

**CHOCOLAY TOWNSHIP**  
**ZONING BOARD OF APPEALS**

**Thursday, June 22, 2017**

**7:00 PM**

**I. Meeting Called to Order**

Chairperson Michelle Wietek-Stephens called the meeting to order at 7:00 PM.

**II. Roll Call**

Members Present: Chairperson – Michelle Wietek-Stephens; Vice Chairperson – Karen Alholm; Secretary - Kendell Milton; Board Member – Mark Maki; Member - Geno Angeli; Alternate – Paul Charboneau

Members Absent: None

Staff Present: Dale Throenle, Planning Director/Zoning Administrator; Suzanne Sundell, Community Development Coordinator, Kristin Cannoot, Administrative Assistant

**III. Approval of Agenda**

*Moved by Alholm and seconded by Milton, to approve the agenda for May 25, 2017 as written.*

*Vote      Ayes: 5      Nays: 0      Motion Carried*

**IV. Approval of May 25, 2017 Minutes**

Wietek-Stephens directed the members to page two of the minutes, item VII.A second paragraph, (“...*add an extension onto her ~~property~~ dwelling...*”).

Page three, second to last paragraph, Wietek-Stephens suggested, (“...*constructed as a bedroom, and not the full dwelling depicted...*”)

Page three, last paragraph, (“...Maki also questioned the setbacks, **which were different in the text from the diagrams,**..”). (“...After discussion, it was decided that the shed was actually on the lot line, **not as shown on the diagram...**”)

Wietek-Stephens questioned her use of the word “and” in the motion because the motion is four paragraphs that are one sentence; she meant to use some periods.

*(a) Strict enforcement of the Zoning Ordinance would cause practical difficulty because purchases of neighboring properties to widen the lot is not practical ~~and~~ because it would create other non-conformities on adjacent parcels. Relocating the existing dwelling elsewhere on the lot to remove the waterfront setback requirement would prove to be an unreasonable hardship, ~~and~~*

*(b) Granting the variance would not be contrary to the public interest because direct neighbors are in support of this project, indicate no adverse effect of the addition to the dwelling would occur and lake*

*views and neighbor property access would not be disturbed. The setbacks as described are consistent with the existing structure and with the neighboring property use, ~~and~~*

- (c) There are circumstances unique to this property, including the dwelling was built before any zoning regulations. ~~and~~ The property will never be compliant with the 125' width requirement unless additional property is purchased which creates other non-conforming parcels and there are two different waterfront distances within the parcel, ~~and~~*
- (d) The variance request is not due to actions of the applicant, but is a result of subsequently adopted government regulation after the property was purchased and the dwelling was built. In addition, the enlargement of the structure removes one of the non-conformities from the parcel, **namely the issue of inadequate square footage for a dwelling.***

*Approval of this variance request is contingent upon meeting the following conditions:*

- (a) Staff will be diligent in following up to inspect for plumbing during construction to ensure that there is not plumbing and that this will not be a standalone dwelling, and*
- (b) The addition will be a 20' x 24' bedroom / sitting area, with an 8' porch **as described in the text, not the diagram.**)*

Page five, last paragraph should read, (“...*dangerous for people to take **waterfront / wetland** measurements ...*”)

Moved by Maki, and seconded by Alholm, to approve the minutes for February 23, 2017 as corrected.

*Vote          Ayes: 5          Nays: 0          Motion Carried*

**V. Public Comment**

Tony Retaskie – believes this project will be good for jobs and building trades.

John Waldo – 1943 State Hwy M-28 – widening of M-28 he wants encroachment limited to the land side, not lake side. He also asked about color / graphics on the water tower.

Paul Angeloni – likes the work possibilities from this project

Deborah Mulcahey – 633 Lakewood Lane – concerned about agenda – lack of the word casino on the agenda, driveways, sewer, water and roads; demanded eight foot shoulders on M-28; mentioned three story building and water tank, set back, lighting and that casino created this problem

Rory Rankinen – Local 1329 – doesn't get what Mulcahey was trying to say about towers and blinking lights – why would she not want jobs created

Andy Olsen – 1195 Ortman Road – project is beneficial, good for jobs, long term growth, and community

Rick Stoll – 1927 M-28 – variance for neighborhood, Township took non-comply property to community, not due to hardship, redesign is a choice, water tower should be shorter, variance doesn't limit later addition

Wietek-Stephens interjected that there is a limit, variance is granted for a thing, not anything

Dennis Tryan – 135 Kawbawgam Rd. – in favor of project, good neighbors, height of structures not a problem, feels it is good for property values, likes the commercial road

Roger Anderson – Gwinn – In favor, good for trades, jobs, good tourist attraction, wants the variance granted

Public Comment Closed at 7:30 p.m.

**VI. Unfinished Business**

None

**VII. New Business**

**A. Variance Application ZB 17-02**

Karen Alholm recused herself from participating and voting on this issue due to a conflict of interest. She is on the Alger-Delta Co-op Electric Board.

*Wietek-Stephens motioned and Milton seconded to approve her recusal.*

*Vote Ayes: 4 Nays: 0 Motion Carried*

Alternate Paul Charboneau joined the Board.

Throenle introduced the Variance Application for hotel and water tower, unique as we are asking for a variance prior to the construction of the items. Throenle read section 3.2

under Exemptions of the Zoning Ordinance for the record. In his opinion, the water tower should be considered a public utility.

### **Board Discussion**

Wietek-Stephens asked the height of the tower, Throenle responded 186 feet.

Maki commented about the history of the zoning of the property and questioned the zoning. Wietek-Stephens asked Maki if his questions address tonight's issue. Maki responded that it pertains to history. He then asked about the four residential homes.

Throenle discussed the lot split record for four residential houses. They are not on commercial land. He then showed a graphic of the plan per Maki's request. Maki questioned variances for two other towers in the Township and talked about towers in general.

Maki asked if there was a reason we did not proceed to develop this under a planned unit development. Throenle responded that they did, but it was looked at from the standpoint of what was already there.

Peter Dupuis – Gundlach Champion Project Manager – He stated that the water tank is needed to provide adequate water pressure to the proposed buildings. The Township Fire Department has access to the water tank and the access road (Acorn Trail) that the fire department requested has been included in the plans. The height of the hotel is requested is a standard Choice Hotel design.

Wietek-Stephens asked which section is hiding the elevator shaft. Dupuis indicated the middle parapet. Wietek-Stephens asked if there will be lighting on the roof. Dupuis indicated there will be soft scone lighting. Wietek-Stephens asked what options were considered for a shorter water tower. Dupuis responded that anything under this height is not good for water pressure. Wietek-Stephens asked how tall an adequate water tower would be. Dupuis responded that has not been looked at. Wietek-Stephens asked if the hotel would be two stories would it lower the height of the water tank. Dupuis did not have an exact answer. Wietek-Stephens requested more information on building a two story hotel and lowering the water tank height.

Milton commented that the State of Michigan would have standards for a public water system, and stated water tanks are part of our master plan as we want to provide water and fire protection for our community. He was glad to see that there is a public / private component to this water system that is available to the community.

Wietek-Stephens interjected, that is good and the fire department usage is good, but the water tank height is correlated to the hotel. Milton commented that the height is not the issue, it is the pressure. Pressure and sprinklers were discussed. Maki asked Dupuis if they have done a water tank before. Dupuis responded no.

Dupuis pointed out the Township Fire Department requirements. The fire department will be provided a ships ladder, roof top hatch to access the roof, stand pipes at the end

of each floor's hallways so the firemen do not have to haul so much hose up the stairs, and an access road, all of which have all been provided in the design.

Maki asked why the building is not subterranean, below grade. Dupuis responded that they did not consider that. Maki asked about 30' ladder height. Fire Chief Johnson responded that Township ladders are 35'; however, Johnson is more concerned about rooftop access. He pointed out that the Township has mutual aid agreements with Marquette Township and the City of Marquette fire departments. Johnson asked about the roof top hatch; he was concerned with snow removal in the winter. Dupuis responded that staff will keep them clear. Johnson stated that the stairwell with direct rooftop access is the fire department's preference; however, the option presented is OK. The water tower is a benefit as there is not a close water source out there other than Lake LeVasseur.

Wietek-Stephens asked if the fire department has any concerns or comments. Johnson responded, the stand pipes are important so we do not have to drag 1000 feet of hose, sprinklers, access road are all good. Wietek-Stephens asked Dupuis if they were to provide stairwell, where would it be. Dupuis explained where and that it would require a higher parapet and that they would be willing to do that.

KBIC representative Don Wren spoke about the project and the benefit to the community. Wietek-Stephens asked if he missed public comment earlier. Wietek-Stephens directed Dupuis back to the discussion of a stairwell to the roof.

Maki asked how the sewer issues come in to play with the project and what happens if that portion of the project falls apart. Dupuis responded that approvals are in the pipeline and they are confident they will all be approved. Maki stated that the sewer would be built by KBIC and then turned over to the Township, and asked how the Township was going to fund maintenance. Dupuis stated that he could not answer that. Jason Ayres, real estate officer for KBIC, stated that fees would cover that. Maki stated that the Township has been unwilling to raise rates in order to fund these in the past. Ayres stated that KBIC will pay a fee as well. Ayres went on to discuss why a two story hotel is not competitive.

Jennifer Misegan – VP KBIC – thanked everyone for their time and discussed that KBIC originally wanted to go to the old airport, and the Governor would not allow it because of tax issues. KBIC enjoys being in Chocolay.

Wietek-Stephens understands the need to compete with Marquette hotels; she felt the hotel on the corner of 28 and 41 would not be able to compete.

Nicole Young – Marquette County Convention and Visitors Bureau – commented that she is excited for the project and complimented KBIC on being good neighbors.

Wietek-Stephens asked if anyone else wanted to comment.

Rick Stoll – commented about waste water and quality and quantity of water and what studies have been done.

Ayres described tests that had been done, how quickly wells came back, and that they expect to see no effect to other wells.

Wietek-Stephens asked if there would be lights on the tower. Throenle responded no, as there was no FAA requirement to do so. KBIC representatives responded that there would be no lights on the tower, no branding, no advertising and that they want it to fit into the environment.

Milton discussed the height of the hotel and the mutual aid agreements for the fire department and stated that the only thing that limits the size of the building is fire protection between the floors and that the sprinkler system adds height. He discussed the height of the water tank and PSI (pounds per square inch) of pressure, and indicated that the tank would partially freeze in the winter. He felt the proposed water tank should be as is as required by the state.

Maki asked Milton about the formula for the water tank and Maki confirmed that the state has worked all of that out.

Wietek-Stephens feels that it is difficult to word a variance when it says “it is not a problem created by the applicant.” Milton feels they have mitigated everything. Wietek-Stephens was surprised that more people commented and were concerned with the water tower and not the hotel. She stated that in order to approve a variance the Board has to state why it was not a problem created by the applicant and that it will not alter the character of the neighborhood. She felt that those are difficult to argue because they will alter the character of the neighborhood as it is quite a tall structure. Milton stated that he did not see any opposition to the project, none from people who live near the proposed structures and that if there were any problems they would have brought them up. Wietek-Stephens asked if we received any written. Throenle responded no, we sent out seventy-nine letters and there were no letters, comments, emails or anything. Nothing came up in terms of the height of the hotel or the height of the water tower.

Wietek-Stephens allowed public comment.

Mike Angeli – 220 Kawbawgam – He talked about the casino being in his backyard, and stated he does not mind the height of the hotel or water tower. He wanted to know if someone will buy his house, as they are putting up a privacy fence.

John Waldo – claimed he sent an email today and that he made repeated phone calls and that he drafted a letter.

Maki asked Waldo if he made a public comment and that the Township did not receive it. Waldo stated that the phone call was returned after public comment.

Maki commented about water towers and their height. He asked about building a smaller tank. Dupuis responded that it is not practical and would be an additional cost upwards of \$200,000. Throenle explained that water towers are a public utility regulated by the DEQ and FAA.

Maki suggested to Wietek-Stephens that the Board should approach this variance in three different ways. One is the tower, one is the building and one is the parapet. Maki agreed that a three story hotel is marketable and is an attraction that draws people in. Maki wanted to do a motion; Wietek-Stephens wanted to discuss further because she felt that the burden of meeting the requirements of the motion have not been satisfied. Wietek-Stephens stated that the Board is allowed to deviate from the zoning ordinance if the spirit of the zoning ordinance is observed, public safety is secured, and substantial justice is done. To grant a variance for the building, the roof of the building is only three feet above the zoning ordinance with the exception of the stair tower. Wietek-Stephens asked if anyone on the Board had any concerns with allowing the thirty-three foot variance for the height of the hotel. Milton commented that the parapet is beneficial to keep the fire from jumping. Wietek-Stephens redirected the Board to the fact that Maki wanted to talk about the parapet separately. Wietek-Stephens stated that the proposed roof is thirty-three feet, the elevator is thirty-eight feet, and the stairwell is thirty-seven feet. Maki asked how the elevator is hidden by the parapet. A KBIC representative showed how on a graphic. Maki asked Wietek-Stephens to confirm that they are discussing the heights of everything to satisfy the Fire Department. Chief Johnson stated he is OK with everything and reiterated that he is mostly concerned with the snow removal on the roof hatch. Wietek-Stephens asked if the stairwell could be lowered. Dupuis stated that he would have to ask the hotel. The parapets are part of the design to hide the necessary roof top items.

Wietek-Stephens asked again if the Board had any issues with the height of the roof. Maki made a motion that the Board accept the project plan for the building as proposed because the building is set back so far away from anything and will not be able to be seen from the road. Wietek-Stephens asked Maki if he was making a specific motion. Maki stated he is making a motion because he feels that KBIC has satisfied the fire issues, sprinkler system and that the parapets are designed to hide structures on the roof and give the building a nice design and provide for safety. Wietek-Stephens asked if the motion he was making covers the building and the parapets as shown. Maki said yes and went on to describe the way he would have preferred things to be done. Wietek-Stephens directed Maki to page eight of the packet and to go with that formal language because it is one variance request and needs to be one motion. Maki feels that they are separate issues and would like to discuss the water tower separately.

Wietek-Stephens opened a discussion about the water tower and stated her conditions for the water tower as follows: there are to be no lights, a requirement for subtle paint colors, no advertisements on the tower and for the building staff to keep the roof hatch clear of snow for the fire department. Wietek-Stephens asked Maki what he wanted to discuss about the tower. Maki stated there are no signs or lights proposed and that he thought it was common to have a municipal name on the water tower. Maki asked Throenle about the west lot line and the residential lots. Throenle addressed that if the tower were to drop that it would drop on the commercial property and would not reach

the residential lots. Wietek-Stephens asked if the tower were to fall if the water would impact any residents. Throenle stated no.

*Maki moved, Milton seconded that after conducting a public hearing and review of the Staff Review and Analysis for Variance Request ZB 17-02 for parcel 52-02-112-048-00 at 200 Zhooniyaa Mllkana Trail, Marquette, MI, the Zoning Board of Appeals finds that the request demonstrates the standards pertaining to the granting of non-use variances, and hereby approves Variance Request ZB 17-02 with the following findings of fact: (must prove all conditions a-d)*

- (a) Strict enforcement of the Zoning Ordinance would cause practical difficulty because the building exceeds the height by only three feet based on the location of the site, the excess of setbacks from the road, the desire to make an attractive building with parapets functioning as a design on the front to hide the roof type utilities that are necessary for the project and*
- (b) Granting the variance would not be contrary to the public interest because the building will be sprinkled and is designed to satisfy setback issues, the height issue doesn't impede any view and the fire department issues have been resolved through mutual aid agreements and through the design changes to accommodate the roof top access and ships ladder. The water tower height is designed to accommodate the need to supply the water system and fire department and*
- (c) There are circumstances unique to this property including large sign, existing casino, development to accommodate that development and expansion and*
- (d) The variance request is not due to actions of the applicant, but is a result of trying to establish a modern facility.*

*The conditions are as follows;*

- 1. To provide the ships ladder with a latch to assist the fire department and that the water tower be accommodated with a fire hydrant to assist the fire department with fire suppression in the area and the immediate community;*
- 2. No lighting, logos or signage on the water tower, subtle colors to be used.*

*AYES: 4 NAYS: 1 (Wietek-Stephens)*

*MOTION CARRIED*

Recess at 9:30 p.m.

Wietek-Stephens called the meeting back in session at 9:35 p.m.

### **VIII. Public Comment**

Nicole Young – Marquette County Convention and Visitor's Bureau – commented on being excited for the Township and appreciates the time the ZBA took to approve the motion.



**IX. Township Board Member/Planning Commission Member Comment**

Maki (Board Member) – discussed zoning enforcement and how they are dragging their feet on enforcement. He also commented on violations.

Milton (Planning Commission member) – no comments

Angeli - asked how zoning is enforced, and if citations are issued.

Wietek-Stephens – asked Maki if the Township Board has discussed getting Throenle an administrative assistant.

Throenle – discussed recent staff transitions and that he takes the enforcement comments seriously - he is still learning the job and feels he can improve his time management skills.

Kendell – likes the idea of a public/private water system and would like to see a 250,000 gallon water tank.

**X. Informational**

None

**XI. Adjournment**

Wietek-Stephens adjourned the meeting at 9:45 PM

Respectfully Submitted By:

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Kendell Milton, Zoning Board of Appeals Secretary