CITY OF LUDINGTON
BOARD OF ZONING APPEALS
Minutes – September 18, 2001

A regular meeting of the Ludington Board of Zoning Appeals was held on September 18, 2001 at the Ludington Municipal Building, 400 S Harrison St., Ludington, MI, and was called to order by Tom Tyron, Chairperson at 5:30 p.m.

PRESENT: Tom Tyron, Kaye Holman, Brian Purtee, Christine Warne, Ken Vanderbilt

ABSENT: Greg Dykstra, Kathy Saxton (excused), Bonnie Vaught (conflict), Joe Moloney

ALSO PRESENT: Building Inspector, John Healy and Recording Secretary Carol Ann Foote

ROLL CALL: The roll call gave the above results.

AGENDA APPROVAL: A motion was made by Ken Vanderbilt, seconded by Kaye Holman, to approve the agenda. Motion carried unanimously.

Tom Tyron took this time to address the board regarding his thoughts on the recent disaster . He stated that the disaster is about what we do as a democracy. While we are only a small part of this country, it brings home what it is all about. There are little cities all over the country that make decisions that are important to the citizens. What we do is very insignificant; it is all a part of the big thing. While we all don't always agree, I am proud to be in a system that we can do this. I grieve for the people of New York.

MINUTES: A motion was made by Brian Purtee, seconded by Kaye Holman to approve the minutes of the meeting of July 17, 2001 as written. Motion carried unanimously.

PUBLIC HEARING:
To consider a request from Mr. and Mrs. Steven Demchuk for a variance from the total number of accessory buildings allowed (2) according to Zoning Ordinance #23-00, Section 500.4:2, Accessory Buildings in Residential Districts, for the following described property: SIXTH ADDITION LOT 3 BLOCK 7, also known as 1006 N Robert St.

Recording Secretary, Carol A Foote, reported there were forty-four notices sent with no response.

Steven Demchuk, 1006 N Robert St., told the Board that the request that was written up was not quite right. I am requesting to replace an existing building that was damaged in the storm. I'm not asking to add any buildings. I have three buildings. One has been there since 57, one since 79 and the one in question since 1984 and it was totaled out due to the heavy storm that we had. It was unsafe and declared a hazard. The insurance company told me that I had to get rid of that building because my liability would not apply if anyone got hurt. So I replaced it with a smaller building that looks very nice and is in keeping with the rest of the neighborhood. So I am asking for a nonconforming building, to leave that building were it is. I figured I was all right because no one has ever complained about the building. At the time it was put in before, I had permission to put it in. I didn't need permits for the first one or third one, the second one I did and got. So I am asking for a non-conforming building to maintain or keep the building I have. I replaced a 10 X 14 building with a 10 X 12 building. A mini barn. I have photographs here, if you would like to see them. Tom Tyron said that he would like to see them. He drove by the place and was having trouble trying to figure out which was which. Mr. Demchuk pointed out the

damaged building and the building that replaced it. He told the Board that he needed the building because he has a medical problem. He has had a double bypass, a quadruple bypass, prostrate cancer and is a diabetic. He has been told he must keep active. So I use this building to store my equipment that I use to maintain my yard and keep myself active. I have a three-stall garage with a workshop in one stall and the other two taken up with cars. I do need the building. I was told if the cost to repair that building exceeds 50% it could not be allowed. I submitted a quotation showing that it was less than 50% to repair the building, but I couldn't get the panels, because the company that made that building went out of business. They made it for Arrow Products and they no longer make those buildings. I couldn't buy the panels anymore and I couldn't repair it. Then we have children next door, a daycare center with a lot of small kids. They play in our driveway and get in that building. I didn't want any of them to get hurt. We have daycare children walking down the alley and I didn't want that building exposed there were they could get hurt.

Tom Tyron closed the public hearing.

Kaye Holman wanted to know if 1,184 sq. ft. was correct for the three buildings. Brian Purtee said that it was.

Tom Tyron asked if there were practical difficulties.

Kaye Holman responded no. Christine Warne said that she thought that is why he brought up the disability, to have easy access to things. Brian Purtee told her that it had to be with the property, not the person. Ken Vanderbilt stated that a variance stayed with the property, it is not an issue with an individual.

Joe Moloney arrived at the meeting at 5:40 p.m.

Tom Tyron read section 500.42 of the zoning ordinance. The number of buildings that are there is a violation. The area of a single building cannot exceed 816 sq. ft; the garage exceeds that at 964. Maximum floor area should not exceed 25% of rear yard area. Obviously it does that at about 50%.

Kaye Holman said that there were no practical difficulties.

Kaye Holman made a motion to deny the request for a third building, seconded by Joe Moloney.

Tom Tyron stated that where he was getting hung up was he already had the buildings and just replaced a building that he had. I don't know if he put up the buildings without permission, he didn't have a permit for two of them. He may have needed the permits, but just didn't get them. I guess I understand what we are doing here, I have always understood that. I also understand that people have to be able to use their property. I do see that this exceeds the use substantially and crowds it up to make it a problem for fire protection. I support the motion.

Kaye Holman stated that he could have repaired that building. He chose to take it down.

A vote was taken on the motion and was carried unanimously.

Mr. Demchuck asked to speak. He said that they are denying his request and right next door the City has allowed five accessory buildings. One was either given or sold to Smith, placed on the property with City equipment, City employees, during working hours, on the lot line. That has been going on for years and the zoning office has been aware of it. Also, it is a junkyard that is a safety hazard that hasn't been

cleaned up and has been there for years. That is strictly an eyesore and the worst yard in the whole City, yet the City has done nothing about it. But you deny me.

Tom Tyron told Mr. Demchuck that he did not want to argue with him, but would explain what the Board does. We are a Board that hears individual cases. I understand what you are saying about your neighbor, sir, but that has nothing to do with us. Mr. Demchuck said that it had to do with the zoning office. Mr. Tyron said that if the neighbors were there under the same circumstance, the same would happen. They are like a court of law. We have no option but to follow the Ordinance.

Mr. Demchuck said that number 1; he was asked to put in for a building permit and did. He said he waited a month and got a letter stating that if it is over 50%, he could not put it in. He submitted a bid showing it was less than 50%, if the panels were available. They were not available because Esco Corporation, out of New Jersey, went out of business. I could not get other panels. Then when I submitted that, I got another letter saying you moved a building. I replaced it on an existing floor that was there. I did take the entire building off. One building came off, another went on. The old building was not off the property when the new on was put on. I was following the letter of the law, so to speak. There have been no complaints that I know of from anyone in the whole neighborhood. I have conformed to the requirements as to what the zoning says. Why am I being discriminated against, because I have the best example, right next door to me that has been allowed by the City and the Zoning Administrator?

Tom Tyron said that they could not argue with him on that. He could appeal the decision to the Circuit Court. The request has been denied.

Mr. Demchuck said that he guessed he would because he felt he had been discriminated against. How was he going to move the building? I think I should hire an attorney and bring a lawsuit against the City, jointly between the City and the Zoning office and individually against John Healy. I think there is a personal deal here. Mr. Tyron told him that it was his option, but this case was closed.

OLD BUSINESS:
Brian Purtee asked John Healy if he had heard any news on the Swiekhardt denial. Mr. Healy told him that they would be taking depositions this month.

Kaye Holman wanted to know the disposition of the Astrowski denial. Mr. Healy said that he heard that they would be bringing the property into compliance.

NEW BUSINESS:
Christine Warne wanted to know if they were going to respond to any seminars. John Healy said that he would try to have something arranged with the City Planner, Larry Nix.

PUBLIC COMMENT:
None

ADJOURNMENT: A motion was made by Kaye Holman seconded by Christine Warne to adjourn the meeting. Motion carried unanimously, and meeting was adjourned at 6:00 p.m.

Respectfully submitted,
Carol Ann Foote, Recording Secretary

Tom Tyron, Chairman