

**OTSEGO COUNTY
ZONING BOARD OF APPEALS**

**AGENDA
October 25, 2016
6:00 PM**

MEETING WILL BE IN THE PLANNING AND ZONING MEETING ROOM LOCATED AT 1322 HAYES ROAD

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES: *From May 31, 2016 meeting*

CITIZEN COMMENT REGARDING ITEMS NOT ON THE AGENDA

PUBLIC HEARINGS:

1. *Interpretation of Unlisted Use:*

*A request for an interpretation on the allowance of commercial storage units as a
unlisted use in the R1/Residential Zoning District*

PZBA15-002Edgewood Holdings LLC

010-015-200-055-01 / 010-015-200-065-02

2125 Evergreen Dr Gaylord, MI

NEW BUSINESS

OLD BUSINESS

COMMUNICATIONS

ZBA MEMBER ITEMS

ADJOURNMENT

Otsego County Zoning Board of Appeals

Proposed Minutes for May 31, 2016

Call to Order: 6:00 pm by Chairperson Sagasser

Roll Call:

Present: Chairperson Sagasser, Vice-Chairperson Hoffman, Secretary McCarthy, Ms. Bono, Mr. Colosimo, Mr. Brown, Mr. Glasser

Absent: None

Staff Present: Ms. Boyak-Wohlfeil

Public Present: Brittany Stripp, Seidell Architects representative, Denny Freeman, Melissa Zaborowski, Alison Mogle

Chairperson Sagasser welcomed the new members to the Zoning Board of Appeals and asked each to speak.

Each member gave a short introduction of themselves.

Approval of Minutes from November 24, 2015:

Motion made to approve minutes as presented by Mr. Hoffman; Seconded by Mr. McCarthy.

Motion approved unanimously.

Citizen Comment Regarding Items not on the Agenda: None

Public Hearing:

Interpretation of Comparable Use:

A request for an interpretation on the allowance of a banquet hall as a comparable use in the AR/Agricultural Zoning District

PZBA16-001 Freeman

080-036-400-005-09

2838 Wilkinson Rd Gaylord, MI

Section 21.44 Unlisted Property Use

Public hearing open: 6:05 pm

Brittany Stripp, Seidell Architects representative, stated they were working with Mr. Freeman to remodel his existing barn into a venue for weddings. She presented a drawing of the barn and stated it would be open to the public on a seasonal basis for weekend use. There would be a deck for pictures and possible dining but the entertainment would remain inside. She explained they were looking for interpretation of a comparable use in the zoning district stating the Knights of Columbus Hall was right down the street in the same district. The K of C Hall was allowed as a venue for weddings and other banquets and was open year round.

Denny Freeman stated they had recently enjoyed holding several family weddings and gatherings on his property and as part of his downsizing, the family discussed allowing other people to enjoy the facility for

Otsego County Zoning Board of Appeals

Proposed Minutes for May 31, 2016

that same use. He stated he had heard from one of his neighbors who objected because of the possibility of fireworks and noise but after discussing the issue with them, they were satisfied.

Chairperson Sagasser asked for comments from the public present.

Melissa Zaborowski and Alison Mogle stated they were attending the meeting to show support for the wedding venue. Ms. Zaborowski stated she thought it was a good idea for the area and would be enjoyed by many brides. She was also hoping to hold her own wedding at the venue.

Public hearing closed: 6:17pm

New Business:

Interpretation of Comparable Use:

A request for an interpretation on the allowance of a banquet hall as a comparable use in the AR/Agricultural Zoning District

PZBA16-001 Freeman

080-036-400-005-09

2838 Wilkinson Rd Gaylord, MI

Section 21.44 Unlisted Property Use

Chairperson Sagasser stated it was the role of the Zoning Board of Appeals to interpret whether this was a comparable use to the zoning district but not listed as such.

Chairperson Sagasser read the Exhibit List and also the letter from Mr. and Mrs. Olson, neighboring property owners, voicing their concern for loud noise. He requested it be added to the Exhibit List as *Exhibit 13* as well. *SEE ATTACHMENT 1, ATTACHMENT 2*

Chairperson Sagasser presented the Finding of Fact. *SEE ATTACHMENT 3*

He stated because the use for a 'wedding venue/banquet hall' was not specifically listed in the Zoning Ordinance, they needed to interpret if it was an unlisted use and if so, if it was a permitted use or permitted use subject to special conditions in the AR Zoning District.

Ms. Bono stated she thought if the Ordinance allowed recreational facilities, restaurants, country clubs or private parks, she did not see much of a difference and felt it was comparable to those.

Vice Chairperson Hoffman stated they were not approving the venue itself, only whether it was considered a comparable permitted use to 'fraternal lodges' or 'churches' that sometimes rent out their halls or comparable to a permitted use subject to special conditions such as 'restaurants/taverns without drive-through service', 'golf courses or country clubs, or 'recreational facilities'. He felt it was the latter because it would then be up to the Planning Commission to decide items such as hours of operation, noise levels permitted and other specifics.

Mr. McCarthy stated he agreed with Mr. Hoffman that it was more comparable to Section 9.2 than section 9.1 in the AR Zoning District.

Mr. Brown stated he was also in agreement with the use being more similar to uses in Section 9.2.

Otsego County Zoning Board of Appeals

Proposed Minutes for May 31, 2016

Mr. Glasser stated his interpretation was a little more liberal and thought the use fell under Section 9.1. It was very similar and was a cross between a fraternal lodge and a church, which both were a permitted use by right.

Chairperson Sagasser stated he agreed it was very similar to a fraternal lodge and a church and also felt it was a permitted use. Most fraternal lodges and churches held banquets and he didn't see a need to place conditions on the use. He felt it gave the Planning Commission more room to govern.

Vice Chairperson Hoffman stated the Agricultural Resource Zoning District was designed as a quiet, rural area with less traffic; those types of things can be controlled with a special use permit. If it is a permitted use, then there is no control over the use in that zoning district and he felt it was something that should be decided by the Planning Commission.

Motion by Mr. Hoffman to interpret the wedding venue/banquet hall use as a comparable use to other *Permitted Uses Subject to Special Conditions* in the AR/Agricultural Resource Zoning District; Seconded by Mr. McCarthy.

Chairperson Sagasser asked if there was any further discussion.

Mr. Glasser thought it should be allowed by right, stating we are overregulated now and did not feel the Planning Commission should decide the scope of the operation.

Ms. Bono concurred.

Mr. Brown stated he wondered why fraternal lodges and churches were listed under Section 9.1 and other similar uses were restricted under Section 9.2.

Chairperson Sagasser stated he agreed with Mr. Glasser as having enough regulations; he did not feel another layer of bureaucracy was needed for something as benign as a banquet hall.

Ms. Boyak-Wohlfeil stated some of the uses listed under Section 9.2 were more restricted because of possible alcohol usage.

Mr. Glasser stated the scope of the use increased also in Section 9.2 along with traffic flow. The intent of the AR Zoning District is to preserve the farmland and the rural beauty of the view.

Vice Chairperson Hoffman stated the rural character of the AR Zoning District could only be preserved if some control was retained.

Chairperson Sagasser requested a roll call vote for the motion on the floor:

Roll call vote:

Sagasser:	no
Hoffman:	yes
McCarthy:	yes
Bono:	no
Colosimo:	yes
Brown:	yes
Glasser:	no

Otsego County Zoning Board of Appeals

Proposed Minutes for May 31, 2016

Yes-4

No-3

Motion passes

Chairperson Sagasser told Mr. Freeman he could continue with the special use permit process.

1. Election of ZBA Officers

Mr. Sagasser nominated for Chairperson by Mr. Glasser; Seconded by Ms. Bono
Vote unanimous

Mr. Sagasser elected Chairperson

Mr. Hoffman nominated for Vice-Chairperson by Mr. Glasser; Seconded by Mr. Sagasser
Vote unanimous

Mr. Hoffman elected Vice-Chairperson

Mr. McCarthy nominated for Secretary by Ms. Bono; Seconded by Mr. Hoffman
Vote unanimous

Mr. McCarthy elected Secretary

2. Expiring Terms/Reappointment

- a. Bono
- b. McCarthy

Ms. Bono and Mr. McCarthy completed applications to be submitted to the County. They will be reappointed by the Board of Commissioners at term end.

Old Business: None

Communications: None

Adjournment: 6:42 pm by Chairperson Sagasser

Mike McCarthy, ZBA Secretary

Christine Boyak-Wohlfeil, Recording Secretary

Otsego County Zoning Board of Appeals

Proposed Minutes for May 31, 2016

ATTACHMENT 1:

**OTSEGO COUNTY
ZONING BOARD OF APPEALS**

**PZBA16-001 INTERPRETATION
FREEMAN**

Exhibit List

- Exhibit #1:* Application for case PZBA16-001 submitted by Applicant
- Exhibit #2:* Otsego County Zoning Map Effective Date March 20, 2010/Amended November 25, 2014
- Exhibit #3:* Otsego County Zoning Ordinance Effective March 20, 2010/Amended December 15, 2015
- Exhibit #4:* Copy of Otsego County Equalization Department record card/Warranty Deed 0542/713
- Exhibit #5:* Site Plan/PZBA16-001 submitted by Representative
- Exhibit #6:* Letter of representation dated April 26, 2016
- Exhibit #7:* Public Hearing Notice
- Exhibit #8:* Email dated May 10, 2016 from Livingston Township Planning Commission
- Exhibit #9:* Maps/Dimensional, Aerial
- Exhibit #10:* Map and list of parties notified
- Exhibit #11:* Receipt #01309221
- Exhibit #12:* Finding of Fact/PZBA16-001
- Exhibit #13:* Letter from neighboring property owner dated May 23, 2016

Otsego County Zoning Board of Appeals

Proposed Minutes for May 31, 2016

ATTACHMENT 2:

May 23, 2016

To whom it may concern:

Regarding the wedding/ venue/ banquet hall request made by Dennis Freeman:

As neighbors we would like to request the following:

So that we may continue to enjoy the sounds of nature in this rural area we ask that all loud noises be restricted to sound proofed well insulated buildings so we don't hear the noises outside .It is especially important that there be no noise after 10 P.M. .

Also we would like to request that there be no fireworks.

Karen Olson



David Olson



Exhibit 13

Otsego County Zoning Board of Appeals

Proposed Minutes for May 31, 2016

ATTACHMENT 3:

OTSEGO COUNTY ZONING BOARD OF APPEALS

PZBA16-001 INTERPRETATION FREEMAN

FINDING OF FACT

1. Livingston Township was presented with a case and is requesting an interpretation of the permitted use subject to special conditions; *Article 9 Section 9.2.12 Restaurants and/or taverns (without drive-through service)*, listed in the AR/Agricultural Resource Zoning District as a comparable use to the *proposed wedding venue* before making their recommendation to the Planning Commission. *Exhibit #8*
2. The property is located in an AR/Agricultural Resource Zoning District. *Exhibit #2*
3. The proposed use is a lesser use than the permitted use and permitted uses subject to special conditions already listed in the AR/Agricultural Resource Zoning District. *Exhibit #3, Exhibit #5*
4. The proposed case is for a remodel and addition of an existing barn for a seasonal wedding venue. *Exhibit #1, Exhibit #5*
5. The property is 26.86 acres. *Exhibit #4*
6. The property is currently under the ownership of Dennis & Sandra Freeman. *Exhibit #4*
7. An existing banquet hall resides in the same zoning district west of the proposed property. *Exhibit #2*
8. The Public Hearing Notice was published in the Herald Times on May 17, 2016. *Exhibit #7*
9. All property owners within three hundred (300') feet were properly notified of the public hearing. *Exhibit #10*
10. The required fees have been collected by Otsego County Land Use Services. *Exhibit #11*
11. The application deemed complete by Land Use Services May 12, 2016. *Exhibit #1*

Exhibit 12

Otsego County Zoning Board of Appeals

Proposed Minutes for May 31, 2016

ARTICLE 21 SPECIFIC REQUIREMENTS FOR CERTAIN USES

SECTION 21.44 UNLISTED PROPERTY USE

The County Zoning Board of Appeals shall have power on written request of a property owner in any Zoning District to classify a use not listed with a comparable permitted use in the District giving due consideration to the provisions of [Article 19](#) of this Ordinance when declaring whether it is a use permitted by right or by special permit. If there is a comparable use, then the procedures established in this ordinance for approval of a permit for that use must next be initiated in order for the applicant to apply for the necessary permit(s). If there is no comparable use then the applicant shall be so informed and an amendment to the text of the ordinance or a rezoning would be necessary prior to establishing requested use on the property.

ARTICLE 9 AN AGRICULTURAL RESOURCE DISTRICT

INTENT

The Agricultural Resource District is intended to encourage the maintenance of productive farm and agricultural land for growing, raising or production of food stuffs. It is further intended that the productive agricultural land base of the County be maintained in agricultural activities. Other land uses and activities may be permitted if they meet the objective of retaining farmlands in an open land character.

SECTION 9.1 PRINCIPAL USES PERMITTED

No buildings or land shall be used and no building shall be erected except for one (1) or more of the following specified uses:

9.1.1 One (1) family dwelling unit

9.1.2 Two (2) family (duplex) dwellings subject to the one (1) family density requirements with a minimum lot width of three hundred (300) feet.

9.1.3 Two (2) detached single-family dwelling units may be permitted, subject to the following conditions:

9.1.3.1 There is a separation between the two (2) dwellings so the lot may be divided into two (2) legal lots with each lot having a lawful minimum width and area, with each dwelling still maintaining the front, side and rear setback as regulated in the District.

9.1.3.2 The County Health Department approves the sanitary system.

9.1.4 Growing, raising, and harvesting of agricultural products and farm livestock.

9.1.5 Woodlots, tree farms, nursery field stock, and harvesting activities

9.1.6 Buildings for storing or housing machinery, equipment, and/or livestock, including repair operations when accessory to agricultural and farm operations.

9.1.7 Experimental agricultural activities and uses related to farm research

9.1.8 Wildlife habitat and plant species preservation areas

9.1.9 Farm industries may include saw mills of a permanent or temporary nature, with assembly of green or untreated wood to a usable item for marketing, provided the operation is conducted as an accessory to a farm and that the use is two hundred (200) feet from property lines.

9.1.10 Bed and breakfast/tourist homes

9.1.11 Family and group care facilities

9.1.12 Forest production and forest harvesting operations including temporary sawmills, temporary log storage yards and related facilities.

Exhibit 12

Otsego County Zoning Board of Appeals

Proposed Minutes for May 31, 2016

9.1.13 Fraternal lodges

9.1.14 Aircraft Landing Strips

9.1.15 Churches

9.1.16 Cemeteries [Permit criteria include [Article 21.4](#)]

9.1.17 Dwellings less than sixteen (16) feet wide [Permit criteria include [Article 21.22](#)]

9.1.18 Riding academies or stables [Permit criteria include [Article 21.35](#)]

9.1.19 Roadside stands (agricultural-temporary) off the road right-of-way, provided that the stand be operated only seasonally, that hours not exceed dawn to dusk, that large equipment, including semi-tractor-trailers, not be parked at the site, and that the parking requirements of [Article 21.27](#) be observed.

9.1.20 Veterinary hospitals, clinics with indoor kennel [Permit criteria include [Article 21.45](#)]

9.1.21 Travel trailers (on private property) [Permit criteria include [Article 21.33](#)]

9.1.22 Home occupation

9.1.23 Farm buildings, in existence at the time of the adoption of this amendment and no longer used in support of agricultural interests, may be used as rental property for storage of individually owned items.

9.1.23.1 So as to alleviate noise and traffic associated with commercial activities and thus maintain the rural, open space, character of the area, the rental shall not be made into commercial enterprises.

9.1.23.2 All applicable sections of the zoning Ordinance apply.

9.1.23.3 The Zoning Administrator may opt to refer the application to the Planning Commission if there are unusual circumstances.

9.1.24 Wireless Telecommunications Towers and Facilities one hundred ninety (190) feet or less in height without lights [Permit criteria include [Article 21.46](#)]

9.1.25 Structures for storage of the owner's personal non-farm possessions and non-commercial activities. These structures shall not be used as dwellings. Structures shall meet the size requirements of [Section 21.1.3](#).

9.1.26 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use.

9.1.27 WTG Small: Permitted as an accessory use to an allowed Principal Use.

9.1.28 WTG Medium: Permitted as an Accessory Use to an allowed Principal Use.

SECTION 9.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of [Article 19](#) and only after the review and approval of the site plan by the Planning Commission. [See [Article 21](#) for applicable Specific Requirements for Certain Uses, if any and [Article 23](#) for Site Plan Requirements.]

9.2.1 Public and private parks, recreational facilities, and public or private non-profit schools offering courses in general education when the use is not, to the extent practical, placed on soils predominantly rated as having high agricultural productivity in comparison with other farm land in Otsego County.

9.2.2 Recreation farms, dude ranches (so called), and sportsmen's clubs provided the farm land base remains essentially intact, that the number of new and/or expanded buildings be limited in scale, in so far as is practical, to that typical of a farm, and further, no activities shall cause the depletion or erosion of agricultural soils (dust, vehicle tracks, stream bank breakdown, etc.).

9.2.3 Permanent forest industries, including permanent sawmills, planing mills, veneer mills and related operations, provided:

Exhibit 12

Otsego County Zoning Board of Appeals

Proposed Minutes for May 31, 2016

- 9.2.3.1 There is a complete clean-up of discarded wastes following the cessation of activity.
- 9.2.3.2 There are no nuisances imposed upon tourist service facilities or outdoor recreation uses in the immediate vicinity.
- 9.2.3.3 The site of the proposed use encompasses an area of at least five (5) acres.
- 9.2.4 Auction yards for livestock and/or agricultural equipment with accessory buildings on a minimum forty (40) acres site with a minimum width of six hundred (600) feet, provided that there is no nuisance imposed upon the surrounding farms or dwellings.
- 9.2.5 Commercial outdoor sport and recreational facilities, outdoor musical entertainment
- 9.2.6 Driving ranges
- 9.2.7 Game preserves
- 9.2.8 Gasoline stations with or without store
- 9.2.9 Detention facilities
- 9.2.10 Shooting ranges (outdoor)
- 9.2.11 Recreation camps, resorts or housekeeping units
- 9.2.12 Restaurants and/or taverns (without drive-through service)
- 9.2.13 Dog grooming and kennel facilities [Permit criteria include [Article 21.45](#)]
- 9.2.14 Golf courses and country clubs [Refer to [Articles 4.2.5](#) and [21.11](#)]
- 9.2.15 Hunt clubs (commercial)
- 9.2.16 Airport with appurtenant facilities, when approved by the Planning Commission after a hearing, provided the operating characteristics are deemed not to conflict with wildlife habitat areas, wilderness areas, housing areas, and facilities or uses having high concentrations of people (schools, hospitals, etc.).
- 9.2.17 Surface mining of gravel, sand, clay, topsoil or marl [See [Article 21.25](#) for criteria]
- 9.2.18 Travel trailer courts
- 9.2.19 Campgrounds (commercial)
- 9.2.20 Race tracks
- 9.2.21 Wireless Telecommunications Towers and Facilities over one hundred ninety (190) feet in height, or with lights [See [Article 21.46](#)]
- 9.2.22 WTG Large
- 9.2.23 Anemometer Tower [See [Article 21.47](#)]
- 9.2.24 Unlisted property uses if authorized under [Article 21.44](#).

**OTSEGO COUNTY
ZONING BOARD OF APPEALS**

**PZBA15-002
Interpretation of Unlisted Use
Edgewood Holdings LLC
010-015-200-055-01/010-015-200-065-02**

Exhibit List

- Exhibit #1:* Application for case PZBA15-002 submitted by Applicant
- Exhibit #2:* Otsego County Zoning Map Effective Date November 25, 2014
- Exhibit #3:* Otsego County Zoning Ordinance Effective March 20, 2010/Amended September 13, 2016
- Exhibit #4:* Copy of Otsego County Equalization Department record cards
Warranty Deed - L1345/P428 and Quit Claim Deed - L1263/P164
- Exhibit #5:* Site pictures submitted by Applicant
- Exhibit #6:* Public Hearing Notice
- Exhibit #7:* Letter to Bagley Township dated April 11, 2016
- Exhibit #8:* Response from Bagley Township dated July 28, 2016/Received September 13, 2016
- Exhibit #9:* Receipt #01307693
- Exhibit #10:* Map and list of parties notified
- Exhibit #11:* Finding of Fact/PZBA15-002
- Exhibit #12:* Otsego County Planning Commission minutes from previous case cited by Applicant
May 17, 1999 / July 19, 1999 Case Number: **PC-90203-BY**

ZONING BOARD OF APPEALS
Interpretation of Zoning Ordinance Text
Unlisted Property Use



Applicant Information:

Name: **David M. Delaney, PLC** Agent

Address: **P.O. BOX 1771**

Phone: **(989) 731-1508**

Fax: **(989) 731-6968**

Email address: **DMDLAWYER@GMAIL.COM**

Property Owners Information: (If different from applicant)

Name: **EDGEWOOD HOLDINGS, LLC** Owner

Address: **P.O. BOX 1237 GAYLORD, MI 49734**

Phone **(989) 732-5495**

Fax: **(989) 732-6140**

Email address: **FUELMULE@AOL.COM**

Property Information:

Address/location: **2125 EVERGREEN DR GAYLORD, MI**

Parcel Number(s): **010-015-200-055-01; 010-015-200-065-02**

Zoning District: **R-1**

Current Use: **VACANT**

ZONING BOARD OF APPEALS
Interpretation of Zoning Ordinance Text
Unlisted Property Use



You may use additional pages to explain any item that space does not allow.

Nature of Request: (Clearly state the complete variance you are requesting)

- I. **APPLICANT SEEKS AN INTERPRETATION ALLOWING 30X40 AND 40X60 POLE BARN STORAGE UNITS ON ADJACENT PARCELS FOR NEIGHBORING RESIDENCES IN AN R-1 DISTRICT.**

- II. **APPLICANT SEEKS TO CLASSIFY 30X40 AND 40X60 POLE BARN STORAGE UNITS ON ADJACENT PARCELS FOR NEIGHBORING RESIDENCES IN AN R-1 DISTRICT AS A USE NOT LISTED WITH A COMPARABLE PERMITTED USE IN AN R-1 DISTRICT AS PROVIDED IN SECTION 21.44 UNLISTED PROPERTY USE**

Land Use Services Use Only

File No.: PZBA 15-002 Fee: Paid

Date Received:

Received by:

ZONING BOARD OF APPEALS
 Interpretation of Zoning Ordinance Text
 Unlisted Property Use



Utilities available on Site: (Check all that apply)

X Water X Well ___ Sewer ___ Septic

Property Description:

Area of lot (acres/square feet): **PARCEL (01) 2.36 ACRES; PARCEL (02) 8.26 ACRES**

Dimensions of Lot: **PARCEL (01) 2183.69 X 165; PARCEL (02) 451.4 X 265**

Structures:	Description	Height	Existing	Proposed
Number of Buildings on Site:	___ N/A ___	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____

Use, Area and Dimensions: (Each building)				
	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____

Area of Other Structures: (Decks, gazebos, steps, etc.)				
	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____
	_____	_____	_____	_____

Percentage of Lot Coverage

APPLICATION SIGNATURE:

All correspondence and notices regarding the application will be transmitted to the applicant. By signing this application the applicant is indicating that all information contained in this application is complete and accurate to the best of his/her knowledge.

David M. Delaney MARCH 31, 2016
 DAVID M. DELANEY

I hereby grant permission for member of the Township Board, Township Planning Commission, Otsego County Zoning Board of Appeals and Otsego County officials, staff and consultants to enter the above Described property for the purposes of gathering information related to the application.

*Note to applicant/property owner: This permission is optional and failure to grant permission will not Affect any decision on the applicant.

David M. Delaney MARCH 31, 2016
 DAVID M. DELANEY

ZONING BOARD OF APPEALS
Interpretation of Zoning Ordinance Text
Unlisted Property Use



I. APPLICANT SEEKS AN INTERPRETATION ALLOWING 30X40 AND 40X60 POLE BARN STORAGE UNITS ON ADJACENT PARCELS FOR NEIGHBORING RESIDENCES IN AN R-1 DISTRICT.

OTSEGO COUNTY ZONING ORDINANCE (OCZO) SECTION 26.2.1.1 ALLOWS THE ZONING BOARD OF APPEALS INTERPRETATION OF THE ZONING ORDINANCE TEXT.

OCZO ARTICLE 4 R1 OF PERMITS OUTDOOR RECREATION FACILITIES; MAINTENANCE GARAGE; PRO SHOP; RAIN SHELTERS; WIRELESS TELECOMMUNICATIONS TOWERS AND UTILITY AND ESSENTIAL SERVICE STRUCTURES.

SECTION 4.1.9 PERMITS STRUCTURES FOR STORAGE OF THE OWNER'S PERSONAL POSSESSIONS.

NOT PERMITTING STORAGE UNITS WOULD UNREASONABLY PREVENT THE OWNER FROM USING THE SUBJECT SITE FOR A PERMITTED USE OR WOULD RENDER CONFORMITY UNNECESSARILY BURDENSOME.

NEIGHBORING RESIDENTIAL BUILDING AND USE RESTRICTIONS DO NOT PERMIT DETACHED STORAGE UNITS.

STORAGE UNITS WILL NOT ALTER THE ESSENTIAL CHARACTER OF THE LOCALITY

IN FILE NO. PC 90203BY THE OTSEGO PLANNING COMMISSION DENIED A RESIDENTIAL DEVELOPMENT ON THE BASIS THAT IT WAS NOT COMPATIBLE WITH ADJACENT USES OF LAND

THE STORAGE UNITS WILL BE IN COMPLIANCE WITH STATE AND FEDERAL LAWS INCLUDING THE RIGHT TO FARM ACT AND THE AMERICANS WITH DISABILITIES ACT

ZONING BOARD OF APPEALS
Interpretation of Zoning Ordinance Text
Unlisted Property Use



- II. **APPLICANT SEEKS TO CLASSIFY 30X40 AND 40X60 POLE BARN STORAGE UNITS ON ADJACENT PARCELS FOR NEIGHBORING RESIDENCES IN AN R-1 DISTRICT AS A USE NOT LISTED WITH A COMPARABLE PERMITTED USE IN AN R-1 DISTRICT AS PROVIDED IN SECTION 21.44 UNLISTED PROPERTY USE**

SECTION 21.44 UNLISTED PROPERTY USE PROVIDES:

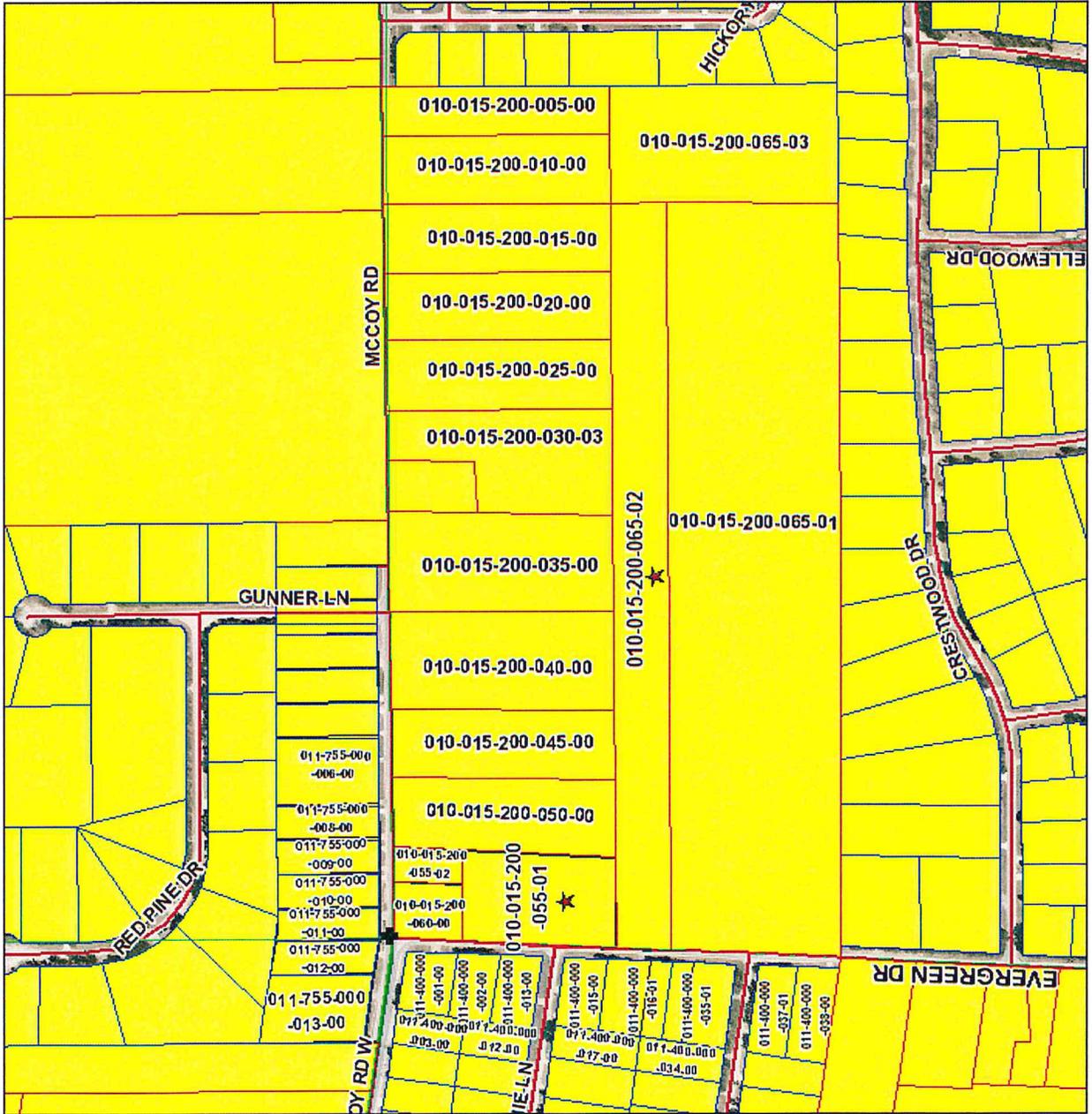
THE COUNTY ZONING BOARD OF APPEALS SHALL HAVE POWER ON WRITTEN REQUEST OF A PROPERTY OWNER IN ANY ZONING DISTRICT TO CLASSIFY A USE NOT LISTED WITH A COMPARABLE PERMITTED USE IN THE DISTRICT.

OCZO ARTICLE 4 R1 OF PERMITS OUTDOOR RECREATION FACILITIES; MAINTENANCE GARAGE; PRO SHOP; RAIN SHELTERS; WIRELESS TELECOMMUNICATIONS TOWERS AND UTILITY AND ESSENTIAL SERVICE STRUCTURES.

SECTION 4.1.9 PERMITS STRUCTURES FOR STORAGE OF THE OWNER'S PERSONAL POSSESSIONS.

NOT PERMITTING STORAGE UNITS WOULD UNREASONABLY PREVENT THE OWNER FROM USING THE SUBJECT SITE FOR A PERMITTED USE OR WOULD RENDER CONFORMITY UNNECESSARILY BURDENSOME.

PZBA15-002
 EDGEWOOD HOLDINGS LLC
 010-015-200-055-01/ 010-015-200-065-02



Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prcnt. Trans.	
MILLER-MILLER	EDGEWOOD HOLDINGS LLC	0	06/15/2011	QC	No Sale Price	1263/164	Deed	100.0	
GLASSER-HANSMANN	MILLER-MILLER	0	01/14/2000	WD	Fulfilment of LC	0746/721	Deed	0.0	
GLASSER-HANSMANN	MILLER-MILLER	60,000	01/01/1998	LC	Good	0664/646	Deed	0.0	
Property Address		Class: 402 Residential St Zoning: R-1							Status
2125 EVERGREEN DR		School: Gaylord Community							
Owner's Name/Address		P.R.E. 0%							
EDGEWOOD HOLDINGS LLC		: 0.00							
PO BOX 1237		2015 Est TCV 57,800 (Value Overridden)							
GAYLORD MI 49734-5237		Improved <input checked="" type="checkbox"/> Vacant							
Tax Description		* Factors *							
COMM @ NW COR, TH S2°W 654.55' FOR POB, TH N88°E 2174.73', TH S 165', TH S88°W 2183.69', TH N2°E 165' TO POB. SEC 15 T30N R3W.		Description		Frontage	Depth	Rate	Adj. Reason	Value	
Comments/Influences		Public Improvements		8.26		0	100	0	
		Dirt Road		8.26 Total Acres				Total Est. Land Value =	
		Gravel Road						0	
		Paved Road						0	
		Storm Sewer						0	
		Sidewalk						0	
		Water						0	
		Sewer						0	
		Electric						0	
		Gas						0	
		Curb						0	
		Street Lights						0	
		Standard Utilities						0	
		Underground Utils.						0	
		Topography of Site						0	
		Level						0	
		Rolling						0	
		Low						0	
		High						0	
		Landscaped						0	
		Swamp						0	
		Wooded						0	
		Pond						0	
		Waterfront						0	
		Ravine						0	
		Wetland						0	
		Flood Plain						0	
Year	Land Value	Building Value	Assessed Value	Board of Review	Tribunal/Other	Taxable Value			
2015	28,900	0	28,900			28,900S			
2014	29,100	0	29,100			29,100S			
2013	29,300	0	29,300			29,300S			
2012	29,100	0	29,100			29,100S			

The Equalizer. Copyright (c) 1999 - 2009. Licensed To: County of Otsego, Michigan

*** Information herein deemed reliable but not guaranteed***



OTSEGO COUNTY MICHIGAN
RECEIVED FOR RECORD
SUSAN DEFEYTER, CLERK/REGISTER OF DEEDS
07/19/2011 3:34:38 PM

RCVD JUL 19 11 AM 3:32

QUIT CLAIM DEED

married man

KNOW ALL MEN BY THESE PRESENTS: That David A. Miller, 741 S. Townline, Gaylord, Michigan 49735, and Douglas A. Miller, 500 S. Classic Drive, Gaylord, Michigan 49735.
married man

Quit Claims to Edgewood Holdings, LLC a Michigan Limited Liability Company, P.O. Box 1237, Gaylord, Michigan 49734.

The following described premises

Land in Bagley Township, County of Otsego, State of Michigan, described as:

1268 Evergreen, COMM @ NW COR, TH S 2DEGREES W 654.55' FOR POB, TH N 88DEGREES E 2174.73', TH S 165', TH S 88DEGREES W 2183.69', TH N 2DEGREES E 165' TO POB. SEC 15, T30N-R3W, Tax ID 010-015-200-065-02

Subject to easements, reservations and restrictions of record.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, for the sum of Exempt from State Transfer Tax Pursuant to MCLA 207.526 (a) and Exempt from County Transfer Tax Pursuant to MCLA 207.505 (a).

THIS CONVEYANCE INCLUDES ZERO DIVISION(S) UNDER SECTION 108 OF THE LAND DIVISION ACT, ACT NO. 288 OF THE PUBLIC ACTS OF 1967.

This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

Dated: June 15, 2011

Signed and Sealed:

David A. Miller

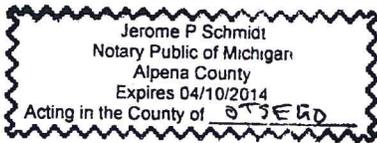
Douglas A. Miller

4 17/2
Page 1 of 2



STATE OF MICHIGAN
COUNTY OF OTSEGO

This foregoing instrument was acknowledged before me this 15 day of June, 2011 David A. Miller and Douglas A. Miller.



Jerome P. Schmidt

Notary Public

My commission expires 04-10-2014

Recording Fee _____

Tax Id: 010-015-200-065-02

Drafted by: Michele Andrews

Po Box 1237 ^{DS}
Gaylord, MI 49734

Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prcnt. Trans.
SZYMANSKI TRUST-SZYMANSKI	EDGEWOOD HOLDINGS LLC	0	07/11/2013	WD	Fulfilment of LC	1345/428	DEED	0.0
SZYMANSKI TRUST-SZYMANSKI	EDGEWOOD HOLDINGS LLC	21,000	07/12/2012	LC	Good	1292/427	Deed	100.0
Property Address Class: 401 Residential Va Zoning: R-1 (* Building Permit (s)) School: Gaylord Community P.R.E. 0% : 2015 Est TCV 19,400 (Value Overridden) Land Value Estimates for Land Table .								
Owner's Name/Address		Improved X Vacant Public Improvements * Factors * Description Frontage Depth Rate %Adj. Reason Value 2.36 Total Acres 2.360 Acres 0 100 0 Total Est. Land Value = 0						
Tax Description		Dirt Road Gravel Road Paved Road Storm Sewer Sidewalk Water Sewer Electric Gas Curb Street Lights Standard Utilities Underground Utils. Topography of Site Level Rolling Low High Landscaped Swamp Wooded Pond Waterfront Ravine Wetland Flood Plain						
Comments/Influences		Who When What The Equalizer. Copyright (c) 1999 - 2009. Licensed To: County of Otsego, Michigan						
		Year Land Value Building Value Assessed Value Board of Review Tribunal/Other Taxable Value 2015 9,700 0 9,700 9,700 9,700S 2014 9,700 0 9,700 9,700 9,700S 2013 9,700 0 9,700 9,700 9,700S 2012 0 0 0 0 0						

*** Information herein deemed reliable but not guaranteed***

4/14/14



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 local collection, board of review, PRE denial or tax tribunal.

Linda J. Dargent, Deputy COUNTY TREASURER



OTSEGO COUNTY MICHIGAN
RECEIVED FOR RECORD
SUSAN DEFFEYER, CLERK/REGISTER OF DEEDS
04/14/2014 3:47:58 PM



OTSEGO COUNTY
APRIL 14, 2014
RECEIPT #21141

STATE OF MICHIGAN \$ 23.10-CO
REAL ESTATE \$ 157.50-ST
TRANSFER TAX STAMP # 8383

WARRANTY DEED

ROUD APR 14 2014 3:35

The Grantors, James E. Szymanski and Janet M. Szymanski, Trustee's of the James E. Szymanski and Janet M. Szymanski Trust, under declaration dated July 28, 1999 and Ernest Szymanski, a/k/a E. Richard Szymanski, a single man and Kevin Szymanski, a/k/a Kevin A. Szymanski, a single man, as tenants in common of 1706 Kryss Rd., Gaylord, MI 49735 and 2664 W. Dixon Lake Dr., Gaylord, MI 49735 respectively, convey and warrant to Edgewood Holdings, LLC, a Michigan Limited Liability Company of PO Box 1237, Gaylord, MI 49734, the following premises located in the Township of Bagley, County of Otsego and State of Michigan, described as follows, to wit:

Commencing at the Northwest corner of Section 15, Town 30 North, Range 3 West; thence South 03 degrees 09 minutes West 203 feet for Point of Beginning; thence South 03 degrees 09 minutes West 451.4 feet; thence North 85 degrees 32 minutes East 265 feet; Thence North 03 degrees 09 minutes West 451.4 feet; thence South 89 degrees 32 minutes West 265 feet to the Point of Beginning. TAX ID: 010-015-200-055-01

Subject to all easements, restrictions, reservations and exceptions of record, for the sum of twenty one thousand dollars (\$21,000).

No mineral rights are conveyed to purchaser's and are reserved by sellers.

"The Grantors grant the Grantee the right to make all divisions under Section 108 of the Land Division Act, Act No. 288 of the Public Acts of 1967".

The property may be located within the vicinity of farmland or a farm operation. Generally accepted agriculture and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

Dated this 11th day of July, 2013.

[Signature]
James E. Szymanski, Trustee

[Signature]
Ernest Szymanski, a/k/a E. Richard Szymanski

[Signature]
Janet M. Szymanski, Trustee

[Signature]
Kevin Szymanski, a/k/a Kevin A. Szymanski

Don Miller
POB 593
U 171



STATE OF MICHIGAN
COUNTY OF OTSEGO

The foregoing instrument was acknowledged before me this 11th day of July, 2013.

, Notary Public

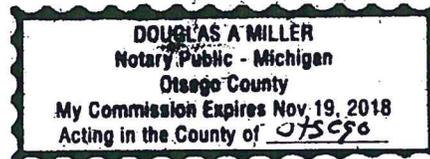
Otsego County, Michigan

My commission expires: Nov 19, 2018

Drafted by:
Michele Andrews
PO Box 1237
Gaylord, MI 49734
989.732.5495

When Recorded to:
Grantee

Send Subsequent Tax
Bills to:
Grantee





Otsego County Map Document



Otsego County
Map Service

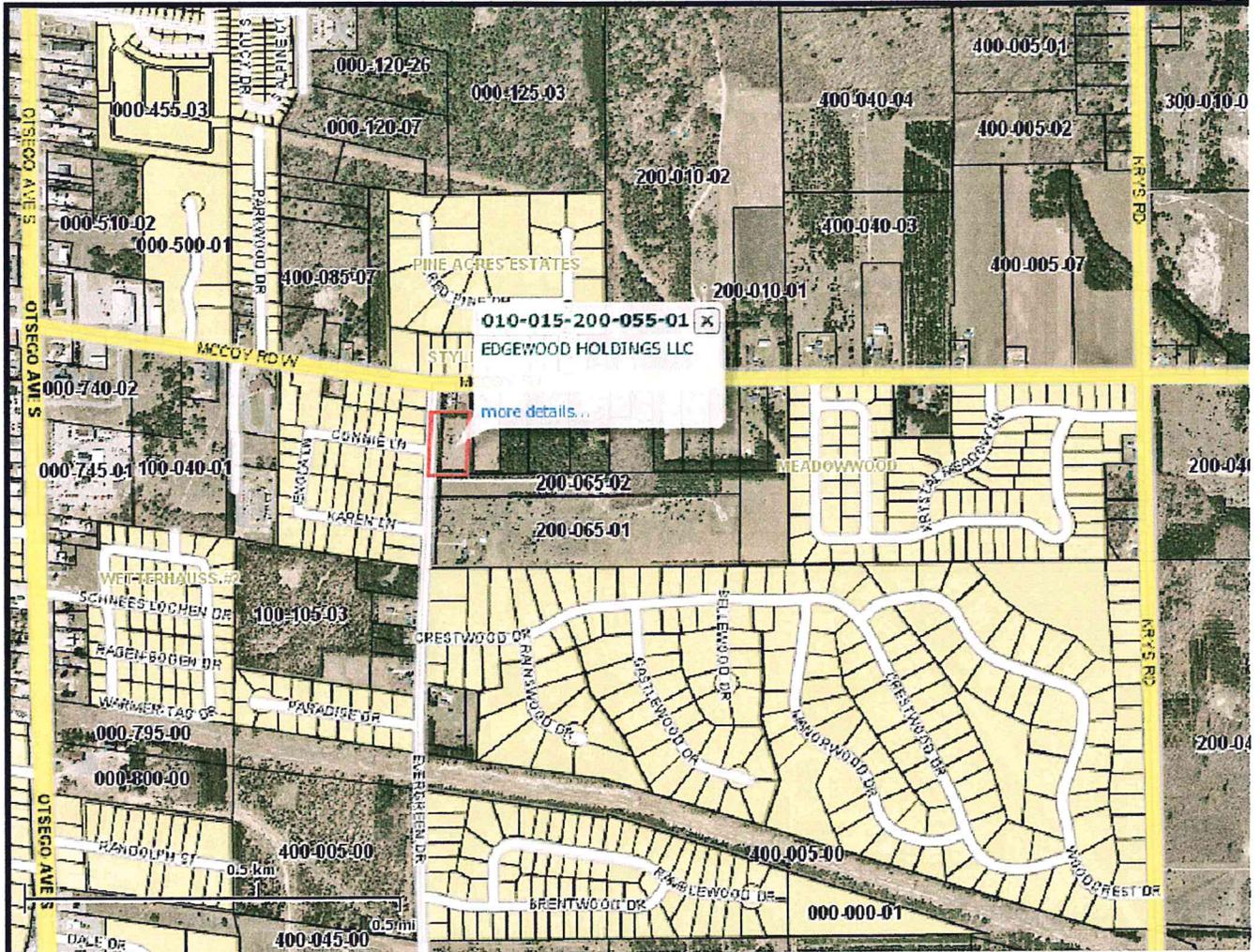
web mapping by
Amalgam LLC



1:15000

Map Publication:

Thu Mar 31 2016 09:56:0.



Otsego County Map Document

1:22000

Map Publication:

Thu Mar 31 2016 09:53:10

**OTSEGO COUNTY
ZONING BOARD OF APPEALS**

PUBLIC HEARING NOTICE

October 25, 2016

The Otsego County Zoning Board of Appeals will hold a public hearing on Tuesday, October 25, 2016 at 6:00 pm in the Planning and Zoning Meeting room located at 1322 Hayes Rd Gaylord, Michigan.

The purpose of the public hearing will be to obtain citizen comment on the following:

Edgewood Holdings LLC, represented by David Delaney, attorney, is requesting an ordinance interpretation of an unlisted use for properties located in Bagley Township at 2125 Evergreen Dr Gaylord, MI 49735. The properties are located in a R1/Residential Zoning District. The request is for an interpretation on the allowance of storage units on two (2) adjacent parcels for neighboring residences' use as comparable to other listed uses in a R1 Zoning District.

Parcel identification numbers: **010-015-200-065-02**
2125 Evergreen Dr
Gaylord, MI 49735

Legal Description:

COMM @ NW COR, TH S2°W 654.55' FOR POB, TH N88°E 2174.73', TH S 165', TH S88°W 2183.69', TH N2°E 165' TO POB. SEC 15 T30N R3W.

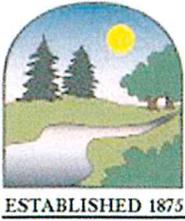
010-015-200-005-01
Evergreen Dr
Gaylord, MI 49735

Legal Description:

COMM AT THE NW COR, TH S 03°09' W 203 FT FOR POB, TH S 03°09' W 451.4 FT, TH N 89°32' E 265 FT, TH N 03°09' W 451.4 FT, TH S 89°32' W 265 FT TO POB. SEC 15 T30N R3W. 2013 SPLIT FROM 010-015-200-055-00

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 (12:00 pm) the day of the meeting.

Any citizen who has questions regarding this application or needs assistance to attend this meeting should contact the Director of Land Use Services at (989) 731-7400.



Otsego
COUNTY
M I C H I G A N

**Department of
Land Use Services**
1322 Hayes Rd • Gaylord, MI 49735
Phone (989)731-7400 • Fax (989)731-7419
www.otsegocountymi.gov

April 11, 2016

Bagley Township
PO Box 52
Gaylord, MI 49734

ATTENTION: CLERK

Pursuant to Article 27 of the Otsego County Zoning Ordinance, I am forwarding the application for a Non-Use Variance.

David M Delaney, representative to Edgewood Holdings LLC, owner can be notified at the address below should you require their presence at your meeting:

David M Delaney PLC
PO Box 1771
Gaylord, MI 49734
989.731.1508
dmdlawyer@gmail.com

If you have any questions, please contact us and we will be glad to assist you. We look forward to your input concerning this matter. Thank you for your participation in County Zoning.

Sincerely,

Vern Schlaud
Otsego County Land Use Director

Exhibit 7

Bagley Township
Otsego County Michigan

Bagley Township Planning Commission
PO Box 52
Gaylord, Michigan 49734

Subject: Interpretation of R-1 zoning to allow non-conforming use

Case: Bagley Township Case 16-006, Interpretation of R-1 Zoning to Accommodate Incubated Self Storage

Preceding Case: None

Parcel Numbers: PIN: 010 015 200 055 01 and 010 015 200 065 02

Date and Location: July 28, 2016, Bagley Township Hall 7:00PM

Present: Arndt, Loney, Parsell, Beckett, Goebel

Representing the Applicant: David Delaney with exhibits (No site plan)

Other Attendees: David Miller, Property Owner

Source of Discussion and Vote Audio Tape

Discussion:

1. **Petitioner now comes before the Bagley Township Planning Commission** to request interpretation of R-1 zoning which would allow construction of self-storage units on said parcels fronting Evergreen Drive. Several maps were presented and counsel for the petitioner indicated that he sought some idea of whether the case could go forward before a formal site plan development was undertaken.

The proposed plan is to create several 30x40 pole structures for lease to local homeowners for personal property storage. Entrances would be on the end buildings on the interior of the center driveway using a single access to Evergreen Drive. Units would be pole structures with unfinished slab floors and electric lighting and not exceed peak height of the surrounding houses on McCoy Road directly north.

Petitioner intends to place all of the units in the screened portion of the site where visibility will be blocked by mature trees now in place on 3 sides. Color will conform to the neighborhood with essentially earth tone tasteful exteriors. Lighting will comply with OCZ requirements. A site plan drawing was not offered.

2. Applicant was invited to speak. David Delaney on behalf of the petitioner indicated that the use proposed was reasonable although not specifically enumerated in current R-1 zoning as a use by right or use with special conditions. He pointed out numerous uses allowed in R-1 that are much less appealing in appearance and benefit to surrounding R-1 residents than well-conceived self-storage units. Delaney believes that the use could be justified under current zoning section 21.44 and an unlisted use, that is, reasonable uses that were not considered in the original uses included, but could have been without unreasonable impact on the surrounding properties in an R-1 district. Certainly a minimum site size would be essential to avoid an individual with a single dwelling site offering rental units in the middle of a developed subdivision, perhaps 3 to 5 acres.

David Miller, property owner, indicated that the units will not have street access on Evergreen for each property, and the units will have only convenience lighting on the interior of the units and required security lighting on the exterior, appropriately configured. There will be no water or sewer connections to the buildings.

Miller indicated that the units will be tastefully colored on the exterior and the roof peaks will not exceed the average peak height of the single story buildings in the neighborhood. He also indicated that he spoke with or sent a written survey to the surrounding property owners and received no negative comments on his plan. His target in part will be Crestwood homeowners who are not allowed to have outbuildings of any type in the subdivision.

The initial development will take place on the front site (200-055-01) using (apparently) the Evergreen access in place now on the south border of the site. Further details will be provided with a developed site plan as the concept is approved. Initial plan on the first site is for 3 buildings as described above.

3. Meeting was opened to public comment. No other citizens were present thus no comments from the public were offered.

4. Meeting was closed to public comment. Meeting became a working discussion among the commissioners, with property owner offering responses to the discussion questions and concerns.

5. General/Specific findings of fact Summary:

A. The proposed developed is located in an R-1 district and, according to the current OCZ document, the proposed development is not allowed by right or by special use conditions.

B. OCZ document under section 21.44 does provide an opportunity for the ZBA to consider the subject as an unlisted use, if the proposed use is reasonable.

C. The units proposed are Pole Structure, having a 30x40 ground footprint.

D. Rezoning the site to R-2 is not practical in the foreseeable future given the surrounding R-1 zoning, although the Master Plan does identify the McCoy corridor to Krys for future commercial development.

6. Discussion: The proposed use and the site were discussed. Most commissioners felt that, properly executed, the use could benefit the homeowners along Evergreen and the McCoy Road corridor. The new storage units on South Otsego were mentioned but those are oriented to snow mobile and small rec vehicle storage according to one commissioner. Commissioners re read section 21.44 to be clear on specifically what section of the OCZ document would be implied should they approve consideration of the project.

Commissioners examined the briefed project including the unit locations, access, color, screening and maximum height and questioned whether the homeowners along McCoy would approve of the project. Miller indicated that he sent a survey or call all of the homeowners and got no negative replies.

Chair advised that if the ZBA agrees with allowing the project as an un-included use, the project will require a site plan (sealed) and another visit to Bagley and then the Planning Commission and all understood.

Conditions likely to be impressed at site plan review, if approved, were discussed.

A. The possibility that the 30x40 units might be too large for all of the potential users. Miller's target is homeowners with travel trailers, RVs and large boats. Miller indicated that he would configure smaller rental units (10x20 etc.) should the demand arise for such units.

B. Existing tree cover maintained for screening between the units and homes in the neighborhood.

C. Single access to Evergreen be used for all units on both sites.

D. Exterior colors shall be earth tone and blend as much as practical with roof peaks limited as noted above.

E. Bagley planning commissioners are specifically not recommending to the ZBA a change to R-1 zoning which would give use by right to R-1 sites offered to the public as rental units without special use conditions which shall include at a minimum:

Special Use Conditions Desirable if ZBA approves petitioners request as unlisted use

- (1) Minimum site size of 3.0 acres and:

- (2) No construction of units will be allowed on platted single family residential lots or groups of lots in established subdivisions. Platted lots may be de-platted consistent with (3) below on *the periphery* of a subdivision and:

- (3) Planned construction on a site surrounded on 3 sides by occupied dwellings or sites that would logically be expected to be developed into single family sites must have a minimum setback from occupied or unoccupied residential site property lines of 50 feet and:

- (4) Screening shall be dense tree or shrubbery on all sides exposed to residential sites. Screening foliage may be installed in the setback areas and:

- (5) The units shall be designed so that all units are accessed from the interior of the developed units, away from the property lines abutting developed lots, by a single street access:

- (6) A square 3 acre parcel is 360 feet square. Setbacks of 50 feet on 3 sides assuming one side fronts an established road consume 1.1 acres, leaving 1.90 Acres for development:

5. Discussion ended at 8:12 PM

Chair Called for a motion and:

Parsell moved (edited from audio tape): “I move that the commission recommend approval of the request to allow consideration of construction of a self-storage facility on the specific sites referenced above only, now zoned R-1, with consideration for our ***Special Use Conditions Desirable*** under paragraphs 1-6 above.”

Loney seconded the motion.

Vote:

Loney:	Yes
Parsell:	Yes
Goebel:	Yes
Arndt:	Yes
Beckett	No

Motion Passes

Chairman will report the results of the vote and recommendation to the Township Board with a copy to the County Planning and Zoning Department

There being no further business, the meeting was adjourned at 8:31 PM.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Kenneth R. Arndt". The signature is written in a cursive style with a long horizontal stroke at the end.

Kenneth R. Arndt
Chairman

Approved for the Board:

William Giles
Supervisor

Distribution:

Bill Giles, Supervisor
Township Clerk
Planning and Zoning, Otsego County

OTSEGO COUNTY LAND USE SERVICE
 1322 HAYES RD
 GAYLORD, MI 49735
 PH: 989-731-7400
 FAX: 989-731-7419
 INSPECTION LINE: 989-731-7401



Paid By:

BRONCO OIL CO INC
 PO BOX 1237
 Gaylord, MI 49734

RECEIPT NUMBER

01307693

09/13/2016

Type	Record	Category	Description	Amount
Permit	PZBA15-002	ADMIN ZONING	ZBA VARIANCE	\$ 400.00

Total	\$ 400.00
Cash	
Check	\$ 400.00
Credit	
Transferred	
Tendered	\$ 400.00
Change	\$ 0.00
To Overpayment	\$ 0.00

Expiration of permit:

A permit will remain valid as long as work is progressing and inspections are requested and conducted. A permit will become invalid if the authorized work has not commenced within 6 months of issuance or if the authorized work is suspended or abandoned for a period of 6 months.

PZBA15-002
 EDGEWOOD HOLDINGS LLC
 010-015-200-055-01/010-015-200-065-02



- | | | |
|--------------------|--------------------|--------------------|
| 010-015-200-005-00 | 011-400-000-001-00 | 011-755-000-008-00 |
| 010-015-200-010-00 | 011-400-000-002-00 | 011-755-000-009-00 |
| 010-015-200-015-00 | 011-400-000-003-00 | 011-755-000-010-00 |
| 010-015-200-020-00 | 011-400-000-012-00 | 011-755-000-011-00 |
| 010-015-200-025-00 | 011-400-000-013-00 | 011-755-000-012-00 |
| 010-015-200-035-00 | 011-400-000-015-00 | 011-755-000-013-00 |
| 010-015-200-040-00 | 011-400-000-016-00 | 010-015-200-030-03 |
| 010-015-200-045-00 | 011-400-000-017-00 | 010-015-200-055-02 |
| 010-015-200-050-00 | 011-400-000-034-00 | |
| 010-015-200-060-00 | 011-400-000-035-00 | |
| 010-015-200-065-00 | 011-400-000-036-00 | |
| 010-015-200-065-01 | 011-400-000-037-01 | |
| 010-015-200-065-03 | | |

OWNERS WITHIN THREE HUNDRED (300) FEET

PZBA15-002

PID	PROPERTY ADDRESS	OWNER	OWNER ADDRESS	OWNER CITY	OWNER STATE	OWNER ZIP CODE	ZONING
010-015-200-005-00	481 MCCOY RD	COGER, MATTHEW A & MARIA D	481 MCCOY RD	GAYLORD	MI	49735-8254	R-1
010-015-200-010-00	409 MCCOY RD	SHOEMAKER, CAROLYN	409 MCCOY RD	GAYLORD	MI	49735-8254	R-1
010-015-200-015-00	379 MCCOY RD	COOK, WILLIAM R ETUX	PO BOX 361	GAYLORD	MI	49734-0361	R-1
010-015-200-020-00	343 MCCOY RD	LAPOINTE, RONALD & GAIL	343 MCCOY RD	GAYLORD	MI	49735-9121	R-1
010-015-200-025-00	307 MCCOY RD	ROPER, MICHAEL A & DARLENE A T	307 MCCOY RD	GAYLORD	MI	49735-9121	R-1
010-015-200-035-00/							
010-015-200-040-00/							
010-015-200-045-00	225 MCCOY RD	DUZKOWSKI, LEONARD J TRUST	225 MCCOY RD	GAYLORD	MI	49735-9121	R-1
010-015-200-050-00	59 MCCOY RD	SMITH, NAOMI J	59 MCCOY RD	GAYLORD	MI	49735-9125	R-1
010-015-200-060-00	17 MCCOY RD	NEWTON-RUSSELL, MARJORIE V	17 MCCOY RD	GAYLORD	MI	49735-9125	R-1
010-015-200-065-01	2225 EVERGREEN DR	ROBB FAMILY TRUST	2225 EVERGREEN DR	GAYLORD	MI	49735-9173	R-1
010-015-200-065-03		SHOEMAKER, CAROLYN	409 MCCOY RD	GAYLORD	MI	49735	R-1
011-400-000-001-00/							
011-400-000-002-00	2022 EVERGREEN DR	GOMAN, PAUL J & HOLLY I	2022 EVERGREEN DR	GAYLORD	MI	49735-9126	R-1
011-400-000-003-00	55 MCCOY RD W	NORMAN-WIXOM	55 MCCOY RD W	GAYLORD	MI	49735-9125	R-1
011-400-000-012-00	26 CONNIE LN	RECOR, KENNETH C & RUTH A	76 CONNIE LN	GAYLORD	MI	49735-9158	R-1
011-400-000-013-00	25 CONNIE LN	OETTEL, EMILY	26 CONNIE LN	GAYLORD	MI	49735	R-1
011-400-000-015-00		EDMONDS, CRAIG M & CARRIE A	25 CONNIE LN	GAYLORD	MI	49735	R-1
011-400-000-016-00/							
011-400-000-035-00	2130 EVERGREEN DR	MAGSIG, GEORGE A & JUDITH A	2130 EVERGREEN DR	GAYLORD	MI	49735-9165	R-1
011-400-000-017-00	53 CONNIE LN	MURPHY, GEORGE W	53 CONNIE LN	GAYLORD	MI	49735-9158	R-1
011-400-000-034-00	64 KAREN LN	HAMILLA, FRANK E & LORI A	64 KAREN LN	GAYLORD	MI	49735-9143	R-1
011-400-000-036-00	26 KAREN LN	CAMPBELL, BRIAN & KAREN	26 KAREN LN	GAYLORD	MI	49735-9143	R-1
011-400-000-037-01	2200 EVERGREEN DR	RODGERS, THOMAS E & DONNA M	2200 EVERGREEN DR	GAYLORD	MI	49735-9173	R-1
011-755-000-008-00/	60 MCCOY RD/						
011-755-000-009-00	44 MCCOY RD	VESTAGE LLC	3213 FOREST RD	GAYLORD	MI	49735-9513	R-1
011-755-000-010-00	26 MCCOY RD	GOODRICH, BRENDA	26 MCCOY RD	GAYLORD	MI	49735	R-1
011-755-000-011-00/	6 MCCOY RD/						
011-755-000-012-00	10 MCCOY RD W	ARNDT, KENNETH R	PO BOX 1235	GAYLORD	MI	49734	R-1
011-755-000-013-00	42 MCCOY RD W	JOHNSTON, LESLIE A	42 MCCOY RD	GAYLORD	MI	49735	R-1
010-015-200-030-03	281 MCCOY RD	SIDES, PATRICIA J TRUST	281 MCCOY RD	GAYLORD	MI	49735-9121	R-1
010-015-200-055-02		NEWTON-RUSSELL, MARJORIE V	17 MCCOY RD	GAYLORD	MI	49735	R-1

**OTSEGO COUNTY
ZONING BOARD OF APPEALS**

**PZBA15-002
Interpretation of Unlisted Use
Edgewood Holdings LLC
010-015-200-055-01/010-015-200-065-02**

FINDING OF FACT:

1. This is a request for an ordinance interpretation for an unlisted use. *Exhibit #1, Exhibit #3, Exhibit #5*
2. The interpretation is for a comparable use to a storage structure for commercial activities in a R1/Residential Zoning District. *Exhibit #2, Exhibit #3*
3. A R1 Zoning District permits storage structures for owners' personal possessions and non-commercial activities. *Exhibit #3*
4. The R1 properties are currently under the ownership of Edgewood Holdings LLC represented by David Delaney, attorney. *Exhibit #4*
5. The Public Hearing Notice was published in the Herald Times on October 7, 2016 *Exhibit #6*
6. The requirements of Article 27 of the Otsego County Zoning Ordinance have been met. *Exhibit #7, Exhibit #8*
7. The required fees have been collected by Otsego County Land Use Services. *Exhibit #9*
8. All property owners within three hundred (300') feet were properly notified of the public hearing. *Exhibit #10*
9. The Zoning Board of Appeals has the authority to interpret the zoning text and classify a use not listed with a comparable permitted use in that same District after review and compliance with the Otsego County Zoning Ordinance. (Section 26.6) *Exhibit #3*
- 10.

FINDING OF FACT:

ARTICLE 4 R1 RESIDENTIAL DISTRICT

INTENT

These districts are designed to provide for one (1) and two (2) family (duplex) dwelling sites and residential related uses. The uses permitted are intended to promote a compatible arrangement of land uses for homes, keeping housing areas free of unrelated traffic, nuisance land uses, and other negative influences on the residential environment.

SECTION 4.1 PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses:

4.1.1 One (1) family dwellings

4.1.2 Two (2) family dwellings (duplex) subject to the density standards for one (1) family dwellings and a minimum lot width of one hundred fifty (150) feet

4.1.3 Publicly owned and operated parks, parkways, and outdoor recreational facilities

4.1.4 Existing farms and agricultural uses

4.1.5 Family Care Facilities

4.1.6 Cemeteries when developed on sites of ten (10) acres or more Permit criteria include [\[Article 21.4\]](#)

4.1.7 The raising of nursery field stock, on sites of two (2) acres or more, but excluding storage buildings, greenhouses, offices or other structural facilities, and excluding any outdoor storage of materials; the intent being to limit the use of land to raising plant materials.

4.1.8 The following in-home uses provided no more than twenty-five percent (25%) of floor area may be used for such a purpose:

4.1.8.1 Offices and home occupations when operated within the confines of a one (1) family dwelling as an accessory to living quarters [Permit criteria for these uses include [Article 21.12.](#)]

4.1.9 Structure for storage of the owner's personal possessions and non-commercial activities. These structures shall not be used as residences. Structures shall meet the size requirements of [Article 21.1.3.](#)

4.1.10 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use

SECTION 4.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of [Article 19](#) and only after the review and approval of the site plan by the Planning Commission. [See [Article 21](#) for applicable Specific Requirements for Certain Uses, if any, and/or [Article 23](#) for Site Plan Requirements.]

4.2.1 Churches, public libraries, public buildings (excluding public works garages and storage yards) and uses normally incidental thereto

4.2.2 Public, parochial, and other private elementary, middle and/or secondary schools; and all accessory school bus parking lots

4.2.3 Colleges, and other institutions of higher learning, public or private, offering courses in general, technical, or religious education, all are subject to the following conditions:

4.2.3.1 Any use permitted herein shall be developed only on sites of at least five (5) acres in area.

4.2.3.2 No building other than a structure for residential purpose shall be closer than fifty (50) feet to any property line.

4.2.4 Private, Non-commercial recreational areas and recreational facilities

4.2.5 Golf courses, or miniature golf courses, providing that:

4.2.5.1 Accessory restaurant and bar uses shall be housed within the club house. Uses strictly related to operation of the golf course itself, such as maintenance garage, or pro shop, may be located in separate structures. No structure, except minor rain shelters, shall be located closer than seventy (70) feet from the lot - line of any adjacent residential land and from any public right-of-way.

4.2.5.2 All parking areas shall be surfaced or so treated as to prevent any dust nuisance;

4.2.5.3 Refer to [Article 21.11](#) for additional conditions pertaining to golf courses.

4.2.6 Group care facilities meeting applicable state licensing requirements

4.2.7 Utility and essential service structures when their operating requirements necessitate locating the facilities within the district in order to serve the immediate vicinity (storage yards excluded) [Permit criteria include [Article 21.10](#) regarding screening fence.]

4.2.8 Personal Wireless Services Telecommunications Towers and Facilities one hundred fifty (150) feet or less in height, self-supporting (lattice) or guyed [Permit criteria include [Article 21.46](#)]

4.2.9 WTG Small: Permitted as an accessory use to an allowed Principal Use

4.2.10 Unlisted property uses if authorized under [Article 21.44](#)

FINDING OF FACT UNDER ARTICLE 21/SECTION 21.44

SECTION 21.44 UNLISTED PROPERTY USE

The County Zoning Board of Appeals shall have power on written request of a property owner in any Zoning District to classify a use not listed with a comparable permitted use in the District giving due consideration to the provisions of [Article 19](#) of this Ordinance when declaring whether it is a use permitted by right or by special permit. If there is a comparable use, then the procedures established in this ordinance for approval of a permit for that use must next be initiated in order for the applicant to apply for the necessary permit(s). If there is no comparable use then the applicant shall be so informed and an amendment to the text of the ordinance or a rezoning would be necessary prior to establishing requested use on the property.

FINDING OF FACT UNDER ARTICLE 26/BOARD OF APPEALS

SECTION 26.2 JURISDICTION

26.2.1 The Zoning Board of Appeals shall have all the powers and duties granted by State law and this Ordinance, including the following specific powers:

26.2.1.1 Interpretation of the Zoning Ordinance Text and Map: To hear and decide requests for interpretation of the zoning map and zoning text, as well as for decisions on other special questions on which this Ordinance specifically authorizes the Zoning Board of Appeals to pass. [Sec. 3603 (1)]

26.2.1.2 Administrative Review: To hear and decide appeals where it is alleged by the appellant that there is an error in any administrative order, requirement, decision, or determination made by the Planning Commission or a Land Use Services officer charged with enforcement of this Ordinance. [Sec. 3603 (1)]

26.2.1.3 Variances: To grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of this Ordinance or to any other nonuse-related standard in the ordinance. [Sec. 3604 (8)]

26.2.2 Exceptions: The Otsego County Zoning Ordinance does not provide for appeals to the Zoning Board of Appeals for special land use or planned unit development decisions.

26.2.2.1 The Zoning Board of Appeals shall have no jurisdiction over a decision of the Planning Commission in regard to matters concerning the granting of special use permits. [[Section 19.13](#) of the current Zoning Ordinance]

SECTION 26.5 USE VARIANCE

Nothing herein contained shall be construed to give the Zoning Board of Appeals the power or authority to change the Zoning Ordinance or the Zoning Map so as to allow a use of land that is not permitted in the district in which the property is located.

Otsego County Planning & Zoning

800 Livingston Boulevard, Suite 4-E

Gaylord, Michigan 49735

517-731-0253 • Fax 517-731-4711

Minutes of the Otsego County Planning Commission regular meeting held Monday, May 17, 1999, at 7:00 p.m., in the Multi-Purpose Room of the J. Richard Yuill Building (Alpine Center), 800 Livingston Boulevard, Gaylord, Michigan. These minutes will be corrected and/or accepted at the next regularly scheduled Planning Commission meeting. For further information, contact the Planning and Zoning Office at the address and phone number stated above.

Chairman Skip Diercks called the meeting to order at 7:00.

MEMBERS PRESENT: Chairman Skip Diercks, George McCutcheon, Donald Tober, Richard Carlson, James Maddix, Rick Nedow, John Ernst, Carl Lord, Lee Olsen, Don Johnson

MEMBERS ABSENT: None

MEMBERS EXCUSED: Delphine Miller

OTHERS PRESENT: Scott McPherson, Zoning Administrator; Sara Schmidt, Recording Secretary; a list of the public present is available at the Planning and Zoning Office.

Chairman Skip Diercks said the previous meeting was held Monday, April 19, and not Tuesday as indicated in the minutes. Motion by Lee Olsen, supported by James Maddix, to accept the minutes of the meeting held April 19 as amended. Motion carried unanimously by voice vote.

CASE NO. PC-90172-LN

The Planning Commission will hold a public hearing on a special use permit as requested by Charles Ladensack and Michael Anthony for a small used vehicle sales operation. The property is located at 200 Fairview Road, Livingston Township, T31N, R3W, Section 28, zoned B-3.

Michael Anthony said this property is zoned B-3, the right zone for this type of business. They are not building any additional structures or modifying any existing structures. He said they are basically just hanging another shingle and putting some cars out for sale. The 16 square foot sign will be on an existing post; the lighting will be for security; no new paving is planned; the landscaping already exists. Michael Anthony said there will be no auto repairs on site, and no chemicals stored on site. This application is for vehicle sales only.

The Chairman opened the meeting for comments from the public. No one spoke.

A letter was received from the Livingston Township Board, dated May 4, 1999, recommending approval, as well as the Livingston Township Planning Commission. The board discussed the draft Special Use Permit prepared by the Zoning Administrator and agreed the conditions were met where applicable.

Lee Olsen said perhaps this board should review this section of the Zoning Ordinance. When an applicant is not making any changes to the site but just reclassifying the use, the Zoning Administrator could review it, and not require the applicant to come before the Planning Commission. Chairman Diercks agreed the board should review this section to perhaps change it to a use by right.

Motion by John Ernst in Case No. PC-90172-LN

“To approve the application in accordance with the draft Special Use Permit attached.

All applicable provisions of Article 16 having been met.”

Rick Nedow seconded the motion.

AYES: Chairman Skip Diercks, George McCutcheon, Donald Tober, Don Johnson, Richard Carlson, James Maddix, Rick Nedow, John Ernst, Carl Lord, Lee Olsen

NAYS: None

ABSENT: None

EXCUSED: Delphine Miller

Motion carried unanimously by roll call vote.

CASE NO. PC-90203-BY

The Planning Commission will hold a public hearing on a Special Use Permit as requested by David and Douglas Miller for a site condominium project. The property is located on Evergreen Drive, 8.25 acres, 680 feet south of McCoy Road, Bagley Township, T30N, R3W, Section 15, zoned R-1.

Due to the potential conflict of interest, Chairman Skip Diercks and John Ernst asked to be excused from participating in this case. Since Vice-Chairperson Delphine Miller was not present, Richard Carlson was appointed to Chair the meeting for this case.

A letter was received from the Bagley Township Board, dated May 12, 1999, recommending approval, as per the recommendation of the Bagley Township Planning Commission.

Attorney David Delaney, representing the applicants, distributed a site plan of a cul-de-sac on lots 16 and 17. He said this is an 8½-acre site, divided into 17 lots under the site condominium act. It is zoned R-1, and meets the requirements of Article 14 of the Zoning Ordinance of 20,000 square foot lots. The road will be maintained by the association, not the County Road Commission, and a 24' wide access is planned to all the sites. Attorney Delaney said all the required setbacks will be met, the homes will be at least 14,000 square feet, stick built, which he added will be consistent with the neighboring homes.

Charles Christy, Wade-Trim, said a Soil Erosion Permit is required and will be obtained prior to construction. He is currently working with the Health Department for their permit and has received a good indication of approval.

Attorney Delaney said the developer wants to maintain the residential character of the area with rigid deed restrictions. Traffic will not be significantly impacted, and there will be no special lighting other than the usual homeowners' lighting. The utilities will be underground. He said this development would improve, not detract from, the residential character of the area.

The board expressed concerns about maintaining the private road, and the cul-de-sac being able to meet the needs of emergency vehicles. Mr. Christy said the cul-de-sac meets the dimension requirements of a solid paved turn-around. If snow removal is a problem, it will be hauled away. Scott McPherson said the cul-de-sac plan needs to be reviewed by the Fire Department to determine if the turning radius is adequate.

When asked about storage buildings being allowed on the lots, Attorney Delaney said that issue was not addressed with the developer, but Crestwood Subdivision does not allow out buildings, and he desires to be consistent with the neighborhood.

Attorney Delaney said the developer will be involved until after the first 30 % to 40% of the lots are sold, but the deeded restrictions last forever. He added the association board could seek to amend the restrictions, for example, every 5 years, if desired.

Public Hearing

Jim Robb said his property borders the entire southern portion of the proposed subdivision. He said he is very concerned with the impression that these lots will be comparable with all the lots in the neighborhood, which he added is simply not true. He said all the lots in the neighborhood are at least twice as big as the proposed lots. They are including the private road when they state they meet the lot size requirement of 20,000 square feet. He is also very concerned with snow removal on this private road. He said his family plowed the snow on this property for 32 years, and recalled having to plow every 2 to 3 hours throughout the night in order to keep the road open. Otherwise, it would drift shut, and a front-end loader was required to remove the snow.

Floyd Wagar, 409 McCoy Road, said his property adjoins the proposed development. He said he wanted to make clear he opposes the proposal. The applicant stating that this subdivision conforms to the surrounding properties is just not true. The sizes of the lots are very different. He said jamming 17 residential lots in 8 ½ acres is not conforming, and added that it is not going to work. He also said Dr. Robb made a good point about snow removal. He recalled helping him, and on one occasion, it took them two days to remove the snow from the road.

Mike Roper, 307 McCoy, said he his property adjoins this development. He has three acres, and most of his neighbors have three acres as well. He works at the Road

Commission, and he said they have problems with residents on private roads wanting the Road Commission to plow their road. He is concerned with the narrow road and how they would plow it. He said when his trucks plow snow, it is thrown 20' each way. This road would be very difficult to plow. He is also concerned that there are a lot of promises being addressed in the master deed, but no master deed to review at this point. He would like to see some of the same restrictions regarding out buildings and outside storage in the master deed as restricted in Crestwood Subdivision. He agrees with Mr. Wager that they are cramming too many lots in the acreage, and added the road shouldn't be used to meet the property size requirements.

Paul Hartmann, 2325 Castlewood Drive, said he also owns property that adjoins Dr. Robb's property, and he is opposed to this proposal. He said there are too many lots, perhaps they could reduce the proposal to 10 or 12 sites. He is concerned about the devaluation of his property if this subdivision is approved.

Richard Cook, 379 McCoy Road, said his property adjoins the new development on the north side. He said he has three acres and is concerned that their snow will be plowed onto his property since their parcels are so small. He opposes the new development

George Magsig, 2130 Evergreen Drive, said he is across the road from the new development, has watched them plow, and is also concerned as to where they are going to put the snow.

Christine Sides, 281 McCoy Road, is opposed to the proposal for the same reasons as stated by her neighbors. She has 2 1/2 acres, said she opposes the small lots and is concerned with her property value depleting.

Al Borowiak, 255 McCoy Road, said his was the first house that adjoins this property in 1969. He said he thinks the proposed parcels are too small as well.

Cindy Peterson, 64 Karen Lane, said she has the same concerns as stated. She said she is also concerned with the quality of housing that they are proposing, and too many lots in too small of space.

When questioned by the Board, Scott McPherson said the Zoning Ordinance does not exclude easements or right of ways in the square footage requirement.

Attorney David Delaney said the applicant meets the requirements of the Ordinance. He responded to the comment that no the master deed was not available to review. He said the procedure is to receive the Special Use Permit from this Board, then draw up the master deed. When asked if he has discussed the possibility of fewer lots with the developer, Mr. Delaney said he has not.

The Board discussed the Special Use Permit Checklist as prepared by the Zoning Administrator:

Sections 16.1.1, 16.2.1 and 16.2.3 conditions met; 16.2.3 Fire Dept.'s

review is pending; 16.2.3.1.1.1 not applicable; 16.2.3.1.2 condition not met; 16.2.3.1.3 met; 16.2.3.1.4 not met; 16.3.1.1.3 not met; 16.3.1.1.4 not met; 16.3.1.2 Traffic, conditions met or not applicable; 16.3.1.3 .1 not applicable; 16.3.1.3.1.1 not applicable; 16.3.1.3.1.2 not applicable; 16.3.1.3.1.3 not applicable; 16.3.1.3.2 not applicable; 16.3.1.3.3 not applicable; 16.3.1.3.4 not applicable; 16.3.1.4.1 Continuity and Impact, met (Note – Several board members thought this condition was not met. They voted by raising of hands; 5 thought this condition was met, and 3 did not); 16.3.1.4.2 not applicable; 16.3.1.4.3 not met (need Health Dept. response); 16.3.1.4.4 not met; 16.3.1.4.5 met, 16.3.1.4.6 met; 16.3.1.4.7 met; 16.3.1.4.8 met; 16.3.1.5.1 met; 16.3.1.5.2 not applicable; 16.3.1.5.3 not applicable; 16.3.1.5.3.1 not applicable.

Mike Roper from the Road Commission said they did not receive the cul-de-sac site plan made available at this meeting. He said their previous recommendation does not stand until they review this new site plan.

The board discussed with Attorney Delaney and Chuck Christy the possible deed restrictions and lot sizes. They discussed the deed restrictions to include attached garages and storage buildings.

Motion by Donald Tober in Case No. PC-90203-BY

“Reasons for tabling -

Inadequate turning around area

Area for snow storage not addressed

Fire Dept. has not had input

All items in draft Special Use Permit have not been met

Also need some deed restrictions.”

James Maddix supported the motion.

AYES: Acting Chairman Richard Carlson, George McCutcheon, Donald Tober, Don Johnson, Rick Nedow, Carl Lord, Lee Olsen, James Maddix

ABSTAINED: Skip Diercks, John Ernst

ABSENT: None

EXCUSED: Delphine Miller

Motion carried unanimously by roll call vote.

CASE NO. PC-90222-BY

The Planning Commission will hold a public hearing on a rezoning request as proposed by William and Edward Muzyl. The property is located in Bagley Township, T30N, R3W, Section 2, on the north and south side of M-32 East, east of Krys Rd. for approximately ¼ mile. The request is to rezone from R-1 (Residential) to B-1 (Local Business).

OTSEGO COUNTY PLANNING COMMISSION

Minutes of the Otsego County Planning commission's regular meeting held Monday, July 19, 1999, at 7:00 p.m., in the Multi-Purpose Room of the J. Richard Yuill Building, 800 Livingston Blvd., Gaylord, Michigan. The Commission will accept these minutes at the next regularly scheduled meeting. For further information, contact the Otsego County Planning and Zoning Office, 800 Livingston Blvd., Suite 4-E, Gaylord, Michigan 49735, phone (517) 731-0253.

Chairman Skip Diercks opened the meeting at 7:00 p.m.

MEMBERS PRESENT: Chairman Harold (Skip) Diercks, George McCutcheon, Donald Tober, Don Johnson, James Maddix, Delphine Miller, Lee Olsen, Carl Lord

MEMBERS EXCUSED: Richard Carlson, Rick Nedow, John Ernst (arrived at 8:10)

OTHERS PRESENT: Scott McPherson, Zoning Administrator; Sara Schmidt, Recording Secretary; a list of the public present (over 50 people) is available in the County Planning and Zoning Office at the above address.

Delphine Miller said the minutes of the June 19, 1999 meeting should indicate that she was excused and not absent since she notified the office before the meeting of her prior commitment. Motion by Don Johnson, supported by Delphine Miller to accept the minutes as corrected. Motion carried unanimously by voice vote.

Old Business

CASE NO. PC-90203-BY

A public hearing will be held on a special use permit as requested by David and Douglas Miller for a site condominium project. The property is located on Evergreen Drive, 8.25 acres, 680 feet south of McCoy Road, Bagley Township, T30N, R3W, Section 15, zoned R-1. This case was tabled at two previous meetings.

Chairman Skip Diercks abstained from participating in this case due to the potential conflict of interest. Vice-Chairman Delphine Miller chaired the meeting at this point.

Attorney David Delaney said this case was tabled at the previous meeting to give the members and the Zoning Administrator time to review the revised site plan of the cul-de-sac. It was requested at the previous meeting to have fewer, larger lots to make it more congruent with the surrounding properties. However, Attorney Delaney said this would defeat the objective of the developer. He wishes to keep the units affordable at 1100

square feet. He said to increase the lot size to, for example, two acres would not be affordable.

Chuck Christy, Wade-Trim, said he sent the test results of a water sample to the Health Dept. the afternoon of this meeting. He said the water sample came back clean and does not anticipate any concerns from the Health Dept. When asked about the storm water run-off, he said the proposed ditch on both sides of the road would collect storm water to meet the Ordinance requirements. The Board expressed concerns about the snow removal on this narrow road. Mr. Christy said the snow removal is the responsibility of the association and added there is space around the cul-de-sac for snow storage.

Jim Maddix asked Michael Roper, Co. Road Commission, about any other roads in the county that are 45 feet wide. Mr. Roper said there are many 45 feet wide roads in this county, and added they are hard to maintain. They plow the snow in people's yards.

Lee Olsen said he is concerned that the square footage of the lots includes the road right-of-way. He said this development is not in the spirit of the surrounding area, as there will be too many homes crowded in this space. David Delaney said they worked with the special use permit checklist and this proposal is what the Ordinance will tolerate.

PUBLIC HEARING

Mike Roper, 307 McCoy, asked what would stop others from selling small lots and including the road in the square footage requirements. He said if he did this, he could sell 34 lots instead of 17 lots. He said he is against the double use of the road when figuring lot size.

Scott McPherson said ownership of this private road goes with this development. That is not the case with McCoy Road, a county road.

Jim Robb, 2225 Evergreen, said his property borders the whole southern boundary of the proposed development. He questioned the role of the Planning Commission as to their duty to consider the neighbor's concerns.

Naomi Smith, 59 McCoy Road, said she is against the private road.

George Magsig, 2130 Evergreen Drive, said the neighbors' concerns need to be considered by the Board since they live there.

BOARD DELIBERATION

Don Johnson asked the Zoning Administrator how the Ordinance addresses excluding the right-of-way in the square footage requirement. He said the Ordinance does not specifically exclude the right-of way in the square footage requirement. It has been the past practice not to exclude it.

George McCutcheon said the board must consider the health, safety and welfare of the residents on this narrow road in the winter.

The board discussed the specific sections of the Special Use Permit Checklist that were not met at the previous meeting. Section 16.2.3 Health Department Response, nothing in writing at this point, but received verbal approval; Road Commission Response regarding cul-de-sac, met; Section 16.2.3.1.4 not met; Section 16.3.1.1 regarding surface drainage, met.

Motion by Don Johnson in Case PC-90203-BY

“Having met the checklist attached in the draft special use permit, motion to approve with the conditions listed in the draft special use permit plus (1) Fire Department approval still pending and (2) Health Department approval specified in 16.3.1.4.4 still pending.”

Donald Tober supported the motion.

AYES: Don Johnson, Donald Tober

~~NAYS: George McCutcheon, James Maddix, Delphine Miller, Lee Olsen, and Carl Lord~~

ABSTAINED: Skip Diercks

EXCUSED: Richard Carlson, Rick Nedow, and John Ernst

The motion failed.

Discussion followed regarding including the road right-of-way in figuring the lot size. Carl Lord said we need to be certain the road will not be dedicated to the County in the future. Jim Maddix said the road is potentially dangerous. He is concerned with the health, safety and welfare of the residents. Lee Olsen said the road size is inadequate, is concerned that they included the road in square footage of the lots, and said this has a detrimental impact on the surrounding area. Don Johnson said the lot size is too small in relation to the surrounding area. Further discussion followed regarding Section 16.3.1.4.1, and why it was not met. Don Tober said it doesn't fit in the area. Jim Maddix said it meets the size requirement, but not the character of the surrounding area. George McCutcheon agreed. Carl Lord said he is also concerned with including the road in the square footage of the lot.

John Ernst arrived at the meeting.

Motion by Lee Olsen in Case PC-90203-BY

“To deny a special use permit as requested by David and Douglas Miller for a site condominium project on Evergreen Drive, approximately 8.25 acres, 680 feet south of McCoy Road, Bagley Township, Section 15, zoned R-1 for the following reasons:

1. Even though the minimum lot size for R-1 zoning has been met, the square footage includes all of a shared roadway. This does not seem to be consistent with our understood intent in the County Ordinance and therefore violates 16.3.1.4.5, which states the special land use shall be consistent with the intent and purpose of this ordinance.
2. Article 16.3.1.4.1 states the special land use shall represent an improvement to the use or character of the surrounding area in general. The application does not meet this.

3. Article 16.3.1.4.6 asks that the special land use be harmonious with the size and type of plot and the character of adjoining property. Application not meeting this.
4. The proposed ingress and egress in not of adequate size to serve the needs of proposed lots, especially as it relates to snow removal in especially heavy winters.”

James Maddix supported the motion.

AYES: George McCutcheon, James Maddix, Delphine Miller, Lee Olsen, and Carl Lord

NAYS: Donald Tober, Don Johnson

ABSTAINED: Skip Diercks, John Ernst

EXCUSED: Rick Nedow, Richard Carlson

Motion carried, request denied.

Skip Diercks resumed his position as Chairman.

New Business

CASE NO. PC-90376-LN

A public hearing will be held on rezoning request from R-1 (Residential) to R-2 (General Residential) as proposed Town & County Real Estate. The property is located at 598 Murner Road, Livingston Township, T31N, R3W, and Section 32.

A letter was received from Chris Hogle, dated July 14, 1999, asking that the request be denied. He recommended the applicant build along the south end of Murner Road where there is more development. He is also concerned with traffic and long delays when turning onto M-32, he said this proposal will add to this situation.

The Livingston Township Planning Commission recommended approval of the rezoning. A letter was received from the Livingston Township Board, dated July 1, 1999 recommending denial. They considered it spot zoning. They said if the applicant wishes to pursue a multiple housing project on this property, such as what was approved for an adjacent property owner, Cloyd Ramsey, then they would support this request.

A letter was received from Roger Bauer, Town and County Real Estate, representing the applicant, Mr. Phaneuf, withdrawing his rezoning request. Mr. Bauer said he would like to discuss a multi-family dwelling project on this parcel, instead of rezoning. The board said they would rather consider this Planning Unit Development request, than rezoning this parcel. A pre-application conference will be scheduled, and this board will discuss this PUD request at the next meeting.

CASE NO. PC-90481-BY

A public hearing will be held on a rezoning request from R-1 (Residential) to B-1 (Local Business) as proposed by Smith Realty, Inc. The property is located on M-32 approximately 1400 feet east of Krys Road, approximately 12 acres on the north side of the road, Bagley Township, T30N, R3W, Section 2.