

**BURT TOWNSHIP**  
Zoning Board of Appeals  
Meeting Minutes, December 11, 2009

The regular meeting of the Burt Township Zoning Board of Appeals was called to order by Chairman Walt Lindsay on December 11, 2009 at 2 p.m. at the Burt Township Hall, Cheboygan, Michigan.

**Attendance:** Walt Lindsay, Harold Koviak, Katie Parker, Dave Poxson, Gary Street.  
Also attending: Dan Swantek, Zoning Administrator.

Absent: Kim Kihnke, ZBA alternate member and Joyce Hutto, recording secretary.

Guests: Mr. and Mrs. Chenevere.

In the absence of Joyce Hutto, Katie Parker agreed to serve as interim recording secretary.

ZBA members present agreed to today's meeting agenda as printed.

**Minutes of the October 9, 2009 Meeting**

MOTION: Moved by Harold Koviak and seconded by Gary Street to accept the minutes of the October 9, 2009 meeting as written.

**MOTION APPROVED**

**Public Comment Period**

No public comment

**Public Hearings**

None

**Other Business**

Ten private shared lake access lots in the township, issued licenses in 2005, are up for certification in 2010. Prior to discussion of procedures for certification, Lindsay reviewed the history of the "private shared lake access lot" policy. Section 6.10.2 of the Burt Township Zoning Ordinance recognizes private shared lake access sites which may continue existing uses, but not expand them (uses are grandfathered). Ten such lots were licensed in 2005. The last of the existing private shared access lots was licensed in 2007, bringing to eleven the total of such lots in Burt Township. Section 6.10.3 contains provisions for dealing with a separate set of owners, those with an interest in establishing new shared lake access lots.

Following the ZBA's approval of applications submitted by existing private access sites beginning in 2005, the township clerk sent the license agreement to each shared access site. A draft letter to licensed private access sites explaining the five-year certification process, along with a proposed notarized statement, was circulated. Koviak proposed

adding the name of the association/site to the notarized statement where “name” appears. Poxson asked what degree of changes to access lot uses would be permitted within the five year period. Lindsay and Street said that a minor point like replacing a boat hoist would not be a concern; the key is whether a site wished to make any changes in the diagram agreed upon when the license was originally issued. Anything at all new would require an application to the ZBA for approval. Continuing the discussion, it was proposed that language from the ordinance (6.10.2) be inserted in sentence 2, paragraph 3 of the draft letter. The board also suggested that there be a specific date for submittal of the notarized statement and diagram, wording to say “June 1 or prior to seasonal installation of docks”. The letters will be sent by Lindsay in January to the ten shared access associations licensed in 2005. Koviak pointed out that we first need to establish the name of the individual at each site to whom the five-year certification letter should be sent, these leadership positions typically turning over regularly. Lindsay agreed, “Joyce will need to ascertain the name of the individual addresses, with help from Dan Swantek and me.”

#### **Election of Officers (2010).**

The section of the ZBA Bylaws referring to elections was read by Lindsay. Street moved to re-elect the existing slate, seconded by Koviak. Approved unanimously.  
Walt Lindsay – Chair  
Katie Parker – Vice Chair  
Dave Poxson – Secretary

#### **Schedule 2010 ZBA Meeting Dates and Times as follows** (all meetings at the Burt Township Hall):

February 26 2 pm  
April 30 7 pm  
May 28 7 pm (Memorial Day weekend)  
July 23 7 pm  
September 24 7 pm  
December 10 2 pm

A resolution to accept the above schedule was offered by Koviak, seconded by Street and unanimously passed. Dates will be sent to the township clerk by recording secretary Hutto.

Street noted that a summary of 2009 ZBA activities is required, submitted by the Chair (Lindsay) to the township board before their January meeting. This to be followed by the ZBA budget, submitted to the township board before their annual budget meeting in March.

#### **Reports**

##### **Zoning Administrator Report**

Swantek circulated two documents pertaining to Cottage Shores/Keefer case:

#1. Letter from attorney Kerzka regarding agreement between Cottage Shores and Keefer

#2. Email letter from Keefer regarding removal of pole barn which had previously encroached on the property of Cottage Shores

Swantek read aloud the letter and email. These documents will be added to the permanent ZBA record. However, Keefer will be asked to sign and date his email pertaining to the agreement with Cottage Shores. Swantek will request that he do so, a procedure confirmed by Lindsay. The matter will be carried forward to the next meeting, awaiting Keefer's signing and dating his written communication.

Continuing his Zoning Administrator report, Swantek circulated photos of the Jim Parker property at the intersection of Brutus Road and Mundt Road, showing the accumulated debris to be unchanged from August to November despite Parker's signed agreement with the township. Koviak and Katie Parker noted that the front of the property nearest the former store looks much better. Swantek reiterated the miscellany of items piled around as shown in photos and not in compliance with the agreement. Township attorney MacArthur sent letters to Parker (both certified and regular USPS) on 09/30/09, listing the points that were in the agreement between Parker and the township. The certified letter could not be delivered after three attempts and was returned, but the regular mail letter was not returned and therefore assumed received by Parker. The original certified letter becomes part of the ZBA permanent records.

On 11/23/09, Swantek met with Attorney MacArthur. Subsequent to that meeting, MacArthur wrote a letter to Twp. Supervisor Koviak reviewing the facts of the Parker matter. Contents of the letter were summarized for the ZBA by Koviak. Koviak noted that pursuing this matter through circuit court as a violation of the signed contractual agreement between Parker and the ZBA would be an expensive process (his estimate \$5000) with likely no means of recovering legal fees. Lindsay indicated willingness to support the decision of the Township Board on this issue. Street stated that he felt it was important for the Township to enforce the agreement Parker made to clean up his property.

Update on the Dale Hadel property (1240 Indian Point Road). Swantek summarized his findings of three violations, including: #1 oversized firepit located within the 75' lakefront setback, #2 paver wall surrounding trees, also within 75' setback, #3 walkway to the lake wider than 4' in some places. Mr. Hadel could not be present for today's meeting, but wishes to appear before the ZBA at some future time to contest Swantek's findings. Swantek issued a "stop work" order in October, followed by a telephone communication with Mr. Hadel.

Swantek brought to ZBA attention a new zoning issue with regard to the Gary Quick property on Topinabee Mail Route. The house is increasingly surrounded by trash. Koviak noted that 3 years ago, eight truckloads of trash were hauled away from the property on 'Big Dump Day' (six witnesses can confirm this). Since then the debris has begun to accumulate again. According to Koviak, an outbuilding south of the Quick home burned in September, and some of the trash may be a byproduct of that event.

Swantek stated that the ZBA may now want to consider pursuing a municipal civil infraction in district court, where a new judge has promised to support the concept.

### **Township Board Report**

Koviak reported that thanks to work by the Planning Commission, the Burt Township Board has approved the Master Plan update, as required at five year intervals. The Board has also approved renewal of G. Street and K. Parker on the ZBA, and Matt Landon on the Planning Commission. There is concern over next year's budget, following this year's cut of 10-15% from the State of Michigan, and a possible additional cut of 25% in 2010. The Board is being very cautious with regard to spending. The assessor, Fred Lindroth, projects that township tax rolls will decline significantly. The township had its first ever home foreclosure in 2009 due to nonpayment of property taxes, and several additional homes are in stages of foreclosure presently. Lindroth has said that contiguous properties need not be combined in order to be considered one parcel (ZBA example: the Mac Richardson case on White Goose Bay). State statute regards such properties as one by the fact that they are contiguous. ZBA will keep this in mind in future cases.

### **Planning Commission Report**

Street reported on the update of the township's Master Plan. The plan was reviewed diligently, and no major changes were required.

Two changes to the zoning ordinance are under current study: #1 definition of 'eaves', #2 placement of satellite dishes within the 75' lakefront setback. For some homeowners, it appears that the only workable place for a satellite receiver is on the shoreline. The Trail Committee has received the engineering report. Local papers have reported on the proposed trail, and various organizations and representatives have provided resolutions in support of the trail.

### **ZBA Members Comment Period**

No member comment

### **Public Comment Period**

No public comment

**Date and Time of Next Meeting:** February 20, 2010, 2 pm at the Burt Township Hall

**Motion:** Moved by Street and seconded by Koviak to adjourn

**Motion Approved**

Meeting adjourned at 3:45p.m.

Respectfully submitted,

Katie Parker  
Interim Recording Secretary