

KEWEENAW COUNTY ZONING BOARD OF APPEALS
Minutes of Public Hearing
September 18, 2025 1:00PM
Keweenaw County Courthouse, 5095 Fourth Street, Eagle River, MI 49950

Subject: Dimensional Non-Use Variance Request – LaMotte & Eagle Inn, Inc.

Call to Order: Chair Mark Ahlborn called the meeting to order at 1:00 PM.

Roll Call:

- Mark Ahlborn (Chair): Present
- Larry Butala (Secretary): Present
- Harvey Desnick (Planning Commission Liaison): Present
- Frank Kastelic (Member): Present
- Mike Delesha (First Alternate): Present (sitting in for absent Bryant)
- Gary Russell (Second Alternate): Present
- Thomas Bryant (Vice Chair): Absent (excused)

A quorum of five members was established with Alternate Delesha replacing absent Bryant.

Agenda:

M/ Kastelic S / Delesha to approve the agenda with two additions: 1) Determination notice (to be read before final comments) and 2) Setting the next meeting date (to occur before adjournment). The motion passed unanimously.

Minutes:

M/ Kastelic S/ Butala to approve the minutes from the February 3rd regular meeting. Desnick abstained from voting as not a member or present at the February 3d meeting.

4 Yays/ Motion approved

Public Hearing:

The public hearing was opened to receive public comment on the dimensional non-use variance request submitted by Michael LaMotte and Eagle Inns Inc. concerning parcel 42-403-51-001-005. This request had been remanded back to the ZBA for a public hearing and findings of fact by Judge Brittney A Bulleit of 12th Circuit Court.

Zoning Administrator Report: Zoning Administrator Susan Hockings presented the staff report, summarizing the variance request for a reduction in setback requirements (from 10 ft to 3.2 ft) for an addition to the Fitzgerald Hotel & Restaurant at 5330 Front Street, Eagle River, MI. The property is zoned Rural Residential.

Key points from the report:

- The addition increases the pre-existing nonconformity and encroaches on public right-of-way (Front and Pine Streets) and the waterfront setback.

- The original application contained errors regarding property boundaries and smoker location, which led to a stop work order.
- The survey shows the existing building prior to the addition is already on the property line. There is no setback.
- Most of the addition is built on property not belonging to the applicant
- Granting a variance would set a negative legal precedent concerning property lines and encroachment.

Applicant Presentation:

The applicant's attorney argued that:

- The applicant acted in good faith, relying on the issued permit and subsequent inspections.
- The lot is unique and topographically constrained.
- County administrative errors led to the situation.
- The addition has been standing for 3+ years without incident.
- The Road Commission has conditionally agreed to abandon the right-of-way.

Board Discussion:

The ZBA members and counsel questioned the applicant regarding:

- Land ownership, plat/parcel structure, and the status of the conditional abandonment of right-of-way.
- The accuracy of the variance requested (6.8 ft, not 3.2 ft), history of the smoker structure, and the timeline of legal actions.
- Details about permit history, application signatories, and zoning official actions.

Public Comments:

- In Support: Numerous community members, business owners, and organizations voiced strong support, citing the Fitzgeralds' community contributions, the economic/cultural importance of the business, the perceived unfairness of the situation, and the administrative errors by the county. The Sheriff reported no pedestrian safety issues.
- In Opposition: Concerns were raised about preferential treatment, negative precedent, encroachment onto public land, and the fact that the applicant did not own the land for the addition. It was argued that administrative errors do not excuse zoning noncompliance.

Board Deliberations:

The Board acknowledged the 11 legal criteria for a dimensional variance. They discussed the county's administrative errors, the complexity of plat/right-of-way ownership, the financial/operational strain on the applicant, and public input. Options considered included a conditional variance, reduction of the building footprint, or full denial. The board must balance community benefit, fairness, and legal compliance.

Key issues raised:

- Ambiguity of ownership, boundaries, and compliance.
- Strong community support for the variance, tempered by concerns about precedent which has caused divisiveness within the community.

- The additional issue of expansion of a non-conforming use without a proper variance request.
- There was discussion regarding the complexity of the building being (at least partially) on property not owned by the applicant and how to handle this situation.
- The board considered three options for verifying property boundaries: county surveys, applicant-provided surveys, or reliance on applicant representations. The cost implications of each option were noted.
- The board referenced previous cases involving variances and property encroachments, including instances where payment was made for encroached land.
- The need for consent from Houghton Township, Keweenaw County, and the Road Commission for any resolution was emphasized.

Legal and Procedural Considerations:

- Board members discussed potential risks: Doing nothing, granting a variance on incomplete information, or facing court challenges due to inadequate records.
- The judge in pending litigation has indicated the need for more adequate records and findings of fact.
- Reference was made to relevant case law and the necessity of adhering to ordinance factors.
- Setback minimums and structural limitations further complicate rectifying the situation.

Proposed Solutions and Suggestions

- Securing written consent or an easement from Houghton Township and the Road Commission was identified as a key step.
- The possibility of a joint variance application (covering both dimension and use) supported by all landowners was discussed.
- Suggestions included cutting the building back to fit within the applicant's property lines or arranging payment agreements for the use of encroached land.
- Making any variance conditional upon completion of the Road Commission's requirements was discussed.

Motions:

Motion to go into executive session. M/ Delesha S/Desnick

Roll Call Vote: Mark Ahlborn, yes; Larry Butala, yes; Frank Kastelic, yes; Harvey Desnick, yes; Mike Delesha, yes.

The executive session focused on how to best address the complex legal and procedural problems related to the zoning variance request.

* Close Executive session and reconvening ZBA meeting.*

Motion to recommend a recess at this time for 90 days to allow the potential entry of a stipulation allowing a longer period of time for this ZBA to render its decision, with the intention that parties are looking at options to clear up legal issues that are present.

M/Ahlborn S/Butala.

Roll call vote: Mark Ahlborn, yes; Larry Butala, yes; Frank Kastelic, yes; Harvey Desnick, yes; Mike Delesha, yes.

Action Items and Decisions:

- The board entered into an executive session to discuss pending litigation.
- A motion was made and passed to request an extension from the court to allow time to secure necessary permissions and clarify legal issues.
- The hearing was recessed/continued for approximately 90 days to allow for resolution, with intermediate meetings planned.
- The board emphasized that all future decisions must be based on factual findings and the legal record.

Next Steps:

- The applicant (with legal counsel) will work to obtain support from Houghton Township and the Road Commission to resolve ownership/easement issues.
- The board's attorney will prepare and submit a court response seeking an extension of time from the Court.
- The board will reconvene in approximately 90 days to review progress and make a final decision.

Motion to set a Special Meeting date for September 18, 2025 at 1:00 to approve minutes of this meeting.

M/Ahlborn

S/Desnick

Motion Carries

Motion to adjourn at 3:34PM

M/Delesha S/Kastelic Motion Carried

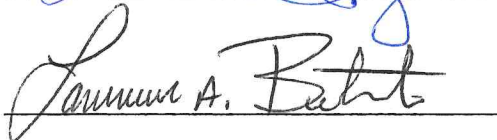
Susan Hockings

Recording Secretary:



Larry Butala

Elected Secretary:

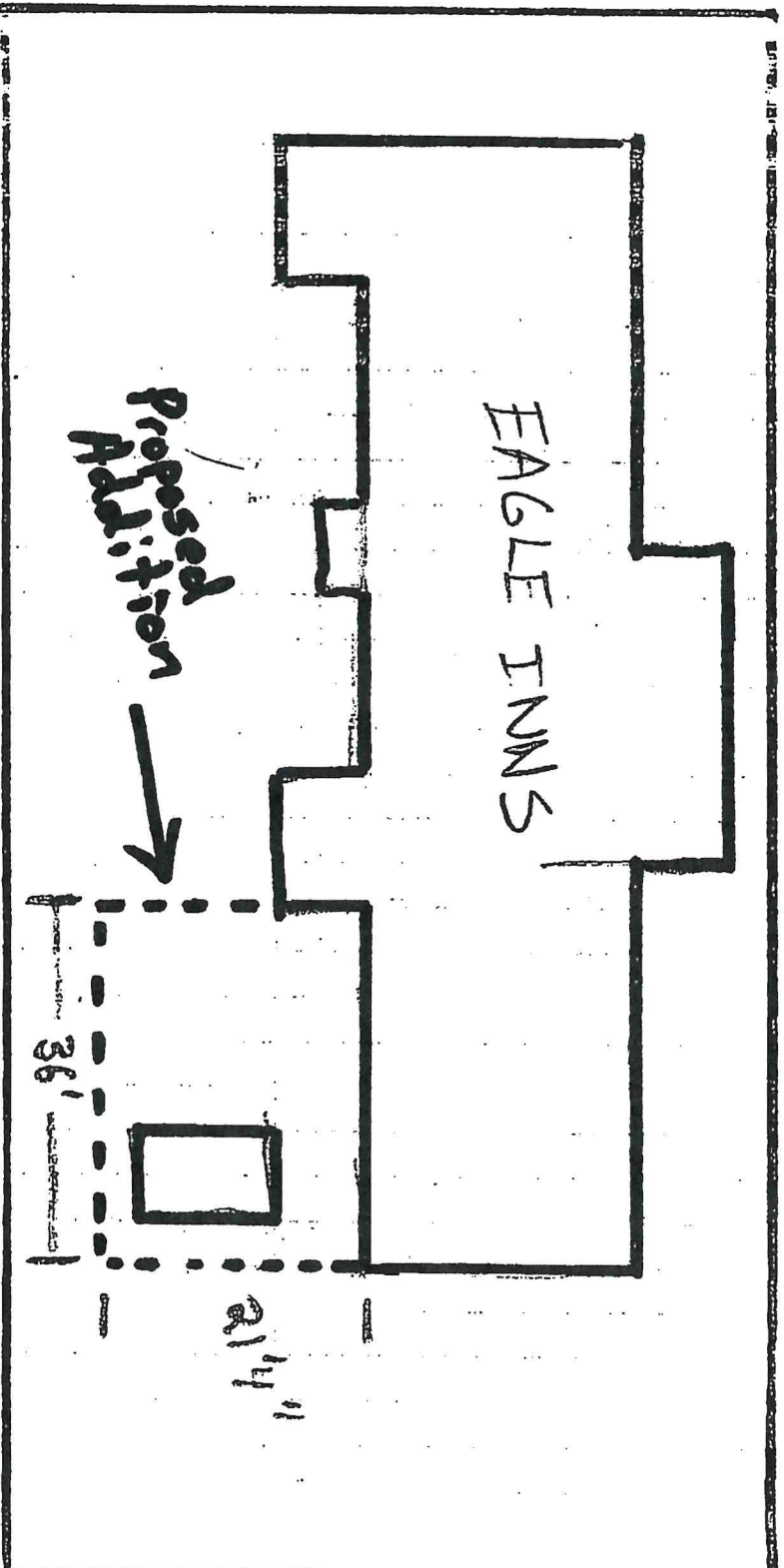


Attachments:

Exhibits

Staff Report

HEARINGS EXHIBIT A



ROAD CENTER LINE



HEARING EXHIBIT B

Facebook Post

Over three years have gone by since we obtained zoning and building permits for our smoker enclosure, largely completed it, and were then served a stop work order for the project. Following extensive discussion and negotiations, we reached a conditional settlement with the Keweenaw County Road Commission in 2023 to abandon a portion of the Front Street right-of-way. The Keweenaw County Road Commission's resolution provides that "once all of the above conditions are satisfied, abandoning and discontinuing the described segment of Front Street is advisable and in the best interest of the public."

The abandonment process was initiated by our neighbors signing a petition to abandon the right of way in front of the restaurant. The abandonment would not be final until the satisfaction of multiple conditions set forth by the Keweenaw County Road Commission. One of the conditions was to have an independent engineering firm perform a traffic study and confirm that the structure is clear zone compliant, which suggested minor changes to signage and striping.

One other condition was that the Keweenaw County Zoning Board of Appeals grant us a variance for roughly three feet. Last year the ZBA denied our request, so we appealed to the Keweenaw County Circuit Court. Oral arguments were held in May of this year and the Court issued an opinion and order on July 9th remanding the matter back to the ZBA. The Court held that the ZBA's decision did not provide "the necessary information to decide whether the statutory standards have been met by the ZBA" and that the record "is inadequate to make the review required". More specifically, the court indicated that there were no findings laid out beyond a failure to meet the setback requirement from the road, which is in and of itself the reason for the request for a variance in the first place. The Court specifically said "it appears no specific rationale or reason for denial was given by the ZBA."

The ZBA public hearing notice provides the following: "The public may appear at the hearing in person, or by counsel, to be heard and submit evidence with respect to the application. Public comments received before 4:00 August 29, 2025, will be included in the Zoning Administrator Staff Report. Public comments received from August 30th to noon on Sept 4th, 2025, will be included in the ZBA packets prior to the meeting."

We ask for those that are willing and able to provide letters in support of granting the requested variance by August 29th at 4:00 pm. Letters of support will be particularly important, especially, considering that the two ZBA members who voted in favor of the variance are no longer members of the ZBA. In addition to drafting letters, we're asking anyone who's available to come to the Keweenaw County court house on Thursday, Sept. 4th at 1:00 pm to show your support for us and publicly speak in favor of the variance.

We recommend emailing the following addresses:

clerk@keweenawcountymi.gov

codes@keweenawcountymi.gov

From: [Meister, George](#)
To: [Ryan Plecha](#)
Cc: [Carmody, Tony](#)
Subject: Front Street Clear Zone
Date: Tuesday, September 26, 2023 3:22:57 PM

Good afternoon Ryan,

GEI reviewed the roadway and site dimensions measured and compared them to the MDOT Road Design Manual guidelines. Based on our assumptions for Average Daily Traffic (ADT) and speed limit as well as roadway side slopes, it is our opinion using engineering judgement that the required clear zone for the impacted roadway is 7 feet based on the criteria mentioned above pursuant to the design manual. Further, the roadway at issue has a minimum of 8.5' feet clear zone, which again in our engineering judgment is sufficient and is clear zone compliant.

GEI

GEORGE M. MEISTER, P.E.
Project Manager
906.662.4747 cell: 906.869.8972
109 W. Baraga Avenue, Marquette, MI 49855





Consulting
Engineers and
Scientists

September 11, 2023
Proposal No. 610043

Keweenaw County Road Commission
1916 4th St
Mohawk, Michigan 49950

RE: Transportation Engineering Services – Clear Zone Evaluation for a Portion of Front Street, Located in Eagle River, Michigan

Dear Keweenaw County Road Commission:

GEI Consultants of Michigan, PC (GEI) conducted a clear zone evaluation of the roadway near the property described as the north 20-feet of Front Street directly adjacent to Lots 5,6,7, Block 1 of the plat of the Town of Eagle River on August 31, 2023. GEI took measurements to evaluate if the current parking layout and a new building addition meet clear zone distances based on the Michigan Department of Transportation Michigan, Design Manual Road Design Chapter 7, Section 01, Subsection 11. The manual gives a clear zone distance value for this road section (speed limit 40mph or less and design ADT (Average Daily Traffic) under 750) to be 7-10 feet from the edge of driving lane. A posted speed limit for the site location was not observed. We have assumed the speed limit to be 25 miles per hour due to the nature of the roadway. For this section of Front Street; having a low volume of traffic, flat terrain adjacent to the roadway, and a non-posted speed limit, assumed to be 25 mph, the distance of clear zone could be interpreted to be seven (7) feet. See Figure 1 for table data referenced in this paragraph. GEI mobilized a field crew to the site to measure the existing site features to the nearest half (½) inch.

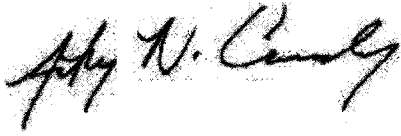
Front street was calculated to have an average travel way of 22 feet with 11-foot lanes in each direction. The parking stalls perpendicular to Front Street in front of the Fitzgerald's Restaurant were not marked. A typical parking stall is 20-feet long. The minimum measured distance from the edge of the Front Street driving lane to the beginning of the nearest 20-foot-long parking stall was 10'-2". The minimum measured distance from the edge of the Front Street driving lane to the outside wall of the new building addition was eight (8) feet.

The distance from the edge of driving lane to the closest parking stall and building addition exceeds the seven (7) feet clear zone requirement. GEI recommends parking stall lines be painted to direct motorists to the correct location off Front Street and maintain the clear zone area. Parking stalls should have dimensions of 9 or 10 feet wide by 20 feet long using a 4-inch-wide paint line separating each stall. The attached Figure 2 depicts field measurements taken. This letter was prepared making several assumptions due to lack of available data. Should any of these assumptions be incorrect, the findings and recommendations are subject to change.

If you have any questions about this letter, please contact me at (906) 629-1382.

Sincerely,

GEI CONSULTANTS OF MICHIGAN, P.C.



Anthony N. Carmody
Project Engineer

ANC/GMM: lmc/taw



George M. Meister, P.E.
Senior Consultant

Attachments:

Figure 1: Road Design Manual

Figure 2: Clear Zone Evaluation Measurement Plan

FIGURE 1

ROAD DESIGN MANUAL

ROAD DESIGN

7.01.11 (continued)

Current Clear Zone Criteria

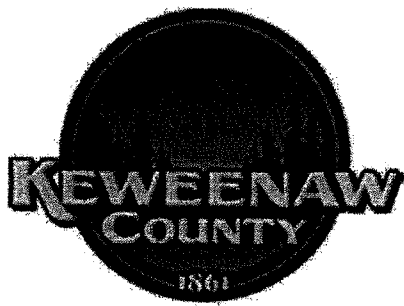
C. Clear Zone Distance Chart

CLEAR ZONE DISTANCES
(IN FEET FROM EDGE OF DRIVING LANE)

| DESIGN SPEED | DESIGN ADT | FILL SLOPES | | | CUT SLOPES | | |
|----------------|-------------|----------------|------------|-----|------------|------------|----------------|
| | | 1:6 OR FLATTER | 1:5 TO 1:4 | 1:3 | 1:3 | 1:4 TO 1:5 | 1:6 OR FLATTER |
| 40 mph or Less | under 750 | 7 - 10 | 7 - 10 | ** | 7 - 10 | 7 - 10 | 7 - 10 |
| | 750 - 1500 | 10 - 12 | 12 - 14 | ** | 10 - 12 | 12 - 14 | 12 - 14 |
| | 1500 - 6000 | 12 - 14 | 14 - 16 | ** | 12 - 14 | 14 - 16 | 14 - 16 |
| | over 6000 | 14 - 16 | 16 - 18 | ** | 14 - 16 | 16 - 18 | 16 - 18 |
| 45-50 mph | under 750 | 10 - 12 | 12 - 14 | ** | 8 - 10 | 8 - 10 | 10 - 12 |
| | 750 - 1500 | 14 - 16 | 16 - 20 | ** | 10 - 12 | 12 - 14 | 14 - 16 |
| | 1500 - 6000 | 16 - 18 | 20 - 26 | ** | 12 - 14 | 14 - 16 | 16 - 18 |
| | over 6000 | 20 - 22 | 24 - 28 | ** | 14 - 16 | 18 - 20 | 20 - 22 |
| 55 mph | under 750 | 12 - 14 | 14 - 18 | ** | 8 - 10 | 10 - 12 | 10 - 12 |
| | 750 - 1500 | 16 - 18 | 20 - 24 | ** | 10 - 12 | 14 - 16 | 16 - 18 |
| | 1500 - 6000 | 20 - 22 | 24 - 30 | ** | 14 - 16 | 16 - 18 | 20 - 22 |
| | over 6000 | 22 - 24 | 26 - 32* | ** | 16 - 18 | 20 - 22 | 22 - 24 |
| 60 mph | under 750 | 16 - 18 | 20 - 24 | ** | 10 - 12 | 12 - 14 | 14 - 16 |
| | 750 - 1500 | 20 - 24 | 26 - 32* | ** | 12 - 14 | 16 - 18 | 20 - 22 |
| | 1500 - 6000 | 26 - 30 | 32 - 40* | ** | 14 - 18 | 18 - 22 | 24 - 26 |
| | over 6000 | 30 - 32* | 36 - 44* | ** | 20 - 22 | 24 - 26 | 26 - 28 |
| ≥ 65 mph | under 750 | 18 - 20 | 20 - 26 | ** | 10 - 12 | 14 - 16 | 14 - 16 |
| | 750 - 1500 | 24 - 26 | 28 - 36* | ** | 12 - 16 | 18 - 20 | 20 - 22 |
| | 1500 - 6000 | 28 - 32* | 34 - 42* | ** | 16 - 20 | 22 - 24 | 26 - 28 |
| | over 6000 | 30 - 34* | 38 - 46* | ** | 22 - 24 | 26 - 30 | 28 - 30 |

* Where a site-specific investigation indicates a high probability of continuing or higher than expected crashes, or such occurrences are indicated by crash history, the designer may provide clear zone distances greater than 30 feet as indicated. Clear zones may be limited to 30 feet for practicality and to provide a consistent roadway template if previous experience with similar projects or designs indicates satisfactory performance.

** Since recovery is less likely on the unshielded, traversable 1:3 slopes, fixed objects should not be present in the vicinity of the toe of these slopes.



Blotter Incidents

[Home »](#)

22-0226-42

Laura reports that there was a confrontation (verbal) between the owner of the Fitz (Mike Lamotte) and Tom Bryant. Bryant is no longer allowed at the property. Talk to Mike and Laura, they wanted noted.

Date

Wed, 05/04/2022 - 13:10

Last Name

Rajala

First Name

Laura

Address

5033 Front Street

Eagle River, MI 49950

United States

City/Twp

Eagle River

Report Status

Not Reportable

Primary Officer

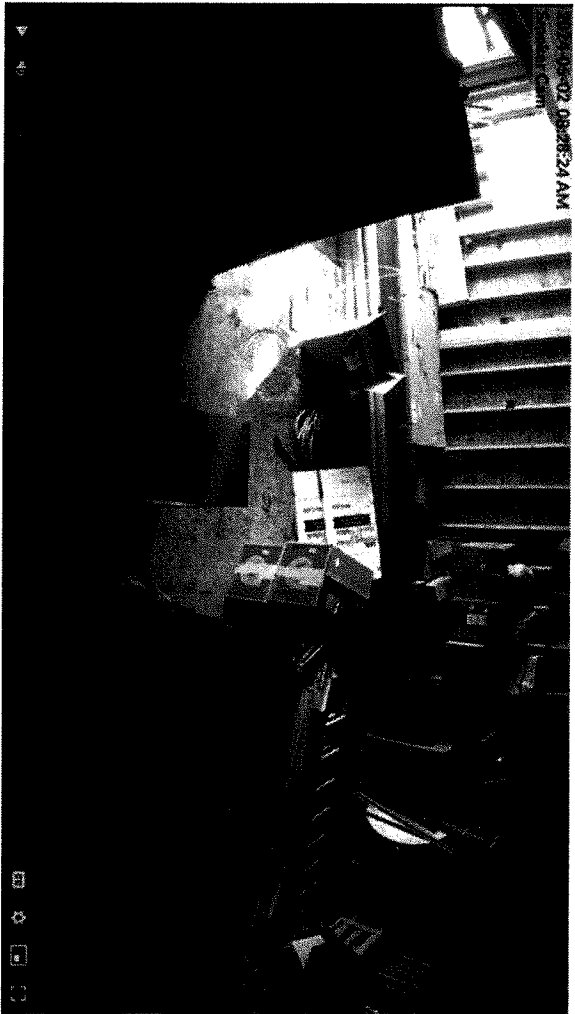
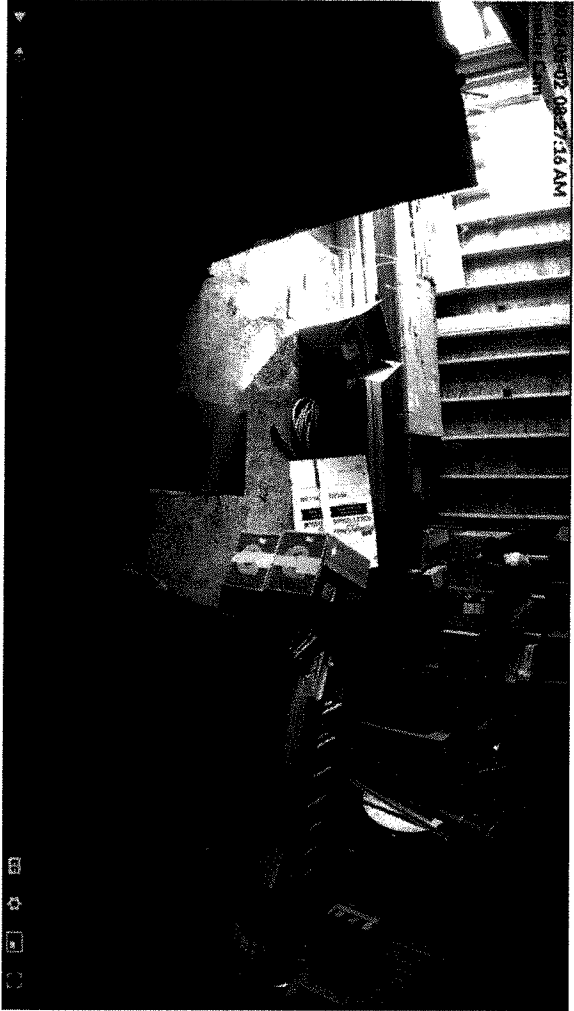
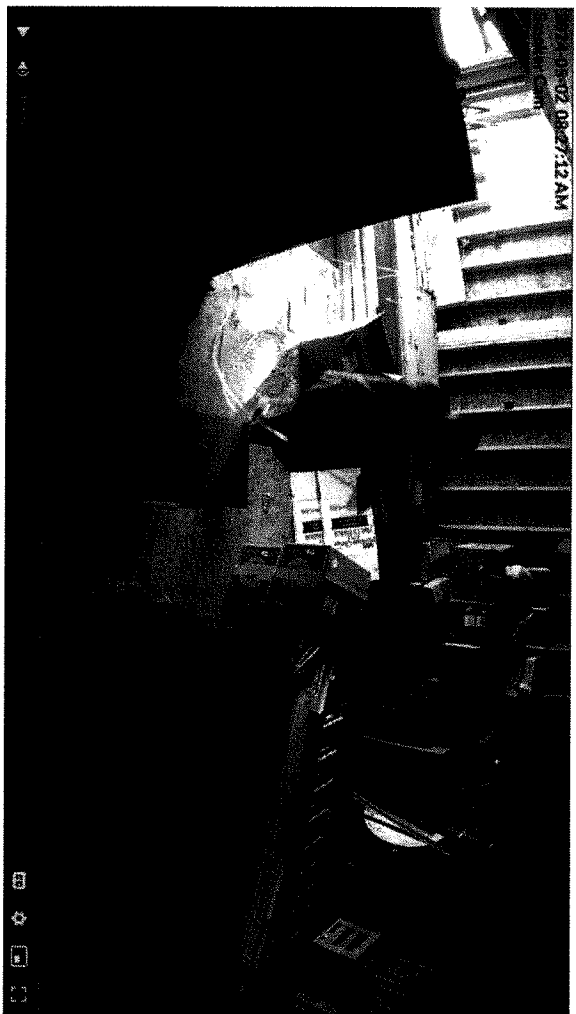
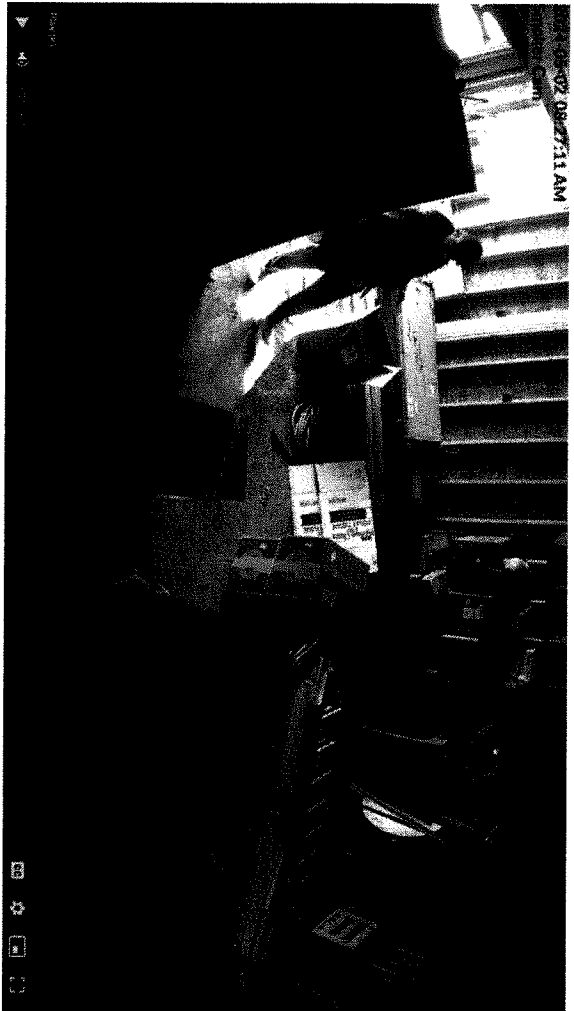
maho

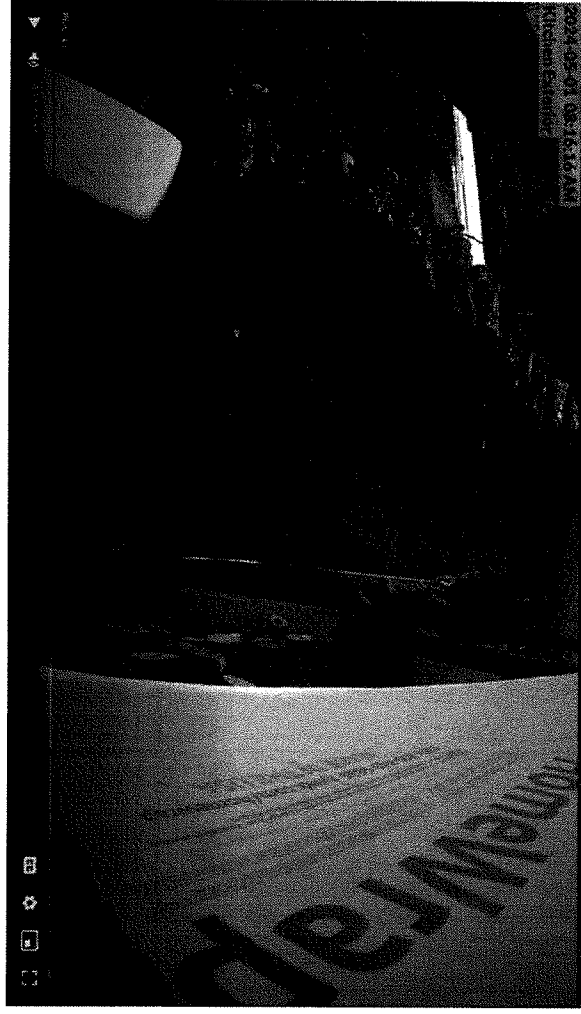
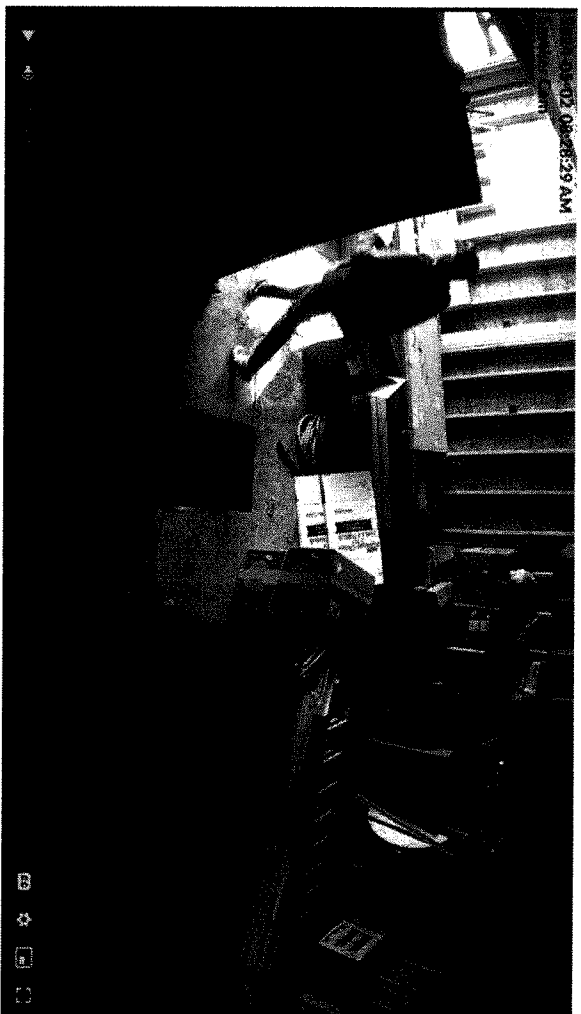
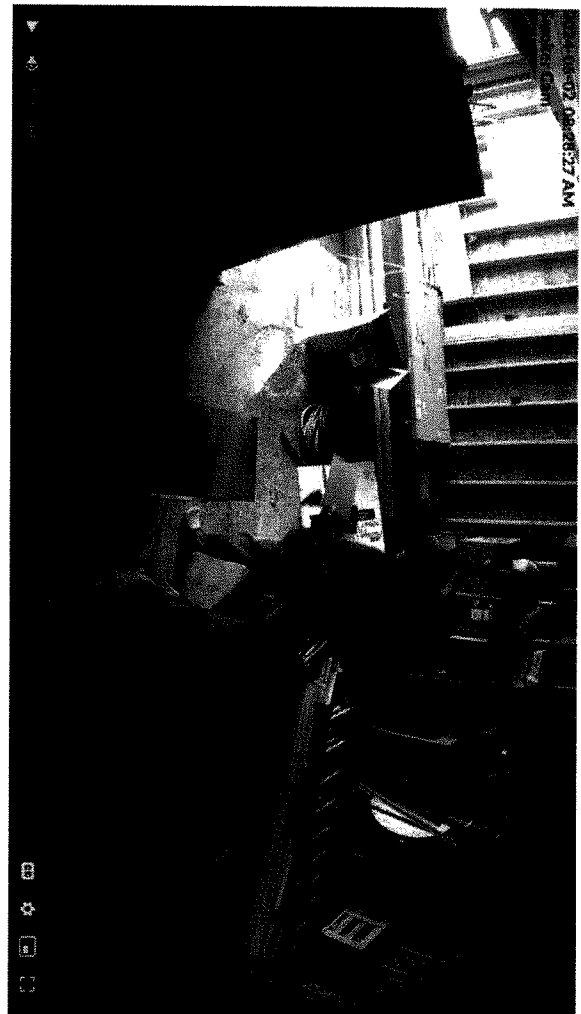
Recording Officer

maho

Primary MICR

99008





To: Keweenaw County Zoning Board of Appeals

From: Keweenaw County Zoning Administrator

Re: ZBA Setback Variance Request

Variance Requested: A reduction in the setback requirements of the Keweenaw County Zoning Ordinance from 10' to 3.2' of the ROW to allow an addition to the existing Hotel and Restaurant Property address is 5330 Front Street, Eagle River, MI 49950

Parcel Number: 403-51-001-005

Zoning: Rural Residential

Property Owner: James Lamotte/ Eagle Inns, Inc./ Mike Lamotte

Posted Notice at Courthouse & online: August 18, 2025 / Published in the DMG August 20, 2025

32 Letters of Support of variance received: 29 via email / 3 via USPS / 0 within 300'

No letters in Opposition

27 Letters of Notice: 4 to property owners within 300' / 23 to neighboring properties

Responses from mailed Notices: 1 (outside of 300')

Setbacks in Keweenaw County zoning refer to the minimum distance that new construction or principal structures must be from property lines. These regulations are designed to maintain the character and quality of the community and ensure that development does not interfere with the natural environment or the safety and welfare of the residents. The setbacks are part of the broader zoning regulations that govern the use of land and the design of buildings within the county.

In many instances, the property line and the ROW line are one and the same. In this case, a portion of the building prior to the addition was already near, if not on, the property line. There was no setback from the Front Street and Pine Street ROW intersection, and less than the setback requirements on both the Front Street and Pine Street ROW. In addition, it was positioned less than the 75' waterfront setback. Since that basic footprint was in existence prior to the adoption of the Keweenaw County Zoning Ordinance in 1975, the lot was grandfathered as a nonconforming parcel.

Section 9.2.C of the KCZO states:

"... the Zoning Administrator shall permit single lots of record (those in subsection B and above) that are nonconforming because they are substandard in area, width, or depth to be built on without variances provided the requirements for yards, width, depth and area is no less than seventy five (75%) percent of that required by the terms of this Ordinance. Further, the Zoning Administrator shall allow setbacks for front, rear, and side yards which are compatible with neighboring/adjacent principal structures provided that no front/rear yard be less than ten (10) feet, no side yard be less than seven and one half (7.5) feet and no waterfront setback be less than twenty (20) feet."

The original approved zoning and construction applications relied on information provided by the applicant. It showed more property than is owned by Eagle Inn, Inc. and relied on the location of the

smoker as being on the applicant's property. Once this error was discovered, the previous Zoning Administrator issued a stop work order which remains in effect today. An allowance was made to ready the addition for winter by enclosing the window and door openings and double wrapping with Tyvec.

In the case of buildings located on waterfront and the street, both the front and the back yards are considered front yards, and if the building is located at an intersection (Pine & Front Streets) and on waterfront (Lake Superior) all three of those sides become front yards for setbacks. Therefore, the correct setbacks are: 20' from Lake Superior, 10' from Pine Street, and 10' from Front Street. Anything less than that would increase the nonconformity.

As a nonconforming lot of record, an increase in the nonconformity, either in use or in structure would make it illegal nonconforming.

Section 9.8.B of the KCZO states:

"Lots or parcels which are substandard in area, width or depth and were established after the effective date of the Ordinance, August 14, 1975 are illegal lots of record and are not entitled to the status and rights accorded legally established nonconforming lots."

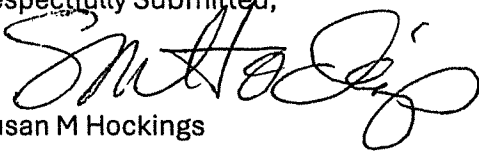
The new addition increases the existing nonconformity by bringing the building footprint up to and beyond the property lines, adds to the overall nonconformity of the lot, and already encroaches on the Pine Street and Front Street ROW, all of which make it illegal nonconforming.

As it now sits, it has been sided with materials to match the building and has finished masonry around the foundation despite the stop work order. It protrudes 20' into the Front Street ROW and encroaches on the Pine Street ROW. Additionally, the propane tank is in the Pine Street ROW, and the dumpster, grease or fire pit, along with picnic tables and northside parking are all located in the Front Street right of way. This has reduced Front Street to 40' along the addition with approximately 10' of those taken up by cars parked on the south side of the road.

There is also a health, safety, and wellness issue to consider as the addition blocks pedestrians' line of sight on Front Street as they enter and exit the building. It also impedes drivers from seeing pedestrians until they step into the street.

As Zoning Administrator, I would like to add that allowing such a variance would be setting a new precedent by allowing encroachment onto other properties, whether they be public or private. It would also negate Article IX NONCONFORMING LOTS, USES AND STRUCTURES of the Keweenaw County Zoning Ordinance.

Respectfully Submitted,



Susan M Hockings

Keweenaw County Zoning Administrator