

**OTSEGO COUNTY  
ZONING BOARD OF APPEALS  
AGENDA  
June 22, 2010  
6:00 PM**

Multi-Purpose Room of the J. Richard Yuill, Alpine Center 800 Livingston Blvd, Gaylord, Michigan

CALL TO ORDER:

PLEDGE OF ALLEGEANCE:

ROLL CALL:

APPROVAL OF MINUTES: FROM 11-24-09 MEETING

CITIZEN COMMENT REGARDING ITEMS NOT ON THE AGENDA:

**PUBLIC HEARINGS:**

Variance #V100001 James and Karen Riling, A request to construct an 8' x 12' shed /retaining wall system within the shoreland area. The Property address is 6509 Honey Lane, Johannesburg Mi. the parcel identification number is 023-190-004-018-00.

The Legal description is: LOT 18 AND 19 BLK 4 1ST ADD TO LITTLE BEAR LAKE

**OLD BUSINESS: None**

**NEW BUSINESS:**

1. Variance request V10001 James and Karen Riling

2. Election of Officers

**COMMUNICATIONS:**

**ZBA MEMBER ITEMS:**

**ADJOURNMENT:**

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ZONING BOARD OF APPEALS  
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**OLD BUSINESS: None**

**NEW BUSINESS:**

1. Variance request V10001 James and Karen Riling

2. Election of Officers

**COMMUNICATIONS:**

**ZBA MEMBER ITEMS:**

**ADJOURNMENT:**

OTSEGO COUNTY ZONING BOARD OF APPEALS

Minutes of the November 24, 2009 regular meeting

Meeting Location: Multi-Purpose Room of the J. Richard Yuill, Alpine Center  
800 Livingston Blvd, Gaylord, Michigan

Meeting called to order at 6:00pm by Chairman Hoffman

MEMBERS PRESENT: Chairman Hoffman, Vice Chairman Wagar, Mr. Stults, Mr. Alexander, Mr. Sagasser, Ms. Bono and Mr. McCarthy

MEMBERS ABSENT: None

OTHERS PRESENT: Joe Ferrigan, Director Otsego County Land Use Services; Sharon Bolinger, Recording Secretary; Allen West, Land Use Services Enforcement Officer; and 7 members of the public.

Approval of minutes: It was moved by Mr. Wagar and seconded by Mr. McCarthy to approve the minutes from the August 25, 2009 meeting as corrected. Motion passed

Citizen comments regarding items not on the agenda: A request for an interpretation of Section 15.9 Non-Public Lakefront Access Sites was made by James Pagels (attorney representing Rosemarie Ryckman). It was moved by Mr. Sagasser and seconded by Mr. Alexander to add this to New Business item number 3. Motion passed.

PUBLIC HEARING #1: ZBA Case Number VPV09004 Tippman Properties

Chairman Hoffman opened the public hearing at 6:25 pm

Representing Tippman Properties were Chris VanScoyoc as agent and attorney Paul Slough. Mr. Slough presented the case to the Zoning Board of Appeals and addressed each of the criteria listed in the Zoning Ordinance in Section 23.5.3. Mr. VanScoyoc provided information and answered questions from the ZBA members.

No members of the audience addressed the Zoning Board of Appeals regarding this request.

Correspondence was received from the Bagley Township Board in accordance to Article 24. The Township Board recommended that the variance request be denied because it believed there is room to locate the carport elsewhere and that the criteria in Section 23.5.3.1, 23.5.3.2, and 23.5.3.3 were not met.

The public hearing was closed at 7:00p.m.

It was moved by Mr. Stults and seconded by Mr. Wagar to suspend the rules of order so that the ZBA could finish this case before holding the second public hearing scheduled on the agenda. Motion passed.

The Zoning Board of Appeals read and discussed the proposed Findings of Fact for ZBA Case Number VPV09004.

It was moved by Mr. Sagasser and seconded by Mr. Stults to approve the General Findings of Fact numbered 1-11 (see attachment). Motion passed

It was moved by Mr. Stults and seconded by Mr. McCarthy to approve the Findings of Fact under Article 7 Recreation Residential numbered 1- 3 (see attachment). Motion passed

It was moved by Mr. Wagar and seconded by Mr. McCarthy to approve the Findings of Fact under Article 18 Specific Requirements for Certain Uses numbered 1-2 (see attachment). Motion passed

It was moved by Mr. Alexander and seconded by Ms. Bono to approve the Findings of Fact under Article 14 Schedule of Dimensions numbered 1-3 (see attachment). Motion passed

Chairman Hoffman directed the members of the Zoning Board of Appeals to Article 23 of the Otsego County Zoning Ordinance - specifically Section 23.5.3 and the four requirements that must be met for the Zoning Board of Appeals to grant a variance.

The members of the Zoning Board of Appeals discussed Section 23.5.3.1 “That there are exceptional or extraordinary circumstances or conditions applicable to this property or to its use that do not generally apply to other properties or uses in the same district.”

It was moved by Mr. Stults and seconded by Mr. McCarthy that the Zoning Board of Appeals finds that there **are not** exceptional or extraordinary circumstances or conditions applicable to this property or to its use that do not generally apply to other properties or uses in the same district.

Chairman Hoffman called for a roll call vote on Section 23.5.3.1

Yes: Ms. Bono, Mr. Alexander, Mr. Hoffman, Mr. Stults, Mr. Sagasser, Mr. McCarthy, Mr. Wagar

No: None

Motion passed 7 to 0

The members of the Zoning Board of Appeals discussed Section 23.5.3.2 “That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the vicinity.”

It was moved by Ms. Bono and seconded by Mr. Sagasser that the Zoning Board of Appeals finds that such variance **is not** necessary for the preservation and enjoyment of a substantial property right possessed by other property in the vicinity.

Chairman Hoffman called for a roll call vote on Section 23.5.3.2

Yes: Mr. Wagar, Ms. Bono, Mr. Alexander, Mr. Hoffman, Mr. Sagasser, Mr. McCarthy, Mr. Stults

No: None

Motion passed 7 to 0

The members of the Zoning Board of Appeals discussed Section 23.5.3.3 “That granting of such a variance or modification will not be materially detrimental to the public welfare or be materially injurious to the property or improvements in the district in which the property is located.”

It was moved by Mr. Stults and seconded by Mr. Alexander that the Zoning Board of Appeals finds that granting of such a variance or modification will not be materially detrimental to the public welfare or be materially injurious to the property or improvements in the district in which the property is located.

Chairman Hoffman called for a roll call vote on Section 23.5.3.3

Yes: Mr. McCarthy, Mr. Stults, Mr. Hoffman, Mr. Alexander, Ms. Bono, Mr. Wagar, Mr. Sagasser

No: None

Motion passed 7 to 0

The members of the Zoning Board of Appeals discussed Section 23.5.3.4 “That the granting of such a variance will not adversely affect the purpose or objective of the zoning plan of the county.”

It was moved by Mr. Sagasser and seconded by Mr. Stults that the Zoning Board of Appeals finds that the granting of such a variance will not adversely affect the purpose or objective of the zoning plan of the county.

Chairman Hoffman called for a roll call vote on Section 23.5.3.4

Yes: Mr. Sagasser

No: Mr. Alexander, Mr. Hoffman, Ms. Bono, Mr. McCarthy, Mr. Stults, Mr. Wagar

Motion failed 6 to 1

It was moved by Mr. Alexander and seconded by Mr. McCarthy to deny the variance request VPV09004 based upon the approved Findings of Fact and having NOT met the criteria outlined in Sections 23.5.3.1, 23.5.3.2, and 23.5.3.4.

Chairman Hoffman asked for discussion. There being none, he called for a roll call vote on the motion.

Yes: Mr. Wagar, Mr. McCarthy, Mr. Sagasser, Mr. Alexander, Ms. Bono, Mr. Stults, Mr. Hoffman

**Motion passed 7 to 0 and the variance request was denied.**

Point of Order was raised by Mr. Alexander noting that we had reached our two hour meeting limit as described in Article VIII Section 3 of the ZBA Bylaws. Chairperson Hoffman asked if there was any objection to continue the meeting. By consensus, the ZBA agreed to finish the current meeting's agenda.

PUBLIC HEARING #2: ZBA Case Number VPV09005 Eric L. and Mary A. Dickerson

Chairman Hoffman opened the public hearing at 8:00 p.m.

Mr. Wagar declared he had a conflict of interest and left the room.

Mr. Dickerson presented his case to the Zoning Board of Appeals.

No members of the audience addressed the Zoning Board of Appeals regarding this request.

Correspondence was received from the Elmira Township Board in accordance to Article 24. The Township Board responded without prejudice stating it felt it didn't have enough time to review the case and offer a recommendation.

The public hearing was closed at 8:20 p.m.

The Zoning Board of Appeals read and discussed the proposed Findings of Fact for ZBA Case Number VPV09005.

It was moved by Ms. Bono and seconded by Mr. McCarthy to approve the General Findings of Fact numbered 1-9 (see attachment). Motion passed

It was moved by Mr. Stults and seconded by Mr. Hoffman to approve the Finding of Fact under Article 3 Zoning Districts one item (see attachment). Motion passed

It was moved by Mr. Alexander and seconded by Mr. Sagasser to approve the Findings of Fact under Article 18 Specific Requirements for Certain Uses numbered 1-2 (see attachment). Motion passed

It was moved by Ms. Bono and seconded by Mr. Alexander to approve the Findings of Fact under Article 14 Schedule of Dimensions numbered 1-3 (see attachment). Motion passed

Chairman Hoffman directed the members of the Zoning Board of Appeals to Article 23 of the Otsego County Zoning Ordinance - specifically Section 23.5.3 and the four requirements that must be met for the Zoning Board of Appeals to grant a variance.

The members of the Zoning Board of Appeals discussed Section 23.5.3.1 "That there are exceptional or extraordinary circumstances or conditions applicable to this property or to its use that do not generally apply to other properties or uses in the same district."

It was moved by Mr. Stults and seconded by Mr. Sagasser that the Zoning Board of Appeals finds that there **are** exceptional or extraordinary circumstances or conditions applicable to this property or to its use that do not generally apply to other properties or uses in the same district.

Chairman Hoffman called for a roll call vote on Section 23.5.3.1

Yes: Mr. Sagasser

No: Mr. McCarthy, Ms. Bono, Mr. Hoffman, Mr. Alexander, Mr. Stults

Motion failed 5 -1

The members of the Zoning Board of Appeals discussed Section 23.5.3.2 “That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the vicinity.”

It was moved by Mr. Stults and seconded by Mr. Sagasser that the Zoning Board of Appeals finds that such variance **is** necessary for the preservation and enjoyment of a substantial property right possessed by other property in the vicinity.

Chairman Hoffman called for a roll call vote on Section 23.5.3.2

Yes: Mr. Sagasser

No: Ms. Bono, Mr. Alexander, Mr. Stults, Mr. Hoffman, Mr. McCarthy

Motion failed 5 to 1

The members of the Zoning Board of Appeals discussed Section 23.5.3.3 “That granting of such a variance or modification will not be materially detrimental to the public welfare or be materially injurious to the property or improvements in the district in which the property is located.”

It was moved by Mr. Stults and seconded by Mr. Alexander that the Zoning Board of Appeals finds that granting of such a variance or modification will not be materially detrimental to the public welfare or be materially injurious to the property or improvements in the district in which the property is located.

Chairman Hoffman called for a roll call vote on Section 23.5.3.3

Yes: Mr. Alexander, Ms. Bono, Mr. Sagasser, Mr. Hoffman, Mr. McCarthy, Mr. Stults

No: None

Motion passed 6 to 0

The members of the Zoning Board of Appeals discussed Section 23.5.3.4 “That the granting of such a variance will not adversely affect the purpose or objective of the zoning plan of the county.”

It was moved by Mr. Stults and seconded by Mr. Sagasser that the Zoning Board of Appeals finds that the granting of such a variance will not adversely affect the purpose or objective of the zoning plan of the county.

Chairman Hoffman called for a roll call vote on Section 23.5.3.4

Yes: Mr. Sagasser

No: Mr. McCarthy, Mr. Stults, Ms. Bono, Mr. Hoffman, Mr. Alexander  
Motion failed 5 to 1

It was moved by Mr. Stults and seconded by Mr. Alexander to deny the variance request VPV09005 based upon the approved Findings of Fact and having NOT met the criteria outlined in Sections 23.5.3.1, 23.5.3.2, and 23.5.3.4.

Chairman Hoffman asked for discussion. There being none, he called for a roll call vote on the motion.

Yes: Mr. McCarthy, Mr. Stults, Ms. Bono, Mr. Hoffman, Mr. Sagasser, Mr. Alexander,

**Motion passed 6 to 0 and the variance request was denied.**

New business item 3:

Request for an interpretation of Section 15.9 by James Pagels. Mr. Pagels and Ms. Ryckman had excused themselves earlier in the meeting due to the full agenda and likelihood that there would not be time tonight to hear their request.

Old Business:

None

Communications:

None

Meeting adjourned at 9:15pm.

Phil Alexander  
ZBA Secretary

and

Sharon Bolinger  
Recording Secretary

**Otsego County  
Zoning Board of Appeals (ZBA)  
Case NO. V090005**

Decision and Order

Applicant: Eric L. and Mary A. Dickerson, 1263 West Martin Lake Rd. Gaylord MI. 49735

Hearing Date: November 24, 2009 at 6:00p.m.

Property Description

The property of the Applicant, described as: **Lot 5, Maplewood Beach, according to the plat thereof as recorded in liber 1 of Plats, Page 30, Otsego County Records. Parcel ID# 061-210-000-005-00**

APPLICATION

- The ZBA considered the application,
- a public hearing was held on November 24, 2009 after giving due notice as required by law,
- the ZBA heard the statements of the Applicant,
- the ZBA considered the correspondence received by the Elmira Township Board,
- the ZBA considered eight Exhibits, and
- the ZBA reached a decision on this matter, stated as follows:

GENERAL FINDINGS OF FACT

1. The property is owned by Eric L. and Mary A. Dickerson. (Exhibit 3)
2. The Property is located in Elmira Township, Otsego County. (Exhibit 1)
3. The Property is located at 1263 West Martin Lake Rd. Gaylord MI. (Exhibit 1 & 2)
4. The property is zoned RR (recreation residential). (Exhibit1)
5. The property owners are requesting a dimensional variance of fifteen feet from the required front property line setback to construct a 24' x 26' detached accessory building ten feet from the front property line. (Exhibit 3)
6. The requirements of Article 24 Township Participation have been met. (Date sent: November 9, 2009) The Elmira Township Board responded without prejudice since it felt it didn't have enough time to review the case and make a recommendation. (Exhibit 4)
7. The public hearing was published in the local paper as required by the Michigan Zoning Enabling Act. (Exhibit 5)
8. All properties within 300' of the property have been notified of the variance request. (Exhibit 6)
9. All required fees have been collected by Otsego County Land Use Services. (Exhibit 7)

### **FINDINGS OF FACT UNDER ARTICLE 3 (Zoning Districts)**

1. The Zoning Board of Appeals finds that for each district established in this Ordinance, customary accessory buildings and uses which are incidental to any Principal Uses or Permitted Uses Subject to Special Conditions are permitted provided the maximum bulk coverage of the lots is not exceeded, all setbacks are adhered to, and any accessory building or use is not otherwise prohibited or restricted by this Ordinance. (Zoning Ordinance Section 3.5)

### **FINDINGS OF FACT UNDER ARTICLE 18 SPECIFIC REQUIREMENTS FOR CERTAIN USES**

1. The Zoning Board of Appeals finds that Accessory buildings in the R1, R2, R3& RR Districts shall be subject to the side and front yard setback requirements as regulated in Article 14, Schedule of Dimensions, but need not be farther than ten (10) feet from the rear property line. Exhibit 1 (Zoning Ordinance Section 18.1.1)
2. The Zoning Board of Appeals finds that in Residential Districts all accessory buildings and uses shall be in the rear yard except in the case of one detached private garage which may be allowed in the side or front yard, provided it maintains the setback requirements as regulated in Article 14, Schedule of Dimensions. (Exhibit 1 and Zoning Ordinance Section 18.1.2)

### **FINDINGS OF FACT UNDER ARTICLE 14**

1. The Zoning Board of Appeals finds that the minimum lot area in the RR district is 20,000 sf / .46 acre. Exhibit1 (article 14 schedule of dimensions)
2. The Zoning Board of Appeals finds that the minimum front yard setback in the RR district is 25 ft. Exhibit 1 (article 14 schedule of dimensions)

### **FINDINGS OF FACT UNDER ARTICLE 23**

1. The Zoning Board of Appeals finds that the Zoning Board of Appeals shall have the power to permit such modification to the height and area dimensions as may be necessary to secure an appropriate improvement which is of such shape, or so located with relation to surrounding development or physical characteristics that it cannot otherwise be appropriately improved without such modification. Exhibit1 (section 23..5.2.4)

## DECISION

Where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would involve practical difficulties or cause unnecessary hardships within the meaning of this ordinance, the Board shall have power upon appeal in specific cases to authorize such variation or modification as may be in harmony with the spirit of this Ordinance, and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this Ordinance shall be granted unless it appears that there is clear and convincing evidence that all the following facts and conditions exist:

- 23.5.3.1 That there are exceptional or extraordinary circumstances or conditions applicable to the property or to its use that do not apply generally to other properties or uses in the same district.

**The Zoning Board of Appeals finds that there are NOT exceptional or extraordinary circumstances or conditions applicable to this property or its use that do not apply generally to other properties or uses in the same district.**

- 23.5.3.2 That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the vicinity.

**The Zoning Board of Appeals finds that such variance is NOT necessary for the preservation and enjoyment of a substantial property right possessed by other property in the vicinity.**

- 23.5.3.3 That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the district in which the property is located.

**The Zoning Board of Appeals finds that the granting of this variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the district in which the property is located.**

- 23.5.3.4 That the granting of such variance will not adversely affect the purposes or objectives of the Zoning Plan of the County.

**The Zoning Board of Appeals finds that granting of this variance WILL adversely affect the purposes or objectives of the Zoning Plan of the County.**

2. The Zoning Board of Appeals denied the request for a fifteen foot dimensional variance (Case No. V090005) based on not meeting 23.5.3.1, 23.5.3.2, and 23.5.3.4 of the above section of the Zoning Ordinance.

**Otsego County  
Zoning Board of appeals  
Case NO. V090005**

Exhibit list

1. Otsego County Zoning Ordinance including zoning map
2. Application for variance
3. Copy of Deed
4. Letter From Land Use Services Director dated 11-09-09
5. Copy of public hearing notice
6. List of people notified with map attached
7. Receipt for payment
- 8.

**Otsego County  
Zoning Board of Appeals (ZBA)  
Case NO. VPV09004**

**Decision and Order**

Applicant: Chris VanScoyoc 7145 White Rd. Grayling MI. 49738 agent for Pat Tippman Properties

Hearing Date: November 24, 2009 at 6:00p.m.

**Property Description**

The property of the Applicant, described as:

COMM 39R, 5L N OF N 1/8 POST ON W SEC LN, TH S 150', TH E AT RT ANG S TO W SEC/L TO W SHORE OF LAKE, TH N ALG LAKE 150', TH W TO POB. SEC 32, T30N-R3W.

**APPLICATION**

- The ZBA considered the application,
- a public hearing was held on November 24, 2009 after giving due notice as required by law,
- the ZBA heard the statements of the Applicant and the Applicant's attorney,
- the ZBA considered the response by the Bagley Township Board in compliance of Article 24,
- the ZBA considered eight Exhibits,
- and the ZBA reached a decision on this matter, stated as follows:

**GENERAL FINDINGS OF FACT**

1. The property is owned by Pat Tippman Properties (Exhibit 3)
2. The Property is located in Bagley Township, Otsego County. (Exhibit 1)
3. The Property is located at 5124 Beechwood Ave. Gaylord MI. (Exhibit 1 & 2)
4. The property is zoned RR (recreation residential). (Exhibit 1)
5. The property owners are requesting a dimensional variance of 5 feet to construct a 26' x 35' attached car port five feet from the side property line. (Exhibit 3)
6. The requirements of Article 24 Township Participation have been met. (Exhibit 4 & Exhibit 7)
7. The public hearing was published in the local paper as required by the Michigan Zoning Enabling Act. (Exhibit 5)
8. All properties within 300' of the property have been notified of the variance request. (Exhibit 6)
9. All required fees have been collected by Otsego County Land Use Services. (Exhibit 8)
10. The property is a lawful, non-conforming use. (Exhibit 1)
11. The property currently contains one accessory structure. (Exhibit 2)

**FINDINGS OF FACT UNDER ARTICLE 7 RR (recreation residential)**

1. The Zoning Board of Appeals finds that a structure for storage of the owner's possessions and non-commercial activities is a principal use permitted. Exhibit 1 (section 7.1.9)
2. The Zoning Board of Appeals finds that these structures shall not be used as residences. Structures shall meet the size requirements of 18.1.3. Exhibit 1 (section 7.1.9)
3. The property use is not described in Article 7 – therefore the current use is a lawful, nonconforming use. (Exhibit 1)

**FINDINGS OF FACT UNDER ARTICLE 18 SPECIFIC REQUIREMENTS FOR CERTAIN USES**

1. Nonconforming structures may be continued so long as they remain otherwise lawful, subject to the following provisions: (Zoning Ordinance Section 18.26.4)
2. No nonconforming structure may be enlarged or altered in a way which increases its nonconformity. Such structures may be enlarged or altered in a way which does not increase its nonconformity. (Zoning Ordinance Section 18.26.4.1)
- 3.

**FINDINGS OF FACT UNDER ARTICLE 14**

1. The Zoning Board of Appeals finds that the minimum lot area in the RR district is 20,000 sf / .46 acre. Exhibit 1 (article 14 schedule of dimensions)
2. The Zoning Board of Appeals finds that the minimum side yard setback in the RR district is 10ft. Exhibit 1 (article 14 schedule of dimensions)

**FINDINGS OF FACT UNDER ARTICLE 23**

1. The Zoning Board of Appeals finds that the board of Appeals shall have the power to permit such modification to the height and area dimensions as may be necessary to secure an appropriate improvement which is of such shape, or so located with relation to surrounding development or physical characteristics that it cannot otherwise be appropriately improved without such modification. Exhibit 1 (section 23..5.2.4)

**DECISION**

Where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would involve practical difficulties or cause unnecessary hardships within the meaning of this ordinance, the Board shall have power upon appeal in specific cases to authorize such variation or modification as may be in harmony with the spirit of this Ordinance, and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this Ordinance shall be granted unless it appears that there is clear and convincing evidence that **all** the following facts and conditions exist:

23.5.3.1 That there are exceptional or extraordinary circumstances or conditions applicable to the property or to its use that do not apply generally to other properties or uses in the same district.

**The Zoning Board of Appeals finds that there are NOT exceptional or extraordinary circumstances or conditions applicable to this property or its use that do not apply generally to other properties or uses in the same district.**

23.5.3.2 That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the vicinity.

**The Zoning Board of Appeals finds that such variance is NOT necessary for the preservation and enjoyment of a substantial property right possessed by other property in the vicinity.**

23.5.3.3 That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the district in which the property is located.

**The Zoning Board of Appeals finds that the granting of this variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the district in which the property is located.**

23.5.3.4 That the granting of such variance will not adversely affect the purposes or objectives of the Zoning Plan of the County.

**The Zoning Board of Appeals finds that granting of this variance WILL adversely affect the purposes or objectives of the Zoning Plan of the County.**

2. The Zoning Board of Appeals denied the request for a five foot dimensional variance (Case No. V090004) based on not meeting 23.5.3.1, 23.5.3.2, and 23.5.3.4 of the above section of the Zoning Ordinance.

**Otsego County**  
**Zoning Board of appeals**  
Case NO. VPV09004

Exhibit list

1. Otsego County Zoning Ordinance including zoning map
2. Application for variance
3. Copy of Deed
4. Letter From Land Use Services Director dated 11-09-09
5. Copy of public hearing notice
6. List of people notified with map attached
7. Bagley Township response dated 11-04-09
8. Receipt for payment

Proposed General Finding of fact for ZBA case V100001 James & Karen Riling

The Zoning Board of Appeals finds:

1. James and Karen Riling are the owners of certain real property described as Lots 18 and 19 Block 4 1<sup>st</sup> addition to little bear lake, Property address 6509 Honey Lane, Parcel I.D.#023-190-004-018-00. (Ex. 1) (Ex. 3)
2. That this parcel is located in Charlton Township, Otsego County Michigan. (Ex. 1)(Ex. 5)
3. That James and Karen Riling seek a dimensional variance from the requirements of the Otsego County Zoning Ordinance to construct an 8' x 12' retaining wall/shed within the shoreland area. Ex. 2
4. That the required fees for the variance request were paid by James and Karen Riling. (Ex. 9)
5. That the parcel referenced in ZBA case V100001 is zoned Recreation Residential. (Ex. 5)
6. That Applicants request for a variance is an after- the- fact request since the retaining wall /shed has already been constructed. (Ex. 2)
8. That Section 15.1 of the Otsego County Zoning Ordinance defines Shoreland as land paralleling the Lake shoreline, 50 feet wide as measured from the ordinary high water level. (Ex. 4)
9. That the public Hearing was properly published as required by the Otsego County Zoning Ordinance. (Ex. 6)
10. That the requirements of Article 24 of the Otsego County Zoning Ordinance were met. Ex. 7
11. That the requirement that all parties within 300' of the subject parcel were properly notified of the variance request. As certified by the Otsego County Zoning Administrator. Ex. 8
12. That the Zoning Board of Appeals in accordance with 23.2.1.3 of the Otsego County Zoning Ordinance has the authority to grant nonuse variances. Ex. 4

Where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would involve "practical difficulties" within the meaning of this Ordinance, the Zoning Board of Appeals shall have power upon appeal in specific cases to authorize such variation or modification as may be in harmony with the spirit of this Ordinance, and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this Ordinance shall be granted unless it appears that there is clear and convincing evidence that all the following facts and conditions exist:

- 23.6.1 That the requested variance will not be detrimental to the public welfare or otherwise injurious to other properties in the same zoning district.
  
- 23.6.2 That the requested variance is necessary for the applicant to receive a right available to other properties in the same zoning district.
  
- 23.6.3 That special physical conditions or unique circumstances exist with this property and do not generally apply to other properties in the same zoning district.
  
- 23.6.4 That the special conditions or circumstances are not the result of actions by the applicant or predecessor in title.
  
- 23.6.5 That the requested variance is the minimum variance necessary that will make possible the reasonable use of the land.

Exhibit List for ZBA case V100001 James and Karen Riling

Exhibit 1: Property card provided by Otsego County Equalization

Exhibit 2: Zoning Board of Appeals Application

Exhibit 3: Warranty Deed provided by James and Karen Riling

Exhibit 4: Otsego County Zoning Ordinance

Exhibit 5: Otsego County Zoning Map

Exhibit 6: Public hearing posting notice

Exhibit 7: Letter dated 5-4-2010 to Charlton Township

Exhibit 8: list and map of parties notified

Exhibit 9: Receipt for payment

Grantor: BRIGGS, JAMES & GRACE TRU RILLING, JAMES H & KAREN A  
 Sale Price: 145,500  
 Sale Date: 07/28/2001  
 Inst. Type: WD  
 Terms of Sale: Warranty Deed  
 Liber & Page: §15/397  
 Verified By: Buyer  
 Prnt. Trans.: 0.0

Property Address: 6509 HONEY LN  
 Class: 402 Residential S Zoning:  
 School: Jo-burg-Lewiston  
 Building Permit(s): GARAGE, DETACHED  
 P.R.E. 100% 09/15/2006  
 Date: 10/11/2007  
 Number: PB070445  
 Status:

Owner's Name/Address: RILLING, JAMES H & KAREN A  
 6509 HONEY LN  
 JOHANNESBURG MI 49751  
 Improved  Vacant  
 Land Value Estimates for Land Table .

Tax Description: LOT 18 AND 19 BLK 4 1ST ADD TO LITTLE BEAR LAKE  
 Comments/Influences:  
 Public Improvements:  
 Dirt Road  
 Gravel Road  
 Paved Road  
 Storm Sewer  
 Sidewalk  
 Water  
 Sewer  
 Electric  
 Gas  
 Curb  
 Street Lights  
 Standard Utilities  
 Underground Utils.

\* Factors \*  
 Description: Frontage 0.31 Total Acres  
 Depth 0.310 Acres  
 Rate %Adj. 0  
 Reason 100  
 Total Est. Land Value = 0

Year	Land Value	Building Value	Assessed Value	Board of Review	Tribunal/Other	Taxable Value
2010	114,300	0	114,300			100,561C
2009	128,900	0	128,900			100,864C
2008	128,400	0	125,400			90,675C
2007	116,300	0	116,300			82,381C

Who: When: What: The Equalizer. Copyright (c) 1999 - 2009. Licensed To: County of Otsego  
 \*\*\* Information herein deemed reliable but not guaranteed\*\*\*  
 Exhibit #1

Zoning Board of Appeals  
OTSEGO COUNTY  
1068 Cross Street, Gaylord, MI 49735  
989-731-7420 \* 989-731-7429

Application For:

X Variance \_\_\_\_\_ Appeal

Applicant Information:

Name Jim + Karen Riling Owner/Agent/Other interest (circle one)  
Address 6509 Honey Lane, Johannesburg, MI 49751  
Phone 732-1195 Fax 732-1195

Property Owner Information: (if different from applicant)

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_ Fax \_\_\_\_\_

Property Information:

Address/Location 6509 Honey Lane, Johannesburg, MI 49751  
Parcel Number 623-190-004-018-00 (Add to Little Bear Lake) Lots 18419 Block 1  
Property size:  
Length 139.61' Width 105' Acres \_\_\_\_\_  
Zoning district RR Current Use Single family dwelling

Attachments: Please submit the following items with the application.

A Site Plan showing the following: Dimensions of property; Location and dimensions of any existing buildings and/or structures; any unique natural features such as lakes, rivers, streams, wetlands, steep slopes; Location and dimensions of proposed building and/or structure.

Copy of deed and accurate legal description of the property.

Nature of Request:

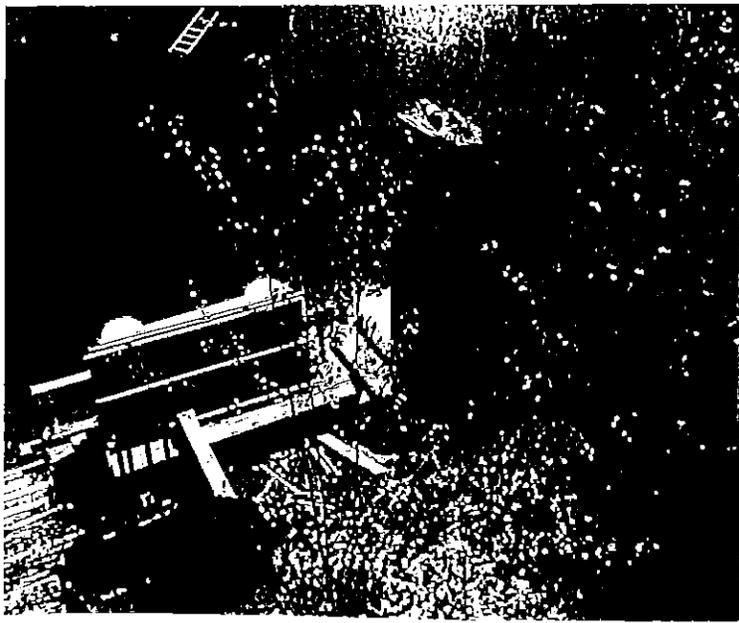
To be able to have this 8'x12' retaining wall/shed remain on our Lake shore property, for the purpose of a practical use of our steep and very limited lake side access.

James H. Riling \_\_\_\_\_ Date 4-25-2010  
Signature of Applicant

I hereby grant permission for members of the Township Board, Township Planning Commission, Otsego County Zoning Board of Appeals and Zoning Administrator to enter the above described property for the purposes of gathering information related to the application. Note to applicant: This permission is optional and failure to grant permission will not affect any decision on the application.

James H. Riling \_\_\_\_\_ Date 4-25-2010  
Signature of property Owner





LIBER 0815 PAGE 397

MICHIGAN REAL ESTATE TRANSFER TAX
Dept of Taxation
County of Otsego
080813 02 Aug 2001

OTSEGO COUNTY MICHIGAN RECEIVED
01 AUG -3 PM 2:02
CLERK / REGISTER OF DEEDS

OTSEGO COUNTY TREASURER'S OFFICE
Gaylord, Mich.
I hereby certify that according to our records all taxes returned to this office are paid for five years preceding the date of this instrument. This does not include taxes in the process of collection.
COUNTY TREASURER

Warranty Deed

Form 561 4-00 IM
WARRANTY DEED-Statutory Form C.L. 1948, 565.151 M.S.A. 26.571

KNOW ALL MEN BY THESE PRESENTS: That The James M. Briggs Revocable Living Trust Dated November 11, 1994, by James M. Briggs, Individually and as Trustee, and His Deceased Wife Grace Angeline Briggs, A.K.A. Angeline G. Briggs, Whose Death Certificate is Recorded in Liber 815 and Page 396, Otsego County Records.

whose address is 246 Armstrong Ave., Flushing, MI 48433

Convey(s) and Warrant(s) to James H. Riling and Karen A. Riling, Husband and Wife

whose address is 1343 Five Lakes Rd., Gaylord, MI 49735

the following described premises situated in the Township of Charlton

County of Otsego and State of Michigan, to-wit:

Lots 18 and 19, Block 4, First Addition to Little Bear Lake Subdivision, according to the plat thereof as recorded in Liber 1 of Plats, Pages 97-100, Otsego County Records.

Notice under MCL 560.261: Ingress and egress to and from the premises conveyed is by means of a private roadway not dedicated to the public generally.

Dated this 28th day of July 2001

Witnesses: (Two Witnesses)

Signed and Sealed:

Mary F. Alsobrooks (Sign)
Mary F. Alsobrooks (Print)
Elaine Jean Babich (Sign)
Elaine Jean Babich (Print)

James M. Briggs (L.S.)
James M. Briggs (L.S.)
(L.S.)

STATE OF MICHIGAN
COUNTY OF Montmorency } ss. (L.S.)

The foregoing instrument was acknowledged before me this 28th day of July 2001 by James M. Briggs

My commission expires July 12, 2004

Mary F. Alsobrooks
Notary Public Montmorency County, Michigan

Instrument of Mary F. Alsobrooks
Drafted by Century 21 Northeast Realty
Business Address P.O. Box 152, Lewiston, MI 49756

Recording Fee \$10.00

State Transfer Tax \$1,251.30

When recorded return to Century 21 Northeast Realty,

P.O. Box 152, Lewiston, MI 49756

Send subsequent tax bills to Grantee

Tax Parcel # 023-190-004-018-00

OTSEGO COUNTY  
ZONING BOARD OF APPEALS

PUBLIC HEARING NOTICE  
June 22, 2010

The Otsego County Zoning Board of Appeals will hold a public hearing on Tuesday June 22, 2010 at 6:00pm in the Multi-Purpose Room of the J. Richard Yuill, Alpine Center, 800 Livingston Blvd; Gaylord, Michigan.

The purpose of the public hearings will be to obtain citizen comment on the following Land Use Requests:

**Nature of request:** A request to construct an 8'-0" x 12'-0" shed/retaining wall system within the shoreland area

Parcel ID# 023-190-004-018-00

Legal Description:

LOT 18 AND 19 BLK 4 1ST ADD TO LITTLE BEAR LAKE

All citizens are welcome to attend the meeting or provide written comment. If written comments are provided the comments must be received at the Otsego County Land Use Services Office by noon the day of the meeting.

Any citizen who has questions regarding this application or who need assistance to attend this meeting should contact the Director of Land Use Services at (989) 731-7420

# Otsego County Land Use Services department

1068 Cross Street  
Gaylord, Michigan 49735  
989-731-7420 \*Fax 989-731-7429

5-4-2010

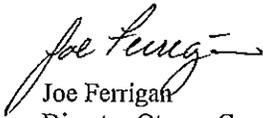
Charlton Township

Pursuant to Article 24 of the Otsego County Zoning Ordinance, I am forwarding this variance request to you for your review. Please review the attached documents and submit your findings in writing to Otsego County Land Use Services.

As you can see this is a request for an after the fact variance, the structure has been built without securing the required variance or permits for such structure.

I also ask if you require the Applicant to attend your meeting that you would please notify them of that requirement.

If you require any further clarification on this matter please do not hesitate to contact me.



Joe Ferrigan  
Director Otsego County Land Use Services  
Direct phone (989) 731-7423

SOIL EROSION AND SEDIMENTATION CONTROL  
PERMIT WAIVER

Otsego Conservation District  
800 Livingston Blvd., Suite 4A  
Gaylord MI 49735  
989-732-4021 \*Fax 989-731-0744

Applicant Information:

Name: Kathleen Riley  
Address: 9185 Chub Lake Ridge Rd  
Phone: 248 732 3701

Owner Information: (if different from applicant)

Name SAME  
Address \_\_\_\_\_  
Phone \_\_\_\_\_

Property Location:

Address/Location: 9185 Chub Lake Ridge Rd  
Parcel Number: 091 280 000 019 00  
Township Otsego Lake Section 33, T 29N, R 3W, Subdivision \_\_\_\_\_

Description of earth change: \_\_\_\_\_

I affirm that the earth change proposed at the above location will disturb less than 225 square feet AND the proposed earth change will not contribute sediment to lakes or streams.

Kathleen Riley Kathleen Riley \_\_\_\_\_ 6-16-09  
Signature of Property Owner or Designated Agent Date

Paul Ash \_\_\_\_\_ 6-19-09  
CEA Signature Date



**OTSEGO  
CONSERVATION  
DISTRICT**  
800 Livingston Blvd., Suite 4-A  
Gaylord, MI 49735

PH (889)-732-4021  
FX (889) 731-0744

**BOARD OF DIRECTORS**

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Joyce Slivinski  
Mike Platte

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Patriela Osburn  
Administrator &  
Soil Erosion Inspector

Becki Jacobs  
Assistant Administrator

Emily Sewall  
AmeriCorp Member

## VIOLATION NOTICE

June 19<sup>th</sup>, 2009

James Riling  
6509 Honey Lane  
Johannesburg, MI 49735

Re: Property located 6509 Honey Lane  
Soil Erosion # SE09.015

To James Riling:

The Otsego County Soil Erosion Department conducted an inspection on June 17<sup>th</sup>, 2009 at the above referred parcel. The purpose of the inspection was to evaluate site plan for a soil erosion permit to apply 15 yards of top soil, and to inspect construction project within the 50 foot greenbelt. Soil erosion permit was issued for top soil. Construction within the greenbelt has found to be in violation of Otsego County Zoning Ordinance. All new construction must be removed and site restored. For restoration of site, a shoreland permit is needed and project needs to be added to existing soil erosion permit.

Otsego County Zoning Ordinance, Article 15 Lots near Water, Section 15.4 Construction within Shorelands by Permit.

Construction within the Shoreland shall be limited to minimal landscaping features necessary to enable use and enjoyment of the Shoreland and/or access walkways. No structures, other than decks or walkways or landscape features as noted in this section shall be constructed within the Shoreland. Construction may be permitted only following site plan review by the Zoning Administrator under the following conditions:

Site plan application procedures as provided in Section 15.8 must be followed.

To minimize erosion, construction must be the minimum required. No steps or walkway within the shoreland area shall have a clear width of more than five feet or an overall width of more than six feet, including handrails if required by the building code. Landscape features must be the minimum necessary to permit use and enjoyment of the Shoreland. Retaining walls necessary as a result of step slopes shall not exceed 30% of the lot width; patios shall not exceed 64 square feet in area.

On lots without suitable beach front, a raised platform not larger than 64 square feet may be constructed. In addition to the raised platform steps or a walkway may be constructed. The platform shall be constructed of wood or other suitable material approved by the Zoning Administrator. This platform shall have a length not more than 1.5 times its width, except that where slopes are greater than one foot vertical on three feet horizontal, more length may be allowed to offset the shallow width, so long as the overall square footage is not increased. On slopes greater than one foot on three feet, dry-stacked platforms and retaining walls of earth colored stones, brick or other suitable material approved by the Zoning Administrator, may be substituted for raised wooden platforms. Erosion control measures shall be incorporated into any design, including permanent stabilization of soils beneath the platform,

An Equal Opportunity Provider and Employer



**OTSEGO  
CONSERVATION  
DISTRICT**

800 Livingston Blvd., Suite 4-A  
Gaylord, MI 49735

PH (989)-732-4021  
FX (989) 731-0744

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Administrator &  
Soil Erosion Inspector

Becki Jacobs  
Assistant Administrator

Emily Sewall  
AmeriCorp Member

which will no longer support vegetation due to lack of natural light. Where slopes are greater than one foot on three feet, stone riprap placed over a geotextile fabric or other permanent stabilization shall be required. The maximum allowable total area of all walks and stairs within the shoreland shall not exceed 450 square feet on lakes and 1,050 square feet on rivers and streams.

No part of any improvement in the shoreland shall extend more than 18 inches above any part of the surrounding terrain, except hand rails as required by the Building Department and water pump enclosures which may be a maximum of 30 inches tall and 48 inches wide. Boardwalks, decks, and pathways through regulated wetlands will require a permit from the DNR.

Please follow Section 15.8 Shoreland Site Plan Application Procedures when applying for Shoreland Permit.

**SECTION 15.8 SHORELAND SITE PLAN APPLICATION PROCEDURES**

A Site Plan Review application must be completed and a site plan meeting all of the provisions of Article 20 and this Section shall be provided.

In addition to a Site Plan that complies with Article 20, Shoreland site plans shall show the following additional information:

15.8.1 Property lines at the waterline back to a depth of at least 60 feet for lakes and 160' for rivers.

15.8.2 Existing vegetation and trees within the shoreline area.

15.8.3 Existing grade elevations represented by contour lines at 5 foot intervals from the normal high water level inland to a depth of 10 feet beyond the landward extent of the Shoreland Zone.

15.8.4 Existing structures, docks, walls, steps or any man-made improvements.

15.8.5 Complete the plan by showing the proposed change that would be made if the application is accepted and approval granted by the Planning Commission.

Please provide site plan immediately. If you have any question call Otsego Conservation District (989) 732-4021.

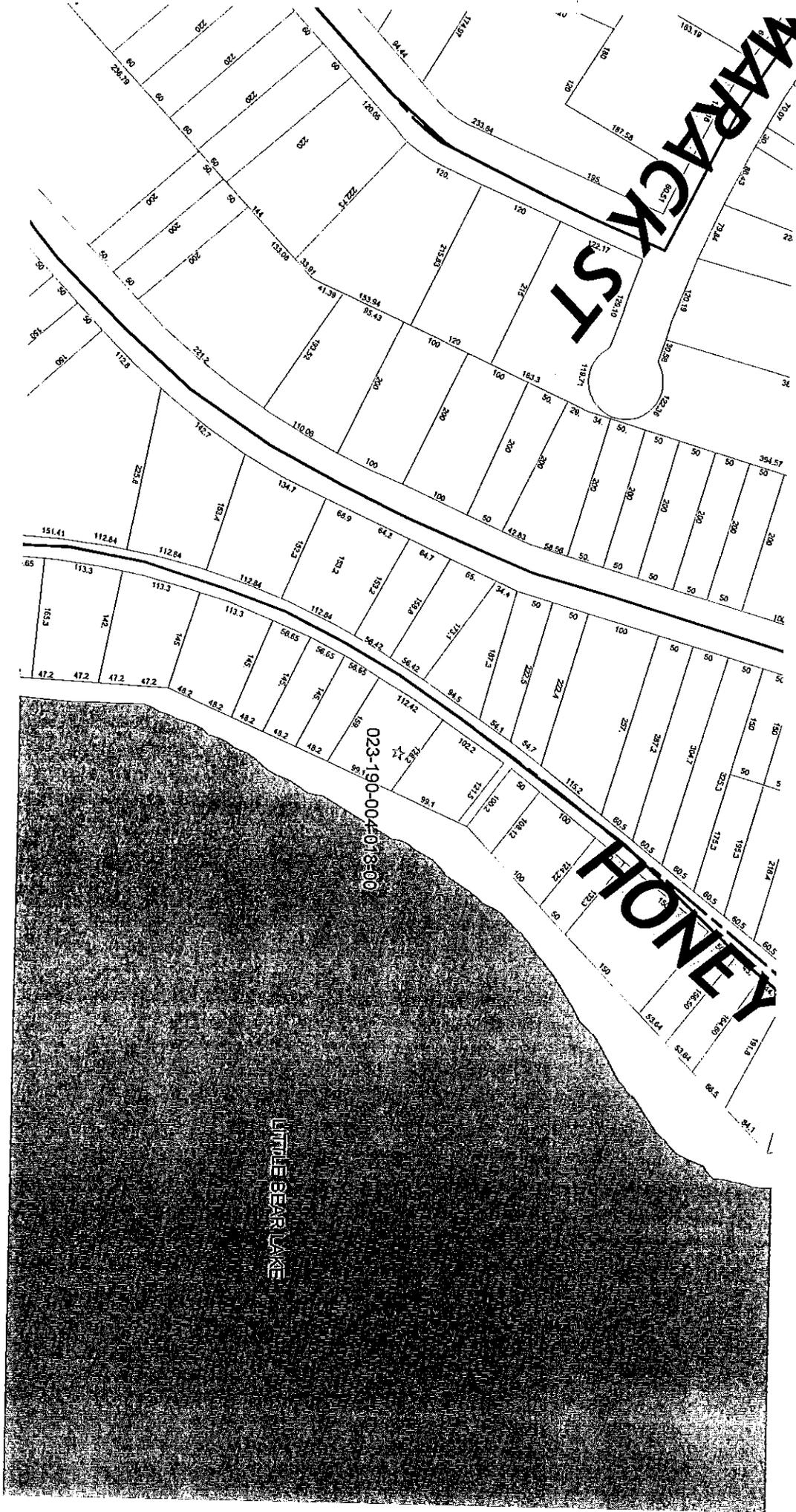
Sincerely,

Patricia Osburn,  
Otsego Conservation District, Soil Erosion Officer

cc: Joe Ferrigan, Otsego County Land Use Service Director

**WARPACK ST**

**HONEY**



**LITTLE BEAR LAKE**

023-190-004-013-00

