

# Township of Lake

## Huron County, Michigan Zoning Board of Appeals

Public Hearing April 2, 2013  
Buchholz Variance

Chairman Bushey opened the meeting at 6:30 PM with the pledge of allegiance. Chair Louis Bushey, Jeanne Henry, Gerald Pobanz, Ric Geilhart, and Rich Ehrlich present. Acting Recording Secretary, Nell Jacniacki. Approx. 6 guests.

### **Approval of minutes of February 28, 2013.**

One correction – Pobanz did not vote aye - - he abstained.  
Motion to approve minutes by Geilhart, seconded by Pobanz.  
Vote: all ayes – motion carried.

Acting Recording Secretary read Notice of Hearing

### **Public comment**

Nicole Buchholz spoke first. She apologized for her husband absence but he had sustained a work injury and could not come. She said that prior to the hearing she personally wrote to all her immediate neighbors about the proposed changes to the deck and that a variance was sought.

Paul Golsch asked the size of the proposed deck. Ms. Buchholz replied, the new deck would be smaller than the old deck but in a different configuration. The current deck was almost 600 square feet. The deck is very difficult to clean, attracts problem animals and presents a danger to her child. Her builder suggested the changes to the deck, because the smaller version she and her husband had planned would not be attractive and detract from the value of the house. Instead of the various levels she now has, the new deck would be a clean rectangle, sided in. The new deck would not be as close to the neighbors as the current deck. It would be smaller, reduced from approx. 600 sq. ft. to about 387.5 sq. ft. The new steps will go to the side yard and not to the seawall and the setback will be greater than the current deck provides.

Henry said that when the deck was built, 3 ft. setbacks were allowed. She asked whether the board had two issues to decide. One for the actual size of the deck and a second issue presented by the setbacks on the Caseville side which would be 2 inches too close.

Marcia Chasney-Yates, a guest, asked whether she does not have to abide by the current ordinances if she takes down the old deck.

Chairman Bushey said that two years prior they would have been able to take down the deck to the footprint and rebuild without complications. Now after some changes to the ordinance she needs a variance.

Henry considered that the new deck would be considerably smaller but still larger than the current ordinance allows. She asked Ms. Buchholz whether she and her husband considered just making the deck a 12 by 25 ft. deck. Ms. Buchholz stated she wanted to keep the depth of the deck to allow for a table and chairs.

Geilhart thought that the measurement could change depending on how the builder attached the deck. The difference would be from about 4.3 feet to 4.7 feet; the latter being very close to the current 4.8 foot setback limit. Only the bottom of the deck **id** a few inches too far.

Henry asked whether the 25 feet across the front includes the door wall access and whether the main part of the deck has the depth she needs. Ms. Buchholz answered that yes the depth is adequate.

Henry again stated that 12 feet instead of 15.5 feet wouldn't need a variance.

Pobanz said if the Buchholz's kept the foot print and had it flat, it would be OK, but still bigger than the size deck they want.

Lou Colletta – she's non-conforming, but becoming less non-conforming.

Bushey closed the public comment portion and initiated Board discussion.

Henry noted that primarily the railing makes it jut out. The current deck is 3 tiers and a walkway.

Pobanz stated that less non-conforming is better. Henry agreed.

Pobanz motioned to approve the variance on setback and size because it was less non-conforming. Geilhart seconded.

Bushey said he would vote to allow the extra sq. footage and setback because the one is smaller and the other is within inches.

Henry added that the variance should be granted with the understanding that the rest of the deck will be removed in its entirety.

Ms. Buchholz said that was the plan.

Pobanz motioned to approve on set back and size because it will be less non-conforming and with the understanding that the appellants remove the existing deck in its entirety. Amended by Henry and seconded by Geilhart.

Vote all ayes – motion carried.

Board states that the reason for granting the variance is that the proposed deck is less non-conforming, therefore 303.11 C. 2. Exceptional Circumstances applies.

Chairman Bushey told Ms. Buchholz her variance was granted. She must start construction within 6 months and she must obtain a building permit.

Motion to adjourn by Pobanz. Seconded by Henry,

Vote all ayes – motion carried.

Bushey adjourned the meeting at 7:30 PM.