

OTSEGO COUNTY
ZONING BOARD OF APPEALS

AGENDA
November 24, 2015
6:00 PM

Planning and Zoning meeting room 1322 Hayes Road, Gaylord Michigan

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES: From June 30, 2015 meeting

CITIZEN COMMENT REGARDING ITEMS NOT ON THE AGENDA

PUBLIC HEARINGS

NEW BUSINESS:

1. PZBA15-002:

Edgewood Holdings LLC, owner, represented by David Delaney PLC is requesting an ordinance interpretation for properties located in Bagley Township:

2125 Evergreen Dr

Gaylord, MI 49735

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

Property located in a R1/Residential Zoning District

The request is for an interpretation on the allowance of storage units on adjacent parcels for neighboring residences.

OLD BUSINESS

COMMUNICATIONS

ZBA MEMBER ITEMS

ADJOURNMENT

Otsego County Zoning Board of Appeals

Proposed Minutes for June 30, 2015

Call to Order: 6:00 pm by Chairperson Sagasser

Roll Call:

Present: Chairperson Sagasser, Vice Chairperson Hoffman, Secretary Alexander, Mr. McCarthy, Mr. Mang, Mr. Wagar

Absent: Ms. Bono

Staff Present: Mr. Schlaud, Ms. Boyak-Wohlfeil

Public Present: Bill Muzyl, TJ Lancaster II, Nelson Fairchild, Nora Corfis

Approval of Minutes from June 16, 2014:

Chairperson Sagasser requested the word 'tour' on page two (2) under **Communications** be changed to 'tower'.

Motion made to approve minutes as corrected by Mr. Hoffman; Seconded by Mr. Wagar.

Motion approved unanimously.

Citizen Comment Regarding Items not on the Agenda: None

Public Hearing:

PZBA15-001

Alpine Propane LLC
2121 Dickerson Rd
Gaylord, MI 49735
010-016-200-065-04

Legal Description:

COMM @ NW COR, TH S01°01'44"W 100 FOR POB, TH S81°32'10"E 208', TH N01°04'44"W 100', TH S81°32'10"E 46.35', TH S03°26'18"W 492.88', TH S88°55'16"W 212.01', TH N01°04'44"W 433.52' TO POB. SEC 16 T30N R3W.

Nature of request:

Alpine Propane LLC is requesting a variance for a zero rear setback along the I-75 corridor for the installation of a thirty thousand gallon propane tank.

Chairperson Sagasser asked Alpine Propane's representative, Nelson Fairchild to present the case.

Public Hearing open: 6:03 pm

Mr. Fairchild stated a special use permit was approved by the Otsego County Planning Commission last fall which included a thirty thousand gallon propane tank. The tank was set fifty feet (50') from the south property line, per DEQ (Department of Environmental Quality) regulated setback and twenty feet (20') from the east property line along I-75, per County Zoning Ordinance. With an increase in business, expansion of

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an additional thirty thousand gallon tank is needed. The original site plan depicted the tanks set end to end to comply with Otsego County setbacks but once constructed, it was believed the installation of the second tank to the east behind the existing tank made more sense for safety reasons and to utilize the property more efficiently. DEQ requires five feet (5') between the tanks and the tank itself is approximately twelve feet (12') wide which would place the tank two to three feet (2-3') from the rear property line. Alpine would expand the distance between the tanks to six feet (6') for better maneuverability and the placement would not encroach on MDOT (Michigan Department of Transportation) property. A letter from MDOT was submitted stating they did not have an issue with the zero foot (0') setback as long as they could access the existing fence for repairs

Mr. Muzyl stated the original site plan had a twenty foot (20') setback from the south property line but after the approval of the special use permit, the DEQ informed them the required setback was fifty feet (50'). The tank was moved thirty feet (30') to the north to accommodate the requirement which placed it closer to the area of activity.

Chairperson Sagasser closed the public hearing.

Public Hearing closed: 6:07 pm

New Business:

1. PZBA15-001:

PZBA15-001
Alpine Propane LLC
2121 Dickerson Rd
Gaylord, MI 49735

Nature of request:

Alpine Propane LLC is requesting a variance for a zero rear setback along the I-75 corridor for the installation of a thirty thousand gallon propane tank.

Mr. Schlaud read the Finding of Fact. *SEE ATTACHMENT 1*

Chairperson Sagasser opened the discussion after Mr. Schlaud finished. He stated he had visited the site and agreed the information submitted corresponded with the site.

Vice Chairperson Hoffman questioned the possible ramifications should the I-75 overpass become an interchange with the installation of ramps.

Mr. Muzyl stated Bagley Township had questioned that and his understanding was there was not enough room for an on ramp. MichCon had not wanted to relocate their station on the corner of McCoy and Dickerson and Dickerson itself was too close to the highway for it to be possible.

Vice Chairperson Hoffman stated he understood that but things do change.

Chairperson Sagasser stated MDOT did not realize any potential problem in the future or it would have been mentioned in their letter. He also questioned if the variance was extending the just length of the tank or beyond.

Mr. Fairchild stated it was possible a third tank could be needed in the future and it would be set next to the proposed tank along the property line as well.

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Mr. Alexander questioned if it was possible to stack the tanks or bury them instead of setting one behind the other.

Mr. Lancaster answered height and structure regulations prohibited the stacking but burying them was possible. Burying them was cost prohibited.

Mr. Mang questioned why there was a safety issue with placing them end to end and how they would be filled with one behind the other.

Mr. Fairchild stated the tanks being placed end to end exposed a larger surface area and greater possibility of accident with the passing of semi-trucks. He also stated filling the tanks would not be a problem; they could be filled simultaneously and either one could be shut off with valves if necessary.

Mr. Wagar asked if there was any opposition to this variance.

Mr. Schlaud stated Land Use had not received any response from the letters sent to adjoining property owners. The letter and recommendations included in the submittal were positive.

Motion made by Mr. Alexander to accept the Finding of Fact for case PZBA15-001 as written; Seconded by Mr. Wagar.

Motion approved unanimously.

Chairperson Sagasser read Article 26/Section 26.6 item by item:

1. The Zoning Board of Appeals finds that **Section 26.6 DIMENSIONAL OR NON-USE VARIANCE** states:

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:

- 26.6.1** That the requested variance will not be detrimental to the public welfare or otherwise injurious to other properties in the same zoning district.

Chairperson Sagasser stated in perspective of public welfare, granting the variance would help alleviate the safety issue. He asked for discussion.

Vice Chairperson Hoffman stated granting a zero (0) setback variance could open the door to future requests for the same.

Chairperson Sagasser stated each request would be based on its own merit and he did not feel they would be setting precedent.

Mr. Wagar stated the variance would remain with the property forever.

Chairperson Sagasser stated the variance *would* remain with the property and would run the length of it unless a change was requested.

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26.6.2 That the requested variance is necessary for the applicant to receive a right available to other properties in the same zoning district.

Chairperson Sagasser stated the orientation and size of the parcel, the existing pipeline and I-75 and Dickerson Road running either side were issues that existed years prior to the owners purchasing the property.

Vice Chairperson Hoffman stated they already have the rights that other properties in the area have without the variance. They can still operate; variance approval is a matter of some safety and convenience. He stated there were other means to provide the same amount of safety.

Chairperson Sagasser stated there *were* practical difficulties. Due to the narrowness of the property and the pipeline *and* pipeline easement, which prohibited building on a portion of the property made this situation unique. He did not think granting the variance would give them an extra right.

Mr. Muzyl commented he thought other setback variances had been granted along the I-75 corridor for the existing billboards. He had one on his property with the posts right on the line.

Mr. Mang questioned whether the County addressed the billboards along the highway.

Mr. Schlaud stated it was a state highway issue; they were regulated at the state level.

26.6.3 That special physical conditions or unique circumstances exist with this property and do not generally apply to other properties in the same zoning district.

Vice Chairperson Hoffman stated they were aware of the special conditions when they purchased the property in 2014 and had plans drawn to allow them to do what they wanted without a variance.

Chairperson Sagasser stated the intent of the variance was to allow for modifications of the set rules in the Ordinance in the best interest of the County. He stated the narrowness of the property was a unique condition to this B3 parcel that did not exist in all B3 Districts.

Mr. Wagar concurred stating this parcel was the widest along that corridor and still there was not adequate room for expansion. The variance was allowing them to change their original plan to create a safer atmosphere for everyone.

26.6.4 That the special conditions or circumstances are not the result of actions by the applicant or predecessor in title.

Chairperson Sagasser stated the conditions of property narrowness, the underground pipeline and pipeline easement existed prior to the purchase of the property.

Vice Chairperson Hoffman stated the owners had decided the layout on the property and thought there were other configurations they could have used without needing a variance. He did not want to set precedence and felt the more variances allowed, the more obsolete an ordinance section becomes. He stated safety wise, they could add a barrier.

Mr. Muzyl stated that was already a requirement and would be installed.

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26.6.5 That the requested variance is the minimum variance necessary that will make possible the reasonable use of the land.

Mr. Wagar stated that had already been addressed and thought the safety issue was significant.

Chairperson Sagasser stated he originally thought the requested setback was more than the minimum and it running the entire length of the parcel was unnecessary but thought the difference was minor and should they need to install another tank, it could be done safely.

Mr. Alexander questioned the '*minimum*'.

Mr. Muzyl stated the area was surveyed and with the size of the tank, a two foot (2') setback could be the minimum if taken literally.

Mr. Fairchild stated because of the setback issue with the DEQ, the original south setback of twenty feet (20') was modified to fifty feet (50') which pushed the first tank forward by thirty feet (30') creating the safety issue.

Mr. Muzyl stated the plan *would* work as drawn but in the winter especially, with trucks coming and going, it became more of an issue.

Mr. Alexander questioned where the DEQ setback was referenced in the informational packet, stating it *was* an important issue.

Mr. Mang concurred and stated he had not understood the issue until it was explained on site.

Chairperson Sagasser stated it was on page four (4) of the submittal but was not clear that the setbacks had changed from the originally approved County ordinance setbacks. Having it explained and seeing the impact of the change made it clear.

Mr. Alexander requested the setback change be added to the Finding of Fact.

Motion made by Mr. Mang for the addition to the Finding of Fact as follows; Seconded by Mr. Hoffman.

12. Subsequent to the approval of the Special Use Permit by the Otsego County Planning Commission, the original site plan setback of the south property line was modified from twenty feet (20') to fifty feet (50') per DEQ setback requirement. *SEE ATTACHMENT 1*

Motion approved unanimously.

Chairperson Sagasser read and requested a motion for 26.6.1.

Motion made by Mr. Wagar to proceed with a vote on Section 26.6.1; Seconded by Mr. Mang:

Roll call vote

Yes-5

No-1

Chairperson Sagasser read and requested a motion for 26.6.2.

Motion made by Mr. Wagar to proceed with a vote on Section 26.6.2; Seconded by Mr. McCarthy:

Roll call vote

Yes-4

No-2

Otsego County Zoning Board of Appeals

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Chairperson Sagasser read and requested a motion for 26.6.3.

Motion made by Mr. Wagar to proceed with a vote on Section 26.6.3; Seconded by Mr. Alexander:

Roll call vote

Yes-5

No-1

Chairperson Sagasser read and requested a motion for 26.6.4.

Motion made by Mr. Wagar to proceed with a vote on Section 26.6.4; Seconded by Mr. McCarthy:

Roll call vote

Yes-4

No-2

Chairperson Sagasser read and requested a motion for 26.6.5.

Motion made by Mr. Wagar to proceed with a vote on Section 26.6.5; Seconded by Mr. Mang:

Roll call vote

Yes-4

No-2

Motion made by Mr. Alexander that the Otsego County Zoning Board of Appeals approve PREZ15-001 based on the twelve (12) Finding of Fact and Section 26.6.1 through 26.6.5; Seconded by Mr. McCarthy.

Roll call vote

Yes-4

No-2

Variance approved

Chairperson Sagasser stated the variance was approved and they could move forward with their plan.

Mr. Schlaud stated plans for setting the tank were needed at the Building Department.

2. Expiring Terms/Reappointment
 - a. Alexander
 - b. Mang
 - c. Wagar

Members received applications to submit to the County for reappointment if desired.

3. Election of ZBA Officers

Mr. Sagasser nominated for Chairperson by Mr. Alexander; Seconded by Mr. Wagar
Vote unanimous

Mr. Sagasser elected Chairperson

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

Mr. Hoffman elected Vice-Chairperson

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Mr. McCarthy nominated for Secretary by Mr. Alexander; Seconded by Mr. Wagar
Vote unanimous

Mr. McCarthy elected Secretary

Old Business: None

Communications: None

Adjournment: 7:35 pm by Chairperson Sagasser

Phil Alexander, ZBA Secretary

Christine Boyak-Wohlfeil, Recording Secretary

PROPOSED

Otsego County Zoning Board of Appeals

Proposed Minutes for June 30, 2015

ATTACHMENT 1:

FINDING OF FACT:

1. This is a proposal for a rear setback variance. *Exhibit #1, Exhibit #5*
2. The property is located in a B3/Business & Light Manufacturing Zoning District. *Exhibit #2*
3. The rear setback in a B3/Business & Light Manufacturing Zoning District is twenty (20) feet. *Exhibit #3*
4. The property is currently under the ownership of Alpine Propane LLC. *Exhibit #4*
5. Nelson R Fairchild is the case representative for Alpine Propane LLC. *Exhibit #6*
6. The Public Hearing Notice was published in the Herald Times on June 12, 2015 *Exhibit #7*
7. The requirements of Article 27 of the Otsego County Zoning Ordinance have been met. *Exhibit #8, 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 approve a variance request after review and compliance with the Otsego County Zoning Ordinance. (Section 26.6) *Exhibit #3*
10. The required fees have been collected by Otsego County Land Use Services. *Exhibit #11*
11. The site plan requirements of Article 23 have been reviewed by Otsego County Land Use and all requirements pertaining to the proposed development have been addressed by the Applicant. *Exhibit #5, Exhibit #12*
12. Subsequent to the approval of the Special Use Permit by the Otsego County Planning Commission, the original site plan setback of the south property line was modified from twenty feet (20') to fifty feet (50') per DEQ setback requirement. *Exhibit #1*

FINDING OF FACT UNDER ARTICLE 26/BOARD OF APPEALS

2. The Zoning Board of Appeals finds that **Section 26.6 DIMENSIONAL OR NON-USE VARIANCE** states:

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:

26.6.1 That the requested variance will not be detrimental to the public welfare or otherwise injurious to other properties in the same zoning district.

Motion made by Mr. Wagar to proceed with a vote on Section 26.6.1; Seconded by Mr. Mang:

Roll call vote

Yes-5

No-1

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Proposed Minutes for June 30, 2015

26.6.2 That the requested variance is necessary for the applicant to receive a right available to other properties in the same zoning district.

Motion made by Mr. Wagar to proceed with a vote on Section 26.6.2; Seconded by Mr. McCarthy:

Roll call vote

Yes-4

No-2

26.6.3 That special physical conditions or unique circumstances exist with this property and do not generally apply to other properties in the same zoning district.

Motion made by Mr. Wagar to proceed with a vote on Section 26.6.3; Seconded by Mr. Alexander:

Roll call vote

Yes-5

No-1

26.6.4 That the special conditions or circumstances are not the result of actions by the applicant or predecessor in title.

Motion made by Mr. Wagar to proceed with a vote on Section 26.6.4; Seconded by Mr. McCarthy:

Roll call vote

Yes-4

No-2

26.6.5 That the requested variance is the minimum variance necessary that will make possible the reasonable use of the land.

Motion made by Mr. Wagar to proceed with a vote on Section 26.6.5; Seconded by Mr. Mang:

Roll call vote

Yes-4

No-2

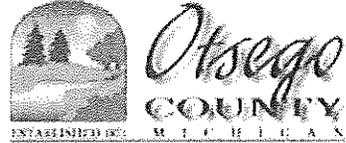
**OTSEGO COUNTY
ZONING BOARD OF APPEALS**

**PZBA15-002
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 April 28, 2015
- Exhibit #4:* Copy of Otsego County Equalization Department record card Warranty Deed-1345/428 and Quit Claim Deed-L1263/P164
- Exhibit #5:* Site pictures submitted by Applicant
- Exhibit #6:* Otsego County Planning Commission minutes from previous case cited by Applicant w/Special Use Permit results
- Exhibit #7:* Finding of Fact/PZBA15-002
- Exhibit #8:*

ZONING BOARD OF APPEALS
NON-USE VARIANCE APPLICANT



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

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(s) and accurate legal description of property.
You are encouraged to include photographs and illustrations to support your case.

ZONING BOARD OF APPEALS
NON-USE VARIANCE APPLICANT



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)

APPLICANT SEEKS A VARIANCE ALLOWING 30X40 AND 40X60 POLE BARN STORAGE UNITS ON ADJACENT PARCELS FOR NEIGHBORING RESIDENCES.

Land Use Services Use Only

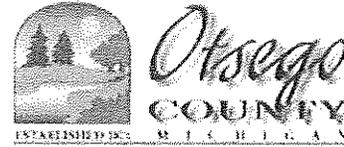
File No.:

Fee:

Date Received:

Received by:

ZONING BOARD OF APPEALS
NON-USE VARIANCE APPLICANT



THE APPLICANT MUST DEMONSTRATE THE FOLLOWING CONDITIONS EXIST:

This section MUST be completed.

Practical Difficulty: A practical difficulty exists on the subject site (such as exceptional narrowness, Shallowness, shape ore area; presence of floodplains; exceptional topographic conditions) and strict compliance with the Zoning Ordinance standards would unreasonably prevent the owner from using the subject site for a permitted use or would render conformity unnecessarily burdensome. Demonstration of a practical difficulty shall have a bearing on the subject site or use of the subject site, and not to the applicant personally. Economic hardships or optimum profit potential is not consideration for practical difficulty.

OTSEGO COUNTY ZONING ORDINANCE (OCZO) SECTION 23.2.1.1 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.

23.6.1. Public Welfare: Will granting this variance uphold the spirit of the ordinance, secure public safety, and uphold substantial justice to the property owners in the district. The Board must consider whether or not granting a variance will hinder Otsego County in achieving the very goals and objectives the ordinance is trying to accomplish. You should explain how your application is consistent with and does not violate the intent of the particular section(s) that apply to it; merely saying it does not, is not enough.

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

23.6.2. Substantial Justice: The variance would provide substantial justice by granting the property rights similar to those enjoyed by the majority of other properties in the vicinity and other properties in the same zoning district. The decision shall not bestow upon the property special development rights not enjoyed by other properties in the same district or which might result in substantial adverse impacts on properties in the vicinity (such as the supply of light and air, significant increases in traffic, increased odors and increase in the danger of fire or other activities which may endanger the public safety, comfort, moral or welfare).

ZONING BOARD OF APPEALS
NON-USE VARIANCE APPLICANT



STORAGE UNITS WILL NOT ALTER THE ESSENTIAL CHARACTER OF THE LOCALITY

36.6.3. Unique Situation: The demonstrated practical difficulty results from exceptional or extraordinary circumstances or conditions applying to the subject site at the time the Ordinance was adopted or amended which are different than typical properties in the same zoning district or vicinity. List in detail the unique circumstances or conditions that apply to your property. Please explain here the problem with your land.

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

23.6.4. Not Self-Created: The conditions resulting in a variance request cannot be self-created and would have existed regardless of ownership of the property.

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

23.6.5. Minimum Variance Necessary: The variance shall be the minimum necessary to grant relief created by the practical difficulty. Please explain/list other alternatives and the reasons why these options are not feasible.

OTSEGO COUNTY ZONING ORDINANCE (OCZO) SECTION 23.2.1.1 ALLOWS THE ZONING BOARD OF APPEALS INTERPRETATION OF THE ZONING ORDINANCE TEXT.

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

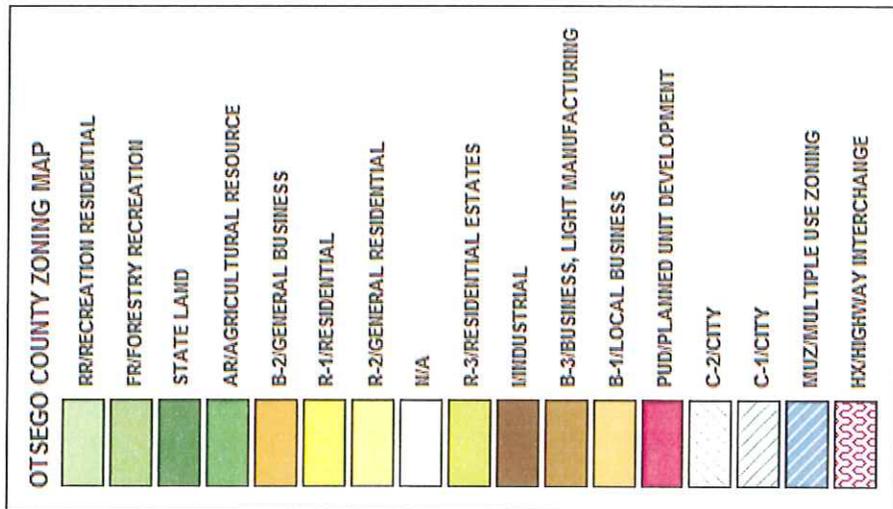
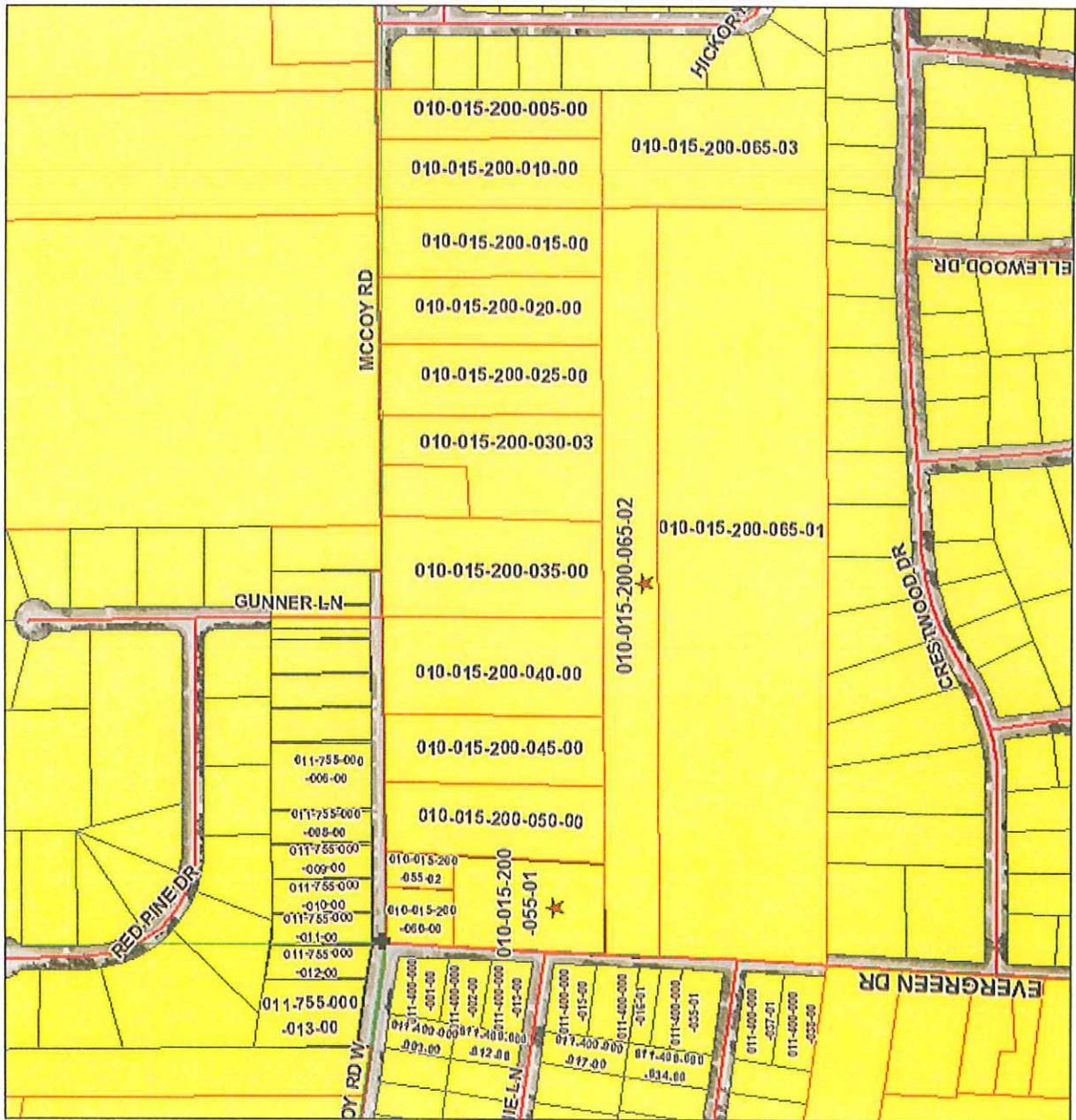
SECTION 4.1.9 PERMITS STRUCTURES FOR STORAGE OF THE OWNER'S PERSONAL POSSESSIONS.

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

Compliance With Other Laws: The variance is the minimum necessary to comply with state or federal laws, such as farming activities protected by the "Right to Farming Act" or accessibility to meet the needs of individual with disabilities protected under the Americans with Disabilities Act.

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

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





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

RCVD JUL19'11FW8:32

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:

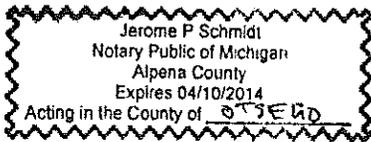
David A. Miller

Douglas A. Miller



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 OS
Caylord, MI 49734

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. Sargent, Deputy COUNTY TREASURER



OTSEGO COUNTY MICHIGAN
RECEIVED FOR RECORD
SUSAN DEFEYTER, 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 14 PM 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 Krys 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
11220 17h



STATE OF MICHIGAN
COUNTY OF OTSEGO

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

, Notary Public

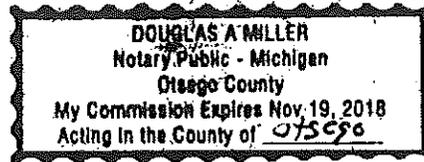
Otsego County, Michigan

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



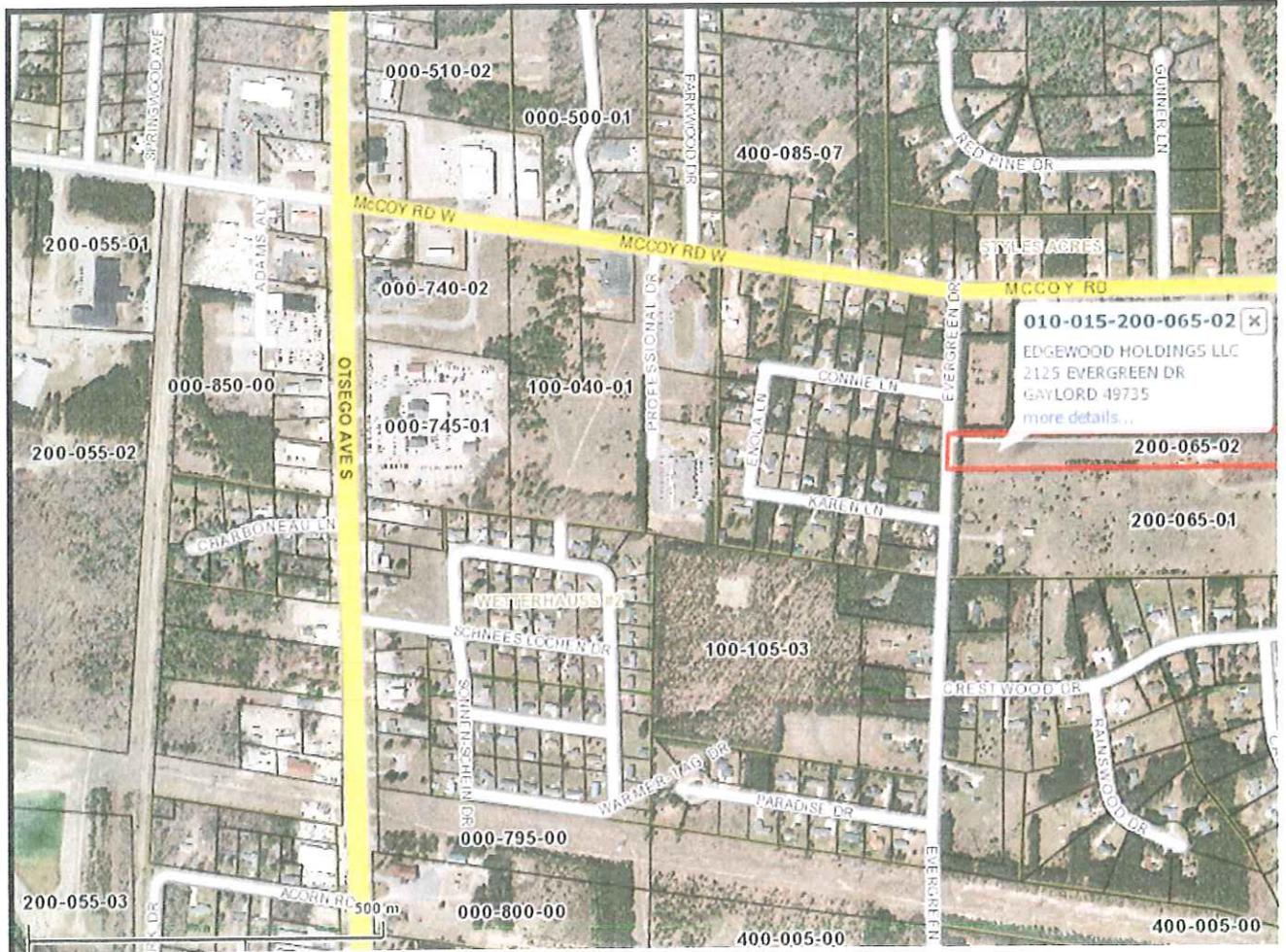
Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prcnt. Trans.	
MILLER-MILLER	EDGEWOOD HOLDINGS LLC	0	06/15/2011	QC	No Sale Price	1263/164	Deed	100.0	
GLASSER-HANSMANN	MILLER-MILLER	0	01/14/2000	WD	Fulfilment of LC	0746/721	Deed	0.0	
GLASSER-HANSMANN	MILLER-MILLER	60,000	01/01/1998	LC	Good	0664/646	Deed	0.0	
Property Address	Class: 402 Residential St		Zoning: R-1		Building Permit(s)		Date	Number	Status
2125 EVERGREEN DR	School: Gaylord Community								
Owner's Name/Address	P.R.E. 0%								
EDGEWOOD HOLDINGS LLC PO BOX 1237 GAYLORD MI 49734-5237	: 0.00								
Tax Description	2015 Est TCV 57,800 (Value Overridden)								
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.	Improved <input checked="" type="checkbox"/> Vacant		Land Value Estimates for Land Table .						
Comments/Influences	Public Improvements		* Factors *						
	Dirt Road		Description		Frontage		Depth	Rate	Adj. Reason
	Paved Road		8.26 Total Acres		8.26		0	100	0
	Storm Sewer								0
	Sidewalk								0
	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								
Who	When	What	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

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

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Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prct. Trans.
SZYMANSKI TRUST-SZYMANSKI-EDGEWOOD HOLDINGS LLC	EDGEWOOD HOLDINGS LLC	0	07/11/2013	WD	Fulfilment of IC	1345/428	DEED	0.0
SZYMANSKI TRUST-SZYMANSKI-EDGEWOOD HOLDINGS LLC	EDGEWOOD HOLDINGS LLC	21,000	07/12/2012	LC	Good	1292/427	Deed	100.0
Property Address Class: 401 Residential VaZoning: R-1 (* Building Permit(s) School: Gaylord Community P.R.E. 0% : 2015 Est TCY 19,400 (Value Overridden) Improved X Vacant Public Improvements 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 Who When What 2015 9,700 0 2014 9,700 0 2013 9,700 0 2012 0 0								
Tax 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. Comments/Influences * Factors * Description Frontage Depth Front Depth Rate %Adj. Reason Value 2.36 Total Acres 2.360 Acres 0 100 0 Total Est. Land Value = 0								
The Equalizer. Copyright (c) 1999 - 2009. Licensed To: County of Otsego, Michigan								

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



Special Use Permit Checklist for Edgewood Estates

Ordinance section	Submission Requirements	Status	Comments
16.1.1. The proposed use is one listed as a special land use for that district in which said use is proposed to be located	Description of use	X	
16.2.1 Applicant: Any person owning or having an interest in the subject property may file an application for one or more special use permits provided for in this Ordinance.		X	
16.2.2 Application and Fee: Application submitted to the Zoning Administrator accompanied by the payment of a appropriate fee. No part of any fee shall be refundable	Completed application and fee	X	
16.2.3 Information Required per Article 20			
a) Site plan	15 copies of site plan	X	
b) Agency reviews			
Fire Department	Agency Response	NM	Review Pending
Health Department	Agency Response	X	
MDOI	Agency Response	NA	
Road Commission	Agency Response	X	Need cul-de-sac review
Soil Conservation District	Agency Response	NM	Review Pending
DNR/DEQ	Agency Response	NA	
16.2.3.1. Impact Statement			
16.2.3.1.1 Complete description, summarization or outline, of the proposed development including area of the site, the number of lots or units, and the number and characteristics of the population impact such as density, elderly persons, school children, tourists, family size, income, and related information as applicable.	Detailed narrative, site plan, landscape plan and drainage plan, building floor plan elevations.	X	

Status: X=Standard Met; NM=Standard not met; WC=Standard met with conditions; NA=Not Applicable

Special Use Permit Checklist for Edgewood Estates

Ordinance section	Submission Requirements	Status	Comments
16.2.3.1.1 Hazardous substance or polluting materials to be used, stored, or produced. Included in this description shall be details of how these materials are to be stored and the measures which are to be utilized to prevent leaks, spills, or other incidents which might discharge these materials to the ground surface, ground water, or surface water.	Details of materials, processes and possible impacts, specifications of storage and containment facilities and mitigation measures.	NA	
16.2.3.1.2 Expected demands on community services, and how these services are to be provided, to specifically include: school classroom needs, sewage treatment, water supplies related to ground water reserves or community system capacity, changes in traffic volume on adjacent streets, and other factors that may apply to the particular development.	Detailed analysis of impact on public services, infrastructure, traffic and environment.	NM	Inadequate turning radius provided for emergency vehicles, narrow road will not provide safe year round access
16.2.3.1.3 Potential and anticipated impact of the proposed development on soil erosion, shoreline protection, wildlife habitat, air pollution, ground water and surface water pollution, noise, and the scale of development relative to the surrounding land uses.	Details of soil and erosion measures to be implemented, vicinity plan, construction plans, grading and drainage plans.	X	
16.2.3.1.4 A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in Section 16.3, and other standards imposed by this Ordinance affecting the special land use under consideration.	Documentation of compliance, information as required per other applicable Ordinance sections.	NM	Lot 17 does not meet 100' frontage requirements
16.3 Basis for determination			
16.3.1 <u>General Standards:</u> The County Planning Commission shall review the particular circumstances of the special land use request under consideration to ensure compliance with the following standards, and shall approve a special land use request only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance.			Compliance with General Standards is determined by the Planning Commission. If a standard is not met, the reason must be stated, if a standard is met with conditions, the conditions must be stipulated.

Special Use Permit Checklist for Edgewood Estates

Ordinance section	Submission Requirements	Status	Comments
16.3.1.1 Storm water			
16.3.1.1.1 Site development shall proceed in a manner to minimize erosion hazards and prevent sediment delivery to natural and/or impounded waters of the County. Soil conditions shall be investigated by the land owner or proprietor who shall follow guidelines developed by the County Soil Conservation District, or as provided in the Soil Erosion and Sedimentation Control Ordinance.	Construction plan and phasing, grading plan, drainage plan and soil borings.	X	
16.3.1.1.2 Storm water management systems and facilities shall preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent possible. Storm water discharges must not substantially change the natural retention or storage capacity of any wetland, water body, or water course, or result in increased flooding, stream bank erosion, or water pollution. 25-year-storm criteria and DNR Best Management Practices shall be used in designing storm water management.	Drainage plan.	WC	Need to submit runoff calculations
16.3.1.1.3 Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system, or increase off-site sedimentation. Provisions shall be made for the construction of facilities including grading, gutters, piping, and the treatment of turf to handle storm water, prevent erosion and the formation of dust. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in paved areas.	Details of soil and erosion control measures, construction plan, drainage and grading plan.	WC	Need to submit runoff calculations.
16.3.1.1.4 The site plan shall conform with the published surface water drainage standards of the County, with the driveway and traffic safety standards of the Michigan Department of Transportation and/or the County Road Commission, with the applicable fire safety and emergency vehicle access requirements of the State Construction Code and/or local Fire Code, with the County Soil Erosion and Sedimentation Control requirements, and with the requirements of the Michigan Department of Public Health and the District Health Department.	Applicable agency responses	NM	Need approval by Fire dept.

Special Use Permit Checklist for Edgewood Estates

Ordinance section	Submission Requirements	Status	Comments
16.3.1.2 Traffic			
16.3.1.2.1 Access to the site shall be suitable and shall insure that minor residential streets are not used to serve uses that have larger area-wide patronage.	Traffic study road commission review.	X	
16.3.1.2.2 Adequate allowance shall be made for vehicles to park, enter, and exit the use safely, and there shall be no visibility impediments to drivers created by signs, buildings, land uses, plantings, etc.	Site plan, road commission review.	X	
16.3.1.2.3 All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means.	Site plan, fire department review.	X	
16.3.1.2.4 Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use	Site plan	X	
16.3.1.2.5 There shall be provided sidewalks, improved walking paths or other pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system. In order to ensure public safety, pedestrian underpasses or overpasses may be required in the vicinity of schools, playgrounds, local shopping areas and other uses which generate a considerable amount of pedestrian traffic.	Site plan	X	
16.3.1.2.6 The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way according to the standards of the Otsego County Road Commission.	Site plan, road commission review.	X	
16.3.1.2.7 All streets shall be developed in accordance with any adopted County Subdivision Control Ordinance.	Site plan, road commission review.	NA	

Special Use Permit Checklist for Edgewood Estates

Ordinance section	Submission Requirements	Status	Comments
16.3.1.2.8 All parking areas shall be so designed to facilitate efficient and safe vehicular and pedestrian circulation, minimize congestion at access and egress points to intersecting roads, including the use of service drives as appropriate, and minimize the negative visual impact of such parking areas.	Site plan, road commission review.	NA	
16.3.1.2.9 Residential and nonresidential development shall not include unnecessary curb cuts and shall use shared drives and/or service drives where the opportunity exists.	Site plan, road commission review.	NA	
16.3.1.3 Landscape and lighting			
16.3.1.3.1 Any special use shall provide a landscaping plan to maximize the aesthetic and environmental features of the area through existing natural features such as woodlots and vegetative barriers, including trees and shrubs. Any application of fertilizers and pesticides for turf grass management shall follow Guidebook of BMPs for Michigan Watersheds (DNR). See also General Provisions for Landscaping in Article 18.13.	Landscape plan.	NA	
16.3.1.3.1.1 Such landscaping plan shall include continuously maintaining natural features in a live and healthy state.	Landscape maintenance plan.	NA	
16.3.1.3.1.2 Protection of trees shown on the site plan as to remain. Guidebook of Best Management Practices for Michigan Watersheds (DNR) shall be followed in designing uses within the drip line.	Construction plan, landscape maintenance plan.	NA	
16.3.1.3.1.3 The landscape is preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.	Site plan, construction plan, landscape plan.	NA	
16.3.1.3.2 The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein and adjacent thereto. Fences, walls, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and the privacy of its occupants.	Site plan, landscape plan.	NA	

Special Use Permit Checklist for Edgewood Estates

Ordinance section	Submission Requirements	Status	Comments
16.3.1.3.3 All truck docks and similar loading and unloading areas and outside storage areas, including areas for the storage of trash which face or are visible from residential districts or public thoroughfares shall be screened by an opaque wall not less than six feet in height.	Site plan landscape plan	NA	
16.3.1.3.4 Exterior lighting shall be so arranged that it is deflected away from adjacent properties, and so that it does not impede the vision of traffic along adjacent streets. Flushing or intermittent lights shall not be permitted. All exterior lighting shall conform to Article 18.19.	Lighting plan.	NA	
16.3.1.4 Continuity and Impact			
16.3.1.4.1 The special land use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.	Detailed narrative.	X	Condition determined to be met by 5-3 vote
16.3.1.4.2 There shall be a nondetrimental impact upon the surrounding uses in the District, particularly as related to traffic generating potential, servicing by trucks, utility demands, hours of operation, and pedestrian traffic.	Description of use, traffic study, analysis of impact on public services.	NA	
16.3.1.4.3 The site size shall be adequate to accommodate the use, customary accessory uses, and on site services (sewage disposal and water supply)	Site plan, supporting documentation.	NM	Need Health dept response
16.3.1.4.4 There shall be a nondetrimental impact of the proposed use on the quality and quantity of groundwater and surface water resources, domestic water supplies, and capacity to absorb the anticipated sewage disposal demand.	Detailed narrative, supporting documentation.	NM	Need Health dept review
16.3.1.4.5 The special land use shall be consistent with the intent and purpose of this Ordinance, and the objectives of any currently adopted County Master Plan.	Detailed narrative.	X	
16.3.1.4.6 All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of plot, the character of adjoining property, and the type and size of buildings. The site will be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.	Detailed narrative	X	

Special Use Permit Checklist for Edgewood Estates

Ordinance section	Submission Requirements	Status	Comments
16.3.1.4.7 The site plan shall provide for the appropriate location of all necessary and proposed utilities. Power facilities shall be buried (see Article 18.43)	Utility plan	X	
16.3.1.4.8 Site plans shall conform to all applicable requirements of state and federal statutes and approval may be conditioned on the applicant receiving necessary state and federal permits before the final site plan approval is granted.	Applicable agency reviews and permits	X	
16.3.1.5 Pollution Prevention			
16.3.1.5.1 Operations in connection with any special use shall not be environmentally objectionable to nearby properties by reason of noise, fumes, pollution, vibration, or light to an extent exceeding what would be expected of any principal use in that same district.	Detailed narrative, supporting documentation.	X	
16.3.1.5.2 Facilities using, storing or generating more than 100 kilograms of Hazardous Substances per month must meet all state and federal requirements for storage, spill prevention, record keeping, emergency response, transport, and disposal of these substances.	Detailed narrative, supporting documentation, applicable agency reviews.	NA	
16.3.1.5.3 Facilities not subject to state and federal regulation, as listed in Section 16.3.1.5.2, which store, use, or generate Hazardous Substances or wastes or other Polluting Materials such as salt or other compounds or chemicals, shall be designed to prevent spills and discharges of these materials to the ground surface, groundwater, or surface water body. Secondary containment for aboveground areas where hazardous substances or polluting materials are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of the release.	Site plan, building plan and specifications, containment specifications.	NA	
16.3.1.5.3.1 General purpose floor drains will only be permitted if they are designed to prevent discharge to the environment through the use of a totally enclosed collection system or authorized through a state groundwater discharge permit.	Building plans, applicable agency permits	NA	

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Otsego County Planning & Zoning **Motion** Case PC-90203-BY

Applicant's name David & Douglas Miller Property address Evergreen Drive

Ordinance section(s) Section 16

Request: special use application preliminary site plan dimensional variance
 other: _____

Action taken:

Request approved with conditions without conditions reasons listed in resolution
 Request disapproved reasons listed in resolution
 Tabled reasons listed in resolution

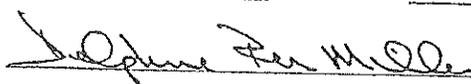
Resolution

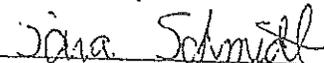
Motion by Don Johnson Case PC-90203-BY
Having met the checklist attached in the draft special use permit, motion to approve with the conditions listed in the draft special use permit plus (1) Fire Dept. approval still pending and (2) Health Dept. approval specified in 16.3.1.4.4 still pending.

Motion denied.

Signed  Seconded by 

print name Don Johnson Print name Donald Tober

Date July 19, 1999 Chairman 

Secretary 

- Exhibits:
A Application dated 4-16-99_
B Property description_____
C Fire Dept. Ltr. 5-11-99_
D _____

Otsego County Planning & Zoning **Motion** Case PC-90203-BY

Applicant's name David & Douglas Miller, Property address Evergreen Drive

Ordinance section(s) Section 16

Request: special use application preliminary site plan dimensional variance
 other: _____

Action taken:
 Request approved with conditions without conditions reasons listed in resolution
 Request disapproved reasons listed in resolution
 Tabled reasons listed in resolution

Resolution
Motion by Lee Olsen 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 at 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 is not of adequate size to serve the needs of proposed lots, especially as it relates to snow removal in especially heavy winters.

Signed Lee Olsen
print name Lee Olsen

Seconded by James Maddix
Print name James Maddix

Date July 19, 1999

Chairman Delphine T. R. Miller

Secretary Jana M. Schmidt

Exhibits:

- A Application dated 4-16-99
- B Property description
- C Fire Dept. Ltr. 5-11-99
- D _____

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.

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 Wireless Telecommunications Towers and Facilities one hundred (100) feet or less in height. 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](#).