoke in representation of the church. He stated the reason for the request was to expand the church facilities to the community. Mr. Hurskaine discussed the historical background of Emanuel Lutheran Church. He also stated, he felt they would not have any problems in meeting the requirements recommended by the Planning Commission Staff if the request was granted. Mr. Hurskaine stated that there was one question in his mind as far as, the request was concerned. He stated, according to the State Highway Department's map, the property is located in Section 29 instead of Section 30 as read in the legal description.

Jim Kippola stated that there was no research done on the matter but there was a problem in mapping the property. He stated, the section number in the legal description was the same as the tax roll (Section 30).

Mr. Hurskaine stated that the matter was technical but the map shows the property located in Section 29. He also stated, he would be meeting with the State Highway Department in Crystal Falls, Michigan concerning this matter.

There was no correspondence received concerning the request for a Class A Non-Conforming Use Designation. Mr. V. Valli; former supervisor of Skandia Township, who sang the Lord's Prayer at the church's 75th Anniversary in 1969 was present in behalf of Emanuel Lutheran Church.

Berle LaPin made the motion the Class A Non-Conforming Use Designation be granted with the conditions recommended by the Planning Commission Staff:

- (1). That the building may be altered or enlarged to the extent that parking requirements set forth in the Zoning Ordinance be met for all structures on the property.
- (2). That the minimum setback of 30 feet be adhered to for any new structure or alterations on the property.
- (3). That the principal use of the property remain that of religious, education, and/or community service activities.

John Olson supported. By roll call vote the Class A Non-Conforming Use Designation was granted unanimously.

Chairperson Karol Peterson closed the public hearing. The meeting proceeded according to the agenda.

There was one (1) tentative appeal scheduled for next month's meeting:

- (1). George McMaster - Skandia Township. Petition for variance.

The meeting was opened for Old business: Earl Robinson discussed Old and New business concerning the procedure for scheduling the Marquette County Zoning Board of Appeals' public hearings. Chairperson Karol Peterson read the procedural outline as stated in the By-Laws and stated that the procedures were adopted by the board at their March 29, 1977 meeting. Earl Robinson recommended that the requirements be reviewed for scheduling public hearings because Mr.

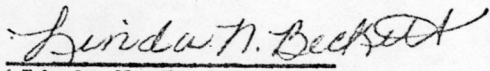
George McMaster's petition for variance was submitted to the Planning Commission Staff on September 5, 1978 (22 days before the scheduled public hearing), but his petition could not be scheduled for September 27, 1978 public hearing because the Staff could not meet the publication notice requirements set by the Mining Journal.

The board requested the procedures for scheduling a petition for variance for public hearing be scheduled for review at next month's meeting.

Chairperson Karol Peterson discussed Old business concerning the Marquette County Health Department. She stated, she met with Mr. A. Budinger, Director of the Health Department, in reference to the problems presented before the Zoning Board of Appeals which involves their department. Chairperson Peterson stated, Mr. Budinger requested a list of the Townships under the Marquette County Zoning Ordinance, and the chain of events involved in obtaining a building permit.

There was no additional Old or New business.

The meeting adjourned at 8:30 P.M..


Linda N. Beckett
Linda N. Beckett

COUNTY OF MARQUETTE

OFFICE OF COUNTY PLANNER
AND
BUILDING CODE DEPARTMENT
Marquette County Courthouse, Marquette, MI 49855

Phone: 228-8500

MEMO

TO: Mr. Ron Koshorek, Acting Director
Marquette County Planning Commission

FROM: Marquette County Zoning Board of Appeals

SUBJECT: Request from the Marquette County Zoning Board of Appeals' Members

DATE: September 28, 1978

The Marquette County Zoning Board of Appeals at their September 27, 1978 meeting requested the following of the Marquette County Planning Commission Staff:

(1). Submit a list of the Townships that must comply with the Marquette County Zoning Ordinance, and the chain of events in obtaining a building permit to the Marquette County Health Department (Mr. A. Budinger).

(2). A request was made that the Building Code Department make an inspection of Petition #61-AP-CA-2, Donald LaFreniere's property and stop construction until his building permit is obtained.

(3). The board requested we review the procedures for obtaining a Zoning Variance, and check with The Mining Journal to find out why are they requiring the legal ads to be submitted two (2) days before publication because we are paying for this service. The board will be reviewing these procedures at their next scheduled meeting of October 25, 1978.

LB (LW)

cc: The Marquette County Zoning Board of Appeals

COUNTY OF MARQUETTE

OFFICE OF COUNTY PLANNER
AND
BUILDING CODE DEPARTMENT
Marquette County Courthouse, Marquette, MI 49855

Phone: 228-8500

MARQUETTE COUNTY ZONING BOARD OF APPEALS MINUTES

August 30, 1978

Vice Chairman Berle LaPin called the meeting to order. All members of the board were present; Berle LaPin, John Olson, William DeShambo, Earl Robinson, and Chairperson Karol Peterson. Also present were members of the Marquette County Planning Commission Staff; Jim Kippola, Cartographer and Linda Beckett, Secretary.

John Olson made the motion, William DeShambo supported and the minutes of the last meeting, July 26, 1978, were approved as written.

Vice Chairman LaPin explained the procedures to be followed at the public hearing. At this time, Vice Chairman LaPin turned the meeting over to Chairperson Karol Peterson.

Chairperson Karol Peterson proceeded with the public comment section of the agenda. The meeting was opened for public comments.

Mr. George Westcott, Muskegon, Mi., questioned the board in reference to a petition for variance requested by Mrs. E. Valine Messner, Indian Rocks Beach, Fl., petition #50-AP-RE-6. This petition was heard by the board on June 28, 1978 and tabled for July 26, 1978 meeting, at which time it was denied. Mr. Westcott stated that they wanted to know how to go about getting a building permit. He stated, his aunt, Mrs. Messner, inherited this property and has given the deeded parcels away, one of which was given to his daughter. The parcel that his daughter owns is 20 feet short of meeting the minimum lot width required by the Ordinance and his daughter wants to build on this parcel. However, the variance was denied, therefore, Mr. Westcott asked, what do we do to get a building permit?

The board stated, that the matter would have to be taken back to the Planning Commission Staff because once the Zoning Board of Appeals has made a decision on an appeal, we can not act upon the same request unless a petition for variance is submitted again to the Marquette County Planning Commission Staff for public hearing. They recommended that they go to the Planning Commission & Building Code Department and have the staff give them their alternatives on the matter. The board also recommended that they go to the Republic Township Board meeting and have the township board give the Planning Commission Staff and the Zoning Board of Appeals the township's recommendation concerning this matter.

Mr. Steven Liubakka; Rt.1 - Box 197A, Champion, Mi., questioned, why does it take so long to get a decision on a variance?

The board stated, because of the State Law and other procedures, certain requirements must be met such as, publication of the legal advertisement in the paper 20 days before the public hearing, notification to all property owners within 300 feet, and the time allotted for correspondence.

There were no additional public comments at this time. The meeting proceeded according to the agenda with six (6) appeals scheduled to be heard by the board.

Jim Kippola read the legal advertisement for the first appeal, which was printed twice in The Mining Journal; Marquette, Mi., August 9, and August 25, 1978:

1). Petition No. 60-AP-EL-17, petitioner Steven Liubakka requests a variance from Section 29 of the Marquette County Zoning Ordinance to allow construction of a storage shed within the minimum setback distance on the following described property: The W $\frac{1}{2}$ of lot 12, and the East 25' of lot 13, South Diorite Plat, Sec. 32, T48N - R28W, Ely Township.

Steven Liubakka, Rt. 1-Box 197A, Champion, Mi.. Mr. Liubakka stated, he would like to put a storage building 14 feet from the alley and 10 feet from his lot line. He stated, the building would be 16X24 feet and because of the location of his drain fields, he would create problems putting the building in any other location. Mr. Liubakka stated, the original lot is 50 feet wide and there is no basement, so he needs a place for storage.

Berle LaPin questioned, if there were any houses in the area of his property? Mr. Liubakka stated, there are houses on the sides of his lot.

The board asked the Planning Commission Staff to present their opinion, so that they could see the area before questioning Mr. Liubakka any further.

Jim Kippola presented the Planning Commission Staff's opinion: He stated, the lot is approximately 160X75 feet, and there is an existing dwelling on the lot which is approximately 24X30 feet. He stated, the lot is located in a R-1 Zoning District with a minimum requirement of a 30 foot rear setback. He stated, the required setbacks in a R-1 Zoning District were 30 feet front yard, 30 feet rear, and 10 feet from the sides. Jim Kippola stated, the staff did not locate the drain fields, however, the Planning Commission Staff feels the proposed structure could be built in another location on the lot and conform to the Ordinance because there is adequate room on the lot.

At this time, the board questioned Mr. Liubakka of the location of his drain fields. Mr. Liubakka stated, his drain fields were about 40 feet long and 12 feet wide, and his water table was about 2 feet down. He stated, the drain fields are about 30 feet apart, which he showed the board on the map.

Mr. Bob Wright, a citizen present at the public hearing, questioned Mr. Liubakka, if there were buildings on the side of him that were closer to the alley than his proposed structure? Mr. Liubakka stated; yes, they were built years ago.

Jim Kippola stated; correspondence received concerning the petition, a letter of August 24, 1978, addressed to The Marquette County Zoning Board of Appeals from Kenneth A. Tuominen, Ely Township Supervisor, which read: "The Ely Township Board voted favorably on S. Liubakka's request to allow construction of a storage

shed within the minimum setback distance."

William DeShambo made the motion that the variance be granted because of the location of the drain fields, and the recommendation of the Township Board. Earl Robinson supported.

By roll call vote the variance was granted; 4-1, Berle LaPin, William DeShambo, Earl Robinson and Chairperson Karol Peterson in favor, and John Olson not in favor.

Jim Kippola read the legal advertisement for the second appeal, which was also printed twice in The Mining Journal; Marquette, Mi., August 9, and August 25, 1978:

2). Petition No. 57-AP-WB-7, petitioner Bruce Gensheimer requests a variance from Section 29 of the Marquette County Zoning Ordinance to allow construction of a garage addition to an existing duplex within the 30 foot setback distance on the following described property: Section 1, T46N - R24W .43A. Part of NW¼ of NW¼ com. at int. of NE R/W of U.S. 41 & E line of said sub th NWLY alg R/W approx. 170' to POB th NWLY alg R/W 150' th NELY at R/A 125' M/L th SELY at R/A 150' th SWLY at R/A 125' M/L to POB.

Bruce Gensheimer, 27 Midway Drive, Negaunee, Mi.. Mr. Gensheimer stated, he has a duplex in West Branch Township that was purchased 6 months ago. He stated and pointed out on the map, submitted by the Planning Commission Staff, the location of the duplex and the fact that there were no neighbors on either sides of his property. Mr. Gensheimer stated, the reason I would like to construct the garage as proposed is because I am putting culvert extensions on both sides, there is an area of high ground, and his drain fields run parallel on each side of the duplex. He stated, that if he relocated the proposed garage, it would run into the County approved drain fields and he needs a garage for the winters.

A citizen questioned, if Mr. Gensheimer owned the property on both sides of the duplex? Mr. Gensheimer stated, no.

Jim Kippola presented the Planning Commission Staff's opinion: He stated, that there are residences on both sides of the property. The Planning Commission Staff feels that there is sufficient land area where Mr. Gensheimer can construct a 20X24 feet garage and conform to the Ordinance, therefore, it is the opinion of the staff that the variance be denied.

Jim Kippola stated, correspondence received concerning the petition was verbal from West Branch Township's supervisor, Mr. Otto Hurskaine. Mr. Hurskaine felt that he could not see any problems in granting the proposed variance.

Bob Wright questioned the Planning Commission Staff, if we felt this would impose a hardship on Mr. Gensheimer by not being able to place his garage in the most logical place as proposed, since there is an existing driveway on the property? Jim Kippola stated, the Planning Commission Staff feels it would not impose an unnecessary hardship.

Mr. J. Weting, a citizen present at the public hearing, questioned Mr. Gensheimer if there was a slab existing now for the garage? Mr. Gensheimer stated, there is a slab 24X20 existing now, which is where the garage would be placed, that was already on the property when purchased.

Earl Robinson made the motion the variance be granted as requested, because of the Township's approval, and it is the only logical place to build a garage. John Olson supported.

By roll call vote the variance was granted unanimously.

Jim Kippola read the legal advertisement for the third appeal, which was also printed twice in The Mining Journal; Marquette, Mi., August 9, and August 25, 1978:

3). Petition No. 61-AP-CA-2, petitioner Donald LaFreniere requests a variance from Section 29 of the Marquette County Zoning Ordinance to allow construction of a cabin on the following described property: SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 35, T49N - R29W, except the North 660 feet thereof.

Donald LaFreniere, 342 Rail Street, Negaunee, Mi.. Mr. LaFreniere was not present at the public hearing. Jim Kippola read the applicant's request for variance. Jim Kippola stated, the request was originally in two (2) parts; a reduction from the minimum lot size requirement, and the minimum side lot setback from 30 to 26 feet. Jim Kippola stated, from a telephone conversation with Mr. LaFreniere, Mr. LaFreniere stated, that he could conform to the minimum side lot setbacks. Jim Kippola read the applicant's statement of hardship or practical difficulty encountered if the Ordinance is strictly applied, as stated on the Petition for Variance: "Otherwise be to close to swampy area."

Jim Kippola presented the Planning Commission Staff's opinion: He stated, the property is located near Wolf Lake in Champion Township, north of Humboldt. He stated, 2.8 acres of Mr. LaFreniere's lot (20 acres) is under water. He stated, the request was to construct a recreational structure on 17.2 acres in an Open Space Zoning District, which requires a lot to be a minimum of 20 acres. Jim Kippola stated, it is the opinion of the Planning Commission Staff that, because of the 2.8 acres that lies under Wolf Lake, the lot is non-conforming, however, the staff does feel that this lot substantially conforms to the Ordinance and by granting the variance, the staff feels it would not contradict the intent of the Ordinance.

Berle LaPin questioned, if a foundation had been started, and if the County's inspector located this violation? Jim Kippola stated, that after Mr. LaFreniere requested a Petition for Variance, the staff was doing field work on the property, and recognized that construction had been started on the property.

Earl Robinson questioned the staff, how long has construction been started? Jim Kippola stated, the staff took pictures approximately one (1) week after Mr. LaFreniere requested a variance. He stated, there was no correspondence received concerning this petition.

Berle LaPin questioned Chairperson Peterson, if by law, could the Zoning Board of Appeals request the presence of a petitioner at the public hearing?

Chairperson Peterson stated, at the present time, she was not certain but the matter would be checked into. The board requested the Planning Commission Staff

to check further into the matter.

Berle LaPin stated, people are aware of the State Building Codes, and this was Mr. LaFreniere's second violation of the code. John Olson stated, that ordinarily he would be in favor of granting the variance, because basically Mr. LaFreniere has a 20 acre parcel, but building without a building permit is another story.

The board suggested that Mr. LaFreniere be fined for starting construction in the County without a building permit, but at this time, the board and the Planning Commission Staff would have to check further into the matter to see if such a recommendation could be made.

Berle LaPin made the motion the variance be tabled for more information until the next scheduled public hearing of September 27, 1978, and requested that the applicant attend the public hearing. William DeShambo supported. The motion was passed unanimously.

Jim Kippola read the legal advertisement for the fourth appeal, which was printed twice in The Mining Journal; Marquette, Mi., August 10, and August 25, 1978:

4). Petition No. 62-AP-WB-8, petitioner Don Lucas requests a variance from Section 29, minimum lot size requirements of the Marquette County Zoning Ordinance as it applies to the following described property: All that part of the Southeast Quarter (SE $\frac{1}{4}$) of Section 26, T46N - R24W, West Branch Township, Marquette County, Michigan, bounded and described as follows: Commencing at the East Quarter-corner of said Section 26, thence South, 650.61 feet; thence West, 145.06 feet to a point on the Northeasterly right-of-way line of County Road 545 and the Place of Beginning of the land hereinafter to be described; thence Northwesterly 100.57 feet along the arc of a curve of radius 810.67 feet, center lies to the Southwest, chord bears North 50° 04' 29" West 100.51 feet, said arc being the said Northeasterly right-of-way line of County Road 545; thence North 23° 08' 06" East, 244.20 feet; thence South 59° 59' 30" East, 120.44 feet; thence South 28° 17' 21" West, 259.87 feet to the Place of Beginning.

Don Lucas; 1511 Fair Avenue, Marquette, Mi., was not present at the public hearing. Mr. Michael D. Chasteen, 232 Silver Creek Road, #16, Marquette, Mi.. Mr. Chasteen stated, he was representing himself, more so than Mr. Lucas, because the ultimate of the board would not affect anyone but him. He stated, he was applying for a variance because he has been waiting about 4 years, living in a trailer and saving money for a house. We looked into the land and asked Mr. Lucas if he would sell the land, he stated, he would, therefore, we drew up the purchase agreement. He stated, he ordered a house from Dickerson Homes and put a substantial down payment on the house and had his loan approved

through MESDA. Mr. Chasteen stated, that after all these procedures, he was told to go to the Planning Commission and get his building permit. At this time, the Planning Commission Staff told him, he would have to have a minimum of 20 acres to build in the area. He stated, financially he would lose \$500 to \$700 that will not be refunded by Dickerson Homes. The home is in Kingsford, Michigan waiting to be shipped to him, his loan has been approved by MESDA, his mobile home has already been sold and he has to be out by August 31, 1978. He stated, he has temporary quarters in the Skandia area that cost more than his house payments would be. Mr. Chasteen presented the board and the Planning Commission Staff a signed petition, made up by him, and signed by about 7 landowners about 1/2 mile on each side of the property in question. The landowners were in favor of the variance. He stated, since the request for variance, he has been to some of the local realtors to see if there were any lots in the area that he could buy that meets the Zoning Ordinance requirements, because this is the area that his family would like to live, but there are none that he can afford.

Earl Robinson questioned Mr. Chasteen, why .6 of an acre, and not 1 acre was purchased? Mr. Chasteen stated, it was his understanding that Mr. Lucas had the lot made up many years ago, and his interest was in the .6 acre lot. Earl Robinson stated, that there is no deed on the lot.

John Olson questioned, does the township have sewage and water in the area, and how do you propose to get a system? Mr. Chasteen stated, the sewage system has already been approved by the Marquette County Health Department, but instead of 680 square feet of drain field, he has to go 780 square feet and it is stated in the specifications.

Earl Robinson questioned, what was Mr. Lucas reason for not selling one (1) acre? Mr. Chasteen stated, he did not know, he only asked Mr. Lucas to sell him the lot (.6 acre). Earl Robinson stated, that legally Mr. Lucas is not suppose to sell under 20 acres.

Jim Kippola presented the Planning Commission Staff's opinion: He stated, the parcel in question was located on County Road 545. He stated, the land ownership patterns in the area were fairly large tracts. Jim Kippola stated, that Mr. Lucas owns a non-conforming lot of record (3.9 acres) which is buildable as such. He went on to say that Mr. Lucas wants to sell .6 acre of the parent parcel. He stated, there are two reasons primarily why the staff recommends denial of this variance; one being, development on the lot suggested by this applicant would seriously contradict the intent of the RP Zoning District, which is to maintain for low intensity use, and also in granting this variance it would make a non-conforming lot more non-conforming, which is a violation of Section 55 of the Zoning Ordinance.

Jim Kippola stated, correspondence received concerning the petition was verbal from West Branch Township's supervisor, Mr. Otto Hurskaine. Mr. Hurskaine stated, that this size of lot is not consistent with the RP Zoning District, and he would not be in favor of this type of development.

The board questioned, if the MESDA Program was aware that there is zoning in Marquette County? Mr. Chasteen stated, he did not know, his loan was handled by a Mr. Peter Trembl, Northern Michigan Bank, Marquette, Michigan.

The board stated, the zoning in Marquette County must be straightened out because there is only so much that the Marquette County Zoning Board of Appeals can do. Berle LaPin stated, that the County should send out letters to the lending agencies informing them that Marquette County is zoned and that they should be aware of how property is zoned before approving their loans, because zoning has been in effect long enough for everybody to know.

Bob Wright; Landmark Real Estate; stated, we do not have anything to do with this case, but as far as I am concerned, we have a violation of the law, when an individual sells a parcel of property of this size and knowing that the purpose of the sale is to build. Nevertheless, we have an individual here that is a victim of circumstance; secondly, we have the Health Department that suppose to know about zoning and they approved the system. Mr. Wright stated, we need to get it together because when these organizations get finished, here we will have a man and his family, who has spent a lot of time and money, that is sitting in the street.

Chairperson Karol Peterson stated, she knows that the board has gone through great length to inform the Health Department because of the misinterpretations and lack of communication.

J. Weting questioned, since nobody really knew about this petition until tonight; I presume, I wonder if the township supervisor does know, and if the facts presented would have any bearing on the decision? Jim Kippola stated, Mr. Hurskaine was in the office and stated he was not in agreement with this variance.

Bob Wright questioned, if the board was in power in anyway to force the seller of this property to increase the size of the property to conform? The board stated, no. Berle LaPin stated, that on the Certificate of Survey, submitted with the Petition for Variance was written, "I will sell this described land for \$5000.00 cash", signed by Don Lucas. Mr. Chasteen stated, we have drawn up the purchase agreement and there was a downpayment put on the land.

Earl Robinson questioned, have you already paid for the property? Mr. Chasteen stated, not in total, most of it is financed through the MESDA loan, it has been approved and it is at the bank. He stated, there will be no refund, if I do not get the property, nor will the money be refunded on the Dickerson Home. He stated, that The MESDA Program would disqualify him for anything over \$38,000.

Earl Robinson made the motion the variance be granted due to the fact that there is a hardship because Mr. Chasteen has already purchased a home and sold his mobile home with the stipulation; that unless the land is rezoned, the Marquette County Health Department should be notified about these parcels, and they should notify the Planning Commission Department if anything else takes place in the area of Don Lucas's property. William DeShambo supported, and questioned if the Planning Commission Staff could call the Marquette County Health Department concerning this matter? Jim Kippola stated, yes.

By roll call vote the variance was granted; 3-2, Berle LaPin, William DeShambo, and Earl Robinson in favor, and John Olson and Chairperson Karol Peterson not in favor.

Jim Kippola read the legal advertisement for the fifth appeal, which was printed twice in The Mining Journal; Marquette, Mi., August 9, and August 25, 1978:

5). Petition No. 58-AP-EL-16, petitioner Richard Thibeault requests a variance from Section 29 of the Marquette County Zoning Ordinance to allow reconstruction of a dwelling destroyed by fire on the following described property: Commencing at the Northeast Corner of the Southwest Quarter of the Northwest Quarter (SW¼ of NW¼) of Section Thirteen (13), Township Forty-six (46) North, Range Twenty-eight (28) West, thence running due South along the East line of said forty a distance of approximately 790 feet to the intersection of said East line and the East bank of the Escanaba River, thence running NW along the East bank of said Escanaba River to the intersection of the said River and the North boundary line of said forty; thence running due East along the North bdy. line of said forty a distance of approximately 320 feet to the POB. Being all that part of said forty situated on the East side of said Escanaba River.

Richard Thibeault, Rt.3-Box 61, Ishpeming, Mi.. Mr. Thibeault was not present at the public hearing. He submitted a letter to the Planning Commission Staff, dated August 24, 1978, which gave his reason for not attending the hearing. Mrs. Betty Thibeault represented her husband. She stated, we are petitioning for a variance because it is on my father's property. He bought the property with the two (2) camps on the property, we have been using the upper cabin and my father basically uses the lower cabin. She stated, that one of the cabins was on the hill, and the other one was down near the river. Mrs. Thibeault stated, that when the river was up, her father lives in the upper cabin (on the hill). She stated, her father was a multiple sclerosis victim and he is unable to rebuild the camp himself. She stated, lightning burned the camp down in July, 1978.

Jim Kippola presented the Planning Commission Staff's opinion: He stated, a letter was submitted with the Petition for Variance from Mr. Frank Richards, which stated: "I, Frank Richards, am renting my property to my daughter and her husband, Mr. & Mrs. Richard A. Thibeault for a camp. My camp is too small for all of us and there is no neighbors for at least 1/4 of a mile and since I am disabled it is necessary for my family to be near," signed Frank Richards. Jim Kippola stated, the lot was approximately 3 acres and there is an access road to the existing camp. He stated, that when the Zoning Ordinance came into effect there was two (2) non-conforming uses on the property. Jim Kippola stated, the property being 3 acres in a RP Zoning District, it does not allow for any type of residential uses on a lot of this size. He stated, that in July, 1978, one of the non-conforming structures was destroyed, therefore, the Planning Commission Staff recommends denial of this variance because of Section 51 of the Zoning Ordinance which states..."It is the purpose of this Ordinance to eliminate Class B nonconforming uses and structures as rapidly as is permitted by law without payment or compensation. No Class B nonconforming use shall be resumed if it has been discontinued for a continuous period of at least 18 months or if it has been changed to a conforming use for any period, or if the structure in which such use is conducted is damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds 50 percent of the reproduction cost of such structure. No Class B nonconforming structure shall be enlarged or structurally altered, nor shall it be repaired or reconstructed if damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds 50 percent of the reproduction cost of such structure."

Jim Kippola stated; correspondence received concerning this petition was a letter dated August 24, 1978, addressed to The Marquette County Zoning Board of Appeals

from Kenneth A. Tuominen, Ely Township Supervisor, which read: " The Ely Township Board voted favorably on Richard Thibeault's request to allow reconstruction of a dwelling destroyed by fire."

William DeShambo questioned, will this structure be used for a residence or a camp? Mrs. Thibeault stated, it will be seasonal. Berle LaPin questioned, when was the foundation put in? Mrs. Thibeault stated, when we talked to Mr. Tuominen, we explained that the foundation was badly damaged, and that a new one would have to be put in. She stated, Mr. Tuominen told them to go ahead and clean it up, and do what you have to do to the foundation because there would be no problems. Mrs. Thibeault stated, that the foundation is in the same place as the foundation of the structure destroyed by fire.

Berle LaPin made the motion that the variance be granted to rebuild the camp on the existing foundation. John Olson supported.

By roll call vote the variance was granted; 4-1, Berle LaPin, John Olson, William DeShambo and Earl Robinson in favor, and Chairperson Karol Peterson not in favor.

Jim Kippola read the legal advertisement for the sixth appeal, which was also printed twice in The Mining Journal; Marquette, Mi., August 9 and August 25, 1978:

6). Petition No. 59-AP-WE-1, petitioner Wells Township requests a variance from the Marquette County Zoning Ordinance to allow construction of a fire hall in a RR-1 Zoning District on the following described property: Section 7, T42N - R25W. Part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ lying South of Escanaba & Lake Superior Railroad except the East 200 feet thereof.

Wells Township, Arnold, Michigan. William DeShambo; Wells Township Supervisor represented the request, he stated, we would like to construct a fire hall and a community building (combination) in a RR-1 Zoning District. He stated, the construction would be on public land, and the area should have been zoned different.

John Olson questioned, what is the size of the building? William DeShambo stated, 80X50 feet. Earl Robinson questioned, if the township received a grant for the construction? William DeShambo stated, no.

Jim Kippola presented the Planning Commission Staff's opinion: He stated, that Wells Township requests a variance from Section 15.2, Principal Permitted Uses of a Rural Residential District (RR-1) of the Marquette County Zoning Ordinance. The petitioner wants to build a fire hall in a RR-1 Zoning District, and states that as a hardship or practical difficulty "the area should not have been zoned Rural Residential (RR-1) on public land." The staff suggests that the fire hall would be an incompatible use in the proposed location because: (1). The access road presently serves school buses, people using the picnic area, and the Township pool. Fast moving fire fighting equipment and supportive personnel would be a dangerous addition to the traffic on the road. (2). The possibility of children playing in the vicinity. (3). The possible disruption of classroom activity with loud sirens (etc.) at the adjacent school. Therefore, the staff urges extreme caution in granting this appeal.

Jim Kippola stated; correspondence received concerning this petition was a verbal conversation from Agnes Rumac; Arnold, Mi., a property owner within 300 feet, with Ron Koshorek, Acting Director of the Planning Commission Staff, on August 30, 1978. She stated, she does not want to see the property developed for a fire hall.

Also, a letter from Ronald Doyen; Gladstone, Mi., a property owner within 300 feet, dated, August 27, 1978. He stated, " I will say no to a new hall at this time."

At this time, Mr. DeShambo explained the request in more detail. He stated, on the current access road the doors would be coming out of the South end. He stated, Wells Township has a population of 300 people and on the average of 25 users a day for the pool, which will be closed soon. Mr. DeShambo stated, there will be about 6 employees at the school, plus 2 school buses. Therefore, I feel that this is not a reason for denial of this variance. He stated, that the school board had suggested they build the building up against the school, and as far as, the sirens are concerned, there was only 1 call last year and non so far this year.

John Olson made the motion the variance be approved as requested. Berle LaPin supported.

By roll call vote the variance was granted; 4-0 Berle LaPin, John Olson, Earl Robinson, and Chairperson Karol Peterson in favor, and William DeShambo abstaining.

There were two (2) tentative appeals scheduled for the next meeting:

- (1). Donald LaFreniere - Champion Township. Tabled variance.
- (2). James Dippary - Skandia Township. Petition for variance.

John Olson made the motion, Earl Robinson supported and it was passed unanimously to accept all petitions that meet the publication dealines.

The meeting was opened for Old business: Berle LaPin stated, this request should be sent to Ron Koshorek, Acting Director of the Marquette County Planning Commission Staff; he stated, a letter should be sent to the Health Department stating that we are getting to many problems with their department. He stated, the Health Department should not issue any spetic tank permits unless they know the zoning to see if an individual can build a house in the first place because; (1). your are taking it out of the taxpayers because he is the one paying for the permit, and (2). if an individual can not build, why spend the taxpayers' money, and this includes the inspector and the proposed builder. John Olson suggested the letter be sent to the County Board. The board stated, this matter had been before the Planning Commission Staff before and they felt the Staff should take it before the County Board.

The board questioned, if there were procedures for obtaining a building permit and if the township supervisors were aware of these procedures and the Health Department? Jim Kippola stated, the townships should be aware of the procedures but the Planning Commission & Building Code Department is the last step in the procedure. The board requested that the procedures should be changed, the individual should contact Planning Commission before the Health Department. Also, they stated the township supervisor can help by advising the individual to contact the Planning Commission & Building Code Department before making any investments.

There were no New business to be discussed and no additional public comments.

The meeting adjourned around 9:45 P.M..

A summary of the Zoning Board of Appeals request to the Planning Commission Staff is attached, plus the reply from the Acting Director of the Planning Commission Staff.

Linda N. Beckett
Linda N. Beckett

COUNTY OF MARQUETTE

OFFICE OF COUNTY PLANNER
AND
BUILDING CODE DEPARTMENT
Marquette County Courthouse, Marquette, MI 49855

Lyn E. Johnson, Planner

Phone: 228-8500

MARQUETTE COUNTY ZONING BOARD OF APPEALS MINUTES

July 26, 1978

The meeting was called to order. All members of the board were present; Berle LaPin, John Olson, William DeShambo, Earl Robinson, and Chairperson Karol Peterson. Also present were members of the Marquette County Planning Commission Staff; Jim Kippola, Cartographer and Linda Beckett, Secretary.

The minutes of the last meeting, June 28, 1978, were approved unanimously as distributed.

There was no public comment at this time. Chairperson Karol Peterson opened the public hearing. The meeting proceeded according to the agenda with five (5) appeals scheduled to be heard by the board. Jim Kippola read the legal advertisement for the first appeal, which was printed in the Mining Journal on July 7, 1978.

1). 54-AP-EL-11 - Harold A. Peppin, Ely Township. A request for variance from the minimum lot size requirements of the Marquette County Zoning Ordinance on the following described property: A part of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 14, T46N - R28W, Ely Township, described as commencing at the West $\frac{1}{4}$ corner of said Section 14; thence S 01° 13' 55" W along the West line of said section 516.00 feet to the POB. Thence proceeding S 88° 46' 05" E 40.00 feet; thence S 01° 13' 55" W 807.10 feet; thence due West 40.01 feet to a 1/16 corner; thence N 01° 13' 55" E along the West line of said section 807.96 feet to the POB, and; beginning at the SE corner of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 15, T46N - R28W; thence West to the East right-of-way line of County Road 581; thence Northerly in the said East right-of-way line of County Road 581 to the quarter section line; thence East in said quarter section line to the East section line of said Section 15, T46N - R28W; thence South in said section line to the POB.

Mr. Harold A. Peppin; Rt. 3, Box 447, Ishpeming, Mi., stated he bought the property in 1973, he put a house trailer on the property and started developing the property, but in March, 1976, he started having heart trouble which has cut out any hard work. Mr. Peppin stated, that now he wants to sell the property but the proposed buyers were concerned whether they could get a variance in order to sell the property or build on the property. He stated, he has two (2) deeds. Mr. Peppin stated, he traded 66 feet of property to Swanson, a property owner to the East, for a long strip, which is 40 feet wide. He stated, he has about 870' along the County Road right-of-way, and his lot is approximately 200 feet deep on the South end, and 160 feet on the North end.

Mr. Peppin stated, he is paying taxes on the property and it cost him \$800 to have the property surveyed, but he can not do anything with the property, therefore, he would like to get a variance so that he can sell all or half of the property.

John Olson questioned, what type of houses are in the area? Mr. Peppin stated, "there are trailers scattered around in the area."

Jim Kippola stated, he had talked with Ely Township's supervisor and there was some question as to whether Mr. Peppin would be in violation of the Plat Act, if the property was split into 3 lots. Mr. Peppin stated, that he has an appointment with Mr. H. Skewis on Friday, July 28, 1978, and this matter will be cleared up at this time.

Jim Kippola presented the Planning Commission Staff's opinion. He stated, the property is located on County Road 581, and the land ownership patterns in the vicinity are of fairly large tracts. He stated, that the petitioner wishes to divide his existing lot, which is located in a Resource Production District with the requirement of a minimum of 20 acres, into three (3) separate parcels. Jim Kippola stated, it is the opinion of the Planning Commission staff that the creation of 3 non-conforming lots of the sizes proposed would be contrary to the intent of the Resource Production District. Further, the staff believes that this petition does not exhibit the elements of practical difficulty or illustrate the qualities of unnecessary hardship. Therefore, the staff recommends denial.

John Olson questioned, if there has been any request for rezoning in this area? At this time, Mr. Peppin stated, that he had requested a rezoning so that he could build a house in the area, but his request was denied by the Marquette County Planning Commission.

Mr. Gary Trash stated, that his parents, Mr. & Mrs. J. Zenske, has recently purchased land on the other side of the road from Mr. Peppin's property, and they were wondering if they could brake up their property into 5 acre lots. The board recommended that they take the matter to the Planning Commission because the area was zoned Resource Production District and in order to do that the property would have to be rezoned or a variance granted.

Chairperson Karol Peterson stated, a letter was sent to the Marquette County Zoning Board of Appeals, dated July 24, 1978, from Ely Township Supervisor, Kenneth A. Tuominen in reference to Petition #54-AP-EL-14 - Harold Peppin, which stated "the Ely Township Board voted to accept the split of said parcel as the appeals Board deems feasible. All Ayes."

Earl Robinson made the motion that the variance be granted under the conditions the petitioner is not in violation of the Plat Act and the parcel be split in half (2 parcels). Berle LaPin supported.

By roll call vote the variance was granted; 3-2, Berle LaPin, William DeShambo, and Earl Robinson in favor, and John Olson and Chairperson Karol Peterson not in favor.

Jim Kippola read the legal advertisement for the second appeal, which was also printed in the Mining Journal on July 7, 1978.

2). 56-AP-EL-15 - Robert Treloar, Ely Township. A request for variance from the minimum lot size requirements of the Marquette County Zoning Ordinance on the following described property: That part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 15, T46N - R28W lying West of County Road 581.

July 26, 1978

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Mr. Robert Treloar; 105 Birch Street, Negaunee, Mi., stated he was requesting a variance from the minimum lot size to have his grandfather's lot split in two. Mr. Treloar said the original lot was bought as two (2) separate lots, but for the convenience of the lawyer there was only one (1) deed for the lot. Mr. Treloar stated, he would like to have the lot split back into the original two (2) lots (3.8 acres).

There were no questions of Mr. Treloar from the board members, Planning Commission Staff, or any citizens.

Jim Kippola presented the Planning Commission Staff's opinion. He stated, the petitioner wishes to divide a parcel (7.6 acres), which is located in a Resource Production District that requires 20 acres, into two (2) 3.8 acre lots. The existing lot is presently a non-conforming lot of record and it is buildable as such. Jim Kippola stated, "to make a non-conforming lot into two (2) non-conforming lots is a direct violation of Section 55 of the Marquette County Zoning Ordinance, which states, "No zoning compliance permit shall be issued where it appears that any land area required to conform to any provision of this Ordinance is also required as a part of any adjoining property to keep the development of use thereof in conformity with the Ordinance, or to keep it from becoming more non-conforming, if such land area, was at any time subsequent to the commencement of development or use of such adjoining property, in common ownership with such adjoining property." Therefore, it is the opinion of the Planning Commission staff to deny the proposed variance."

At this time, Mr. Treloar stated, his grandfather wanted to have the property split so he could give the lots to his grandchildren, and all he was requesting was to have the lot split back the way it originally was before the Zoning Ordinance came into effect.

Chairperson Karol Peterson stated, a letter was sent to the Marquette County Zoning Board of Appeals, dated July 24, 1978, from Ely Township Supervisor, Kenneth A. Tuominen in reference to Petition #56-AP-EL-15 - Robert Treloar, which stated, "The Ely Township Board strongly recommends that the Appeals Board grant this split and building permit. The history is in total agreement with Mr. Treloar."

Berle LaPin made the motion the variance be granted with the lot split into two (2) parcels 330 X 500 feet with the 330 feet dimension fronting County Road 581. William DeShambo supported.

By roll call vote the variance was granted; 4-1, Berle LaPin, John Olson, William DeShambo and Earl Robinson in favor, and Chairperson Karol Peterson not in favor.

Jim Kippola read the legal advertisement for the third appeal, which was also printed in the Mining Journal on July 7, 1978.

3). 53-AP-EL-13 - Guy Murray, Ely Township. A request for variance from the front yard setback requirements of the Marquette County Zoning Ordinance on the following described property: Lot 10 South Diorite Plat.

Mr. Guy Murray; Rte. 1, Box 198A, Champion, Mi., was not present at the public hearing. Jim Kippola stated, the petitioner was requesting to place a home 17 feet from the front lot line in an area which requires 30 feet front yard setback.

Jim Kippola read the applicant's statement of hardship or practical difficulty encountered if the Ordinance is strictly applied: "The home would be to close the water front."

Jim Kippola presented the Planning Commission Staff opinion. He stated, that there is an existing mobile home on the lot, and the proposed construction would be 26 X 38 feet. He stated, in a R-2 Zoning District the set back requirements were 10 feet on the sides and 30 feet front yard set back. Mr. Kippola stated, the petitioner's lot was a corner lot, therefore, he would have to meet the 30 feet set back requirements on both South and Main Streets. He stated, because of Boston Lake, the petitioner's lot maybe afflicted by such problems as a seasonal or high water table. However, the slope does not seem severe as it approaches the lake. Because of the practical difficulty inherent to Mr. Murray's lot by the location of the lake, the Planning Commission staff recommends the variance be granted with the condition he build no closer than 25 feet to his westerly front lot line (South Street).

John Olson stated, that he felt a 25 foot front yard set back would create problems.

Chairperson Karol Peterson questioned, how is the area zoned? Jim Kippola stated, that the area was zoned Single Family Residential District (R-2), the minimum front yard set back was 30 feet with a 20,000 square feet minimum lot size.

Mr. Robert Treloar, a petitioner present at the meeting, stated that there is an existing septic system already installed on the lot.

Chairperson Karol Peterson stated, a letter was sent to the Marquette County Zoning Board of Appeals, dated July 24, 1978, from Ely Township Supervisor, Kenneth A. Tuominen in reference to Petition # 53-AP-EL-13 - Guy Murray, which stated, "The Ely Township Board voted unanimous to grant this appeal." There was also, a telephone call from Mrs. Steven Liubakka on July 21, 1978, to Linda Beckett, Secretary in reference to Mr. Guy Murray's petition in which Mrs. Liubakka stated, "we have no objections to Mr. Murray's request for variance."

William DeShambo made the motion to grant the variance with the 17 feet front yard set back from the Westerly front lot line. Earl Robinson supported.

By roll call vote the variance was granted unanimously.

Jim Kippola read the legal advertisement for the fourth appeal, which was also printed in the Mining Journal on July 7, 1978.

4). 55-AP-RE-7 - Gregory Hintsala, Republic Township. A request for variance from the minimum lot size requirements of the Marquette County Zoning Ordinance on the following described property: A parcel of land in Government Lot 3, Section 31, T46N - R29W and more particularly described as follows: Beginning at a point on the North R.O.W. line of County Road LLC 750 feet Westerly along said County Road LLC from where the North R.O.W. line of said County Road LLC intersects the West R.O.W. line of State Highway M-95, thence East along the North R.O.W. line of said County Road LLC a distance of 150 feet thence North a distance of 150 feet, thence Westerly parallel with the North R.O.W. line of County Road LLC 140 feet, thence South to the POB.

Mr. Gregory Hintsala; P. O. Box 105, Republic, Mi., was not present at the public hearing. Jim Kippola stated the applicant's request, as stated in a letter submitted with his Petition for Variance: "Dear Sirs, I think I should be allowed a variance because there isn't 20 acres available for purchase. Also nobody around my lot has any complaints about my building there."

Jim Kippola presented the Planning Commission Staff's opinion. He stated, Mr. Hintsala wants to build on a non-conforming lot approximately .48 acre in size and located in an area zoned Resource Production. The petitioner's non-conforming lot was part of a conforming lot of record, (approximately 27 acres) prior to purchase (June 29, 1978 - deed recorded). Jim Kippola stated, the conforming lot could have been developed in accordance with the present zoning classification. It is the opinion of the Planning Commission staff that development on Mr. Hintsala's lot does not follow the intent of the Resource Production District and shows neither practical difficulty or unnecessary hardship, so we recommend the variance be denied.

Berle LaPin made the motion the variance be denied because it did not follow the intent of the Resource Production Zoning District. William DeShambo supported.

By roll call vote the variance was denied; 4-0, Berle LaPin, William DeShambo, Earl Robinson and Chairperson Karol Peterson in favor, and John Olson abstaining.

5). 50-AP-RE-6 - E. Valine Messner, Republic Township. A variance tabled by the board on June 28, 1978 for the purpose of obtaining additional information on the sale of lots in the area of the petitioner's request. Mrs. E. Valine Messner; 468 - 20th Avenue, Indian Rocks Beach, Fl., was not present at the public hearing. Mrs. Messner requested a variance from Section 29, minimum lot width of the Marquette County Zoning Ordinance for the purpose of creating a lot 280 feet wide, rather than the minimum required 300 feet in the RR-2 Zoning District. The property is described as: Part of Gov't. lot #1, Sec. 24, T45N - R30W. Commencing at the NW corner of Sec. 24, thence South 01° 23' West 1,320', thence South 89° 39' East 1,050' to the POB, thence South 89° 39' East 280.05', thence South 01° 19' West 1,942.21', thence South 72° 39' West 297.89', thence North 01° 23' West 2,032.69' to POB.

Jim Kippola presented the additional information. He stated, he contacted Engineering Consultants, Inc., Ishpeming, Mi., who did the survey, and they referred him to the lawyer, Mr. Henry Seitz, Ishpeming, Mi., who is handling the matter. Jim Kippola stated, it was found that the total parcel had originally belonged to Mr. William Cowan, now deceased, and his estate is presently in Probate Court. It appears that Mrs. E. Valine Messner is the only legal heir to the estate. Jim Kippola stated, that in talking to the lawyer for the estate, buyers have been found and deeds are being drawn up on Lots 1, 4, and 5, but they have not been registered. He stated, that the status of parcels 2 and 3 is not known at this time but all parcels are still essentially under on ownership until deeds are recorded.

William DeShambo questioned, what is the size of the last lot? Jim Kippola stated, the lot is 280.05 feet, which is short 20 feet of the minimum lot width in a RR-2 Zoning District that requires the minimum lot width to be 300 feet.

Earl Robinson made the motion the variance be granted as requested with the 20 feet shortage because it would be in line with the other lots. William DeShambo supported.

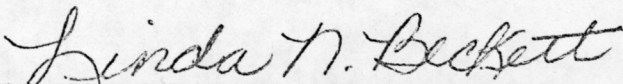
By roll call vote the variance was denied; 3-2, Berle LaPin, John Olson, and Chairperson Karol Peterson not in favor, and William DeShambo and Earl Robinson in favor.

There were three (3) tentative appeals scheduled for the next meeting:

- (1). Richard Thibeault - Ely Township. Request for Variance.
- (2). Bruce Gensheimer - West Branch Township. Request for Variance.
- (3). Wells Township - Request for Variance.

There was no Old business, or New business to be discussed, and no additional public comments.

The meeting adjourned at 9 P.M..


Linda N. Beckett
Linda N. Beckett

COUNTY OF MARQUETTE

OFFICE OF COUNTY PLANNER
AND

BUILDING CODE DEPARTMENT

Marquette County Courthouse, Marquette, MI 49855

Lyn E. Johnson, Planner

Phone: 228-8500

ROLL CALL VOTES--(Zoning Board of Appeals)

DATE: July 26, 1978 PEPPIN - TRELOAR - MURRAY HINTSALA - MESSNER

Erle LaPin	I	I	I	Y	N
John Olson	N	Y	Y	abstain	N
William DeShambo	Y	Y	Y	Y	Y
Earl Robinson	Y	Y	Y	Y	Y
Karol Peterson, Chairperson	N	N	Y	Y	N

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GWINN, MICHIGAN
(906) 346-3911

June 21, 1978

Mr. Henry Skewis
Clerk, Marquette County
Board of Commissioners
Court House
Marquette, Michigan 49855

Re: Marquette County Zoning Ordinance, Zoning Commission,
and Zoning Board of Appeals

Dear Mr. Skewis:

One of my clients sought a variance recently in West Branch Township. He appeared before the Marquette County Zoning Commission and there was a three to three tie vote.

He has been advised that his appeal on the same would be to the full Board of County Commissioners on June 21st, 1978.

As I have in my files a present pending appeal in the Circuit Court for Marquette County from another ordinance, on behalf of this client I requested that he get a copy of the minutes of the meeting which I have read.

I also have a copy of the Marquette County Zoning Ordinance of January, 1977. As to this County Zoning Ordinance I invite your attention to the provisions for review on Page 35 and also Page 66 as to appeals. On Page 66, Section 52 of the Ordinance provides that appeals shall be in accordance with Act 183 of Public Acts of 1943.

Turning to Act 183 of 1943 Section 4 provides for the creation of a county zoning commission. The zoning commission can be from five to eleven members, each to be appointed by the county board. One member of this commission may be a member of the board of supervisors. The statute specifically provides that no elected officer of the county nor any employee of the board of supervisors shall serve simultaneously as a member or as an employee of the zoning commission. Turning to the constitution of the County Zoning Commission I find more than one County Commissioner on this Commission and also an elected official of Marquette County; an examination of the County Zoning Commission members indicates

Mr. Henry Skewis
Page 2
June 21, 1978

very clearly that the Board is illegally constituted.

Likewise, Section 18 of the Statute provides for a county board of appeals. Likewise, the Statute provides that no elected officer of the county nor any employee of the board of supervisors may serve simultaneously as a member of or as an employee of the board of appeals.

The appeal from the Planning or Zoning Commission is provided to go to the Board of Appeals, not the entire Marquette County Board of Commissioners.

After the Board of Appeals has entertained the appeal from the Zoning Commission an appeal to the Circuit Court for Marquette County is provided for in Section 23.

My reason for sending this on to the attention the County Board as well as the Planning Commission is not to criticize the actions of the officials involved. From a practical standpoint I do not wish to be in a position where I must take my client into Circuit Court for Marquette County should he get no relief from the June 21st meeting before the County Commissioners. If he has to go into the Marquette County Circuit Court he is immediately faced with legal fees, certainly exceeding a \$1,000.00 on a full hearing; likewise, when the Circuit Court Judge is apprised of the constitution of the County Zoning Commission and reads the Statutes to which I have invited your attention he can do nothing but send the matter back to the beginning before a legally constituted County Zoning Commission in accordance with the Statutes that I set forth.

I do not wish to prejudice my client's appeal but I do, as always, wish to minimize his expenses.

I would suggest that the Board of County Commissioners give this some thought and refer to their attorney so that this appeal and any further ones shall be handled in accordance with the provisions of the existing Zoning Ordinance.

In the hope that the Board will soon be legally constituted I am advising my client to appear before you and request an adjournment, for the time, until this matter may be considered by the Board of Commissioners.

Thank you for your help in this matter.

Yours truly,

KENDRICKS, BORDEAU, CASSELMAN
AND ADAMINI, P.C.

George T. Kendrick
By: George T. Kendrick

GTK/bc

cc: Marquette County Planning
Commission - Attn: Zoning
Commission

cc: Board of Appeals