

MARQUETTE COUNTY PLANNING COMMISSION

PLANNING & ZONING SECTION CONSTRUCTION CODES SECTION

County Service Center
184 U.S. 41 Highway
Negaunee, MI. 49866

Phone: 475-7808

Marquette County Zoning Board of Appeals Minutes

Marquette County Courthouse Annex
District Courtroom, Room 215
November 26, 1980
7 p.m.

The regular meeting of the Marquette County Zoning Board of Appeals was called to order at 7 p.m. by Chairperson LaPin. Roll was called with board members DeShambo, Gasbarro, Olson, Peterson, and LaPin being present. Staff members present were James Kippola and Dolores Phelps.

Chairperson LaPin opened the meeting for public comment. There was no public comment; the session was closed.

Mr. Gasbarro moved that the October 22, 1980, Minutes be approved as printed. The motion was supported by Member Peterson. The motion was passed unanimously. (5-0)

Chairperson LaPin explained the Marquette County Zoning Board of Appeals procedure for public hearings. The public hearing on Petition #98-AP-SK-27, David Jarrett was opened. Mr. Kippola read the legal advertisement which was published in the Mining Journal on November 17, 1980.

Petition #98-AP-SK-27, Petitioner David Jarrett, 495 Dalton Road, Skandia, Michigan, requests a variance from Section 29, Height and Placement Regulations to reduce the side setback requirement in a Resource Production Zoning District on the following described property:

The South 100' of East 208' of SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 16, T46N, R23W.

Chairperson LaPin then asked the petitioner Mr. Jarrett to present his statement. Mr. Jarrett stated that he purchased the property in Skandia Township in 1975 when Skandia did not have zoning requirements. He made an application for a building permit to place a mobile home on this property on July 17, 1975. (The mobile Certificate of Occupancy was issued on July 27, 1976.) The building inspector tagged the buildings with a Stop Work Order on October 16, 1980, for building without a permit. Since applying for a building and zoning permit on October 24, 1980, he was informed that the zoning was not in compliance. A letter to him on October 30, 1980, from Mr. Les Ross, Planning Commission stated that his options were to: (1) move the structure(s), (2) purchase additional property, and/or (3) seek a variance from the County Zoning Board of Appeals. It was Mr. Jarrett's decision to seek a variance from 30 feet to 13 feet from the edge of the garage to the north boundary line of his stated property.

Chairperson LaPin asked the board members if they wished to ask Mr. Jarrett any questions concerning this property. Member DeShambo asked Mr. Jarrett when the building additions were placed on the property and in what state of completion they were in. Mr. Jarrett stated that he began his additions in 1976 and expects them to be completed in 1983. Member Olson asked if there was a building permit for the garage. Mr. Jarrett stated that there wasn't a permit, but thought his first permit for mobile placement covered all building construction.

Chairperson LaPin then opened the meeting for the Planning Commission staff to ask Mr. Jarrett questions. There were no more questions.

Chairperson LaPin then requested the staff opinion. The staff opinion was presented by Mr. James Kippola. Mr. Kippola stated that a practical difficulty was evident in this case and there was a certain reasonableness to Mr. Jarrett's request based on the following combination of factors:

1. The narrowness of the lot (100') coupled with the placement and shape of the existing structure (home),
2. The location of the drain field and room for subsequent replacement of the drain field, and
3. A garage is a typical accessory use which should be permitted.

It is important to note however that the entire situation discussed here is based solely on the following assumption:

Actual boundaries of the property and true locations of structures are indeed as shown on Mr. Jarrett's petition for a variance. Research failed to uncover any registered surveys of the Jarrett property or adjacent properties. According to County Road Commission's records the center of Section 16 T46N-R23W which is Mr. Jarrett's SE corner, is established. Informal discussion with a local surveyor however indicates there is no way of knowing without a survey how accurately the position of this corner or any surveyed property markers except stakes set by Mr. Jarrett.

In essence, it is the staff's opinion that the entire situation appears to be too close to judge using the information available as to where the actual property lines are located.

Mr. Kippola stated that Mr. Earl P. Robinson, Supervisor of Skandia Township, was asked for the township board member's opinion on the case. Mr. Robinson stated that the town board had not had a chance to discuss the issue. He personally did not have any objections.

Mr. Kippola then proceeded with the staff opinion by presenting an overhead projected map of the area, pointing out the section lines; an overlay of the building layout and the property lines as the petitioner indicated; Mr. Jarrett's sketch of the buildings and the property lines as it appeared on his zoning application; and slides of the property and existing buildings.

Mr. Kippola stated that in his research and visit to the property he could not uncover any established markers or corners staked by a registered land surveyor.

Chairperson LaPin then opened the meeting for interested persons to speak. Mr. Chuck Bergdahl, who owns 40 acres to the south of Mr. Jarrett's property requested to speak. He stated that Mr. Jarrett was ten feet from his property line and that Mr. Jarrett had placed a driveway through his property. Chairperson LaPin stated that the mobile was placed in 1975 and that this Board had no jurisdiction at that time regarding the setback distance and he suggested that Mr. Bergdahl contact the County Road Commission regarding the driveway permit.

Chairperson LaPin asked if the board members wished to ask any questions. There were no questions forthcoming, so the case was closed and the board members discussed the variance request. Chairperson LaPin then requested a motion.

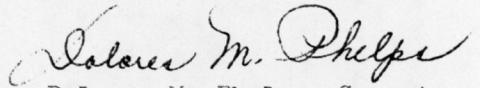
Member DeShambo made the motion that the variance for a 13 feet setback to the north property line be granted to Mr. Jarrett assuming that all the information presented by Mr. Jarrett regarding the location of property lines is correct. Member Olson seconded the motion. The motion was carried on a roll call vote of 5-0.

Chairperson LaPin asked if there were any new appeals to schedule. Mr. Kippola stated that there were none. Mr. LaPin stated that the board would accept new appeals as per the bylaws.

There was no old or new business. There was no public comment.

Member Gasbarro moved to adjourn the meeting at 7:40 p.m. The motion was supported by Member Olson and passed unanimously (5-0).

Respectfully submitted,


Dolores M. Phelps, Secretary

dp

Co. Clerk

MARQUETTE COUNTY PLANNING COMMISSION

PLANNING & ZONING SECTION
CONSTRUCTION CODES SECTION

County Service Center
184 U.S. 41 Highway
Negaunee, MI. 49866

Phone: 475-7808

October 3, 1980

Arthur Miller
438 N. Main
L'Anse, MI 49946

Dear Mr. Miller:

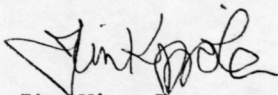
Attached is a copy of the Zoning Board of Appeals Notice of Decision which pertains to your request for variance in Ely Township.

Essentially, this action by the Board empowers you to be able to sell the subject property (the N 330' of the S 660' of the S $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Sec. 23, T48N, R28W, lying W of County Road CL) to Mr. Vial.

Given the existing evidence of ownership, any further splits of your properties in the vicinity less than 20 acres would require additional variances. The residual +14.8 acres (the N 660' of S $\frac{1}{2}$ of the SW $\frac{1}{4}$, Sec. 23, T48N, R28W, lying W of the County Road CL) also needs a variance should you decide to sell it or use it for any purpose.

Should Mr. Vial wish to construct a single-family dwelling on his properties, he would need a variance. He does already have Class A Non-conforming Use Designation for his mobile home.

Sincerely,



Jim Kippola

JK/cly

cc: Robert Vial

MARQUETTE COUNTY PLANNING COMMISSION

PLANNING & ZONING SECTION
CONSTRUCTION CODES SECTION

County Service Center
184 U.S. 41 Highway
Negaunee, MI. 49866

NOTICE OF DECISION
MARQUETTE COUNTY ZONING BOARD OF APPEALS

Phone: 475-7808

PETITION NO: 91-AP-EL-24

DATE OF DECISION: September 24, 1980

PETITIONER: Arthur Miller
(APPLICANT) 438 N. Main
L'Anse, MI 49946

OWNER/EQUITABLE OWNER: Arthur Miller
438 N. Main
L'Anse, MI 49946

REQUEST: A variance from Section 29, Height & Placement Regulations to reduce the minimum lot size requirement of the Open Space Zoning District from 20 acres to 6.5 acres.

LEGAL DESCRIPTION OF
PROPERTY INVOLVED:

Petition #91-AP-EL-24, Arthur Miller requests a variance from Sec. 29 Height & Placement Regulations to reduce the minimum lot size required in an Open Space Zoning District from 20 acres to 15 acres M/L for the following described parcel of property:

The South 660' of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, Sec. 23, T48N, R28W, Ely Township, lying Westerly of County Road CL.

EXISTING ZONING: Open Space (OS) District

STATEMENT OF

EXISTING SITUATION: Petitioner wishes to sell +8 acres to adjoining property owner; Zoning District requires 20 acres.

ARGUMENT OF

PETITIONER: The property was promised to adjacent owner before Zoning Ordinance was adopted.

DECISION: Mr. DeShambo moved that the variance be granted, supported by Mr. Olson. The motion passed unanimously on a roll call vote.

Berle La Pin
Berle LaPin
Chairperson (cp)

MARQUETTE COUNTY PLANNING COMMISSION

PLANNING & ZONING SECTION
CONSTRUCTION CODES SECTION

County Service Center
184 U.S. 41 Highway
Negaunee, MI. 49866

Phone: 475-7808

October 3, 1980

Erma Klit
326 E. Park St.
Marquette, MI 49855

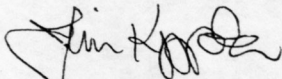
Dear Ms. Klit:

Attached is a copy of the Zoning Board of Appeals Notice of Decision concerning your request for a variance in Skandia Township.

The Board has effectively reduced the lot size required from 20 acres to 6.5 acres for your parcel (as described on the attached notice) in Skandia Township. This parcel now has buildable status and could be used for residential purposes provided such use either consists of a single-family dwelling or mobile home.

Should you have any questions, do not hesitate to contact me.

Sincerely,



Jim Kippola

JK/cly

MARQUETTE COUNTY PLANNING COMMISSION

PLANNING & ZONING SECTION
CONSTRUCTION CODES SECTION

County Service Center
184 U.S. 41 Highway
Negaunee, MI. 49866

Phone: 475-7808

NOTICE OF DECISION
MARQUETTE COUNTY ZONING BOARD OF APPEALS

PETITION NO: 96-AP-SK-25

DATE OF DECISION: September 24, 1980

PETITIONER:
(APPLICANT) Erma Klit
326 E. Park St.
Marquette, MI 49855

OWNER/EQUITABLE OWNER: Erma Klit
326 E. Park St.
Marquette, MI 49855

REQUEST: A variance from Section 29, Height & Placement Regulations to reduce the minimum lot size requirement of the Resource Production (RP) Zoning District from 20 acres to 6.5 acres.

LEGAL DESCRIPTION OF

PROPERTY INVOLVED: The West 215 feet of the Northeast Quarter of the Northeast Quarter of Section 8, T46N, R23W

EXISTING ZONING: Resource Production (RP) District

STATEMENT OF

EXISTING SITUATION: Petitioner acquired 6.5 acre non-conforming parcel in a Resource Production Zoning District after the effective date of the Zoning Ordinance.

ARGUMENT OF

PETITIONER: Ms. Klit stated that she wanted a variance to reduce the minimum lot size from 20 to 6.5 acres.

DECISION: John Olson moved that this variance be granted considering that the Skandia Township Board is in favor of this and the fact that the Board granted a variance to Mr. Haglund #89-AP-SK-21, which was another parcel split by the attorney in dividing the estate of which Ms. Klit's property is a part of, supported by Gasbarro. The motion passed unanimously.

Berle La Pin
Berle LaPin
Chairperson (cy)

MARQUETTE COUNTY PLANNING COMMISSION

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CONSTRUCTION CODES SECTION

County Service Center
184 U.S. 41 Highway
Negaunee, MI. 49866

Marquette County Zoning Board of Appeals
Minutes

Phone: 475-7808

September 24, 1980

The regular meeting of the Marquette County Zoning Board of Appeals was called to order at 7:00 p.m. by Chairperson LaPin. Roll was called. Board members DeShambo, Gasbarro, Olson, Peterson, and LaPin were present. Staff present were Jim Kippola and Cindy Ylitalo.

Chairperson LaPin opened the meeting for public comment. Mrs. Joyce Gentz stated that she was a nearby property owner and did not receive a letter regarding the meeting. Mr. Kippola stated that a letter was sent out to her, but the address taken from the tax roll was apparently insufficient. The letter came back to the Planning Commission's Office. There was no further public comment, the session was closed.

Mr. Gasbarro moved that the August Minutes be approved as distributed, supported by Mr. Olson. The motion passed unanimously.

Chairperson LaPin explained the procedure for public hearings. The Public Hearing on Petition #91-AP-EL-24, Arthur Miller was opened. Mr. Kippola read the legal ad which was published in the Mining Journal on September 15, 1980.

Petition #91-AP-EL-24, Arthur Miller requests a variance from Sec. 29 Height & Placement Regulations to reduce the minimum lot size required in an Open Space Zoning District from 20 acres to 15 acres M/L on the following described property:

The South 660' of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, Sec. 23, T48N, R28W, Ely Township, lying Westerly of County Road CL.

This case was discussed at the last meeting. Mr. Kippola reviewed Mr. Miller's request. He stated that he met with Mrs. Micklow and discussed the case. She was not able to provide a written opinion. Mrs. Micklow stated that Mr. Miller does need a variance to sell the subject property to Mr. Vial. Her opinion was based on review of the Land Sales Act (1973), and section 2.25, section 7, and section 55 of the Zoning Ordinance.

Mrs. Micklow also stated that should the variance be granted, Mr. Miller would have to ask for another variance to build or use the residual +14 acres. Mr. Vial would need a variance to build a single-family dwelling on his property.

Mark Maki, Chocolay Township Zoning Administrator, asked if a variance is needed or a conditional use permit in an Open Space District. Mr. Kippola replied that in order for this transaction to occur, a variance is needed.

Mr. Maki asked if there were a house on the 14.8 acres now and someone comes in for a permit to build a garage, are they required to get a variance. Mr. Kippola stated that if there was a house, there would need to be a zoning compliance permit obtained, and according to Sec. 55, that couldn't be secured without a variance.

After further discussion by the Board members, Mr. DeShambo moved that the variance be granted, supported by Mr. Olson. The motion passed unanimously, by a roll call vote.

Chairperson LaPin stated that Mr. Miller can come to the Planning Commission concerning questions as to further divisions of the property, or to fill out any additional forms for variances for the residual +14 acres or for any additional splits of property less than 20 acres east of the County Road.

The Public Hearing on Petition #96-AP-SK-25, Erma Klit was opened. Mr. Kippola read the legal ad which was published in the Mining Journal on September 15, 1980.

Petition #96-AP-SK-25, Erma Klit, requests a variance from Sec. 29, Height & Placement Regulations of the Marquette County Zoning Ordinance to reduce the minimum lot size in a Resource Production Zoning District from 20 acres to 6.5 acres M/L for the following described property:

The West 215 feet of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 8, T46N, R23W

Erma Klit stated that she would like a variance to reduce the minimum lot size from 20 acres to 6.5 acres and is asking for buildable status.

Mr. Kippola stated that this property didn't get recorded until after the enactment of the County Zoning Ordinance.

A letter was received from Earl Robinson, Skandia Township Supervisor, stating they do not oppose a change in lot size.

Mr. Olson asked if this has been looked into for rezoning. Mr. Kippola stated that research has been done on this area and the soil conditions questionable for development and the County Road is not in very good shape.

Mrs. Gentz asked if Ms. Klit gets a variance to sell the property, would someone be able to build on it. Mr. Kippola stated yes, if they had buildable status.

There was no public comment.

After further discussion, Mr. Olson moved that the variance be granted, considering that the Township is in favor of granting it, and that the Zoning Board granted a variance to Mr. Haglund #89-AP-SK-21 which was a similar case, on adjacent property, supported by Mr. Gasbarro, motion passed unanimously, by roll call vote.

Public comment session was open. Mr. Mark Maki stated that the zoning ordinance does not require a variance to sell, but does require a variance to build. He said that there is nothing that says a person can't sell a piece of land, but to make it buildable, a variance is required.

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Mr. Kippola stated that the Prosecutor disagrees with the statement that anyone can sell a substandard parcel without a variance. Mr. Kippola stated that languages differ in different zoning ordinances.

There was no more further public comment. Mr. Gasbarro moved to adjourn the meeting at 8:05, supported by Mr. Olson.

Respectfully submitted,

Cindy L. Ylitalo
Cindy L. Ylitalo

10/2/80

MARQUETTE COUNTY PLANNING COMMISSION

PLANNING & ZONING SECTION
CONSTRUCTION CODES SECTION

County Service Center
184 U.S. 41 Highway
Negaunee, MI. 49866

Marquette County Zoning Board of Appeals
Minutes

Phone: 475-7808

August 27, 1980

The regular meeting of the Marquette County Zoning Board of Appeals was called to order at 7:00 p.m. by Vice-Chairperson, John Olson. Roll was called. Board members William DeShambo, Armand Gasbarro, John Olson and Karol Peterson were present. Berle LaPin was absent. Staff present were Jim Kippola and Cindy Ylitalo.

Vice-Chairperson Olson opened the meeting for public comment. There being none forthcoming, the public comment session was closed.

Armand Gasbarro moved that the minutes be approved as presented, supported by William DeShambo, unanimously approved.

Vice-Chairperson Olson explained the procedure for public hearings. Mr. Olson stated that Michigamme Township withdrew their petition until the abandonment situation was cleared up. (This was tabled from the previous meeting).

The public hearing on Petition for Variance #91-AP-EL-24, Arthur Miller was opened. Jim Kippola read the legal ad which was published in the Mining Journal on the 10th of August, 1980.

Petition #91-AP-EL-24, Arthur Miller requests a variance from Sec. 29 Height & Placement Regulations to reduce the minimum lot size required in an Open Space Zoning District from 20 acres to 15 acres M/L on the following described property:

The South 660' of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, Sec. 23, T48N, R28W, Ely Township, lying Westerly of the County Road CL.

Mr. Miller stated that he sold 7 acres of land in Ely Township on June 24, 1975, to Robert Vial. Mr. Miller agreed to hold more land for Mr. Vial for the future. Mr. Miller stated that he wants to sell a similar area adjoining to Mr. Vial so he can build a home. Mr. Vial couldn't afford the land in 1975.

Jim Kippola of the planning staff showed a map of Mr. Miller's and Mr. Vial's property. He also showed slides of Mr. Vial's trailer and the existing garage.

Petitioner Arthur Miller wishes to sell land to increase the size of an adjacent non-conforming lot of record from 8 acres M/L to a less non-conforming size of 16 acres M/L in an Open Space Zoning District which requires 20 acres.

Granting this variance would allow the creation of a new non-conforming parcel which could not be used without another variance. On the other hand, approval

would bring the development potential for this "40" (SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 23, T46N-R23W) back to 1 structure per 20 acres, which is generally consistent with the spirit and intent of this zoning ordinance.

Several other factors concerning this proposal indicate that although no obvious practical difficulty of unnecessary hardship exists, there is no clear evidence that shows the contrary.

Should the Board of Appeals not find sufficient information on which to base a decision, an opinion from legal counsel should be obtained.

Mr. Miller stated that when he bought the property in 1967, the size of lots were smaller (10 acres).

Mr. Kippola stated that two pieces of correspondence were received; one from Ely Township--the Board voted 5 yes, 0 no to approve granting Mr. Miller's variance; the other was a letter from adjacent property owners, Bruno Stagliano, Aileen Stagliano, and William Jones stating that they objected to the granting of this variance.

Mr. Vial stated that he wants added acreage, but he won't move his garage, well or septic system. He won't build on the new acreage.

Mr. Gasbarro moved that the Zoning Board get a legal opinion concerning the proposal and its implications on all parcels owned by Miller and Vial from the Prosecuting Attorney, supported by DeShambo, the motion passed unanimously by a roll call vote.

The public hearing on Petition for Variance #93-AP-SK-23, Upper Room Ministries, was opened. Jim Kippola read the introduction but requested permission to waive reading the legal description. The legal ad was published in the Mining Journal on the 10th of August, 1980.

Petition #93-AP-SK-23, Upper Room Ministries, Inc. requests a variance from Sec. 32, Off Street Parking Requirements and Section 29, Height & Placement Regulations to permit construction of a building on the following described property:

Description Parcel "A":

Commencing at the W 1/4 cor. section 18, T 46N, R23W, Skandia Township, Marquette County, Michigan; thence along the West Line of said sec. 18, N 00°25'03"W, 208.70' to Point of Beginning; thence continuing along said West Line N 00°25'03" W, 208.70'; thence N 89°39'26"E, 208.70'; thence S 00°25'03"E, 208.70'; thence S 89°39'26"W, 208.70' to the Point of Beginning. Containing 1.0 acres more or less.

Subject to a right-of-way for County Road CO (old highway US-41) the description of which is; Commencing at the W 1/4 Cor. of said sec. 18, T 46N, R 23W; thence along the West Line of said sec. 18 N 00°25'03"W, 208.70' to a Point of Beginning; thence continuing along said West Line N 00°25'03"W, 208.70'; thence N 89°39'26"E, 85.22'; thence southerly along the arc of a circular curve to the left 209.47' (C= S 4°32'20"W, 209.46'); thence S 89°39'26"W, 67.12' to the Point of Beginning. Containing 0.36 acres more or less.
Right of Way

Subject also to any reservations, conditions and exceptions which may appear of record.

Description Parcel "B":

Commencing at the W-1/4 cor. section 18, T 46N, R 23W, Skandia Township, Marquette County, Michigan; thence along the West Line of said sec. 18, N 00°25'03"W, 208.70'; thence N 89°39'26"E, 208.70' to a Point of Beginning; thence N 89°39'26"E, 140.23' to the westerly right-of-way of Highway US-41; thence along said westerly R/W north-westerly in the arc of a circular curve to the right 227.69' (C= N 23°53'12"W, 227.66'); thence S 89°39'26"W, 49.57'; thence S 00°25'03"E 208.70' to the Point of Beginning. Containing 0.45 acres more or less.

Subject to any reservations, conditions and exceptions which may appear of record.

Tim Miller, Board member of Upper Room Ministries, stated that their petition was heard July, 1980. Mr. Miller stated that the south boundary dispute was cleared up. He briefly explained their petition, which was stated previously at the last meeting.

Mr. Miller showed their preliminary site plan. He stated that they are deleting the part of their petition requesting reduction from 30' to 10'.

Mr. DeShambo stated that parking cars on the highway creates a hazard. He asked if there was any land that Upper Room Ministries could purchase for additional parking. Mr. Miller replied that there wasn't any land available.

Mrs. Hank, nearby property owner, stated that there is a narrow curve there, and when cars park on both sides, plowing is a problem in the winter. She recommended that if there is parking, that it be on one side only for safety purposes.

Mr. Kippola said that Upper Room Ministries is requesting a reduction of one-half of what the parking requirements are. The staff feels this is not satisfactory.

Mr. Kippola stated that the Township Board was in favor of granting this variance. (Upper Room Ministries)

Mr. Miller stated that half of their congregation is children. They would be willing to compromise this figure.

Mr. DeShambo asked if Upper Room Ministries could redo their plan so they could get more parking spaces. Mr. Miller said that they asked for a variance that they felt was reasonable so they wouldn't have to do this.

The public hearing was closed. Mr. Olson stated that the church will grow and the parking problem will increase. Reducing it from .35 to .25 would give 70 parking spaces.

Mr. DeShambo moved that the Zoning Board grant the variance to reduce the parking places from 100 to 70 (from .35 car spaces per person to .25 car spaces per person), supported by Mr. Gasbarro, motion passed unanimously by a roll call vote.

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Mr. Olson recommended that a letter be sent to Earl Robinson, Township Supervisor, suggesting that he take care of parking so that it is only on one side of the road.

Vice-Chairperson Olson asked if there were any new appeals. Mr. Kippola stated that there was one from Skandia Township, Haglund, who is requesting buildable status. The other case will be Mr. Miller's if an opinion is received from the Prosecuting Attorney. Mr. Olson stated that the Board will accept them for the next meeting.

Mr. Kippola stated that the Planning Commission's Offices has moved to the County Service Center.

Mr. DeShambo moved to adjourn the meeting at 8:55 p.m., supported by Karol Peterson.

Respectfully submitted,

Cindy L. Ylitalo

Cindy L. Ylitalo
Secretary

9/4/80

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

Marquette County Zoning Board of Appeals
Minutes

Phone: 228-8500

July 23, 1980

The regular meeting of the Marquette County Zoning Board of Appeals was called to order at 7:00 p.m. by Chairperson Berle LaPin. Roll was called. Board members William DeShambo, Armand Gasbarro, John Olson, Karol Peterson, and Berle LaPin were present, staff--Jim Kippola, Les Ross, and Cindy Ylitalo.

Chairperson LaPin opened the meeting for public comment. There being none forthcoming, the public comment session was closed.

John Olson moved that the minutes of the previous meeting be approved as distributed, supported by Karol Peterson and passed unanimously.

Chairperson LaPin explained the procedure for public hearings. The public hearing for Petition for Variance #91-AP-EL-24, Arthur Miller, was opened. Jim Kippola stated that because of a mistake in the legal advertisement, the staff recommended the petition be tabled until the August Meeting of the Zoning Board of Appeals. Karol Peterson moved that the variance request be moved to next month's agenda, supported by John Olson. The motion passed unanimously by a roll call vote.

The public hearing on Petition for Variance #84-AP-EL-23, Walter Harsila was opened. Jim Kippola read the legal ad which was published in the Mining Journal on the 6th and 15th of July.

Petition #84-AP-EL-23. Petitioner Walter Harsila requests a variance from Section 38, Signs, of the Marquette County Zoning Ordinance, to allow a 15 square foot sign on the premises of a home occupation being conducted on the following described property: That part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, Section 12, T47N-R28W, Ely Township, commencing at the intersection of the North R-W of New US-41 and the West line of said subdivision; thence South 83 degrees 09' East along R-W 692.54 feet to POB; thence South 83 degrees 09' East 100.7 feet; thence North 100.3 feet; thence North 79 degrees 53' West 101.53 feet; thence South 102.05 feet to POB.

As Mr. Harsila wasn't at the meeting, Jim Kippola gave the staff's presentation. Mr. Kippola stated that a legal opinion was received from Patricia Micklow, Chief Civil Counsel. She stated that Mr. Harsila can keep his sign where it is. The existing covenant in the easement release overrides the requirements of the Zoning Ordinance. Mr. Harsila must still obtain a Building Permit.

Mr. Olson moved that the variance be granted as requested, and that Section 38 be waived, supported by Mr. Gasbarro. The motion passed unanimously by a roll call vote.

The public hearing on Petition for Variance #87-AP-MI-6, Michigamme.Twp. was opened. Mr. Kippola stated that this petition was considered at the June 25, 1980 Meeting of the Marquette County Zoning Board of Appeals, Michigamme Township has initiated action to abandon the alley way which lies between Lots 35 and 56 to permit expansion of the Township building. The staff recommended that action on this appeal be tabled until abandonment is completed.

Mr. DeShambo moved to table the matter until the abandonment matter was cleared up, supported by Mr. Gasbarro. The motion passed unanimously by a roll call vote.

The public hearing on Petition for Variance #90-AP-SK-22, Gary Elliott, was opened. Jim Kippola of the Planning Staff read the legal ad which was published in the Mining Journal on the 6th and 15th of July, 1980.

Petition #90-AP-SK-22, Gary Elliott requests a variance from Sec. 31 General Regulations of the Marquette County Zoning Ordinance to permit occupancy of a dwelling unit which does not contain the minimum floor area in square feet as required by the Ordinance. Situated on the following described property:

E 330' NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 14, T45N R23W.

Mr. Gary Elliott stated that he would like to live where he is until he gets out of school, so he doesn't have to drive 150 miles to school until September.

Mr. DeShambo asked how long Mr. Elliott would be staying there. Mr. Elliott stated that he would be there for two more months and then he would move to his own property in Alger County. Mr. LaPin asked if Mr. Elliott's unit was self-contained. Mr. Elliott replied that it was a self-contained unit and that four people were living in it. He stated that they have been living there since October. Mr. LaPin asked if Mr. Elliott owned the land. Mr. Elliott stated that he is renting the land.

The meeting continued with the staff's presentation by Mr. Kippola. The Marquette County Zoning Ordinance requires in Section 31, General Regulations, that "Every dwelling unit shall have a floor area of not less than 600 square feet provided that not more than 120 square feet thereof may consist of storage space..." The intent of this section is to promote public health safety & welfare by preventing overcrowding and unsanitary conditions which can develop when people reside in a space which is too small.

Mr. Kippola showed slides and maps of the petitioner's property. He stated that the petitioner's dwelling unit is only 216 square feet and is deficient by 384 square feet. Examples of similar restrictions in this range (600 square feet) are common in local zoning ordinances and in ordinances in surrounding counties. The BOCA Basic Property Maintenance Code/1978 is also an example which is enforced within the City of Marquette. Applied to the petitioner's situation where there are four people residing, 450 square feet would be required. The staff recommends the petition not be approved.

Mr. DeShambo asked if any complaints were received from the township officials. Mr. Kippola stated that a letter from Earl Robinson, Twp. Supervisor, indicated that the Skandia Township Board voted against granting approval of this appeal because this type of residence would take away the value of surrounding properties and they felt that the square footage of living space should not be altered. A letter was received

from an adjacent property owner, Reino Lane, stating that if this was permitted now, it may be a "blot" later when things change in the area and Elliott has "grandfather status."

Mr. Wes Short, who lives next door to Mr. Elliott, stated that he came to the meeting to find out what Mr. Elliott's plans were and what action would be taken.

Mary Olds, who represented her parents who own property next to Mr. Elliott's residence was concerned that if the variance was granted, would someone else move in after Mr. Elliott left. Mr. Olson stated that the variance would state a particular date. Ms. Olds was concerned that this would happen again because the property owner lives out of the state and doesn't know who he is renting to. Ms. Olds suggested that the Elliotts move to a campground. Mrs. Elliott replied that they would have to move every 15 days.

Berle LaPin asked the staff if a time limit could be attached. Mr. Kippola read Section 16d(2) of the County Rural Zoning Enabling Act which describes the nature of any conditions which may be attached to an affirmative decision.

Mr. DeShambo asked Mr. Elliott what the date would be that he would move. Mr. Elliott replied he is through September 12 and would move September 13.

The public comment session was closed. Mr. DeShambo moved that the variance be granted until September 13, supported by Mr. Gasbarro. The motion passed unanimously by a roll call vote.

The public hearing on Petition for Variance #93-AP-SK-23, Upper Room Ministries, was opened. Mr. Kippola requested permission to waive the reading of the legal description because of its length. The Board had no objections to this.

Petition #93-AP-SK-23, Upper Room Ministries, Inc. requests a variance from Sec. 32, Off-Street Parking Requirements and Section 29, Height & Placement Regulations to permit construction of a building on the following described property:

Description Parcel "A":

Commencing at the W 1/4 cor. section 18, T 46N, R23W, Skandia Township, Marquette County, Michigan; thence along the West Line of said sec. 18, N 00°25'03"W, 208.70' to Point of Beginning; thence continuing along said West Line N 00°25'03" W, 208.70'; thence N 89°39'26"E, 208.70'; thence S 00°25'03"E, 208.70'; thence S 89°39'26"W, 208.70' to the Point of Beginning. Containing 1.0 acres more or less.

Subject to a right-of-way for County Road CO (old highway US-41) the description of which is; Commencing at the W 1/4 Cor. of said sec. 18, T 46N, R 23W; thence along the West Line of said sec. 18 N 00°25'03"W, 208.70' to a Point of Beginning; thence continuing along said West Line N 00°25'03"W, 208.70'; thence N 89°39'26"E, 85.22'; thence southerly along the arc of a circular curve to the left 209.47' (C= S 4°32'20"W, 209.46'); thence S 89°39'26"W, 67.12' to the Point of Beginning. Containing 0.36 acres more or less.

Subject also to any reservations, conditions and exceptions which may appear of record.

Description Parcel "B":

Commencing at the W 1/4 cor. section 18, T 46N, R 23W, Skandia Township, Marquette County, Michigan; thence along the West Line of said sec. 18, N 00°25'03"W, 208.70'; thence N 89°39'26"E, 208.70' to a Point of Beginning; thence N 89°39'26"E, 140.23' to the westerly right-of-way of Highway US-41; thence along said westerly R/W north-

westerly in the arc of a circular curve to the right 227.69' (C= N 23°53'12"W, 227.66'); thence S 89°39'26"W, 49.57'; thence S 00°25'03"E 208.70' to the Point of Beginning. Containing 0.45 acres more or less.

Subject to any reservations, conditions and exceptions which may appear of record.

Timothy Miller, a Board Member of the Upper Room Ministries, stated that they would like a reduction from .35 car spaces per person to .17 car spaces per person. The use of the building is for programs in which approximately one-half the occupants will be children. The use of bus service for transportation of up to one-half of occupants renders requirement of ordinance irrelevant to their situation. Their estimated seating capacity is 200 persons. They would also like a variance to build ten feet from the north property line. They are in need to place their proposed building as far north as possible to make room for parking and walkways.

Mr. Kippola gave the staff presentation. He showed slides and maps of the existing building and parking spaces. He stated that the proposed structure would require 70 parking spaces based on seating capacity. The existing structure which will be used at times simultaneously, has an estimated seating capacity of 85 persons. The total number of parking spaces required is 100. Upper Room Ministries is requesting a reduction to 48 parking spaces. They are also requesting a reduction of the northerly side lot setback from 30 to 10 feet.

The staff feels that although the side yard setback reduction would create more space for parking, reducing the number of spaces by one half would not provide a sufficient amount of adequate safe parking. Disapproval of this petition is recommended.

Mr. Olson asked how much land Upper Room Ministries owned. Mr. Kippola replied a little over an acre.

Mr. Kippola stated that correspondence was received from the Township Board and Mr. & Mrs. James Hank. The Township Board voted favorably on this request.

Jim Hank, an adjacent property owner, asked Mr. Miller what will happen to the old building. Mr. Miller stated that they would like to keep the structure if possible.

Mr. Hank stated that he thought the fence was the boundary line, but now the boundary line has changed. Mrs. Hank said she has not been able to get in touch with a surveyor. The Hanks have found an old barbwire fence on the other side of the highway which they feel is the original boundary line. Mr. Hank was concerned that Upper Room Ministries would be parking cars right next to their well.

Mr. Miller stated that use of both buildings simultaneously would be doubtful. They don't anticipate seeing more parked cars there because there are two buildings. He stated that Upper Room Ministries promotes car pooling and will implement two buses for conserving fuel.

The Hanks were concerned that the old building would be torn down and made into

a parking lot later. Mrs. Hank asked Mr. Miller if the new building will absorb any spaces presently being used. Mr. Miller replied no. They will use those as far away (north) as possible. Mrs. Hank asked how many cars they expected to park in the area. Mr. Miller replied 20-25. Mrs. Hank stated that she has found 39 cars parked there for the last few services. Mr. Miller explained that the past few weeks they have had unexpected guests for a youth program.

Mr. Hank stated that one-way traffic in the winter or spring when it is muddy, isn't safe unless the area is blacktopped.

Chairperson LaFin asked the staff if any communications were received. Mr. Kippola stated that the Township Board agreed with this request. Also, several phone calls from the Hanks were received.

Mr. DeShambo asked if the Hanks would hire a surveyor. They stated that they would hire a surveyor. They also plan to get a lawyer.

Mr. DeShambo moved to table this request until the next meeting, or until the Zoning Board of Appeals gets more information from both sides, supported by Mr. Gasbarro. The motion passed unanimously by a roll call vote.

The public hearing on Petition for Variance #92-AP-EL-25, Steven Maki, was opened. Les Ross of the Planning staff asked permission to refrain from reading the legal ad as it was lengthy. The Zoning Board of Appeals had no objections. It was published in the Mining Journal on the 6th and 15th of July, 1980.

Petition #92-AP-EL-25, Steven Maki requests a variance from Section 11.2 Permitted Principal Uses of the Single Family Residential District (R-1) to permit placement of a mobile home in an R-1 District on the following described property:

A parcel of land in Government Lot 1, Section 33, T.48N., R.28W., Ely Township, Marquette County, Michigan, described as:

Commencing at the W. 1/4 corner of said Section 33; thence S 00°33'05"E along the West line of said section 1175.53 feet to the centerline of County Road "CKK"; thence S 69°04'30"E along said centerline 119.70 feet; thence along said centerline on a curve to the left 48.94 feet, said curve having a radius of 97.32 feet, a long chord of which bears S 83°28'55"E 48.43 feet; thence N 82°06'40"E along said centerline 23.38 feet; thence along said centerline on a curve to the right 182.96 feet, said curve having a radius of 618.36 feet, the long chord of which bears S 89°24'36"E 182.29 feet to the Point of Beginning.

Thence along said centerline on said curve to the right 5.56 feet, the long chord of which bears S 80°50'44"E 5.56 feet; thence S 80°25'15"E along said centerline 103.96 feet; thence Due South 202.14 feet to a traverse point on the North shore of Boston Lake; thence N 81°10'40"W along said shore 109.30 feet to a traverse point; thence Due North 203.58 feet to the Point of Beginning.

Said parcel includes that land lying between the water's edge of Boston Lake and the traverse line herein described, bounded by the East and West lines of said parcel extended to the water's edge. Said parcel contains 0.55 acres, more or less, and is subject to an easement 33 feet in width for County road purposes South of and adjacent to the County road centerline herein described, and is further subject to reservations and conditions contained in the conveyances constituting the recorded chain of title to said premises.

The aforesaid 33' easement shall also be available for water, sewer, electric, telephone, and cable television lines, and for any other utility or public service lines or pipes which may be necessary or desirable to service the subject parcel or the area. Said parcel is also identified as Parcel 4 on the attached Certificate of Survey, which is incorporated herein by reference.

Mr. Steven Maki, from Diorite, stated that he has a house trailer on a lot because he can't afford to put up a house right now. He brought a list of 48 names of people living in Diorite that approve of the house trailer. Mr. Maki talked with the Township Board and they are in favor of this request.

Les Ross, of the Planning staff, showed slides and a map of Mr. Maki's parcel located near Diorite. Mr. Ross stated that the petitioner, in his application, has not shown substantial hardship, or that a practical difficulty exists to warrant granting of the requested use variance. Conditions of the land are not unique. The petitioner may use his property, consistent with existing zoning patterns, as other use their's in the surrounding area.

Mr. Olson asked if there was water and sewer. Mr. Maki stated there were to be both.

Mr. Ross stated that the Township Board vote 5-0 in favor of this variance. Mr. Maki said that there is no one on either side of the property. His father has the lot next to him.

Mr. Frank Romeo, just down the road from Mr. Maki's property, stated that this was a lakeside lot and the people around the lake have said they don't want the lake a trailer park. Mr. Maki stated that someone else has a house trailer that is rented out. Mr. Maki said his trailer can't even be seen.

Mr. George Peterson, home owner on the lake, stated that he feels Mr. Maki's trailer detracts from the value of his home. Mr. Maki stated that his trailer won't be permanent; he will eventually be building there.

Mr. Ross read the letters of correspondence from: the Township Supervisor (in favor of this request), the Health Dept. (property is suitable for septic system), Mr. Frank Romeo (strong opposition), and Mr. David Savu, Jr. (strenuous objection).

Chairperson LaPin asked what the price range of homes is in this area. Mr. Peterson stated the price range is not less than \$40,000.

Board Member Peterson stated that the reason for zoning is to protect the health and welfare of the people and to uphold the spirit and intent of the Zoning Ordinance. Ms. Peterson moved that the variance be denied because a hardship can not be seen, supported by Mr. DeShambo. The motion to deny this request passed 4-1, with

Mr. Olson opposing.

The public hearing on Petition for Variance #94-AP-EL-25, Calvin Bjerne, was opened. Les Ross read the legal ad which was published in the Mining Journal on the 6th and 15th of July, 1980.

Petition #94-AP-EL-25, Calvin Bjerne requests a variance from Section 29, Height & Placement Regulations of the Marquette County Zoning Ordinance to reduce the front yard setback for the purpose of constructing a garage on the following described property:

Part of Government Lot Four (4) in Section Thirty-four (34), Township Forty-six (46) North of Range Twenty-eight (28) West, more particularly described as follows:

So-called Lot Eight (8), beginning at a point 106 feet East of the Southwest corner of Section 34 on the South boundary of Government Lot 4; thence North 24° East for 800 feet to shore of Big Perch Lake; thence Southeasterly 264 feet along shore of said lake; thence South 546 feet; thence West 517 feet along the South boundary of Government Lot 4 to the point of beginning.

Mr. Ross stated that Mr. Bjerne was on vacation and could not attend the meeting. Mr. Bjerne requests a variance to construct a 24' x 32' garage. According to the applicant's written statement, he is unable to meet ordinance requirements due to existing structures and lot description. He requests a 12' lane (safety) between back of proposed garage and existing 12 x 15 building.

Mr. Ross showed maps and slides of the petitioner's property. He stated that a practical difficulty does appear to exist in locating the proposed garage in accordance with the requirements of the Ordinance. A swampy area is situated immediately easterly, out buildings immediately northerly, a property line westerly, and County Road CF immediately southerly of the garage site. Although the petitioner owns property across the road, the nearest suitable building site is relatively far from the dwelling. The staff recommends that the proposed garage be permitted to be located no closer than 48' to the centerline of County Road CF, as requested.

Mr. Ross read a communication from Ken Tuominen, Ely Twp. Supervisor, which stated that the Township Board had voted 5-0 in approval of this request.

Mr. Olson moved that the variance be granted, supported by Ms. Peterson. The motion passed unanimously by a roll call vote.

The public hearing on Request for a Class A Non-Conforming Use Permit, #7-NC-SK-3, Edward Hedmark, was opened. Les Ross read the legal ad which was published in the Mining Journal on the 6th and 15th of July, 1980.

Petition #7-NC-SK-3, Edward Hedmark requests a Class A Non-Conforming Use Permit for commercial activity on the following described property:

Beginning at the intersection of the two roads crossing on the Northwest corner of the North half of the Northwest Quarter (1 $\frac{1}{2}$ of NW $\frac{1}{4}$) of Section Nineteen (19) in Township Forty six (46) North, of Range Twenty-three (23) West, and running thence East Three Hundred Nine (309) feet along the South side of road running to Skandia Depot, thence South One Hundred Eighty-four (184) feet, thence West One Hundred Eighty-four (184) feet, to the road running to Carlshend, thence Northwesterly Two Hundred Thirteen (213) feet to the place of beginning, excepting and reserving from the above described premises a parcel of land deeded on the 28th day of May 1945 to Elliott Webb and Alvera Webb, his wife, of Skandia, Michigar, and described as follows:

Beginning at the intersection of the two roads crossing on the Northwest corner of the North half of the Northwest Quarter (N $\frac{1}{2}$ of NW $\frac{1}{4}$) of Section Nineteen (19) in Township Forty-six (46) North of Range Twenty-three (23) West and running thence East Three Hundred Nine (309) feet along the South side of road running to Skandia Depot, which is point of beginning of parcel of land to be described, thence South One Hundred Thirty-four (134) feet to a point, thence West Sixty (60) feet to a point, thence North One Hundred Thirty-four (134) feet to the South line of the Road running to Skandia Depot, thence East Sixty (60) feet to the point of beginning, containing approximately 8,040 square feet; all subject to reservations contained in deeds or other instruments constituting the chain of title to such premises

Mrs. Edward Hedmark stated that their business has been in existence since the 1950's, and they want to continue as they have so far.

Mr. Ross stated that the staff recommended that a Class A Nonconforming Use Designation be given to the structures presently used for commercial sales and services. It is felt that the establishment does not and will not conflict with the general health, safety, or welfare of the community.

Moreover, the structure is situated in an area with natural suitability for intensive commercial use and which was identified by the Planning Staff as being suited as a commercial zoning district (Skandia Township: Report on Commercial Zoning Changes. March 1, 1978).

Mr. Ross stated that the structure presently used as a residence does not require a nonconforming use designation since it is in conformance with the Ordinance's requirements.

Mr. Ross stated that the Township Board is in favor of this request.

Mr. Olson moved to approve this Class A Non-Conforming Use permit for the Hedmark's commercially used property, supported by DeShambo. The motion passed unanimously by a roll call vote.

The public hearing for Petition for Variance #95-AP-SK-24, Edward Hedmark, was opened. Mr. Ross read the legal ad which was published in the Mining Journal on the 6th and 15th of July, 1980.

Petition #95-AP-SK-24, Edward Hedmark requests a variance for reduction of the 1 acre ^{minimum} lot size requirement in an RR-1 District and the location of a lot line 3 feet from a garage on the following described property:

Beginning at the intersection of the two roads crossing on the Northwest corner of the North half of the Northwest Quarter (N $\frac{1}{2}$ of NW $\frac{1}{4}$) of Section Nineteen (19) in Township Forty six (46) North, of Range Twenty-three (23) West, and running thence East Three Hundred Nine (309) feet along the South side of road running to Skandia Depot, thence South One Hundred Eighty-four (184) feet, thence West One Hundred Eighty-four (184) feet, to the road running to Carlshend, thence Northwesterly Two Hundred Thirteen (213) feet to the place of beginning, excepting and reserving from the above described premises a parcel of land deeded on the 28th day of May 1945 to Elliott Webb and Alvera Webb, his wife, of Skandia, Michigan, and described as follows:

Beginning at the intersection of the two roads crossing on the Northwest corner of the North half of the Northwest Quarter (N $\frac{1}{2}$ of NW $\frac{1}{4}$) of Section Nineteen (19) in Township Forty-six (46) North of Range Twenty-three (23) West and running thence East Three Hundred Nine (309) feet along the South side of road running to Skandia Depot, which is point of beginning of parcel of land to be described, thence South One Hundred Thirty-four (134) feet to a point, thence West Sixty (60) feet to a point, thence North One Hundred Thirty-four (134) feet to the South line of the Road running to Skandia Depot, thence East Sixty (60) feet to the point of beginning, containing approximately 8,040 square feet; all subject to reservations contained in deeds or other instruments constituting the chain of title to such premises.

Mrs. Hedmark stated that they now have a business and residence. They would like to sell their business, but not their residence at this time. If they can not separate their property, they would not be able to sell their business, or the remaining property would not be usable to rebuild as a residence in the future. Dividing the property would not be a hardship, because they have a water supply, but no sewer. She stated that the neighbors have not expressed dissatisfaction with this request.

Mr. Ross stated that the Planning staff does not feel it unreasonable that the lot be divided so as to allow separation of the commercial and residential uses and recommends a variance to allow such be granted. However, the side setback requirement of the Zoning District involved (RR-1) is 30', while the petitioner has requested a reduction to 3 feet. In intensely developed residential districts, the staff generally feels garages and other accessory buildings be located no closer than 6' to abutting property lines, in order to maintain a 12' minimum distance between opposing structures (for reasons of fire safety, snow removal, drainage, erosion, aesthetics, etc.)

Mr. Olson mentioned that 3' or 6' makes little difference because they will be close to the building anyway.

Mr. DeShambo asked if the residence was going to be sold. The Hedmarks replied they are not selling it at this time.

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Mr. Gasbarro moved that this request be granted, supported by Ms. Peterson. The motion passed unanimously by a roll call vote.

Chairperson LaPin asked if the staff had any new appeals to schedule. Mr. Ross stated that the only matters they have so far are the tabled ones from this meeting.

There was no Old Business, so the meeting proceeded with New Business. Mr. Ross presented a proposed amendment to the Zoning Board of Appeals Rules of Procedure. The amendment would make the Rules consistent with recent changes in the Zoning Ordinance's publication requirements. Proposed amendment as follows:

Proposed Amendment to the Zoning Board of Appeals
Rules of Procedure

The (first)* publication shall be made in the Mining Journal not less than (17)8* days, but not more than 30 days prior to the meeting date at which the public hearing will be held.

*Bracketed material deleted
Underlined material added.

Mr. Olson moved that the Zoning Board accept the proposed amendment, supported by Ms. Peterson. The motion passed unanimously by a roll call vote.

There was no public comment. Mr. DeShambe moved that the meeting be adjourned at 9:35, supported by Mr. Olson. The motion passed unanimously.

Respectfully Submitted,

Cindy L. Ylitalo

Cindy L. Ylitalo
Secretary

7/28/80

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

Marquette County Zoning Board of Appeals
Minutes

Phone: 228-8500

June 25, 1980

The regular meeting of the Marquette County Zoning Board of Appeals was called to order at 7:00 p.m. by Chairperson Berle LaPin. Roll was called. Board members William DeShambo, Armand Gasbarro, John Olson, Karol Peterson, and Berle LaPin were present, staff--Jim Kippola and Cindy Ylitalo.

Chairperson LaPin opened the meeting for public comment. There being none forthcoming, the public comment session was closed.

John Olson moved that the minutes of the previous meeting (April 23, 1980), be approved as presented. The motion was supported by Armand Gasbarro and passed unanimously.

Chairperson LaPin explained the procedure for public hearings. The public hearing for Petition for Variance #87-AP-MI-6, Michigamme Township, was opened. Jim Kippola of the Planning Commission Staff read the legal ad which was published in the Mining Journal on the 8th and 17th of June, 1980.

Michigamme Township requested a variance from Section 29, Height and Placement Regulations, and Section 12.2 Permitted Principal Uses of the Single Family Residential District (R-2) of the Marquette County Zoning Ordinance to permit an addition to the Township Building on the following described property:

Lot 35, Plat of Michigamme, Marquette County, Michigan.

John Olson, Michigamme Township Supervisor, stated that the Township wants to build an addition of a two stall garage for their fire department. They want to add this because they can operate off the same heating plant and the same lighting system. A three sided building is cheaper to build than a four sided one. The alleyway has been abandoned by the Township Board officially last April. All property owners are aware of and in agreement with this addition.

As there was no further comment from the petitioner, Mr. LaPin asked for comments from the Planning Commission Staff.

Jim Kippola of the Planning Staff showed some slides and a diagram of the building and the alleyway.

The staff was concerned that the Township Building conflicts with the following zoning regulations of the Marquette Zoning Ordinance. Construction on the site would:

- 1) Encroach totally upon the south side lot setback area, and partially upon the westerly side lot setback area.
- 2) Encroach partially on the east front lot setback area which had previously been reduced from 30' to 17' by the Zoning Board of Appeals.

- 3) Encroach upon the alleyway which abuts the property to the south. The staff isn't sure whether the Appeals Board has the authority to permit construction in the alleyway.

Mr. Kippola stated that any new construction would also constitute expansion of a Class B Non-conforming Use which is not permitted by the Ordinance.

The Planning Staff recommended that action on this petition be postponed until the Township can properly acquire the portion of the site which presently lies in the alley to the south.

Chairperson LaPin asked where a Township was supposed to put a Township Hall. Mr. Kippola stated that there are Zoning Districts in the Township which permit Town Halls, etc. The staff did not know the location of all of the Township properties. In this case, staff can only examine how the particular proposal conflicts with existing zoning regulations.

Mr. DeShambo said that the right-of-way for the alley should be cleared up first before the Zoning Board makes any decision.

Karol Peterson moved that the Zoning Board table this until ownership of the alleyway is cleared up and that it is abandoned, supported by Armand Gasbarro. The motion passed 4-0-1 by a roll call vote, with Mr. Olson abstaining.

Chairperson LaPin stated that Mr. Olson should discuss the matter with the County Road Commission.

The public hearing on Petition for Variance #88-AP-WB-15, Ronald Kaufmann, was opened. Jim Kippola of the Planning Commission Staff read the legal ad which was published in the Mining Journal on the 8th and 17th of June, 1980.

Ronald Kaufmann requested a variance from Section 29, Height and Placement Regulations, of the Marquette County Zoning Ordinance to reduce the minimum lot size requirement on the following described property:

All that property lying in the E $\frac{1}{2}$ of the W $\frac{1}{2}$ of the E $\frac{1}{2}$ of SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec. 10, T46N, R24W, more particular as described as:

Commencing at the Southeast corner of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$, thence 330 feet West along the quarter section line to point of beginning; thence 165 feet West along the quarter section line; thence 1320 feet North to the sixteenth line; thence 165 feet East along the sixteenth line; thence 1320 feet South to the point of beginning.

Mr. Kaufmann stated that when he purchased the property the realtor told him to apply for a variance so he went to the Courthouse at that time. He was told that they saw no problem getting a variance. When Mr. Kaufmann went to get a Building Permit to put a mobile home on his property, he was told he must go through the Zoning Board to get a variance.

As there was no further comment from the petitioner, Chairperson LaPin asked for comments from the Planning Staff.

Mr. Kippola showed slides and a map of Boyer Road and the 40 acre tract of land. Mr. Kaufmann only owns 5 acres.

This particular parcel was split 6/12/78, subsequent to the adoption of the Marquette County Zoning Ordinance.

There appears to be no practical difficulty or unnecessary hardship which can be attributed to this case. There is nothing unique about the 25-acre "parent" parcel of which this property is a part which would preclude it from being used reasonably for any of the uses outlined under the present zoning district, Resource Production.

Mr. DeShambo asked what was on the rest of the land since Mr. Kaufmann bought only 5 acres. Mr. Kaufmann stated that there are camps on the rest of the land.

Mr. Otto Hursquaine, West Branch Supervisor, stated that he has discussed this among members of the West Branch Township Board and they are against approval of the 5 acre parcel, and wish to stay within the regulations they have at the present time. There has been an improvement in the types of housing on Boyer Road. Mr. Hursquaine suggested that Mr. Kaufmann get additional property, or go back to the realtor.

The case was opened for public comment. Mr. DeShambo asked Mr. Hursquaine if there was any other property available for Mr. Kaufmann. He stated that Dupras sold Mr. Kaufmann 5 acres, maybe he could sell him 5 more. Mr. Kaufmann stated that he needs 20 acres. Mr. Charles Boyer stated that there are only 10 acres left. They sold 20 acres previously.

Mr. Boyer stated that he was told that you can build on 5 acres of land in certain parts of West Branch Township. Mr. Kippola stated there are some Zoning Districts which permit construction on 5 acre parcels. Mr. Hursquaine said if the 5 acres took place before the Zoning Ordinance went into effect, they could be built on, but not after.

Karol Peterson said that by the rites of this Board, there is no practical difficulty or unnecessary hardship. Ms. Peterson moved that the Zoning Board deny the request based on what the Zoning Board is for, and that it would violate the spirit and intent of the Zoning Ordinance, supported by John Olson. The motion passed 3-2 by a roll call vote, with DeShambo and Gasbarro opposed.

The Public Hearing for Petition for Variance #89-AP-SK-21, Harold Haglund, was opened. Jim Kippola read the legal ad which was published in the Mining Journal on the 8th and 17th of June, 1980.

Mr. Haglund requested a variance from Section 29, Height and Placement:

Regulations of the Marquette County Zoning Ordinance to reduce the minimum lot size requirement on the following described property:

The East 215 feet of the West 1075 feet of the Northeast Quarter of the Northeast Quarter of Section 8, T46N, R23W, except the East 9 feet of the South 150 feet thereof, subject to the reservations, restrictions, and easement of record.

Mr. Haglund stated that he wanted a variance to build on 6½ acres. The land was divided before January 1977, but it sat on a lawyer's office for about a year before being typed up.

As there was no further comment from the petitioner, Chairperson LaPin asked for comments from the Planning Commission Staff.

Mr. Kippola stated that this appeal is to request buildable status on 6.5 acres in a Resource Production Zoning District which normally requires 20 acres for residential use. The deed which establishes this parcel is dated January 7, 1977. The Zoning Ordinance exempts lots which do not meet the minimum lot size when a parcel of land is described in a deed or land contract executed and delivered prior to the effective date of the Ordinance, January 6, 1977.

Although the splitting off of this parcel missed the "deadline" by one day, Planning staff does not see where any practical difficulty or unnecessary hardship exists.

Two pieces of correspondence were received, from Quinell and Heitmann, Attorneys at Law, and Earl Robinson, Skandia Township Supervisor. Both letters were in favor of granting the variance to Mr. Haglund.

The case was opened for public comment. Mr. Hursquaine stated that this was a typical legal problem. The public comment session was closed.

Mr. DeShambo said that where there is 5 acres of land and nothing can be done with it, it is definitely a hardship.

Mr. Olson moved that this variance be granted on the basis of Skandia Township Board being in favor of this, supported by DeShambo. The motion carried 4-1, with Karol Peterson opposed. This was a roll call vote.

The Public Hearing for Petition for Class A Non-conforming Use Permit, #6-NC-SK-2, Wickes Lumber, was opened. Jim Kippola read the legal ad which was published in the Mining Journal on the 8th and 17th of June, 1980.

Petition #6-NC-SK-2, Wickes Lumber, requests Class A Non-Conforming Use designation for the following described property:

A parcel of land in the N¼SE¼ of Section 19, Township 46 North, Range 23 West in Skandia Township, Marquette County, Michigan, more particularly described as follows:

Beginning at a point on the Centerline of County Road O.C. that is 200.0' East of the Point of Intersection of U.S. Highway 41 and County Road O.C. as now constructed, and proceeding thence Southwesterly along the clear vision line to the Easterly R.O.W. of Highway U.S. 41; thence $S19^{\circ}12'39''E$ along said R.O.W. line to a point that is 640' from the centerline of Co. Road O.C.; thence Easterly to the West R.O.W. line of the L.S. & I. R.R. at a point that is 560' Southerly of the centerline of County Road O.C.; thence $N11^{\circ}14'W$ (approx. bearing) along said, R.O.W. line 560.0' to the line of County Road O.C. 655.4' more or less to the Point of Beginning, SUBJECT TO the rights of the public in County Road C.C. and containing 9.0 acres more or less exclusive of rights of way.

Mr. Kippola presented the petitioner's case as no one was there to represent them. Wickes Lumber would like Class A designation and permission to construct an umbrella shed to protect lumber and materials. Mr. Kippola showed slides concerning the case.

The Planning Staff recommends that granting of Class A Non-conforming Use designation for Wickes Lumber would not be contrary to Section 48, "Procedures for Obtaining Class A Designation Conditions" provided the following conditions are attached in its designation:

- 1) Future use on the premises will be limited to lumber and building supplies retail sales.
- 2) No new structures will be permitted other than the proposed umbrella shed shown on the permit application without approval of the ZBA. This would prevent Wickes from initiating further construction which may conflict with adjacent uses or Sec. 48 of the Ordinance.
- 3) A minimum setback of 30' from all lot lines will be adhered to for the proposed shed.

There was no public comment; the session was closed.

Mr. Olson moved that the Zoning Board approve the Petition for Class A Non-conforming Use with the recommendations of the Planning Commission attached, supported by Armand Gasbarro. The motion passed unanimously by a roll call vote.

Mr. Kippola stated that there are two new appeals to be considered for scheduling. Mr. Gary Elliot, #90-AP-SK-22 requests permission to live in his bus until September 13, 1980. The Zoning Ordinance does not permit this at the present time.

The other appeal is from Art Miller, #91-AP-EL-24. He purchased 15 acres of property and now he would like to sell 8 acres. He would like a lot size requirement reduced.

Mr. Olson moved that the Zoning Board accept all appeals for the next meeting, supported by Ms. Peterson. The motion passed unanimously

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Jim Kippola stated that no information was received from the Prosecutor concerning #84-AP-EL-23. The Planning Staff has been waiting for comment from the Prosecutor. Mr. Olson suggested that this case be carried until next month's meeting.

There being no new business or public comment, Armand Gasbarro moved to adjourn the meeting at 8:15 p.m., supported by John Olson, unanimously approved.

Respectfully submitted,

Cindy L. Ylitalo

Cindy L. Ylitalo
Secretary

COUNTY OF MARQUETTE

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

Co. Clerk

approved
6/25/80

Phone: 228-8500

Marquette County Zoning Board of Appeals
Minutes

April 23, 1980

The regular meeting of the Marquette County Zoning Board of Appeals was called to order at 7:00 p.m. by Chairperson Berle LaPin. Roll was called. Board members William DeShambo, Armand Gasbarro, John Olson, Karol Peterson, and Berle LaPin were present, staff--Jim Kippola and Alan Chase.

Chairperson LaPin opened the meeting for public comment. There being none forthcoming, the public comment session was closed.

Armand Gasbarro moved that the minutes of the previous meeting be approved as presented. The motion was supported by Karol Peterson and passed unanimously.

Chairperson LaPin explained the procedure for public hearings. The public hearing for Petition for Variance #84-AP-EL-23, by Walter Harsila, was opened. Jim Kippola of the Planning Commission Staff read the legal ad which was published in the Mining Journal on the 6th and 15th of April, 1980.

Walter Harsila requested a variance from Section 38, Signs, of the Marquette County Zoning Ordinance, to allow a 15 square foot sign on the premises of a home occupation being conducted on the following described property:

That part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, Section T47N-R28W, Ely Township, commencing at the intersection of the North R-W of New US-41 and the West line of said subdivision; thence South 83 degrees 09' East along R-W 692.54 feet to POB; thence South 83 degrees 09' East 100.7 feet; thence North 100.3 feet; thence North 79 degrees 53' West 101.53 feet; thence South 102.05 feet to POB.

Mr. Harsila indicated that upon the initial set up of the home occupation, the size and number of signs was not included in the paperwork from the Office of County Planner and Building Code Department. In January, 1980 a sign was constructed and erected in the front of his home occupation at a cost of \$150. He stated that since he is not able to afford the cost of other advertising at the present time, this sign (3 x 5) was to keep people in the general area informed that a home occupation was located on his property.

As there was no further comment from the petitioner, Mr. LaPin asked for any comments from the Planning Commission Staff.

Mr. Kippola stated that the staff felt there was sufficient reason to table the petition until a legal opinion can be obtained from the County Prosecuting Attorney.

Mr. Olson asked what the reasons are. Mr. Kippola stated that the staff members had three concerns with this case:

1. There appears to be a lot of problems with legal descriptions of the property in the area of the request.
2. There is a covenant in the easement release to the State Highway Department that appears to address placement of signs, billboards, etc. which we would like the Prosecutor to review in terms of any implications relative to the County Zoning Ordinance.
3. The Zoning Ordinance strictly prohibits any construction within right-of-ways, and it appears that the sign is located in the R/W. Mr. Olson asked the petitioner if he knew the sign wasn't on his property. Mr. Harsila said yes, he knew.

Mr. DeShambo asked what the position of the township was. Mr. Kippola stated that Ken Tuominen, Township Supervisor, said the township had no objections to the sign at this time.

It was moved by John Olson and supported by Armand Gasbarro to table this case until the next meeting of May 28, 1980. The motion was passed unanimously on a roll call vote.

The public hearing on Petition for Variance #85-AP-WB-13, Payne & Dolan, Inc. was opened. Jim Kippola of the Planning Commission Staff read the legal ad which was published in the Mining Journal on the 6th and 15th of April, 1980.

Payne & Dolan, Inc. requested a Temporary Permit for the purpose of allowing the placement of a temporary asphalt plant (60 days) on the following described property (Rural Residential Two (RR-2) Zoning District):

The NE $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 23, T46N-R24W, West Branch Township

Mr. Pete Lavendar, Area Supervisor for Payne & Dolan, Inc., stated that the actual paving operation should be complete in 30 paving days, but they would like a 60 day permit because of the weather. He stated that their company has tested several prospective aggregate sources in the vicinity of the job and determined that the County pit was the most feasible from which to operate. Other pits within an economically reasonable distance have either been fully extracted or do not contain the necessary abrasion and soundness qualities necessary to produce bituminous pavements for the State of Michigan. Mr. Lavendar said they have received a letter from Mr. Beerling, Marquette Co. Road Comm. Supervisor, granting permission to set up and operate a blacktop plant for a period of 60 working days in the Larson Sand Pit. The Road Commission requires a bond to insure that the County Roads will be restored to satisfactory condition once the project paving is completed.

John Olson said the Township should also require that the contractor post bond.

Pete Lavendar said that their equipment does meet DNR air & water quality standards. This was the same plant they used in Gwinn last year.

Mr. Otto Hursquaine, West Branch Township Supervisor, stated they had no objection to use of the pit because it will improve roads. He was concerned that the County would take care of the damages. There is also a natural spring that they would like protected. Mr. Lavendar said there is no problem as the plant can be run without water. Mr. Hursquaine was concerned about the safety on the road. It may be necessary to widen the road. Mr. Lavendar said that advance warning signs are required by the State during operation. Mr. Hursquaine would like signs saying "local traffic only."

The meeting continued with the Staff's presentation by Mr. Kippola. A locational map of the property was shown. (West of Skandia, County Road TD, the Chocolay River and the Community of Skandia). An air photo showed the gravel pit. Slides were also shown of the bridge, Town Hall Rd., the spring entering the Chocolay River and past excavations in the pit.

Should the Zoning Board of Appeals approve the petitioner's request, the Planning Staff recommends the following conditions be attached to the decision:

1. The requirements of all State & Federal Air & Water Regulations must be met, including any permits issued by those agencies.
2. A soil erosion sedimentation control permit(s) must be issued by the Marquette County Health Department.
3. Assurance must be secured by the Marquette County Road Commission to insure that the petitioner corrects any damage caused to the County Road System.
4. Designate a time when the operation must cease.

The case was opened for public comment.

Mr. Kippola said a call was received from Mr. Schlumpf stating that he and his neighbors were concerned with dust, noise, and traffic from the operation. The case was closed for public comment.

Karol Peterson recommended approval of this request based on the conditions recommended by the Planning Staff and in addition, under number one, special attention be given to the local spring area and, as a 5th condition, she suggested that signs be put up, stating local personnel only, so there won't be so much traffic.

John Olson said the Township should be involved to protect themselves.

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Mr. Otto Hursquaine said he talked to John Beerling and he assured him that the County would handle any damage repair. He is happy with John Beerling's statement and he also feels that Payne & Dolan will take care of the damage.

Following discussion by the Board, Karol Peterson moved that the petition be granted with the Planning Staff's stipulations, supported by Armand Gasbarro. The motion was unanimously approved on a roll call vote.

The public hearing on Petition for Variance #86-AP-WB-14, David Brooks, was opened. Jim Kippola of the Planning Commission Staff read the legal ad which was published in the Mining Journal on the 6th and 15th of April, 1980.

David Brooks requested a variance from Sections 24.2, Resource Production District (RP) and 38, Signs, of the Marquette County Zoning Ordinance, to allow outside storage of automobiles and the erection of a sign, approximately 9 square feet in area, relative to a proposed Limited Quality Automotive Service, on the following described property:

Part of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$, Section 26, T46N-R24W, West Branch Township, except County Road right-of-way, more particularly as follows:

Beginning at a point 404.55 feet east from the NW corner of said NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 26, and running east 706.75 feet along south right-of-way of County Road 460, thence south 246 feet; thence west 706.75 feet; thence north to Point of Beginning.

Chairperson LaPin asked for comments from the petitioner. Mr. David Brooks, petitioner, stated that his business is basically suited to the Home Occupation classification. He is presently allowed two square feet for his sign. He would like a wood carved sign stating his family name and the actual business name 6' x 2'. The sign will be placed on his own property. Mr. Brooks stated that his family includes three adopted children who are retarded. He would like to work at home, as his wife does not drive and it would be beneficial if he could be available to his wife and children during the day.

The meeting continued with the Staff's presentation by Mr. Kippola. A locational map of the property was shown (Co. Rd. 460 connecting with US 41). Also shown was an air photo showing land use patterns, the petitioner's property, and the cemetery owned by West Branch Township. Slides were shown of the nearest neighbor, the petitioner's house and the cemetery.

Should the Zoning Board of Appeals approve the petitioner's request, the Planning Staff recommends the following conditions be attached to the decision:

1. The proposed operation will conform with the requirements of Section 2.21 Home Occupation of the Marquette County Zoning Ordinance with the exception that outdoor storage of motor vehicles will be permitted to the point that this does not conflict with the regulations of the Marquette County Junk Yard and Junk Vehicle Ordinance.
2. The proposed operation be confined to the parcel of property as indicated on attachment A of the petitioner's application.
3. The proposed Home Occupation will be limited to motor vehicles service & repair.
4. Section 38.6 Exemptions from Sign Regulations be waived to permit a 9 square foot sign as described on the last page of the petitioner's application provided it meets the requirements of Section 29, Height & Placement Regulations of the Marquette County Zoning Ordinance.

The case was opened for public comment. Mr. Kippola stated that he received a phone call from a Mrs. Caldwell. She was concerned that the area be kept clean and junk cars not be stored. Mr. Brooks stated he does not intend to salvage.

Mr. Hursquaine, Township Supervisor, said he does not want to interfere with Mr. Brooks making a living. He mentioned Mrs. Caldwell's concern and wanted to know the number of cars to be stored.

Mr. Brooks stated that his cars are stored for a limited time, only, while he is waiting for parts and there would be no junk cars. Mr. Hursquaine is concerned that the place be kept orderly, not a junk yard. Mr. Brooks said he would like complaints to go directly to him to be straightened out.

There being no further public comment, the session was closed.

Following discussion by the Board, William DeShambo moved that the petition be granted with the stipulation that the township have control over abuses in the area if there gets to be too many cars, and also including the four conditions recommended by the staff, supported by Armand Gasbarro. It was unanimously approved by a roll call vote.

No new appeals had been received for scheduling at the time of the meeting. Karol Peterson moved that they accept any petitions coming in by the deadline 20 days before meeting, supported by John Olson. The motion was unanimously approved.

The meeting proceeded with a discussion about Mr. Chase's Memo of March 13, 1980, as follows:

1. "Marquette County Board of Zoning Appeals*
Public Meeting and Public Hearing Procedure (outline)**
(for)
(variance or interpretation of the county zoning)
 1. Call the meeting to order.

2. Roll Call.
 3. Explanation of Public Hearing Procedure to be used during the meeting (see Appendix hereto)
 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) property involved, the date and place of the (meeting) Public Hearing thereon, as well as the nature of the application.
 5. The applicant presents case.
 6. Planning Commission presents (findings and) recommendations.
 7. Any interested citizen wishing to make a statement pertinent to the case will be allowed to speak - 3 calls.
 8. Public testimony portion of the (h)Hearing will be closed.
 9. The Board of Zoning Appeals will then reach findings and make a decision based on the evidence presented at the Public Hearing. 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. The Board will receive applications (for variances or interpretations for) and schedule(d) them for public hearings.
 11. Adjournment of Meeting (adjourned)."
2. "Marquette County Board of Zoning Appeals Procedure for Handling of Applications

An application to the Board of Zoning Appeals (for a variance or interpretations of the Zoning Ordinance is) shall be submitted to the Zoning Administrator, who will present the application to the Board of Appeals at it(')s next regular meeting. The Board of Appeals shall schedule a (p)Public (h)Hearing thereon. A notice shall be placed in (the) a newspaper of general circulation in the County not more than 30 days, nor less than 17*** days before the (h)Hearing, and a second notice not more than 8 days before the (h)Hearing. This notice shall state the time, place and date of Hearing and the nature of the (appeal) application, as well as the location where the application and support(ive)ing documents can be reviewed by the general public. Notice by certified mail (must) shall be given at least 20 days in advance of the date of the Public Hearing to all public utilities that register with the (Zoning Commission) Board 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) shall be notified by personal service or mail. Such notification shall set forth the time, place, and date of the Hearing, the nature of the (meeting)

application and geographical area included in the (zoning proposal) application.

During the (p)Public (h)Hearing, interested parties will have a chance to present and rebut information either supporting or opposing the zoning action. After all evidence is submitted, the Board of Appeals votes on the matter. The decision of the Board of Appeals is appealable to the Circuit Court.

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 of decision shall be sent to the applicant, stating in detail whether the action was denied, approved, or conditionally approved, (and) the (facts supporting) basis of such decision, and the exact nature of the decision.

The file, written testimony, (or) and documents, and tape recordings of the (h)Hearing(,) will be (placed on file and) open (to) for public inspection (with) in the offices of the County Clerk and the County 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.)

- * Underlined material added
- ** Bracketed material deleted
- *** As per Amendment of October 25, 1978

Mr. Olson made a motion to approve the recommendations of the Memo, supported by Mr. Gasbarro. It was unanimously approved by a roll call vote.

It was moved by Armand Gasbarro and supported by John Olson to adjourn at 8:24 p.m., unanimously approved.

Respectfully submitted,

Cindy L. Ylitalo

Cindy L. Ylitalo
Secretary

"APPENDIX TO PUBLIC-HEARING PROCEDURE"
EXPLANATION OF PROCEDURE, TO BE READ

- (a)1. Applicant will be allowed to submit an oral or written statement concerning his request. The Board of Zoning Appeals will be allowed to ask questions or rebut any evidence presented. The Planning Commission representative present will be allowed to ask any questions or (rebut)** reply to any questions asked. All interested persons will be allowed to submit oral or written statements, or ask questions or rebut any evidence.
- (b)2. The Planning Commission (staff) representative present shall present a written and oral statement. The Board of Zoning Appeals will be allowed to ask the Planning Commission representative (any) questions, the applicant will be allowed to ask (any) questions and all interested citizens will be allowed to ask (any) questions.
- (c)3. Any interested person will be allowed to submit an oral or written statement regarding the (petition) application. (t)The Board of Zoning Appeals will then be allowed to ask (any) questions of any evidence submitted. The applicant will be allowed to ask (any) questions. The Planning Commission (staff) representative present will be allowed to ask (any) questions and any other interested citizens may ask (any) questions.
4. The public testimony portion of the hearing will be closed.
5. The Board of Zoning Appeals will then either make a decision based on the evidence presented or may delay a decision until further information is presented.
6. The applicant will be notified by letter of the decision of the Board of Zoning Appeals. The record of the Board of Zoning Appeals in this matter will be maintained in the Office of the County Planning Commission and in the Office of the County Clerk, and the record and any other writing prepared owned, used or in the possession of, retained by the Board in the performance of its official function in this matter shall be made available to the public, upon request, according to law."

* Underlined material to be added

** Bracketed material to be deleted

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

March 26, 1980

The regular meeting of the Marquette County Zoning Board of Appeals was called to order at 7:00 p.m. by Chairperson Berle LaPin. Roll was called. Board members Armand Gasbarro, John Olson, Karol Peterson and Berle LaPin were present. William DeShambo arrived at 7:05 p.m.

Chairperson LaPin opened the meeting for public comment. There being none forthcoming, the public comment session was closed.

Karol Peterson moved that the minutes of the previous meeting be approved as presented. The motion was supported by John Olson and passed unanimously.

The public hearing for Petition for Variance #83-AP-EL-22, by Realty Development Corporation, was opened. Jim Kippola of the Planning Commission Staff read the legal ad which was published in the Mining Journal on the 9th and 18th of March, 1980.

Realty Development Corporation requests a variance from Section 27.2, Permitted Principal Uses of the Open Space Zoning District of the Marquette County Zoning Ordinance, to reduce the minimum lot size required in the Open Space District on the following described property:

Parcel No. 5 and Parcel No. 6, Section 5, T46N-R28W, Ely Township, Marquette County, Michigan, more specifically described as follows:

PARCEL NO. 5 - All that part of the S½ of the NE¼ of the NW¼, Section 5, T46N-R28W, lying Easterly of a County Road as now constructed, containing 16.02 acres. Together with and subject to all right-of-ways, easements and restrictions of record affecting the premises;

PARCEL NO. 6 - All that part of the N½ of the NE¼ of the NW¼, Section 5, T46N-R28W, lying Easterly of a County Road as now constructed, containing 18.13 acres. Together with and subject to all right-of-ways, easements and restrictions of record affecting the premises.

As the petitioner was unable to attend the meeting, Mr. Kippola read a letter from Bernard Edelman, President, Realty Development Corporation, dated 2/28/80, submitted with the Petition for Variance. The letter indicates the petitioner's position. It states, in part:

"As you will note, this property was surveyed by a registered land surveyor in December, 1976. At that time we were totally unaware of your requirement limiting the size of parcels in this area to a minimum of 20 acres. It was only after considerable time had elapsed that we became aware of this requirement.

Our surveyor, using his best judgment in an effort to create sites having a maximum amount of road frontage and taking into consideration the nature of the land, created parcels that, in his opinion, would be best suited for private ownership.

As you will note, Parcel 6 contains 18.13 acres and has in excess of 600 feet of county road frontage. Parcel 5, because of the angle of the county road, is somewhat smaller, containing 16.02 acres and a considerably longer stretch of county road frontage. These two sites are somewhat less than your regulations but, as a result of their size, abundant road frontage and general shape of the parcels, in our opinion, would comply with the spirit and intent of your regulations.

Further, as a practical matter and in all candor, we have made a very concerted and costly effort, working with real estate firms in the City of Marquette, to sell these two parcels over the past 3 years without success. We have been advised repeatedly that if they could be sold as individual parcels as surveyed the selling firms would be able to more effectively offer the property to their clientele in the Marquette area.

In view of the foregoing, we respectfully request and trust that your commission will consent to the variance permitting us to offer these two parcels as they were initially surveyed and divided."

There were no questions or comments on the Petitioner's statement.

The meeting continued with the Staff's presentation by Mr. Kippola. A Locational Map of the property was shown.

Mr. Kippola briefly reviewed the history of the property. Realty Development Corporation originally purchased a 160 acre parcel. A survey completed in December, 1976, divided the property into 6 parcels. Parcels 1, 2 and 3 conform to the Zoning Ordinance and have been sold. A variance for Parcel number 4 was granted by the Zoning Board of Appeals. This parcel has also been sold.

A determination by the Marquette County Prosecuting Attorney on a similar survey, in Turin Township, indicated that a survey recorded before the effective date of the Zoning Ordinance which contained parcels smaller than Ordinance requirements, did not constitute non-conforming lots of record.

Section 29.5 of the Marquette County Zoning Ordinance is generally a "grandfather" clause to exempt certain properties from the minimum lot size requirements of the Ordinance. It states:

"In District Single Family Residential R-1, Single Family Residential R-2, Rural Residential RR, Resource Production RP, Agricultural Pro-

duction AP, minimum lot size and lot width regulations do not apply to any nonconforming parcel of land as shown as lot in a recorded plat, or described in a deed or land contract executed and delivered prior to the effective date of this Ordinance."

The petitioner's parcels are not in a recorded plat (according to the Prosecutor's definition), and were not described in a deed or land contract executed and delivered prior to the effective date of the Ordinance. Should either of the parcels be sold they would be created in violation of the Zoning Ordinance and no building permit could be issued.

It is the recommendation of the Planning Commission Staff that the variance is not justified. No practical difficulty exists because the petitioner's property, which totals 34.15 acres, can be reasonably utilized under the existing zoning classification. Permitted uses are growing and harvesting of timber, bush fruit, agricultural produce, wildlife management, sawmills and recreational structures on lot sizes of 20 acres or more. There is nothing dimensionally unique about the parcel which prohibits any of the uses outlined.

Furthermore, any alleged "hardship" related to the marketability of the remaining 34.15 acres has been self-imposed because of the pattern of sale used by the petitioner in dividing up a quarter section of land. The petitioner has successfully marketed a 61.33-acre parcel and a 30.86-acre parcel directly across from this request.

It is important to note the petitioner's comment that if the two parcels could be sold individually ". . . the selling firms would be able to more effectively offer the property to their clientele. . ." Granting this variance would indeed make sale more effective considering the petitioner could sell a 16.02 and a 18.13 acre parcel, while adjacent property owners in the vicinity must still conform to a 20 acre requirement in any sale they wish to make.

The Staff received a telephone call from Ely Township Supervisor Kenneth Tuominen, who indicated the Township Board was opposed to the proposed variance.

Mr. Tuominen stated that "The Board felt that the 160 acres was split in such a way that these two parcels come out less than 20 acres, although the realty knew 20 acres is required. The 20 acre zoning has been acceptable therefore it should be kept at 20 acres. The Board also felt these could be converted into residential dwellings in the future, resulting in high cost services."

The Staff received a telephone call from Mr. Homberg, an adjacent property owner, who had questions concerning the variance. Mr. Homberg had no position on the matter.

Staff also received a telephone call and a subsequent letter from another adjacent property owner, Mr. Gribbens, who indicated opposition to the proposed variance.

This completed the Staff's presentation.

A representative from Champion Timber, Inc. was present at the meeting. Champion Timber Inc. is an adjacent property owner to the subject property. The representative commented that they like to see as much land stay in timber as possible, although they really weren't opposed to this action. There being no further questions or comments from the public, following three calls, Chairperson LaPin closed the public hearing.

Review of the Prosecuting Attorney's opinion that a recorded survey does not meet the requirements of a recorded plat was held.

John Olson commented that if Ely Township Supervisor Ken Tuominen was opposed to the proposed variance, he would support him.

Following further discussion, John Olson moved the variance be denied, citing his above noted comment, supported by Armand Gasbarro. The motion was passed unanimously on a roll-call vote.

One new appeal was presented for scheduling. Walter Harsila is requesting a variance to retain the non-conforming sign he has erected for the home occupation existing in his home.

Mr. Kippola commented that another petition regarding a temporary variance request for an asphalt plant in West Branch Township may be received before the publication deadline.

John Olson moved that the petition from Mr. Harsila be scheduled for the next regular meeting of the Board and in addition any petitions received before the publication deadline. The motion was supported by Armand Gasbarro and passed unanimously.

There being no further business or public comment, William DeShambo moved that the meeting be adjourned, supported by John Olson. The motion passed unanimously and the meeting was adjourned at 7:27 p.m.

Respectfully submitted,

Penny A. Schlais

Penny A. Schlais,
Secretary

Clark's

COUNTY OF MARQUETTE
OFFICE OF COUNTY PLANNER
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Marquette County Courthouse, Marquette, MI 49855

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MARQUETTE COUNTY ZONING BOARD OF APPEALS

Minutes

February 27, 1980

The Annual Organizational Meeting of the Marquette County Zoning Board of Appeals was called to order at 7:00 p.m. by Chairperson Karol Peterson. Roll was called. All Board members were present: William DeShambo, Armand Gasbarro, Berle LaPin, John Olson and Karol Peterson.

The meeting was opened for public comment. There being none forthcoming, the public comment session was closed.

Berle LaPin moved that the minutes of the previous meeting, November 28, 1979, be approved as presented. The motion was supported by John Olson and passed unanimously.

Nominations were opened for the Office of Chairperson. William DeShambo nominated Berle LaPin, supported by Karol Peterson. There being no further nominations, John Olson moved that nominations be closed, supported by Karol Peterson. Berle LaPin was elected unanimously to the Office of Chairperson.

Chairperson LaPin opened nominations for the Office of Vice-Chairperson. William DeShambo nominated John Olson, supported by Karol Peterson. There being no further nominations, Karol Peterson moved that nominations be closed, supported by William DeShambo. The motion was passed and John Olson was elected unanimously to the Office of Vice-Chairperson.

The 1980-81 Meeting Schedule was presented for review. John Olson moved that the Meeting Schedule be adopted as presented, supported by William DeShambo. The motion was passed unanimously. The following are the scheduled meeting dates of the Marquette County Zoning Board of Appeals for 1980-81:

January 23, 1980	August 27, 1980
February 27, 1980	September 24, 1980
March 26, 1980	October 22, 1980
April 23, 1980	November 26, 1980
May 28, 1980	December 17, 1980
June 25, 1980	January 28, 1981
July 23, 1980	February 25, 1981

There being no further business or public comment, Karol Peterson moved that the meeting be adjourned, supported by Armand Gasbarro. The meeting was adjourned at 7:05 p.m.

Respectfully submitted,

Penny A. Schlais

Penny A. Schlais,
Secretary

COUNTY OF MARQUETTE

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Marquette County Courthouse, Marquette, MI 49855

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MARQUETTE COUNTY ZONING BOARD OF APPEALS Minutes

November 28, 1979

The regular meeting of the Marquette County Zoning Board of Appeals was called to order at 7:00 P.M. by Chairperson Karol Peterson. Roll was called. All Board members were present: William DeShambo, Armand Gasbarro, Berle LaPin, John Olson and Karol Peterson.

The meeting was opened for public comment. There being none forthcoming, the public comment session was closed.

Armand Gasbarro moved that the minutes of the September 26, 1979 meeting be approved as presented. The motion was supported by John Olson and passed unanimously.

Chairperson Peterson explained the procedures for public hearings. The public hearing was opened on a Petition for Variance #80-AP-SK-20 by Robert W. Ryan.

Jim Kippola, of the Planning Commission Staff, read the legal ad which was published in the Mining Journal on the 11th and 22nd of November, 1979. The petitioner is requesting a variance from Section 29 of the Marquette County Zoning Ordinance to reduce the 20 acre minimum lot size requirement so as to allow occurrence of permitted uses on two lots on the following described property:

The SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 7, T46N-R23W, Skandia Township, EXCEPTING the following described parcel of land:

Beginning at a point on the north ROW line of C.R. ON, 33 feet north and 182.6 feet west of the SE corner of said SW $\frac{1}{4}$ of NE $\frac{1}{4}$; thence north 272.25 feet; thence west 160 feet; thence south 272.25 feet; thence east 160 feet to the Point of Beginning, containing one acre, more or less.

Mr. Ryan was present at the meeting and explained that he is requesting the variance because the land is for sale. An old farmhouse is situated approximately in the center of the property and a second house is situated on the 1 acre parcel. Mr. Ryan wishes to sell the farmhouse and 22 acres. He does not wish to sell the entire parcel due to possible personal use of the remaining 17 acres and that the potential buyer is unable to purchase the entire 39 acre parcel. The reason the proposed division is into 22 and 17 acre parcels is that the existing farmhouse is situated on the center line.

Jim Kippola gave the Planning Commission Staff's presentation. An aerial photo of the property was shown. The property is located off Johnson Road on a gravel County Road.

A diagram of the proposed split, supplied by the petitioner, was shown. A one acre parcel of the total "40" is under other ownership and one acre is taken up by County Road ROW.

The Planning Commission Staff recommends the proposal be disapproved in view of the following:

1. The subject property can be reasonably used in a manner permitted under the present zoning classification. Some uses permitted are: crop cultivation, pastures, orchards, farmsteads, timber production, and residential use is permitted on 20 acres or more.
2. The proposed split of the property would conflict with:
 - a. Land Use Policy #3 of the Executive Summary of the Marquette County Comprehensive Plan which states, in part, "prime agricultural areas should be protected from unnecessary residential development".
 - b. The intent of the Resource Production District of the Marquette County Zoning Ordinance which states the purpose of this district is "to establish and maintain for low intensity use those areas which because of their location, accessibility and natural characteristics are suitable for a wide range of agricultural, forestry and recreational uses".

Mr. Kippola also explained that the Resource Production District was designed to limit residential use to two houses per 40 acres. This parcel presently has 2 residences, including the home on the one acre parcel under other ownership.

The petitioner is able to sell the 22 acre parcel without a variance as it conforms to regulations of the Zoning Ordinance. Mr. George Hazeres, Marquette, said the petitioner would like to be able to build on the remaining 17 acre parcel in the future.

No written correspondence had been received pertaining to the petition. The Staff spoke with Mr. John Beerling, of the County Road Commission, who was not opposed to the proposed development.

Mr. Earl Robinson, Skandia Township Supervisor, indicated that he would not be opposed to the division if split as proposed on the petitioner's application.

Mr. Hazeres indicated that the petitioner was looking to future development in an area where such development would not be harmful. Mr. Hazeres also explained that the proposed lines were not exact but were close and that they would be surveyed prior to the split.

Following discussion by the Board, William DeShambo moved that the variance be granted, due to the fact that the county road is open, the property is close to RR-2 zoned land, and that the petitioner does not propose immediate development of the remaining 17 acre parcel. The motion was supported by Armand Gasbarro.

Berle LaPin commented that farming cannot be stressed overly in Marquette County as it is becoming more of a hobby than a full-time job. The division would not overly populate the land.

There being no further discussion, a roll call vote was taken. The motion was passed 4-1 with Board members DeShambo, Gasbarro, LaPin and Peterson in support of the motion and Olson opposed.

William DeShambo moved that the property be split as proposed on the petitioner's application with 720' width provided for the 22 acre parcel. The motion was supported by John Olson and was passed unanimously on a roll call vote.

There were no new appeals received for scheduling at the time of the meeting. John Olson moved that any new petitions be accepted if submitted in time to meet zoning enabling legislation requirements. The motion was supported by Berle LaPin and passed unanimously.

There being no further business or public comment, Berle LaPin moved that the meeting be adjourned, supported by John Olson. The motion was passed unanimously and the meeting was adjourned at 7:30 P.M.

Respectfully submitted,

Penny A. Schlais

Penny A. Schlais,
Secretary

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MARQUETTE COUNTY ZONING BOARD OF APPEALS MINUTES

September 26, 1979

The regular meeting of the Marquette County Zoning Board of Appeals was called to order at 7:00 P.M. by Chairperson Karol Peterson. Roll was called. All Board members were present: William DeShambo, Armand Gasbarro, Berle LaPin, John Olson and Karol Peterson.

The meeting was opened for public comment. There being none forthcoming, the public comment session was closed.

Berle LaPin moved that the minutes of the August 22, 1979 meeting be approved as presented. The motion was supported by John Olson and passed unanimously.

Chairperson Peterson explained the procedure for public hearings. The public hearing was opened on a Petition for Class A Non-Conforming Use Designation by Ron Koshorek, Marquette County Zoning Administrator (Petition #5-NC-MI-1).

Jim Kippola, of the Planning Commission Staff, read the legal ad which was published on September 10th and 18th, 1979 in the Marquette Mining Journal. The petitioner is requesting Class A Non-Conforming Use Designation on the following described property: Government Lots 3 and 4, and a parcel approximately 5 acres in size, in Government Lot 2, all in Section 21, T48N-R30W, Michigamme Township.

Mr. Kippola made the Staff's presentation. Under the provisions of Section 47 of the Marquette County Zoning Ordinance, the Marquette County Zoning Administrator is requesting that certain properties owned or leased by the Michigamme Methodist Institute in Michigamme Township be granted Class A Non-Conforming Use Designation. The properties in questions are in a Lake Shore-River Residential Zoning District making the present use, regional religious retreat, non-conforming. It is the opinion of the Planning Commission Staff, after review of various legal cases, that churches and religious facilities cannot be excluded from residential zoning districts and therefore the present Class B Designation is inappropriate. The Class A designation would alleviate this problem until a rezoning or amendment to the Zoning Ordinance can be made.

Mr. Kippola read Section 47, Definition and Classification of Non-Conforming Uses and Structures, of the Marquette County Zoning Ordinance.

In order to assure compliance with Section 47, the Zoning Administrator recommends the following conditions be attached in accordance with Section 48, Procedure for Obtaining Class A Designation, Conditions, of the Ordinance.

1. Principal uses and the accompanying structures on the above described pro-

perty will remain that of a regional religious retreat, religious worship, or religious education.

2. Expansion of the allowable uses in #1 will be limited to the proposed 68' X 40' church on the 5 acre parcel in Government Lot 2, Section 21, T48N-R30W.
3. A minimum setback of 30' on all sides will be adhered to for any new structures.

Several slides of the Methodist Institute and the site of the proposed church were shown.

John Olson commented he was in favor of granting the petition but questioned the need for Condition #2. Mr. Olson feels the owner is already limited by use requirements and setbacks stated in Conditions 1 and 3.

Mr. Jim Mathews, pastor of the church, spoke in agreement with Mr. Olson and also expressed the hope that the church would expand in the future.

Mr. John Grenfell, of the Methodist Church, commented that if a fire destroyed the existing structures located at the Institute as now designated (Class B), it could not be rebuilt without special permit. This would not be the case if the property were designated Class A.

There were no additional comments from the public. Chairperson Peterson closed the public hearing.

John Olson moved that the petition be granted with Conditions 1 and 3 of the Staff's recommendation, deleting Condition #2. The motion was supported by Armand Gasbarro and passed unanimously on a roll call vote.

The public hearing on Petition for Variance #79-AP-WB-10 by Leslie D. White was opened. The Notice of Public Hearing was published in the Mining Journal on the 10th and 18th of September, 1979. Les Ross, of the Planning Commission Staff, noted the legal description of the property as submitted on the petitioner's application and printed in the newspaper publication.

The petitioner is requesting that the minimum lot size in an RR-2 Zoning District be reduced from 5 acres to approximately 4.15 acres.

Jim White, 620 Everett Street, Negaunee, indicated surprise that he had been required to obtain a variance. He commented that when he purchased the property, he understood the parcel was buildable. Mr. White feels that since the parcel is so close in complying with the Zoning Ordinance requirements, it should be granted a variance.

Mr. Ross made the Planning Commission Staff's presentation. A map indicating adjacent zoning and surrounding land use was shown. The parcel is located near the northern boundary of West Branch Township, (HWY. US-41). County Road 545 provides access to the parcel.

Mr. Ross read the definition of "Lot" as found in the Marquette County Zoning Ordinance which indicated that a lot is a parcel of land, excluding any portion in a street or road right-of-way, of at least sufficient size to meet minimum requirements for use, coverage and lot area, and to provide such setback area and other open space as required by the Ordinance.

Approximately .88 acre of the petitioner's property is subject to street or road right-of-ways. These cannot be used in computing buildable lot area.

The Planning Commission Staff recommends the petition be denied. It cannot be seen that a practical difficulty exists in that the lots were created after adoption of the County Zoning Ordinance.

Mr. Ross explained that the survey that was submitted with the petitioner's application was dated September, 1977. In July, 1977 the area in question was rezoned from RP Zoning District to RR-2 Zoning District. The owners should have been aware of the requirements of the Zoning Ordinance.

Mr. Olson questioned whether the rest of the RR-2 zoned property is subdivided. Mr. Mike Johnson indicated that it was subdivided into approximately 10 parcels. The 3 lots fronting County Road 545 are 5 acres and the remaining lots are approximately 10 acres each.

A slide of the property was shown.

No correspondence had been received by the Staff. However, Mr. Otto Hurskaine, West Branch Township Supervisor had spoke with Staff members in the office and expressed concern over the possibility of setting a precedent by granting the variance.

Mr. Bob Hogg, representing the original developer, indicated that a survey map showing the proposed lots and easements, was submitted with the rezoning application. Mr. Hogg assumed that if there were problems they would have been told at that time.

Mr. Hogg also commented that, in his opinion, the 5 acre requirement was to control density. For the spirit of the Ordinance, the lots in questions do comply.

Mr. Ross commented that there was no mention in the minutes of the public hearing of the rezoning of a survey map. The recorded tape of the meeting did not make any reference to the survey map. Mr. Ross also advised that plans submitted with rezoning requests do not have to be adhered to. The PUD section of the Zoning Ordinance handles plans.

Discussion was held concerning access and right-of-way requirements of the Zoning Ordinance. It was explained that although the County may only have an easement for the County Road, it still is considered a ROW for the purposes of the Ordinance.

Further discussion of whether the survey map had been reviewed by the Planning Commission was held.

Mr. White commented that because of a misunderstanding between the Planning Staff, the Planning Commission and the original petitioner for rezoning, the present owners now have a problem.

There being no further public comment the public hearing was closed.

Following discussion by the Board, William DeShambo moved that the variance be granted, supported by John Olson for discussion.

Mr. Olson expressed concern that the developer did not do his "homework" when subdividing the property.

Mr. DeShambo commented that people purchasing property should be advised to check the zoning first and that a zoning determination should be given

in writing to avoid variations in interpretations by Staff members.

There being no further discussion of the motion, a roll call vote was taken. The motion was passed unanimously (5-0).

The public hearing on Petition for Variance #80-AP-WB-11 by Eric Nyberg was opened. The Notice of Public Hearing was published in the Mining Journal on the 10th and 18th of September, 1979. Mr. Ross noted the property description submitted on the petitioner's application and printed in the newspaper publication.

The petitioner is requesting that the minimum lot size in an RR-2 Zoning District be reduced from 5 acres to approximately 3.81 acres.

The petitioner did not wish to make any opening remarks.

Mr. Ross indicated that Mr. Nyberg's lot was the most northerly of the three parcels in question at the meeting. The Staff's position is basically the same as for Petition #79-AP-WB-10, in recommending denial of the variance. Mr. Ross explained that upon computing the acreage of this parcel, excluding the ROW, it was found that the lot had only 3.81 acres of buildable area. Mr. Ross also pointed out that the lot was only 4.93 acres, including the ROW, and therefore would not be in compliance with the requirements of the Zoning Ordinance in either case.

A slide of the property was shown.

Mr. Ross explained how the Staff had computed the acreage of the parcel.

Mr. Chet Arnold, Marquette, commented that a registered land surveyor should be close in his computations. Mr. Ross indicated that all of the lots in question were computed by the surveyor to be 5 acres + or -.

The public hearing was closed.

Following discussion by the Board, John Olson moved that the variance be granted, supported by Berle LaPin. The motion was passed unanimously on a roll call vote.

The public hearing on Petition for Variance #81-AP-WB-12 by Ronald Avery was opened. The Notice of Public Hearing was published in the Mining Journal on the 10th and 18th of September, 1979. Mr. Ross noted the property description as submitted on the petitioner's application and printed in the newspaper publication.

Mr. Avery requests that the minimum lot size in an RR-2 Zoning District be reduced from 5 acres to approximately 4.41 acres.

Approximately .59 acre of the petitioner's property is subject to street or road right-of-ways.

The Staff has basically the same comments as on Petition #79-AP-WB-10 in recommending denial of the variance. Mr. Avery's lot is the center parcel.

There being no further comments, the public hearing was closed.

Berle LaPin moved that the variance be granted, supported by John Olson. The motion was passed unanimously on a roll call vote.

No new petitions had been received for scheduling. John Olson moved to accept any new petitions until the deadline for publication. The motion was

supported by Berle Pin and passed unanimously.

There was no old business.

Discussion was held concerning the possibility of developers submitting plans for splitting up property.

Mr. DeShambo suggested the possibility of requiring an application be submitted and approved to split land. Chairperson Peterson will forward this concern to the County Planning Commission for their consideration.

There being no further business or public comment, William DeShambo moved that the meeting be adjourned, supported by John Olson and passed unanimously. The meeting was adjourned at 8:45 P.M.

Respectfully submitted,

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MARQUETTE COUNTY ZONING BOARD OF APPEALS MINUTES

August 22, 1979

The regular meeting of the Marquette County Zoning Board of Appeals was called to order at 7:00 P.M. by Chairperson Karol Peterson. Roll was called. All Board members were present: William DeShambo, Armand Gasbarro, Berle LaPin, John Olson and Karol Peterson.

John Olson moved that the minutes of the July 25, 1979 meeting of the Board be approved as presented. The motion was supported by Berle LaPin and passed unanimously.

The meeting was opened for public comment. There being none forthcoming, the public comment session was closed.

Chairperson Peterson explained the procedure for public hearings. The public hearing was opened on a Petition for Variance (#77-AP-EL-21) by Merton Holman. Jim Kippola of the Planning Commission Staff read the legal ad which was published in the Mining Journal on the 5th and 14th of August, 1979.

The applicant is requesting a variance from Section 29 of the Marquette County Zoning Ordinance to reduce the SE'ly front lot setback requirement to 10 feet where 30 foot setbacks are required on Lot #5, Goldmine Lake Heights Subdivision, located in Section 26, T48N-R28W, Ely Township.

Mr. Holman indicated he was requesting the variance for the purpose of constructing a garage on the SE'ly side of his home.

Jim Kippola made the Staff's presentation. A diagram of the lot was shown. The lot fronts two roads, one of which is a County Road and the other is a road passing through the plat. The topography of the lot drops about 8' towards the back of the lot.

The Planning Commission Staff has not changed its position since the previous meeting (July 25, 1979) and feels no practical difficulty exists concerning this appeal. The Staff feels the proposed structure could have been located on the lot in such a way to conform with the existing setbacks. The Staff feels reduction to 10' would also create problems with snow removal along the county road.

No correspondence was received from the Township concerning this appeal.

Mr. Bruce Heikkila, Marquette, commented that there should be no problem with snow removal along the county road as there still would be sufficient room.

There being no further comments, the public hearing was closed.

Following discussion by the Board, Berle LaPin moved that the variance be granted as requested, supported by William DeShambo. The motion was passed unanimously on a roll call vote.

The legal ad for the second Petition for Variance (#78-AP-WB-9) by Bruce Caldwell was read by Jim Kippola.

Mr. Caldwell is requesting a variance from Section 24.2 of the Marquette County Zoning Ordinance to reduce the minimum lot size required in a Resource Production Zoning District from 20 acres to 19.57 acres for the purpose of constructing a home of the following described property: The South 646' of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, Section 24, T46N-R24W, West Branch Township.

Mr. Lee Post, C.R. 545, West Branch Township represented Mr. Caldwell at the hearing. He explained that Mr. Caldwell is requesting the variance so that he can utilize his property for construction of a home. Following subdivision of the parent parcel, there was not quite 20 acres left in Mr. Caldwell's parcel to meet the 20 acre requirement for residential construction in a Resource Production Zoning District.

Jim Kippola made the Planning Commission Staff's presentation. A diagram of the subject property and adjacent parcels was shown. The approximately 80 acre parent parcel was subdivided by the owner into four 5 acre parcels, four 10.3 acre parcels and one 19.57 acre parcel as indicated on the applicant's notarized petition for variance.

The Planning Commission Staff recommends the proposed variance be denied in light of the following:

According to the original land office survey, the "40" which the subject property is part of consists of 40.02 acres. The property could have been divided in such a way to conform with the 20 acre requirement of the Ordinance.

Therefore, the Planning Commission Staff feels that no practical difficulty exists concerning this parcel.

Mr. Post indicated that the lots were created during the past year and a half. The area is not platted.

John Olson questioned whether the owner could readjust the subdivision and make the parcel comply with zoning requirements.

Chet Arnold, Marquette, commented that a new registered survey had been done on the property, which showed it to be a short "40" rather than 40.02 acres as in the original land survey. Mr. Arnold did not bring a copy of the survey for the Board's examination.

Mr. Olson questioned what the problem would be with adding a portion of the 10.3 acre parcels to the 19.57 acre parcel to bring it into compliance.

Mr. Arnold commented that the parcels are not 10.3 acres as indicated on the applicant's statement. Some of the parcels are just over 10 acres and could not be reduced so as to keep the subdivision within the requirements of the Plat Act.

Access to the parcel is private and provided for by written easement through adjacent parcels.

Mr. Kippola commented that one telephone call had been received concerning the variance. Mrs. Ollila, an adjacent property owner expressed opposition to the variance citing concern over access and the possibility of future variances being applied for.

Mr. Arnold explained that the remainder of the "40" was not buildable in any case and that the only likely area would be the 19.57 acre parcel. This would create only one dwelling on the "40" instead of the maximum allowable of 2 per "40" in a Resource Production District.

Mr. Kippola explained that a letter from Mr. Koshorek, Zoning Administrator, to Mr. Caldwell indicated no opposition to the variance. At the time of the letter however, Mr. Caldwell had indicated the parcel size was 19.8 acres. It is the Zoning Administrator's policy that if an applicant can show ownership of 99% of the acreage required in a Resource Production District, he/she would substantially comply with the requirements of the Ordinance. The 19.8 acre parcel would have met this designation, 19.57 acres does not.

Following further discussion, William DeShambo moved that the variance be granted as requested, supported by Berle LaPin. The motion was passed 3-2 on a roll call vote. Board members DeShambo, Gasbarro and LaPin were in support of the motion, Olson and Peterson were opposed.

No new appeals had been received for scheduling at the time of the meeting. Mr. Kippola explained that one potential petition in West Branch Township by a Mr. Hogg was pending. Mr. Hogg is concerned with three parcels, none of which are contiguous. Mr. Kippola questioned whether the petitioner would need to submit three separate petitions. It was explained that the Planning Commission has a policy to accept petitions concerning multiple parcels on one petition as long as they are contiguous in nature.

Following discussion, John Olson moved that the Zoning Board of Appeals adopt a policy to accept on one petition, variances concerning multiple parcels as long as they are contiguous and amend the Bylaws of the Zoning Board of Appeals accordingly. Berle LaPin supported the motion and it was passed unanimously.

There being no further business or public comment, William DeShambo moved that the meeting be adjourned, supported by John Olson. The motion was passed unanimously and the meeting was adjourned at 7:35 P.M.

Respectfully submitted,

Penny A. Schlais

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Secretary

Clarke

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MARQUETTE COUNTY ZONING BOARD OF APPEALS MINUTES

July 25, 1979

The regular meeting of the Marquette County Zoning Board of Appeals was called to order at 7:05 P.M. by Chairperson Karol Peterson. Roll was called. All Board members were present: William DeShambo, Armand Gasbarro, Berle LaPin, John Olson and Karol Peterson.

Armand Gasbarro moved that the minutes of the June 27, 1979 meeting of the Board be approved as presented. The motion was supported by John Olson and passed unanimously.

The meeting was opened for public comment. There being none forthcoming, the public comment session was closed.

Chairperson Peterson explained the procedure for public hearings. The public hearing was opened on a Petition for Variance (#76-AP-TI-6) by Clifford Quinnell. Jim Kippola of the Planning Commission Staff read the legal ad which was published in the Mining Journal on the 8th and 17th of July, 1979.

The applicant is requesting a variance from Section 29 of the Marquette County Zoning Ordinance to construct a garage 10 feet from a side lot line where 30 foot setbacks are required on property located in Part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 25, T47N-R28W, Tilden Township.

Mr. Quinnell indicated that the reason he is requesting the side lot reduction is that the location of his proposed garage is in the only suitable place on the property because of the drainfield and possible fire hazards if located closer to the existing mobile home and addition.

Jim Kippola showed a diagram of the property showing the existing structure and the proposed garage and indicated the present setbacks. It is the Staff's opinion that due to the limited buildable area, slopes on the rear of the lot and location of the drainfield, reduction of the SW'ly side lot setback from 30' to 10' is warranted. Slides of the property were shown.

A letter to the petitioner from Mr. and Mrs. Ronald Vuorinen, property owners adjacent to Mr. Quinnell on the SW'ly side, was submitted and read for the record. The Vuorinens are agreeable to the proposed variance.

Following discussion by the Board, William DeShambo moved that the variance be granted, supported by Berle LaPin. The motion was passed unanimously on a roll call vote.

The public hearing on Petition for Variance #75-AP-EL-20 by Arne H. Heikkila was opened. Jim Kippola read the legal ad. Mr. Heikkila is requesting a variance from Section 29 of the Marquette County Zoning Ordinance to reduce the side setback requirements to 10 feet where 30 foot setbacks are required on Lots 3-8, 10-14, and 16-27 Goldmine Lake Heights, located in part of the SE¼ of the SW¼ and part of the SW¼ of the SE¼, Section 26, T48N-R28W in Ely Township.

Bruce Heikkila, Marquette, represented Arne Heikkila at the hearing.

Public hearings were held on each lot separately. Following is a summary of the Board's action.

Lot #3 Mr. Heikkila was in agreement with the Staff's recommendation to reduce both side lot setbacks from 30' to 10' due to steep slopes to the rear of the lot and the narrow width. Following discussion, John Olson moved that the variance be granted as requested, supported by Armand Gasbarro. The motion was passed unanimously on a roll call vote.

Lot #4 Mr. Heikkila was in agreement with the Staff's recommendation to reduce both side lot setbacks from 30' to 10' due to steep slopes to the rear of the lot and the narrow width. Following discussion, Berle LaPin moved that the variance be granted as requested, supported by William DeShambo. The motion was passed unanimously on a roll call vote.

Lot #5 Mr. Heikkila commented that the Staff's recommendation of no reduction of side lot setbacks would not leave sufficient room for the owner to construct the home he presently has on order. Mr. Heikkila requested reduction of the NW'ly side lot line from 30' to 10'. Mr. Heikkila also commented that the owner would prefer a reduction of the setback requirements on the SE'ly side. The SE'ly lot line however, is a front lot line and a hearing in this request could not be heard at this meeting. A new petition for this request would need to be submitted and a public hearing could be scheduled at the August 22 meeting of the Zoning Board of Appeals. Mr. Holman indicated that he would prefer to wait until the August meeting for a decision on the SE'ly front lot setback. Following discussion, Mr. Heikkila withdrew the request for variance on Lot #5.

Lot #6 Mr. Heikkila was in agreement with the Staff's recommendation that the SE'ly side lot setback be reduced from 30' to 10' due to the severe slopes existing on the lot. Following discussion, John Olson moved, supported by Armand Gasbarro that the Board concur with the Staff's recommendation and grant reduction of the SE'ly side lot setback from 30' to 10'. The motion was passed unanimously on a roll call vote.

Lot #7 Mr. Heikkila was in agreement with the Staff's recommendation to reduce the NW'ly side lot setback from 30' to 10' due to the limited buildable area and the location of the well. Following discussion, Berle LaPin moved that Board concur with the Staff's recommendation, supported by John Olson. The motion was passed unanimously on a roll call vote.

Lot #8 Mr. Heikkila was in agreement with the Staff's recommendation that no reduction of the side lot setbacks was necessary on this lot. Following discussion, John Olson moved that the Board concur with the Staff's recommendation and deny the variance request on Lot #8, supported by Armand Gasbarro. The motion was passed unanimously on a roll call vote.

- Lot #10 Mr. Heikkila requested that both side lot setbacks be reduced rather than only the NW'ly side. This is a lakefront lot and construction will likely occur near the lake where additional width would be needed. Mr. Kippola explained that the Staff recommended only the NW'ly side because of the extremely wet conditions on the opposite side. Following discussion, William DeShambo moved that reduction of both side lot setbacks be granted from 30' to 10' on Lot #10. The motion was supported by Armand Gasbarro and was passed unanimously by a roll call vote.
- Lot #11 Mr. Hiekkila explained that this lot is also a lakefront lot and construction would likely occur by the lake. He is therefore requesting that both side lot setbacks be reduced. The Staff recommends that the W'ly side lot setback be reduced from 30' to 10'. Following discussion, Armand Gasbarro moved that the Board concur with the Staff's recommendation and grant reduction of the W'ly side lot setback. There was no support to the motion. William DeShambo moved that the variance be granted as the petitioner requests reducing the side lot setbacks from 30' to 10' on both sides. John Olson supported the motion and it was passed unanimously on a roll call vote.
- Lot #12 Mr. Heikkila requested that both side lot setbacks be reduced. The Staff feels the lot could be used reasonably with reduction of the E'ly side lot setback. Following discussion, John Olson moved that the variance be granted as requested by the petitioner reducing both side lot setbacks from 30' to 10'. The motion was supported by Armand Gasbarro and was passed unanimously on a roll call vote.
- Lot #13 Mr. Heikkila was in agreement with the Staff's recommendation that the E'ly side lot setback be reduced from 30' to 10' due to a large hill to the rear of the buildable area which severely limits room for construction of a residence. Following discussion, John Olson moved that the Board concur with the Staff's recommendation on Lot #13, supported by Armand Gasbarro. The motion was passed unanimously on a roll call vote.
- Lot #14 Mr. Heikkila was in agreement with the Staff's recommendation that the W'ly side lot setback be reduced from 30' to 10' due to a large hill to the rear of the buildable area which severely limits room for construction of a residence. Following discussion, Berle LaPin moved that the Board concur with the Staff's recommendation on Lot #14, supported by John Olson. The motion was passed unanimously on roll call vote.
- Lot #16 Mr. Heikkila requested that reduction of a portion of the W'ly side setback be granted in addition to the recommendation of the Staff to reduce the E'ly side lot setback from 30' to 10'. Following discussion John Olson moved that reduction of the E'ly side lot setback from 30' to 10' and the W'ly side lot setback from 30' to 20' be granted. The motion was supported by William DeShambo and was passed unanimously on a roll call vote.

- Lot #17 Mr. Heikkila was in agreement with the Staff's recommendation that the W'ly side lot setback be reduced due to a large depression in the front of the lot, well location, lot narrowness, and location of the utility easement. Following discussion, Berle LaPin moved that the Board concur with the Staff's recommendation on Lot #17. The motion was supported by Armand Gasbarro and was passed unanimously on a roll call vote.
- Lot #18 Mr. Heikkila expressed concern that rock outcroppings on this lot could hinder construction. The Staff feels there is sufficient room within the existing setbacks to construct an average size single family dwelling. No reduction is recommended. Following discussion, John Olson moved that thh Board concur with the Staff's recommendation and deny the variance on Lot #18, supported by William DeShambo. The motion was passed unanimously on a roll call vote.
- Lot #19 Mr. Heikkila commented that a reduction of one side lot setback from 30' to 20' would be helpful. The Staff feels there is sufficient room within the existing setbacks to construct an average size single family dwelling. No reduction is recommended. Following discussion, Berle LaPin moved that the Board concur with the Staff's recommendation and deny the variance on Lot #19, supported by Armand Gasbarro. The motion was passed unanimously on a roll call vote.
- Lot #20 Mr. Heikkila was in agreement with the Staff's recommendation that no reduction be granted as there is sufficient room within the existing setbacks to construct an average size single family dwelling. Following discussion, John Olson moved that the Board concur with the Staff's recommendation and deny the variance on Lot #20, supported by Berle LaPin. The motion was passed unanimously on a roll call vote.
- Lot #21 Mr. Heikkila was in agreement with the Staff's recommendation that the SE'ly side lot setback be reduced from 30' to 10' because of a large depression at the rear of the lot and the narrowness of the front of the lot. Following discussion, William DeShambo moved that that the Board concur with the Staff's recommendation on Lot #21, supported by Berle LaPin. The motion was passed unanimously on a roll call vote.
- Lot #22 Mr. Heikkila was in agreement with the Staff's recommendation that the SE'ly side lot setback be reduced from 30' to 10' because of a rocky hill on the NW'ly side of the lot. Following discussion, William DeShambo moved that the Board concur with the Staff's recommendation on Lot #22, supported by John Olson. The motion was passed unanimously on a roll call vote.
- Lot #23 Mr. Heikkila was in agreement with the Staff's recommendation that the NW'ly side lot setback be reduced from 30' to 10' because of steep slopes to the SE. Following discussion, John Olson moved that the Board concur with the Staff's recommendation on Lot #23, supported by William DeShambo. The motion was passed unanimously on a roll call vote.

- Lot #24 Mr. Heikkila was in agreement with the Staff's recommendation that the SE'ly side lot setback be reduced from 30' to 10' because of a large hole on the NW'ly side of the lot and the location of the utility easement. Following discussion, John Olson moved that the Board concur with the Staff's recommendation on Lot #24, supported by Armand Gasbarro. The motion was passed unanimously on a roll call vote.
- Lot #25 Mr. Heikkila was in agreement with the Staff's recommendation that the NW'ly side lot setback be reduced from 30' to 10' due to the narrow width of the lot and existing slopes. Following discussion, Armand Gasbarro moved that the Board concur with the Staff's recommendation on Lot #25, supported by John Olson. The motion was passed unanimously on a roll call vote.
- Lot #26 Mr. Heikkila was in agreement with the Staff's recommendation that the SE'ly side lot setback be reduced from 30' to 10' due to the narrow width of the lot and existing slopes. Following discussion, Berle LaPin moved that the Board concur with the Staff's recommendation on Lot #26, supported by John Olson. The motion was passed unanimously on a roll call vote.
- Lot #27 Mr. Heikkila requested that the NW'ly side lot setback be reduced from 30' to 10'. The Staff feels sufficient buildable area exists between the present 30' setbacks to allow construction of a conventional one-story home and septic system. Following discussion, William DeShambo moved that the Board grant reduction of the NW'ly side lot setback from 30' to 10' on Lot #27, supported by Berle LaPin. The motion was passed unanimously on a roll call vote.

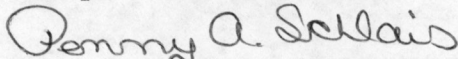
No new appeals had been received for scheduling at the time of meeting.

There was no further business to be discussed.

The meeting was opened for public comment. Bruce Heikkila expressed his appreciation of the Board members who visited the subdivision and reviewed the property.

There being no further public comment, John Olson moved that the meeting be adjourned, supported by William DeShambo. The motion was passed unanimously. The meeting was adjourned at 9:05 P.M.

Respectfully Submitted,



Penny A. Schlais,
Secretary

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

June 27th 1979

The regular meeting of the Marquette County Zoning Board of Appeals was called to order at 7:00 P.M. by Chairperson Karol Peterson. Roll was called. All Board members were present: William DeShambo, Armand Gasbarro, Berle LaPin, John Olson and Karol Peterson.

Armand Gasbarro moved that the minutes of the May 23, 1979 meeting of the Board be approved as presented. The motion was supported by John Olson and passed unanimously.

The meeting was then opened for public comment. There being none forthcoming, the public comment session was closed.

Chairperson Peterson explained the procedure for public hearings. The public hearing was opened on a Petition for Variance by Robert Edwards (#74-AP-CA-3). Jim Kippola of the Planning Commission Staff read the legal ad which was published in the Mining Journal on the 10th and 19th of June, 1979.

The applicant is requesting a variance from Section 29, Height and Placement Regulations of the Marquette County Zoning Ordinance which would reduce the front setback required in an R-2 Zoning District from 30' to 0' on the following described property: A parcel of land located in the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$, Section 32, T48N-R29W; more particularly described as Lot 14 as shown on Lessor's Map #270 on file at the offices of U.S. Steel in Ishpeming, Michigan.

Mr. Edwards explained that the reason he is requesting the variance is for the purpose of constructing an attached garage to his home. There is a cliff in the back of the property and the proposed garage would be in line with the house.

Mr. Kippola made the Planning Commission Staff's presentation. A diagram showing the existing residence and the proposed garage addition was shown. The house is currently in the County Road ROW about 4'. The proposed addition would also be about 4' into the ROW.

Slides of the back of the lot and an easterly view of the lot were shown.

It is the Planning Missions Staff's opinion that:

1. Any building placed on the County Road ROW would create a liability problem, on the part of Marquette County, for any property damage by snow plows, etc.
2. Construction on the proposed site would not leave adequate distance between the garage and the sidewalk for an average size car. This could create problems with backing visibility, etc. as the driver of the car would just be coming out of the garage as the rear of the car enters the sidewalk.

The Staff therefore recommends that construction be approved at no less than two feet from the front lot line. This would insure the proposed structure would be off of the County Road ROW and more adequate clear vision could be maintained between the driver of a backing auto and pedestrians, bicyclists, etc., on the sidewalk.

John Olson commented that all of the garages in the area were on the sidewalk. Mr. Kippola explained that the Staff didn't feel this hazard should be perpetuated. Mr. LaPin commented that the proposed garage was in the only feasible place and that the house would still cause a blind spot even if the garage were moved further back.

Mr. Kippola informed the Board that in discussing Mr. Edwards' plans with the Building Code Department Staff, it was indicated that there is a section of the State Construction Code dealing with the truss system Mr. Edwards intends to use. Mr. Kippola requested that Mr. Edwards be advised to contact the Building Code Department for additional information before he finalizes his plans. For instance the garage floor may have to have a non-combustible surface.

Written communications were received from Champion Township and from Peter, Mike and Berle LaPin, property owners in the vicinity of Mr. Edwards. Both indicated support of the proposed variance.

There being no further discussion, the public hearing was closed. Berle LaPin moved that the variance be granted as the petitioner requested, supported by John Olson and Armand Gasbarro. The motion was passed unanimously on a roll call vote.

Chairperson Peterson advised Mr. Edwards to contact the Building Code Department before beginning construction.

The public hearing was then opened on a Non-Conforming Use Petition by Marlene Flack (#4-NC-EL-3). Jim Kippola read the legal ad. The applicant is requesting expansion of a Class A Non-Conforming Use on a parcel of land located in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, Section 1, T46N-R28W. Approval of the request would allow enlargement of a grocery-gas business in a Residential Two Zoning District beyond the maximum allowable size determined by the Zoning Board of Appeals in a previous action.

Mrs. Flack commented that at the previous meeting the Board voted to allow 10' expansion of the front and back of the building. The Flacks have since determined that this would not be sufficient space and are requesting an additional 10 feet in the back of the building for bottle and can storage.

Jim Kippola showed Board a diagram of the store, prior approved addition and the proposed addition. Mr. Kippola explained that at the March 28, 1979 meeting, the Board granted a Class A Non-Conforming Use Designation for the grocery store-gas business owned by the Flacks with six conditions imposed. The second condition states, "The structure may be altered, renovated, repaired, or replaced although any expansion will not exceed the proposed 700 square foot addition on the Northeast and Southeast sides of the existing structure". The petitioner is requesting a 340 square foot addition to the prior approved expansion.

It is the Staff's opinion that bottle and can storage was considered at the time of the 700 sq. ft. addition was approved. The Staff feels that this addition should adequately handle the need for additional storage space for bottle and can returns along with any minor growth the store anticipated. The Staff feels that there would come a point that expansion of the store would violate Section 47 of the Zoning Ordinance which sets up the definitions for Class A Non-Conforming Uses.

The Staff is therefore not in favor of expansion of the non-conforming use as 1st phase of construction has not started and the plans could be changed.

The Board discussed how the proposed addition would affect the parking requirement. Mr. Kippola indicated that the existing building needs 6 parking spaces. Fifteen parking spaces would be required upon completion of the prior approved addition. An additional 2 or 3 parking spaces would be required if the petition is granted.

No correspondence was received concerning the petition.

The applicant indicated that if additional parking space was required, a structure to the left of the store could be eliminated to provide this space.

Following further discussion by the Board, William DeShambo moved that the petition be approved as requested, supported by John Olson. The motion was passed unanimously on a roll call vote.

The meeting continued with the opening of a public hearing on a Petition for Variance by Arne Heikkila, Marquette (#75-AP-EL20). Mr. Heikkila is requesting a variance from Section 29 of the Marquette County Zoning Ordinance to reduce the side setback requirements to 10 feet where 30 foot setbacks are required on the following described property: Part of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and part of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 26, T48N-R28W, more particularly described as Lots 1 through 27, Goldmine Lake Heights, Ely Township.

Chairperson Peterson explained that as there are several pieces of property, only a portion would be covered at this meeting. Also since each situation is different, the Board would like to discuss each separately and make their recommendation separately. Mr. Heikkila had no objections to this arrangement and added that he would be willing to take the Board on a personal inspection of the subdivision if it would aid in their decision.

Jim Kippola read the legal ad. A map of the subdivision was presented. Mr. Kippola explained that the Staff had made recommendations on the following lots: 1, 2, 9, 10, 11, 12, 15, 17, 20, 22, and 27.

The first lot to be considered was Lot #1. Mr. Heikkila stated that due to the narrowness of the lot and the east side slopes, 30 foot setbacks made the lot unusable.

Mr. Heikkila further explained that due to the grade, septic system, well, etc., finding a suitable building location was difficult. Mr. Heikkila felt that 30 foot setback requirements were unreasonable. Mr. Kippola commented that in some cases the Staff found that setbacks needn't be reduced and in others agreed to the reduction request.

The subdivision was platted in 1976.

There was no correspondence from the Township or from nearby property owners.

Mr. Kippola commented that, in the past, "blanket variances" had been granted. In those cases, however, the conditions on all of the lots were very similar. Each of the lots in Goldmine Lake Heights is different and should be considered separately.

The Staff's opinion concerning Lot #1 was presented. Because of the narrowness of the lot (101') and steep slopes toward the rear of the lot (25%), the Planning Commission Staff recommends reduction of both side setbacks from 30 feet to 10 feet.

Following discussion, William DeShambo moved to grant reduction of both side setbacks on Lot #1 as recommended by the Planning Commission Staff. The motion was supported by Armad Gasbarro and was passed unanimously on a roll call vote.

The meeting continued with discussion of Lot #2.

The Staff feels there is sufficient room within the present 30 foot setbacks to allow construction of an average sized one story home, well and septic system. A slide showing the front of the lot was shown. A scale diagram showing the area within the setbacks was presented. A scale model of a 1300 sq. ft. house with an attached 24 X 26 garage was placed within the setbacks as was a diagram showing distance between the well and septic system. Both could easily fit within the existing setbacks. The Staff recommends no change.

Following discussion by the Board, Armad Gasbarro moved that the Board concur with the Staff's recommendation and deny the variance request on Lot #2. The motion was supported by Berle LaPin and passed unanimously on a roll call vote.

In discussion of Lot #9, Mr. Heikkila explained that the owner is planning to build a 58 foot house on the lot. The well is 5' from the lot line. The setback required from the lake is 40 - 50 feet on the lake front lots. There is a 10' drainage easement on the south of the lot.

The Staff feels that a large depression on the western half of the lot and the location of the well warrant reduction of the easterly side setback from 30 feet to 10 feet. The Staff is not recommending reduction of the other side because it doesn't feel it is buildable.

Following discussion, Berle LaPin moved that the setback be reduced on the easterly side lot line as recommended by the Staff. The motion was supported by John Olson and was passed unanimously on a roll call vote.

It was questioned whether discussion on Lots 10, 11, 20, and 27 could be combined as the Staff opinion was the same. Mr. Kippola explained that although the Staff opinion was the same, conditions on each lot resulting in the Staff's recommendation were different. The board agreed to continue with each lot separately.

Discussion continued on Lot #10. Mr. Heikkila commented that the most suitable building site on water front lot was toward the lake. He indicated that the slope to the road would make a suitable area for the septic system and that the well, which was installed by the road, was put in the wrong spot due to weather conditions at the time. The lot tapers to the lake.

The Staff's opinion recommended reduction of the northwesterly setback from 30' to 10', because of well location and slope.

Following discussion, William DeShambo commented that possibly some members of the Board could go over the area as was suggested by Mr. Heikkila. John Olson informed the Board that only two members could go without it being a violation of the Open Meetings Act. These two members could review the situation and report to the whole Board.

Chairperson Peterson raised the question of the legality of such an inspection by Board members. Following further discussion, John Olson moved that two members of the Zoning Board of Appeals along with Mr. Kippola or another representative of the Planning Commission Staff and Mr. Heikkila or his representative go to the property, review the situation and make a recommendation to the whole Board, providing such an inspection is legal. The motion was supported by William DeShambo and passed unanimously.

Mr. Heikkila requested that the Board take action on Lot #15 as the owner plans to start construction in July.

The Staff feels that because of the narrowness of the lot (117') reduction of the westerly side setback from 30 feet to 10 feet is warranted. Slides of the lot were shown depicting the road frontage, the well and westerly view of the lot.

Following discussion, William DeShambo moved that the westerly side setback be reduced to 10 feet on Lot #15 as the Planning Commission Staff recommended. The motion was supported by Armand Gasbarro and was passed unanimously on a roll call vote.

Chairperson Peterson advised Mr. Heikkila that the Zoning Board of Appeals' decision was final and any appeal would have to be taken to Circuit Court.

Board members John Olson and Karol Peterson were appointed to inspect the property and make their report to the whole Board at its July 25th meeting.

William DeShambo requested that Mr. Heikkila review his lot lines closer and have them marked for easier inspection by the Board members.

No new appeals had been received for scheduling.

As there was no further business or public comment, William DeShambo moved that the meeting be adjourned, supported by John Olson and passed unanimously. The meeting adjourned at 8:50 P.M.

CLERK

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

May 23, 1979

The meeting was called to order by Chairperson Karol Peterson at 7:04 P.M. in the District Courtroom of the Marquette County Courthouse Annex. Roll was called. All Board members were present: William DeShambo, Armad Gasbarro, Berle LaPin, John Olson, and Karol Peterson.

The meeting was opened for public comment. There being none heard the public comment session was closed.

Chairperson Peterson opened the public hearing on Petition #3-NC-EL-2 by the Zoning Administrator for a Class A Non-Conforming Use Designation.

Jim Kippola of the Planning Commission Staff explained that an applicant for a building permit had applied for zoning approval when it was discovered that his property, which is part of Lawer's Plat in Ely Township, was zoned Open Space. Zoning compliance therefore, could not be issued as the proposed construction of a residential addition and garage would be the expansion of a Class B Non-Conforming Use. The adjacent lots in Lawers Plat east of the section line between Sections 34 and 35, T48N-R28W were zoned Residential Two, R-2.

The Staff indicated that there may have been an error made when the zoning district boundaries were drawn. The situation was discussed at the May 3, 1979 meeting of the Marquette County Planning Commission however no firm stand was taken by the Commission until further review and analysis of the problem could be obtained.

The Staff therefore, recommends a Class A Non-Conforming Use Designation be granted to Mr. Ogea's lot as an interim measure to allow him to continue his construction plans.

Mr. Olson inquired if the action by the Zoning Board of Appeals would apply to other lots zoned Open Space in the Plat. Mr. Kippola stated that it would not. Those lots would be discussed in more detail later in the meeting.

It is the opinion of the Planning Commission Staff that continuance of the use of the property for single family residential purposes would not be contrary to the spirit of the Zoning Ordinance in that it is adjacent to an R-2 zoning district allowing like uses. Further it is not likely that expansion of the house or the addition of accessory buildings will depress the value of nearby properties.

The Staff recommends that the Appeals Board grant the Class A designation with the following conditions:

1. The property be used for single family residential purposes including customary accessory uses.
2. The height, bulk and placement requirements of the R-2 district be applied to any future construction.

Mr. Olson asked if the Plat was older than the Zoning Ordinance and if it was, why it wasn't zoned R-2 originally. Mr. Kippola explained the the Staff believed a drafting error had been made. Mr. Kippola also stated that this was the only area known to be affected by this problem.

Mr. DeShambo felt that the area should be rezoned and inquired how a rezoning would affect Mr. Ogea. Mr. Kippola explained that Mr. Ogea would not be able to build without perhaps one or two more months delay.

Mr. Olson moved that the petition be granted with the recommended conditions of the Planning Commission Staff. Mr. Gasbarro supported the motion.

The Board asked if correspondence had been received from Ely Township. Mr. Kippola stated that the Ely Township Board was in favor of the petition. There being no further discussion on the motion, a roll call vote was taken. The motion was passed unanimously.

The meeting continued with the scheduling of new petitions. Mr. Kippola read the two new petitions for variances which had been received. The first was by Robert Edwards, Champion Township, requesting reductions of the front lot setback to 0'. The second petition was by M. Flack who wishes to expand a Class A Non-Conforming Use in Ely Township.

Mr. Olson felt that the Flack's request was entirely different from their previous petition and that the Board should schedule it.

Berle LaPin moved that both appeals be scheduled for the next meeting, supported by William DeShambo. The motion was passed on a unanimous roll call vote.

Mr. Olson requested that Assistant Prosecuting Attorney Tom Solka's opinion on rehearings be attached to the Board's file which is present at all meetings.

Mr. Kippola presented the Planning Commission's request that the Board of Appeals recommend what action should be taken concerning the areas in Lawer's Plat which have been zoned Open Space.

Mr. Olson felt that the platted lots should be rezoned but the large block of property owned by Mr. Lawer should be examined as to the suitability for residential use before rezoning.

Mr. DeShambo inquired if the Township Board had been contacted concerning the matter. Mr. Kippola stated that the Township Supervisor had been in frequent contact with the Planning Commission Staff.

Mr. Olson Moved to recommend to the Planning Commission Staff that the necessary field work be done to enable the P.C. Staff to recommend to the Planning Commission which areas should be rezoned to R-2. A recommendation from the Ely Township Board should also be obtained. The motion was supported by Armad Gasbarro and passed unanimously on a roll call vote.

There being no further business or public comment, Berle LaPine moved that the meeting be adjourned, supported by William DeShambo and passed unanimously.

Clark's
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COUNTY ZONING BOARD OF APPEALS
MINUTES

March 28, 1979

Meeting was called to order by Chairperson, Karol Peterson. Roll was taken by the Secretary. Those present at the meeting were Board Members, Armand Gasbarro, Berle LaPin, John Olson, and Karol Peterson. Wm. DeShambo was absent.

Chairperson Peterson asked if there was any public comment, hearing none the public hearing was opened for appeal for a Nonconforming Use Class A Designation by Jacob and Marlene Flack, 2-NC-EL-1. Mrs. Peterson explained to those present the procedures that would be used for the public hearing.

Staff member, Jim Kippola read the legal add for the appeal which appeared in the Mining Journal Newspaper on March 11 and March 22, 1979. The appeal is for a Class A Nonconforming Use Designation, to allow expansion of a gas station-grocery store, in an R-2 Zoning District on the following described property: That part of the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec. 1, T46N-R28W; commencing at the intersection of the South Boundary Line of said NE $\frac{1}{4}$ of NW $\frac{1}{4}$ and the Easterly ROW line of County Road 581: thence Northwesterly along said ROW line for 528.5 feet to the POB: thence South 52*23' East for 236.0 feet to the East Boundary Line thence North 52*23' West for 151.3 feet; thence North 13*12 West for 48.8 feet to the Easterly ROW line of said County Road 581: thence South 34*47' West for 118.0 feet along said easterly ROW line to point of beginning. Containing 0.43 acres.

Mrs. Flack presented her case for the appeal. They have owned and operated the store for 9 years. The area has grown and they just realized what the property was zoned. In case they want to expand they wanted to get a variance in case they should need more space. As it is presently zoned, they could not rebuild if the structure was burned down, so they want it classified as a Class A Nonconforming Use.

Staff gave their presentation. Jim Kippola read Sections pertaining to Nonconforming Uses: Sec. 47 - Definitions and Classification of Nonconforming Uses and Structures, Sec. 48 - Procedures for Obtaining Class A Designation Conditions, and Renovation of a Class A Designation to refresh the Board Members of what the requirements are for such uses.

Mr. Kippola presented a sketch showing the distances from County Road 581 and the structure to the lot lines. Slides were shown of the building and area.

It was the recommendation of the Planning Staff that the continued grocery and gas sales at the subject premises would not be contrary to the public health, safety, and welfare, the spirit of the ordinance, or would this activity significantly depress nearby property values if the recommended conditions were applied when granting the Nonconforming Class A Designation.

1. Future use of the structure will be limited to it's present use, that of grocery and gasoline sales.
2. The structure may be altered, renovated, repaired, or replaced although any expansion will not exceed the proposed 700 square foot addition on the North-east and Southeast sides of the existing structure. (The existing building is approximately 904 sq. ft.).
3. Off street parking requirements, (Sec. 32 of the Ordinance) will be met for the existing structure or for any expansion or alterations which may take place. The existing building would require 6 parking spaces.
4. If granted, the requirements of Sec. 38.8.1 and 38.8.2 nonconforming signs, will apply. These sign regulations mean that existing signs may remain and be maintained as they existed before enactment of the Ordinance.
5. Should expansion or alteration occur, the requirements of Sec. 43, Required Planting Screens, will be met.
6. Sec. 30, Zoning District Boundary Setback Regulations, will apply for any new construction on this lot. This insures a 30' minimum setback for any new building.

Correspondence was read that was received dealing with the appeal. A letter was received from the Ely Township Board in favor of the variance. They felt it is needed for the area residents and would not cause harm to the adjoining land owners. The size of the expansion is negligible to the landscape, but necessary to the business. Another letter was received from Jerry Oja stating he had no objections to the change in zoning as long as the property was not changed into a Tavern.

Three phone calls were received, all in favor of the variance. They were from Mrs. Robt. Weber, Steve Anderson, and Dan Rintamaki. They would not favor a change to a Tavern.

Mr. Olson inquired how many parking spots would be needed if expansion occurred. Mr. Kippola responded saying 11 would be required.

There was discussion about the screening requirements. Mr. Kippola read the Section of the Ordinance pertaining to them, (Sec. 43) and explained how the section would apply to the petitioner's property. He also gave reasons why screens are needed.

Mrs. Flack stated that she owns property on three sides of the variance request, and there is a wooded area on the fourth which is 500 feet from the lot lines. She asked if the requirements would still be needed even though she owned the property surrounding the structure. Mr. Kippola said it still would be required if the Board adopted this condition. He went on to explain the long range effects of not having screens.

Mrs. Clare Anderson asked when the zoning came into effect in Ely Township. She couldn't understand why the property wasn't zoned commercial, and why the owners weren't contacted about it.

Mr. John Olson pointed out that if the one parcel was zoned commercially, it would be "spot zoning." The Zoning Ordinance came into effect Jan. 7, 1977. Public hearings were held in the individual townships for the public information. The general character of the area around the store is residential, which is why it was zoned R-2.

Mr. Kippola expanded upon this and discussed other factors affecting decisions which are made when establishing a commercial zoning district.

Mrs. Anderson inquired if a house was burned down in the R-2 District could it be rebuilt. Mr. Kippola responded that it could since it is in a residential district. The purpose of the zoning ordinance is to segregate the different uses. When there is a commercial structure in a residential district, it is not compatible.

Duane Moreau asked if a home in a commercial district could be rebuilt if destroyed. Mr. Kippola said no, for the same reasons a commercial structure couldn't be rebuilt in a residential district.

The public hearing was closed.

Motion was made by John Olson, supported by Berle LaPin that the Nonconforming Use Class A Designation be granted providing the conditions cited by the Staff were met, and with the stipulation that Sec. 43, Required Planting Screens, will be met should either the structure, property, or adjoining property be sold. Motion was passed by a unanimous vote, 4-0.

Chairperson Peterson pointed out that the decision of the Zoning Board of Appeals was final. Should any petitioner wish to carry the matter further, they would have to take it to the Circuit Court.

Public hearing for the appeal by Duane Moreau, 73-AP-EL-19 was opened. Legal add was read by the Staff Member, Jim Kippola. Mr. Moreau requests a variance from Sec. 29 of the Marquette County Zoning Ordinance to construct a single family residence and garage, 20 feet to the front lot line where a 30 foot setback is required on the following described property: The North 110' of the South 843' of the West 116.3' of the East 298.7' of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$, Sec. 12, T46N-R28W, in Ely Township.

The petitioner, Mr. Moreau gave his comments. He would like to build a home on his lot. When he looked at this neighbor's water supply location it presented a problem as to where he could put his septic system. According to the zoning ordinance he would not be able to make the 30 foot setbacks required from the lot lines. He would be 10 feet from the neighbor's water supply with his drainage system. In addition, the lots when they were divided before the zoning ordinance had 20 foot setbacks. Mr. Moreau presented a petition that was signed by several of his neighbors who were in favor of the appeal for the following reasons:

1. It will promote consistency in the neighborhood.
2. It will prevent a pollution problem to the well.
3. It does not directly affect anyone in close proximity to a point of being detrimental.
4. This lot was purchased before the zoning was in effect.

Mr. Kippola presented a diagram showing the distance from the proposed structure, the neighbor's well, where the septic system would be located, and the lot lines. The Staff recommends that the variance be granted because of the two practical difficulties which are present, they are:

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ZONING BOARD OF APPEALS
MINUTES

Phone: 228-8500

February 28, 1979

The Meeting was called to order by Chairperson, Karol Peterson. Roll was taken by the secretary. Those present were Board Members, Armad Gasbarro, Karol Peterson, Berle LaPin, and John Olson. Mr. Bill DeShambo was absent.

Motion was made by John Olson that the minutes of the December 28, 1978 meeting be accepted as presented. Motion was seconded by Berle LaPin and passed unanimously.

Election of officers was held. Planning Staff member, Les Ross conducted the election. Berle LaPin nominated Karol Peterson for Chairperson. A roll call vote was taken, Mrs. Peterson was elected Chairperson by a unanimous vote of 4. Election of Vice Chairperson was conducted by the Chairperson. Armad Gasbarro was nominated by Berle LaPin. Mr. Gasbarro was elected Vice-Chairperson by unanimous vote.

Mr. Koshorek made some comments concerning the proposed Appeal to be heard at the meeting by Mr. Ron Perreault. Mr. Perreault is requesting a variance similar to one considered at the last meeting. Mr. Perreault had indicated that he had some new evidence or testimony to submit, that being a letter from the Township Board stating they were in favor of the appeal being granted. On these grounds, procedures for the appeal were put into motion, such as publication in the paper and notifying property owners. Since that time, a court case had been found, McVeigh vs. the City of Battle Creek. concerning the legality of rehearings by Appeals Boards. Mr. Koshorek suggested it might be advisable for the Board to defer decision on the appeal until an opinion from the Prosecuting Attorney has been given.

Mr. Perreault stated that the new request was for an addition two feet narrower than shown on the original application. Planning Staff checked both petitions and stated there was no differences between the two.

Ms. Ann Block from Legal Services, stated that she believed since there are no written procedures otherwise, that once a decision has been made by the Board, it is final. If the Board is uncertain as to written procedure, they should seek legal counsel.

Mr. Olson said the Prosecutor should be contacted on the legality of the procedure. If Mr. Perreault's application is changed it should be stated as such. Mr. Olson asked if a legal opinion could be expected from the Prosecutor's Office within 30 days. Mr. Koshorek stated that an opinion should be received by the next meeting.

Motion was made by John Olson and seconded by Armad Gasbarro to contact the County Prosecutor for an opinion on the rehearing of an Appeal. A roll call vote was taken, and the motion passed unanimously.

Mr. Koshorek then requested an interpretation from the Appeals Board concerning a decision made by the Board on petition #71-AP-MI-5, by Arthur Hamel. Mr. Hamel requested a variance from Sec. 21.2 permitted principle uses in a Commercial (C-3) District. The property was zoned C-3 Commercial, and has no minimum lot size requirements. Does the Board want the setbacks for all structures required as under the Commercial District. In the Commercial District, setbacks are 40 feet in front, 5 on the sides, and 20 on the rear and designed for commercial structures.

There was discussion on whether the setbacks for Lake Shore River/Residential, which is the district adjoining the property in question could be applied to Mr. Hamel's property.

Motion was made by John Olson that the property be divided in four areas to concur with drawing presented by the Planning Staff. The drawing is to be labeled Exhibit A. Sections A and B have approximately 3.75 acres and C and D approximately 3.5 acres each. Motion was seconded by Armad Gasbarro. A roll call vote was taken, motion passed unanimously.

Mr. Koshorek stated that in effect the Board had rezoned the property by their decision. The intent of zoning is to keep the uses which are not compatible apart. There is a potential now for several residential dwellings next to an intensive commercial operation, which is not the intent of the zoning ordinance.

Mr. Koshorek pointed out some changes in the County Rural Zoning Enabling Act. In order to affect a change in the zoning ordinance a majority of the membership of the Board is now required. Therefore, at least three votes of the Board Members present would be required to pass or defeat a motion regardless of the number present.

The act will become law on April 12, 1979. Mr. Koshorek also pointed out Sec. 16d (2) on page 14. Boards of Appeal may impose conditions with a decision in accord with the section.

Karol Peterson stated that there is going to be a seminar on March 7 concerning planning and zoning held by the County Township Association at Northern Michigan University, should anyone on the Board wish to attend.

Chairperson Peterson expressed the Board's welcome to Mr. Gasbarro, the new Zoning Board of Appeals Member recently appointed by the County Board.

Motion was made by Berle LaPin, and supported by John Olson to adjourn the meeting. Motion was passed unanimously.