PRESQUE ISLE TOWNSHIP ZONING BOARD OF APPEALS
REGULAR QUARTERLY MEETING & VARIANCE PUBLIC HEARINGS
Held January 5, 2016

Call to order: The meeting was called to order at 7:00 pm. by Chairman Steve Lang.

The Pledge of Allegiance was recited.

Roll Call: In attendance were S. Lang, C. Winters, B. Fay, P. Hart, B. Hellmuth & Alternate J. Bidwell.

Audience Comments: No comments.

Approval of Agenda: B. Hellmuth requested the addition of Meeting times for 2016 as well as Training/Information Books under Other Business. C. Winters moved to approve the agenda with the changes. Support by P. Hart. All ayes; so moved.

Approval of Minutes (October 6, 2015): B. Hellmuth asked that the words "as written" be changed to "with changes" under Approval of Agenda. B. Hellmuth moved to approve the minutes with the change. Support by B. Fay. All ayes; so moved.

General Function:

1. Election of Officers: S. Lang advised that the board will have to have nominations for officers. S. Lang opened nominations for the Chair. C. Winters nominated S. Lang for chair. There were no other nominations. B. Hellmuth moved that nominations be closed and the unanimous ballot be cast for S. Lang as chair. B. Fay supported. All ayes; so moved. S. Lang opened nominations for vice chair. S. Lang nominated C. Winters for vice chair. No other nominations were made. B. Hellmuth moved that nominations be closed and that the unanimous ballot be cast for C. Winters as vice chair. B. Fay supported. All ayes; so moved. S. Lang opened nominations for the secretary. P. Hart nominated B. Fay as secretary. No other nominations were made. B. Hellmuth moved that nominations be closed and that the unanimous ballot be cast for B. Fay as secretary. C. Winters supported. All ayes; so moved.

Public Hearings:

1. Henze Variance: S. Lang opened the public hearing at 7:08 pm. The applicant explained that they had purchased the house in 1997 and it has an existing summer porch that is 13' x 8' and is currently 10 ft. from the side setback. The applicant would like to expand the existing kitchen that is only 9' x 8'. He advised that the kitchen expansion would replace the existing sun porch. He is requesting that the variance be allowed for 8 ft. from the side setback. He advised that the corner will be the only issue and the driveway and the drain field is on the other side of the property, and this is the only place that they could put the addition. L. Taylor advised that in the 90's the property was zoned R-1 with a side setback of 20 ft. and there has never been a variance granted. She advised that when the zoning permit was issued there must have been an error made by the Township at that time. She advised that the lot is at a very odd pie shaped angle. There was all mention of the overhang of the addition. The builder acknowledged that the overhang could encroach up to a foot more. S. Lang closed the Public Hearing at 7:20 pm. The ZBA members discussed the options of moving the addition to the north and that the drafted plan of 8 ft. is not perpendicular to the property line. B. Fay stated that it would be a practical difficulty to put the kitchen on the other side of the house. B. Fay moved to approve the 8 ft. variance of the foundation to the side setback. C. Winters supported. All ayes; so moved.

2. Martin Variance: L. Taylor advised that the Martin's could not be present and the builder was asked to be present and he was not here. S Lang stated that they would still go over the request. S. Lang opened the Public Hearing at 7:33 pm. L. Taylor advised that the applicant is a requesting to build a detached garage in front of the home. She advised that the property is deeply sloped from the front to the rear of the lot and in order to build the garage the property must be filled with a cost of $13,000.00. Therefore the applicant is requesting that the building be set 10 foot in front of the face reducing the cost of the fill to about $6,300.00. The practical difficulty is due to the topography of the property that

prevents the applicant from building an accessory building similar to others within the same zoning district. The cost of $13,000.00 is a hardship. S. Lang read a letter from Clara Zahari a property owner with a lot within 500 ft. of the applicant that is not in agreement with the building of the accessory building. The board members discussed the request. B. Hellmuth asked if there were deed restrictions and does the request have to be turned into the association. S. Lang stated that there are no deed restrictions preventing the building being built in front of the home. They will have to turn the plan into the association. P. Hart moved to approve the variance of the 10 ft. of the detached accessory building to be ahead of the dwelling. B. Hellmuth supported. All ayes; so moved.

Reports

TWP. Board Liaison: P. Hart provided a written report.

Zoning Administrator: L. Taylor introduced Phil Budnik as the new Deputy Zoning Administrator.

Other Business

Tentative ZBA Meeting Dates and Times for 2016: 4/5/2016, 7/5/2016, 10/4/2016 and 1/3/2017. S. Lang advised that the Planning Commission will be meeting on Tuesday, July 5, 2016 at 7:00 pm. He explained that they would normally have their meeting on the Monday before. However; Monday, July 4, 2016 is a holiday. He advised that they will set a meeting time for that date at a future meeting. B. Hellmuth suggested the option of changing the meeting times from 7 pm to 6 pm. L. Taylor stated that she had been hearing mixed feelings regarding the Board of Trustees changing their meeting time. She stated that residents want to have time in between work and attending a meeting, she recommended keeping the 7 pm meeting time. The Board members agreed.

Planning and Zoning Books: B. Hellmuth mentioned that it would be a good idea to request the Zoning and Planning Books for the ZBA members. L. Taylor suggested the MTA book as well. She advised that it may cost approximately $100.00 for each member to have the 3 different books. The 3 books are as follows; Township Guide to Planning and Zoning, The Decision Making Guide and The MTA Handbook. B. Hellmuth moved to recommend the purchase of the books to the Board of Trustees. C. Winters supported. All ayes; so moved. The board members discussed the zoning ordinance at this time and requested that the manual be revised with all the latest ordinance changes.

Adjournment: With no further business to discuss, the meeting was adjourned at 8:03 pm.

Meeting Reminder: The ZBA will meet on Tuesday, April 5, 2016 @ 7:00 pm. for their regular quarterly meeting.

Respectfully submitted; Kimberly S. Bedard, Administrative Assistant

PRESQUE ISLE TOWNSHIP ZONING BOARD OF APPEALS
REGULAR QUARTERLY MEETING
Held April 5, 2016

Call to order: The meeting was called to order at 7:00 pm. by Chairman Steve Lang.

The Pledge of Allegiance was recited.

Roll Call: In attendance were S. Lang, B. Fay, P. Hart, B. Hellmuth & Alternate J. Bidwell. Absent member; C. Winters.

Approval of Agenda: B. Hellmuth moved to approve the agenda as written. Supported by; P. Hart. All ayes; so moved.

Approval of Minutes (January 5, 2016): P. Hart moved to approve the minutes as written. Supported by; B. Fay. All ayes; so moved.

Comments from the Audience: No Comments.

Reports

- **TWP. Board Liaison:** A written report was provided.
- **Zoning Administrator:** A written report was provided.
- **Planning Commission:** S. Lang advised that they had formed an ADHOC committee to go over the sign ordinance. He also advised that they had approved a site plan review for a 40' x 60' pole barn.

B. Hellmuth moved to approve the reports that were provided. Supported by; J. Bidwell. All ayes; so moved.

Correspondence: None.

Unfinished Business

- **Accessory Structures:** S. Lang advised that he had discussion with B. Hellmuth regarding the Planning Commission (PC) approving sizes of detached accessory buildings larger than the ordinance states. He advised that L. Taylor and P. Budnik had done some research regarding the decisions that the PC can make versus the decisions that the ZBA can make. The ZBA is limited as to what they can approve a variance for; they have to determine a hardship of the placement of the structure. The ZBA does not have the power to grant a variance of the size of the building. The Planning Commission can approve the size and placement of a building with a site plan review request for anything that is over the size that the ordinance allows.

SECTION 28.9 POWERS OF THE BOARD

The Zoning Board of Appeals may revise or affirm, wholly or in part, or may modify the order, requirement, decision or determination as in its opinion ought to be made in a particular case, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issuance of a permit. The Zoning Board of Appeals, in hearing and deciding appeals, shall have the authority to:

A. Permit the erection and use of a building or an addition to an existing building, of a public service

corporation or for public utility purposes, in any zoning district to a greater height or of a larger area than

the district requirements herein established.

B. Permit the modification of the off-street motor vehicle parking space as loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements, after recommendation from the Planning Commission.

C. Permit such modification of the height, lot area, yard setback, floor area and lot width regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape and size, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without such modification, provided that modification of lot area regulations shall be permitted

only in instances where the nature of the soils and drainage is such that there is sufficient

area for safe water supply and sanitary disposal of waste.

D. Permit the modification of site plan review standards, as may be established in this ordinance, where physical hardship and unusual circumstances peculiar to the property in question exist.

New Business

- **MTA Discussion on ZBA:** P. Hart provided a handout from the Township Focus magazine, regarding questions and answers with ZBA meetings and procedures. *(Please see attached).*

Additional Information: P. Hart advised that the new budget will be coming up and she mentioned that there did not seem to be enough funds in the seminars/training fund in the current budget. She stated that there is a training class coming up in Gaylord on April 25, 2016. The board went over the budget and determined that there should be enough funds to cover the class and they will discuss going up on some of the areas within the budget for the next fiscal year. The board also discussed the meeting time for the July 5th meeting. The Planning Commission will be meeting on that day as well, due to the July 4th holiday falling on a Monday. The board agreed to meet at 6:00 pm that night and if something comes up between now and then S. Lang will send out an email to possibly change the day and or time.

Adjournment: With no further business to discuss, the meeting was adjourned at 8:00 pm.

Meeting Reminder: The ZBA will meet on Tuesday, July 5, 2016 @ 6:00 pm. for their regular quarterly meeting.

Respectfully submitted; Kimberly S. Bedard, Administrative Assistant

hello, MTA ... ?

Catherine Kaufman, MTA Legal Counsel
Bauckham, Sparks, Thall, Seeber & Kaufman, PC, Kalamazoo

A property owner applied to the planning commission for a special use approval, but an attorney at the public hearing protested that this was really a use variance request that should be heard by the zoning board of appeals. Who is right?

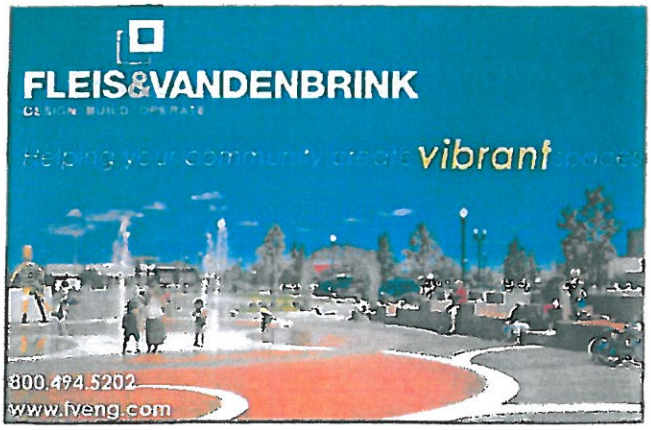
The township's zoning ordinance should list land uses allowed as permitted and special uses. Pursuant to the Michigan Zoning Enabling Act (MZEA), most townships do not have the authority to grant a use variance. (MCL 125.3604) Specifically, the MZEA provides that the authority to grant use variances is limited to cities and villages, townships and counties that as of Feb. 15, 2006, had an ordinance that uses the phrase "use variance" or "variance from the uses of land," or townships and counties that granted a use variance before Feb. 15, 2006.

Even if a township fits within one of the above exceptions and has the authority to grant a use variance, the township does not have to do so. (MCL 125.3604(11)) If a township does have the authority to grant a use variance, the use variance must be approved by a two-thirds vote of the members of the zoning board of appeals (ZBA). (MCL 125.3604(10))

If a land use is listed as a special exception use, the request for such use should be processed as a special use permit application.

Is our ZBA required to meet a certain number of times per year?

A ZBA meeting shall be held at the call of the ZBA chairperson or at such other times as the ZBA may specify in its rules of procedure. (MCL 125.3602(1)) In some cases, a ZBA may want to call a meeting to approve minutes from a prior ZBA meeting, in order to start the timeline for any aggrieved party's appeal of a ZBA decision. (MCL 125.3606) If the township has adopted ZBA bylaws that provide otherwise, the township's bylaws would apply.



Is the ZBA required to hear and decide a zoning ordinance interpretation request?

The MZEA provides that the ZBA shall hear and decide "questions that arise in the administration of the zoning ordinance ... ." In general, the ZBA should hear interpretation questions regarding the zoning ordinance text or maps. *Macenas v Michiana*, 433 Mich 380 (1989) While a zoning administrator may be authorized to administer the zoning ordinance, an applicant should be able to request an interpretation from the ZBA. Additionally, if an aggrieved person wants to appeal a decision of the zoning administrator, the appeal would be to the zoning board of appeals. (MCL 125.3603)

The time frame for taking an appeal of an administrative decision to the ZBA should be specified in ZBA bylaws or rules, or elsewhere in the zoning ordinance. (MCL 125.3604) The MZEA also requires the ZBA to hold a public hearing on an interpretation request or an appeal. (MCL 125.3604(5))

Can a ZBA decision be appealed to the township board?

Any party aggrieved by a ZBA decision can appeal that decision directly to circuit court. There is no appeal of a ZBA decision to the township board. When appealing a ZBA decision, the aggrieved party must file their appeal by the first of the following dates: 1) 30 days after the ZBA issues its decision in writing; or 2) 21 days after the ZBA approves the minutes of its decision. (MCL 125.3606) If the ZBA thinks a decision might be appealed, the township might consider using a written decision form and/or approving its minutes quickly, in order to start the appeal time clock.

Our township attorney keeps urging our ZBA to be clear in the 'application of the standards' to the facts of the case. What does this mean?

The MZEA requires that a zoning ordinance contain procedures for ZBA reviews and standards for variance approvals. (MCL 125.3604(7)) Standards for granting a

dimensional (non-use variance) will likely include references to insuring that the spirit of the zoning ordinance is observed, public safety secure and substantial justice done. (MCL 125.3604(7)) The ZBA must make sure to discuss each standard and determine, based on the facts of the application, whether the standard is satisfied. While this level of review and decision-making may require effort, this is the analysis that needs to be done by the ZBA when making a decision on a variance request.

If you need assistance, the township zoning administrator and/or township attorney may provide an outline incorporating the standards for the ZBA to work from when making the decision. Please note that the township staff and/or attorney cannot make the decision for the ZBA.

Q Does the township have to halt zoning enforcement proceedings on a property while an appeal request for that property is pending before the ZBA?

The MZEA provides that "... [a]n appeal to the ZBA stays all proceedings in furtherance of the action appealed." (MCL 125.3604(5)) So in this case, the township should halt its enforcement proceedings until the ZBA renders a decision on the administrative appeal.

For more on ZBAs, explore the resources available on the members-only section of www.michigantownships.org, or purchase the MTA publications, *The Township Guide to Planning and Zoning* and *Township Planning & Zoning Decision-making: A Handbook for Planning Commissions and Zoning Boards of Appeals.*

Hello, MTA ... ? provides general information on typical questions asked by township officials. Readers are encouraged to contact an attorney when specific legal guidance is needed. Member township officials and personnel may contact MTA Member Information Services with questions or requests from 8 a.m. to 5 p.m., weekdays, at (517) 321-6467 or fax (517) 321-8908.

Learn more with Catherine Kaufman at MTA's April workshops, *Inside the Township Zoning Board of Appeals.* During this afternoon workshop, Kaufman—an attorney and a planner—will explore how the zoning board of appeals serves as a safety valve in circumstances where zoning requirements don't fit. Learn how variances approved without sufficient justification can turn the safety valve into a leak, and a leak into a flood. Turn to page 23 for more information, including dates and locations.

PRESQUE ISLE TOWNSHIP ZONING BOARD OF APPEALS
SPECIAL VARIANCE PUBLIC HEARING
Held May 25, 2016

Call to order: The special meeting was called to order at 6:00 pm. by Chairman Steve Lang.

The Pledge of Allegiance was recited.

Roll Call: In attendance were S. Lang, C. Winters, B. Fay, B. Hellmuth & Alternate J. Bidwell. P. Hart arrived at 6:45 pm.

Approval of Agenda: B. Hellmuth moved to approve the agenda as written. Support by; C. Winters. All ayes; so moved.

Public Hearing opened at 6:03 pm.

> **Mischoney Variance Request:** P. Budnik advised that the applicant is requesting a variance to allow the construction of a 30' x 60' pole barn that will not meet the required front and rear setbacks. The applicant has requested to alter the front setback from 50 ft. to 3.3 ft. and the rear setback from 20 ft. to 2 ft. The property is an irregular shape. He advised that they had received a letter from MDOT stating that a permit is not needed from them as long as there is no overhang or encroachment. C. Wallsey asked about the square footage and if there has been any contact with the Planning Commission regarding the size He stated that 10 ft. would be more reasonable. He also asked if there would be a problem with the road commission. P. Budnik advised that there are no problems with the road commission. W. Christopherson stated that you should know what you need when you are buying a lot to stay within the setbacks. T. Jones stated that he lives across the street and is against the variance. R. Torsch stated that the snow plows would have a difficult time. K. Christopherson asked why it could not be moved closer to the highway and not his property.

Public Hearing Closed at 6:23 pm.

Board Discussion & Decision: B. Hellmuth advised that the notice that was sent out and published had the front setback of 20 ft. instead of 50 ft. and no setback for the rear. J. Bidwell advised that she was concerned about the road commission and the size of the building. S. Lang stated that the notice will need to be re-noticed with the correct information. B. Hellmuth stated that the building could be moved farther to the north to allow for a bigger setback. B. Fay agreed that the setback should be at least 10 ft. from the road. C. Winters suggested that the applicant could consider a narrower and smaller building. S. Lang stated that the size of the building is what creates the hardship. J. Bidwell moved to post pone the hearing to a later date. Supported by; B. Hellmuth. The members discussed the motion regarding the postponement of the hearing; due to re- publication. B. Hellmuth moved to amend the motion for the reason of the postponement to a later date to allow for notice and publication of the public hearing. Supported by; J. Bidwell. A roll call vote was taken. All ayes; so moved. A roll call vote was taken on the motion from J. Bidwell of the postponement of the public hearing. All ayes; so moved. The board members agreed that the notice will need to be done as quickly as possible to have the postponed hearing on June 15, 2016.

Adjournment: With no further business to discuss; the meeting was adjourned at 6:45 pm.

Meeting Reminder: The ZBA will meet on Tuesday, July 5, 2016 @ 7:00 pm. for their regular quarterly meeting.

Respectfully submitted; Kimberly S. Bedard, Administrative Assistant

PRESQUE ISLE TOWNSHIP ZONING BOARD OF APPEALS
SPECIAL VARIANCE PUBLIC HEARING
Held June 15, 2016

Call to order: The special meeting was called to order at 7:00 pm. by Chairman Steve Lang.

The Pledge of Allegiance was recited.

Roll Call: Members present; S. Lang, B. Fay, B. Hellmuth, P. Hart and Alternate, J. Bidwell. Absent Member; C. Winters.

Approval of Agenda: B. Hellmuth added "ZBA Appeals" under New Business. B. Hellmuth moved to approve the agenda with the addition. Supported by; J. Bidwell. All ayes; so moved.

Public Hearing opened at 7:02 pm.

Mischoney Variance Request: The applicants advised that the original variance request was to allow for a 30' x 60' accessory building. Since the last meeting, they have met with S. Lang, P. Budnik, and 2 representatives from the PI County Road Commission. The road commission representatives advised that they would have no problem with an accessory building, provided that the building has a minimum of 9 feet from the edge of the road. The applicants advised that after the last meeting and the meeting at the proposed building site, we have revised the building size from a 30'x 60' to a 24' x 50' (1,200 sq. ft.) accessory building. The building would be 18 feet from the edge of the road in the SW corner and 17.3 feet from the edge of the road in the NW corner. They advised that this would place the building 8'1" setback in the SW corner, 2'1" setback in the SE corner, 4' setback in the NE corner and 8'1' setback in the NW corner. The applicant provided pictures of buildings in the surrounding area. *(Please see attached).* W.Christopherson asked if the buildings that were in the pictures had variances. S. Lang advised that some of the buildings were there before the new ordinance was written and they are considered non-conforming. S. Lang stated that we are trying to work with the ordinance to set precedence and the matter at hand is a proposed building that does not meet the setback requirements. C. Kowalski read a letter from a neighbor (R. Pitlock) that is against the variance request and is concerned with the height of the building. W. Mischloney stated that the building is not a commercial building; it will be an allowable size of 1,200 sq. ft. C. Christopherson mentioned that if the building would actually neaten up the area and they wouldn't be opposed to the variance if the building was a little smaller and would fit better. F. Symanski stated that the applicant has a trailer parked at the site with rubbish and felt they he was just putting it there to prove some kind of point. W. Mischloney stated that the trailer has steel shelving and stones that he is going to use for landscaping and the trailer will be gone when he has a place to put it. C. Kowalski stated that if the applicant is willing to dress the building up, then he would be ok with the building. S. Lang stated that the ZBA can only decide on the setbacks and it is an allowable size, so it will not go before the Planning Commission. C. Kowalski stated then he would be against the request. B. Hellmuth and S. Lang read letters from concerned residents that are against the variance request. B. Hellmuth stated that before we take action, would the applicant be willing to make it more appealing. P. Budnik advised that there were 30 + notices that went out and there has only been a handful that has shown opposition. L. Mischloney advised that the building will be very nice; it will have a roll up door and shrubbery. W. Mischloney stated that it will have a concrete floor, walls and a roof. He stated that he is not against vinyl siding and is willing to work with whatever.

Public Hearing Closed at 7:45 pm.

Board Discussion and Decision: J. Bidwell suggested that the building be moved to a different area. W. Mischloney advised that if he puts it in another location; it would block the neighbor. S. Lang stated that we have to look out for the neighborhood. P. Hart asked how far it will be from the road. S. Lang advised 18 ft. B. Hellmuth stated that he sees the hardship as no buildable area within the setback

requirements; he did mention that the road commission has approved 9 ft. from the road. He then stated that there is no guarantee that things will be stored inside the pole barn and suggested that if the applicant could move it more to the north he could have more room. W. Mischloney advised that moving it to the north; blocks the view from the house to the north. The board discussed the size of the side walls of 16 ft. P. Hart asked the applicant why the request is for such a tall building. L. Mischloney stated that they would like to store their 5th wheel inside. B. Fay stated that the applicant has come back with a smaller building. However, he is concerned with the height. J. Bidwell stated that she sees this as a hardship that has been self-inflicted. S. Lang read **Section 28.10 Criteria for Granting Variances** (*See attached).* The board members went through the section from A to K with discussion by members. B. Hellmuth advised that he is comfortable with someone building; but not for the size requested. He suggested maybe considering a garage. S. Lang suggested moving it more to the north. B. Fay stated to the applicant that he knew the property was shaped irregular when he bought it. S. Lang stated that people do not look into the future. S. Lang asked if there were any motions for approval of the variance. No response. S. Lang asked a second time for a motion to approve. No response. S. Lang asked a third and final time if there was a motion to approve the variance. No response. S. Lang declared the request denied for a lack of motion.

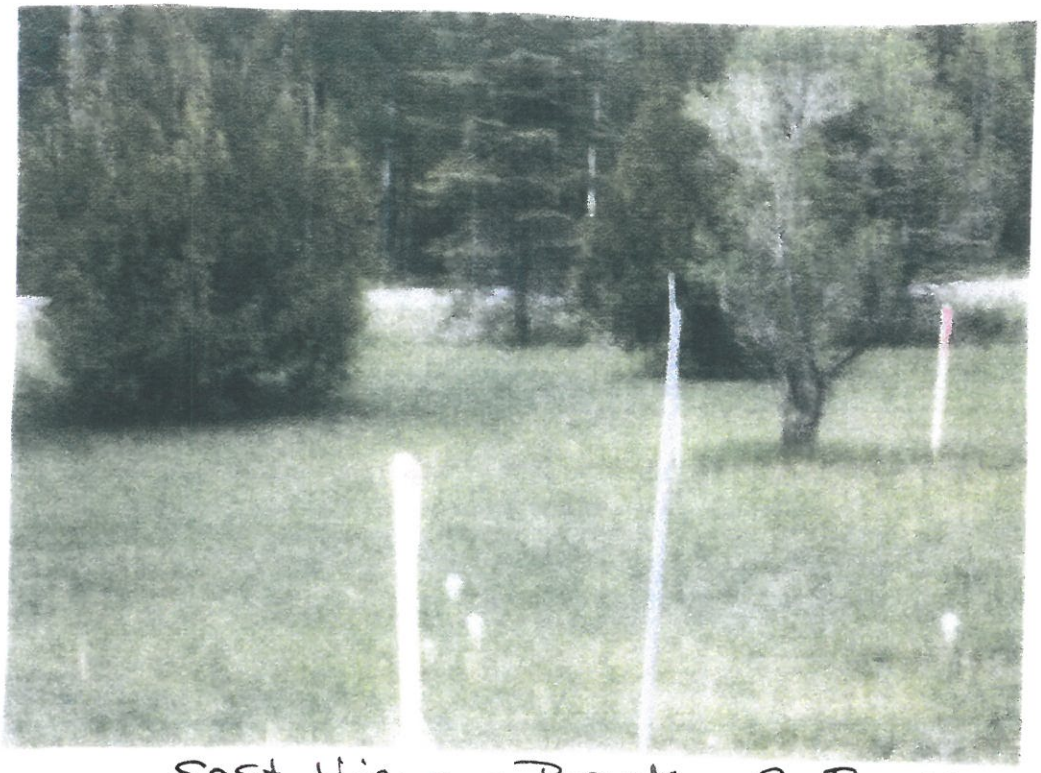
New Business

- **Zoning Board of Appeals - Approval of Minutes**: B. Hellmuth advised that he was going through the MTA Township Planning & Zoning Decision –making book; and wanted to advise the board that the deadline for filing appeals to the county circuit court from the zoning board of appeals' decisions; is 30 day's from approved minutes. B. Hellmuth stated that he wanted to mention this, because the ZBA meets quarterly to approve minutes; and in situations like this, we may want to call a special meeting to approve minutes. The board members discussed the information and mentioned that they will be meeting on Tuesday, July 5th for their scheduled quarterly meeting and the minutes from these past 2 hearings will be on the agenda for approval. The members agreed that they may have to have special meetings to approve minutes; if they have hearings farther out from the quarterly meetings. *(Please see attached).*

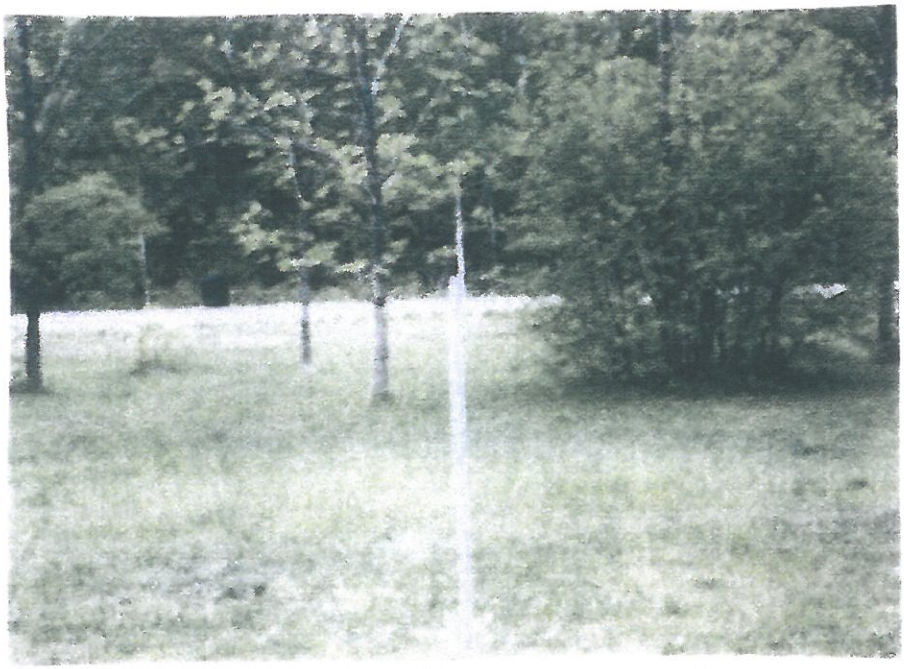
Adjournment: With no further business to discuss; the meeting was adjourned at 8:20 pm.

Meeting Reminder: The ZBA will meet on Tuesday, July 5, 2016 @ 6:00 pm. for their regular quarterly meeting.

Respectfully submitted; Kimberly S. Bedard, Administrative Assistant



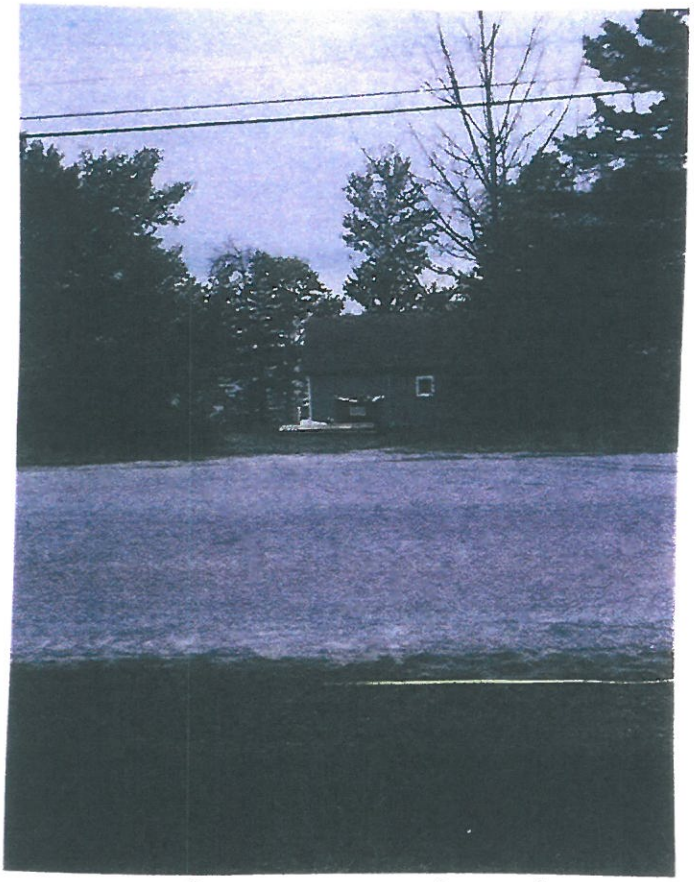
East View - Back of Building



East View - front of Building

West views from building

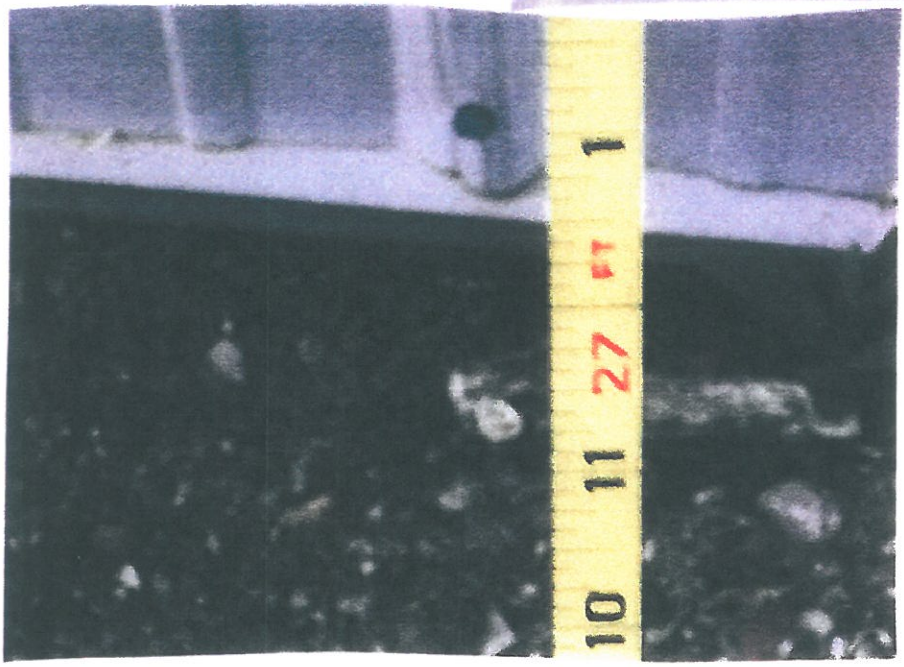
Towards Lake

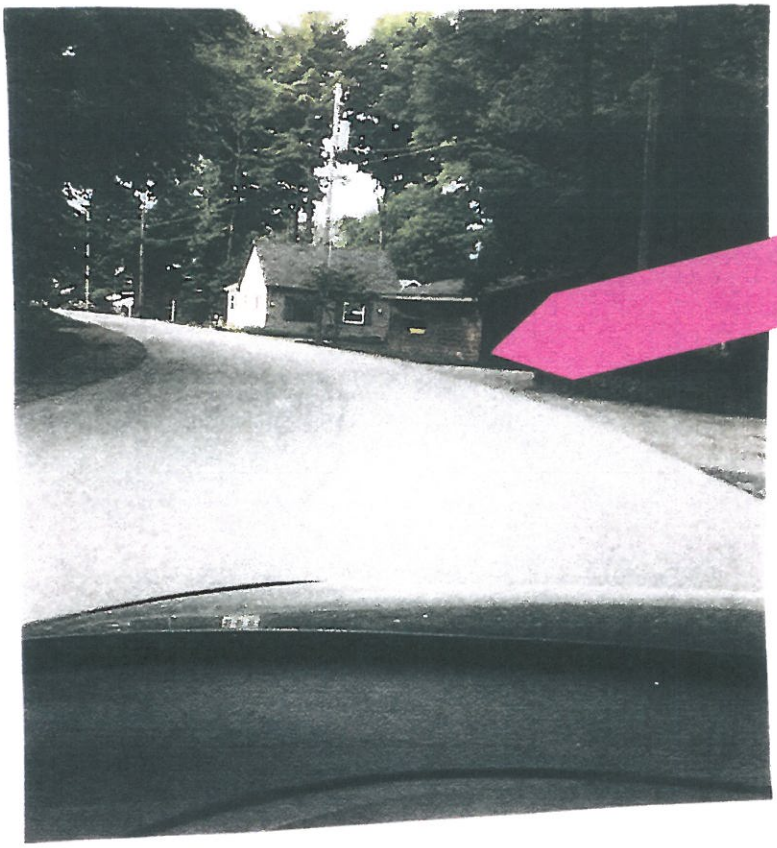


Complaints at 1st meeting raised by homeowner that building would block their view. Clearly this home is on the water, there is no Porch and only 1 small window in their back yard. Building does not come anywhere near their Road frontage so there clearly is no Viewing interference

North of Property

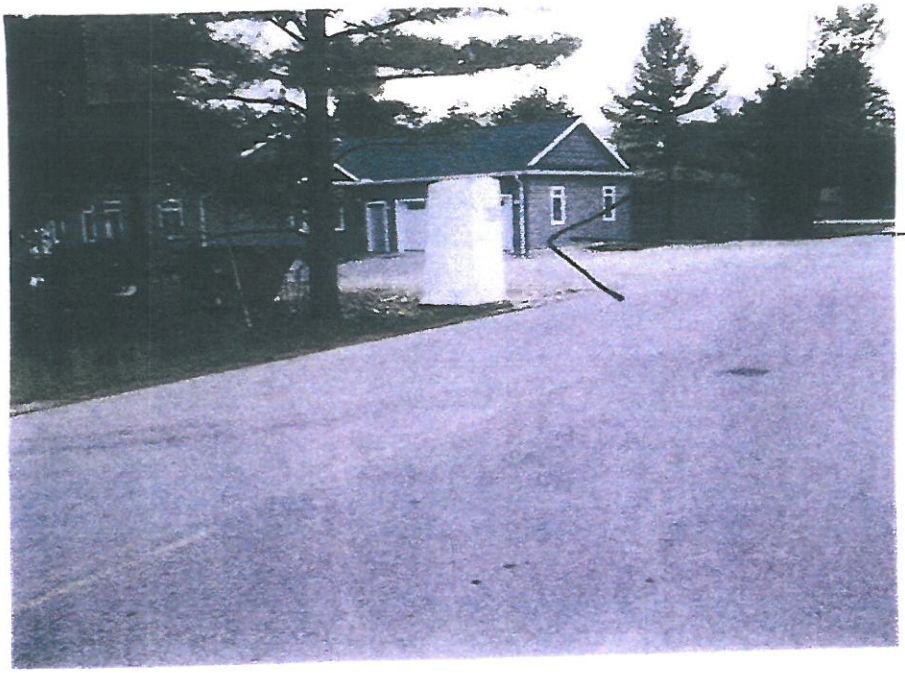
27' from center of Road





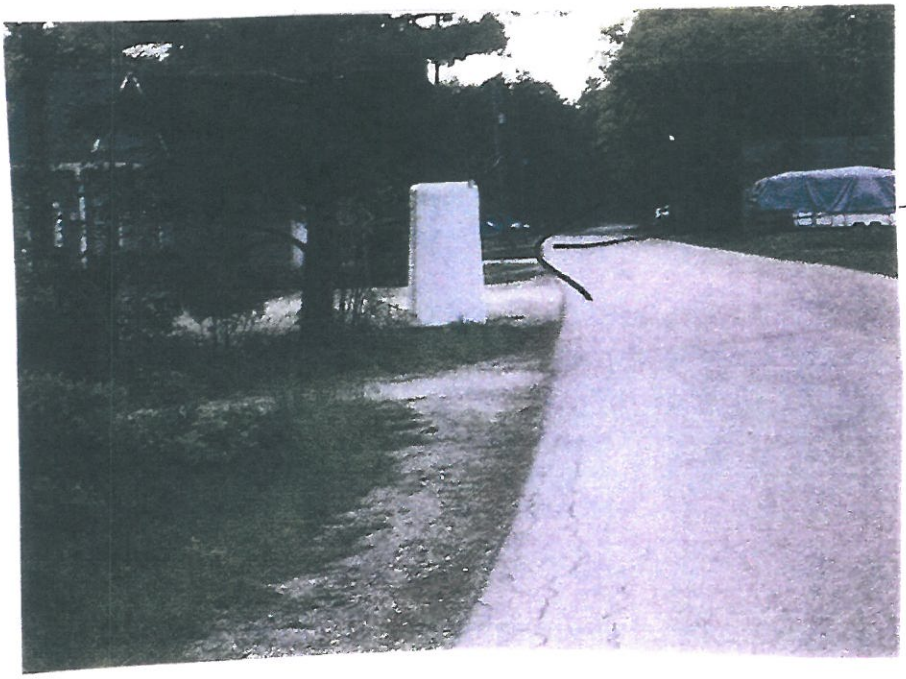
17' from edge of Road

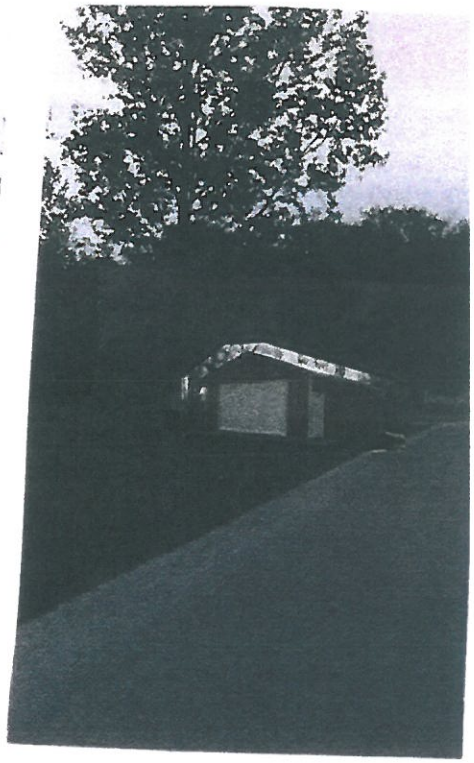
10' from edge of road



14132 Parallel

This was and Continues to be located only a few feet from the edge of the road. It was never disturbed by the snowplows or vehicles traveling the rode all Winter.





we believe this Property looks better like this Compared to the Properties on the next Page and makes more sense

SECTION 28.9 POWERS OF THE BOARD

The Zoning Board of Appeals may revise or affirm, wholly or in part, or may modify the order, requirement, decision or determination as in its opinion ought to be made in a particular case, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issuance of a permit. The Zoning Board of Appeals, in hearing and deciding appeals, shall have the authority to:

A. Permit the erection and use of a building or an addition to an existing building, of a public service corporation or for public utility purposes, in any zoning district to a greater height or of a larger area than the district requirements herein established.

B. Permit the modification of the off-street motor vehicle parking space as loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements, after recommendation from the Planning Commission.

C. Permit such modification of the height, lot area, yard setback, floor area and lot width regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape and size, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without such modification, provided that modification of lot area regulations shall be permitted only in instances where the nature of the soils and drainage is such that there is sufficient area for safe water supply and sanitary disposal of waste.

D. Permit the modification of site plan review standards, as may be established in this ordinance, where physical hardship and unusual circumstances peculiar to the property in question exist.

The Zoning Board of Appeals does not have the authority to grant use variances.

SECTION 28.10 CRITERIA FOR GRANTING OF VARIANCES

Variances and appeals from the Ordinance dimensional requirements shall be granted only in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, and shall be based on findings of fact related to the criteria set forth in this section. Consistent with the decisions of courts of law in the State of Michigan, all of the criteria indicated below must be found by the Zoning Board of Appeals to indicate a practical difficulty exists, thereby justifying a dimensional or non-use variance. A financial hardship of the land owner, developer or other related party shall not be a consideration in determining if a practical difficulty exists or otherwise justify granting a variance. The Board of Appeals shall have the powers, in passing of appeals, to vary or modify the rules, regulations or provisions of the ordinance as described above, by granting variances, provided that any variation granted from this ordinance:

A. Will not be contrary to the public interest.

B. Will not permit the establishment within a district of any use which is not permitted by right within that district.

C. Will not cause a substantially adverse effect upon property values.

D. Will relate only to the property under the control of the appellant.

E. Will not jeopardize the preservation of a substantial right, so that the spirit of this ordinance shall be observed, public safety secured and substantial justice done.

F. Will not adversely affect the intent of this ordinance.

G. Will not impair the adequate supply of air and light to any adjacent property.

H. Will not increase the hazards from fire, flood or other natural or manmade dangers.

I. Will not increase traffic congestion.

J. Will not produce nuisance conditions to occupants of nearby premises, whether by reason of dust, noise, fumes, odors, vibration, smoke or excessive light.

K. Will not otherwise impair the public health, safety and general welfare of the residents of Presque Isle Township.

SECTION 28.11 APPROVAL PERIODS

No order of the Board of Appeals permitting the erection of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit. No order of the Board of Appeals permitting a use of a building or premises shall be valid for a period longer than one (1) year unless such use is established within the said period: provided, however, that such order shall continue in force and effect, if a permit for said erection or alteration has been obtained, and said work is started and proceeds to completion in accordance with said permit.

SECTION 28.12 APPEALS FROM THE ZONING BOARD OF APPEALS

The decision of the Zoning Board of Appeals shall be final. Any person aggrieved by a decision of the Zoning Board of Appeals may appeal to the circuit court provided the appeal is filed within 30 days after the ZBA certifies its decision or approves the minutes of its decision and provided that the record of the decision and the application satisfies the conditions stated in Section 606 of the Michigan Zoning Enabling Act, Public Act 110 of 2006.

SECTION 28.13 FEES

The Township Board may from time to time prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the Zoning Board of Appeals. At the time the notice for appeal is filed, said fee shall be paid to the Township Clerk to be credited to the General Revenue Fund.

comments made and actions taken at the meeting can be included in the findings, although they may be expanded upon. Neither the findings nor the minutes are official until reviewed and adopted by the approving body.

A finding of fact may use the following format:

- Description of the request/application
- Motion(s) made
- Each standard and the reasons why the standard was or was not met
- Any conditions attached to an approved request

Minutes

The importance of keeping accurate and complete minutes cannot be overstated. Minutes are the official record of the proceedings. For zoning decisions, each item should have a summary, the applicant's reasons in support of the request, an overview of public comments, comments from members during deliberation, and the complete motion, including any conditions or findings. Minutes are the primary source of information and guidance regarding past actions. Minutes may be referenced in the course of administering the ordinance, or consulted in an effort to be consistent, or in defense of zoning litigation.

Zoning Board of Appeals: Approval of Minutes

MCL 125.3606(3) provides for a 30-day deadline for filing of appeals to the county circuit court from zoning board of appeals' decisions. The 30-day limit does not begin until the minutes of the meeting are approved. For boards that meet infrequently the best advice may be to schedule a meeting to at least approve the minutes, or develop a procedure that confirms at the meeting the action taken.

Minutes for planning and zoning body meetings need not be a word-for-word account, but should contain enough detail to reconstruct the events of the meeting. Speakers should be identified, along with major issues raised during the discussion. Meetings may be taped to assist in developing minutes, but the tape cannot be substituted for the written version. The draft minutes must be available to the public within eight business days after the meeting and approved minutes must be made available to the public within five days following their approval. Minutes can be approved or amended only at the next meeting after the meeting covered by the minutes. If a tape is made, it should be retained, along with notes, until the meeting at which the minutes are approved.

Post-Decision Documentation

The applicant and secretary or chair of the approving body should each sign and date at least three copies of the approved site plan. The applicant should keep one copy and the township the other two (one for the zoning administrator and one for the official file). This provides a record of understanding of what site plan was approved and when.

A copy of the minutes should be sent to the applicant following review by the approving bodies, along with a letter specifically noting the action taken and any conditions. This letter may include further instructions regarding the proposal. For example, if the approval granted was for a preliminary site plan, the letter may state that final site plan approval is required prior to issuing a building permit. If other approvals are necessary, such as a variance, this should be noted as well.

PRESQUE ISLE TOWNSHIP ZONING BOARD OF APPEALS
REGULAR QUARTERLY MEETING
Held July 5, 2016

Call to order: The meeting was called to order at 6:00 pm. by Chairman Steve Lang.

The Pledge of Allegiance was recited.

Roll Call: In attendance were S. Lang, B. Fay, B. Hellmuth & Alternate J. Bidwell. Absent members; C. Winters & P. Hart.

Approval of Agenda: J. Bidwell requested the addition of "Practical Difficulties" to Other Business. B. Hellmuth moved to approve the agenda with the addition. Supported by; J. Bidwell. All ayes; so moved.

Approval of Minutes (April 5, 2016): B. Hellmuth moved to approve the minutes as written. Supported by; B. Fay. All ayes; so moved.

Approval of Public Hearing Minutes (May 25, 2016): B. Hellmuth advised that there was an error to the minutes under **"Board Discussion & Decision"** regarding the original motion and the amended motion. He advised that a roll call vote needed to be added for the original motion. J. Bidwell moved to approve the minutes with the correction. Supported by; B. Fay. All ayes; so moved.

Approval of Public Hearing Minutes (June 15, 2016): S. Lang advised that under **"Mischloney Variance Request"** that the word **"The"** should be changed to **"They"**. B. Hellmuth moved to approve the minutes with the correction. Supported by; J. Bidwell. All ayes; so moved.

Comments from the Audience: No Comments.

Reports

- **TWP. Board Liaison:** No report was provided.
- **Zoning Administrator:** A written report was provided by; P. Budnik.
- **Planning Commission:** S. Lang advised that they will be deciding on approval of the sign ordinance draft and scheduling a public hearing for comments regarding the sign ordinance. He also advised that they will be discussing meeting dates.

Correspondence: None.

Unfinished Business

- **Special Meeting Minutes & Bylaws:** B. Hellmuth stated that the ZBA should consider having special meetings to approve the minutes of public hearings; especially if a request is denied. The board members agreed that it is definitely an option. The ZBA members had discussion regarding the by-laws for the ZBA. S. Lang stated that he was not sure if there were by-laws created for the ZBA. S. Lang then stated that he would check with MTA to ask if it is required that ZBA has by-laws.

Other Business

- **Practical Difficulties:** J. Bidwell stated that she was confused with the definition of Practical Difficulties. She stated that it seems that the Mischoney's had a self-created problem. S. Lang advised that a practical difficulty is a hardship that is not of their own making; therefore the situation that the Mischoney's have would not apply.

Adjournment: With no further business to discuss, the meeting was adjourned at 6:38 pm.

Meeting Reminder: The ZBA will meet on Tuesday, October 4, 2016 @ 7:00 pm. for their regular quarterly meeting.

Respectfully submitted; Kimberly S. Bedard, Administrative Assistant

PRESQUE ISLE TOWNSHIP ZONING BOARD OF APPEALS
SPECIAL VARIANCE PUBLIC HEARING
Held August 31, 2016

Call to order: The special meeting was called to order at 7:00 pm. by Chairman Steve Lang.

The Pledge of Allegiance was recited.

Roll Call: Members present; S. Lang, C. Winters, B. Fay, B. Hellmuth, P. Hart and Alternate, J. Bidwell.

Approval of Agenda: B. Hellmuth moved to approve the agenda as written. Supported by; B. Fay. All ayes; so moved.

Public Hearing opened at 7:05 pm.

Cooper Variance Request: The applicant Gordon Cooper advised that he would like to build a pole barn on his property to store various outdoor recreation items. He stated that he is requesting to have a 6 foot setback; from the required 10 foot setback on the west side of his property. The building will be 30' x 40' with 10' side walls. The applicant advised that he would like to eventually make this his primary residence. B. Fay asked about the size of the driveway. The applicant was not sure. S. Lang suggested that if the driveway was 20 ft. the sides of the property could be 24 ft. B. Hellmuth advised that this was the first applicant that had not given permission for the ZBA members to enter the property. B. Hellmuth stated that he was able to look at the property from the road and stated that he did not see where the hardship was to request a 6 ft. Setback from a 10 ft. setback. S. Lang stated that after reviewing the ordinance; the applicant may not have needed to come before the ZBA.

Public Hearing Closed at 7:15 pm.

Board Discussion and Decision: S. Lang advised that the applicant's lot is a non-conforming lot of 60 ft. and referred to Section 27.7 of the Zoning Ordinance**.**

SECTION 27.7 NON-CONFORMING LOTS OF RECORD

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any non-conforming lot which was a lot of record at the time of adoption of this ordinance, said lot may be used for a single-family residence, provided the owner present to the Zoning Administrator his plans and specifications, and said plans and specifications meet the following requirements.

A. They conform and are compatible with abutting or surrounding properties, approval is granted by the Public Health Department, side yard setbacks are five (5) feet or more, and the lot is five thousand (5,000) square feet or more, with a minimum average width of fifty (50) feet or more. Upon meeting the aforementioned requirements, such as non-conforming lots may be approved by the Zoning Administrator for single-family residence purposes.

After reviewing and discussing Section 27.7A, it was determined by the ZBA members that the applicant did not need to come before the ZBA. S. Lang suggested that a board member should entertain a motion to request that the Board of Trustees return the application fee of $250.00. C. Winters moved to approve the recommendation of the application fee to the Board of Trustees; after reviewing Section 27.7A. Supported by; B. Hellmuth. All ayes; so moved.

Adjournment: With no further business to discuss; the meeting was adjourned at 7:22 pm.

Meeting Reminder: The ZBA will meet on Tuesday, October 4, 2016 @ 7:00 pm. for their regular quarterly meeting.

Respectfully submitted; Kimberly S. Bedard, Administrative Assistant

PRESQUE ISLE TOWNSHIP
ZONING BOARD OF APPEALS
QUARTERLY MEETING
Held October 4, 2016

Call to order: The special meeting was called to order at 7:00 pm. by Chairman Steve Lang.

The Pledge of Allegiance was recited.

Roll Call: Members present; S. Lang, C. Winters, B. Hellmuth, P. Hart and Alternate, J. Bidwell. Absent member with excuse: B. Fay.

Approval of Agenda: S. Lang added the Draft minutes from the August 31st public hearing ahead of Public Comment. B. Hellmuth added "Garage at 638 and Timberway" to Unfinished Business and also added "Non-conforming Lots" to New Business. P. Hart moved to approve the agenda with the additions. Supported by; B. Hellmuth. All ayes; so moved.

Approval of Minutes (July 5, 2016): B. Hellmuth moved to approve the quarterly meeting minutes as written. Supported by; P. Hart. All ayes; so moved.

Approval of Public Hearing Minutes (August 31, 2016): B. Hellmuth moved to approve the public hearing minutes as written. Supported by; J. Bidwell. All ayes; so moved.

Reports

- **TWP Board (P. Hart):** P. Hart advised that her computer has not been working properly and will provide a report, via email to the members, at a later date.

- **Zoning Administrator (P. Budnik):** P. Budnik was not present.

- **Planning Commission (S. Lang):** S. Lang advised that they had met last night (October 3, 2016) and the meeting was very short. He advised that there were no hearings.

Unfinished Business

- **Garage @ 638 & Timberway:** S. Lang advised that the ZBA had approved a variance of a resident to build a garage closer to Hwy 638 (Front); due to the property being at a slant on the rear side. S. Lang explained that P. Budnik (Zoning Administrator) had called him and advised S. Lang that the applicants will not need the variance; that they are found another way to build the garage without the variance. P. Budnik explained to S. Lang that the applicant had bought the lot adjacent to his property with frontage on Hwy 638 and Timberway and built the garage on the vacant lot and used a 20 ft. side yard setback and 20 ft. rear setback. S. Lang advised that they put a detached accessory structure on a vacant lot and P. Budnik approved and issued the Land Use Permit. S. Lang then advised the members that P. Budnik is new at the Zoning Administrator position and is learning from his mistakes. He advised that the building is up and we are not going to make him tear it down; after the TWP gave him an approved Land Use Permit.

New Business

- **Non-Conforming Lots:** B. Hellmuth expressed his concerns with S. Lang not remaining on the ZBA and a Zoning Administrator that is learning as he goes. He mentioned that when these types of issues come up with non-conforming lots; that there is basically a whole set of different rules. S. Lang advised that there are different setbacks for a non-conforming lot. P. Hart asked what the definition was for a non-conforming lot. S. Lang advised that a non-conforming lot is narrower

than 80 ft. and less than a ¼ acre in size. He advised that all new developments are required to have 80 to 100 ft. and anything under that newly developed lots would be non-conforming. S. Lang advised that there are a lot of non-conforming lots in Presque Isle TWP and they can go down to 5 ft. setback; as long as the health department approves for a septic. B. Hellmuth clarified that the Zoning Administrator can approve Land Use Permits with a site plan for non-conforming lots; down to 5 ft. setbacks.

Additional Information: The board members discussed the term ending for all members and discovered that there were errors with a few of the dates. After members discussed the dates; C. Winters moved to approve the clarity of the term ending dates of: S. Lang and B. Fay – December 31, 2016, C. Winters and B. Hellmuth – December 31, 2017, J. Bidwell – December 31, 2018 and P. Hart – Trustee term of office (November 20, 2016). Supported by; B. Hellmuth. All ayes; so moved. K. Bedard advised the members that she had put the ad in the Alpena News for the upcoming open positions to the ZBA and Planning Commission. 2 positions will become vacant for the ZBA board for January 2017; the positions are for ZBA chair and ZBA secretary.

Adjournment: With no further business to discuss; the meeting was adjourned at 7:33 pm.

Meeting Reminder: The ZBA will meet on Tuesday, January 3, 2017 @ 7:00 pm. for their regular quarterly meeting.

Respectfully submitted; Kimberly S. Bedard, Administrative Assistant