

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS
Minutes of the October 18, 2016, Regular Meeting
APPROVED

The October 18, 2016, regular meeting was called to order by Chairman Lee Strohl at 1:00 p.m. with the following regular members present: Lee Strohl, Liz Rettig, Mario Zarantenello, Carol Sizer, and Kathy Sellers.

Also in attendance were the following (on sign in sheet): Mary Drimalla, Brian Drimalla, Karen Denton, Phil Bender, Larry Anderson, Chris Brooks, Jerry Kohn, William McCollum, Alan Berkshire, Ric McDaniel.

The first order of business is to approve minutes from the June 3, 2016, Zoning Board of Appeals meeting. Strohl notes one minor spelling/word correction on Page 1 (change definite to define) and Sizer notes 1 minor spelling/word correction on Page 3 (change presents to present). Sizer motions to accept minutes as corrected; Zarantenello seconds. All Ayes. Motion carried and minutes are approved as corrected.

Strohl: Point of order Case No. 1123 will not be discussed per our Township Attorney. Rettig notes that we have information from the Court that at the Pre-trial hearing of the Court it was ordered that a Special Meeting be held on January 6, 2017, 2:00 p.m. Attorney Hilmer interjects that it is a Friday, January 6, 2017, at 2:00 p.m. to accommodate the applicant. Sellers asks Attorney Hilmer if the hearing will be specifically the information we have in our packet. Hilmer advises that the information will be re-noticed prior to the January hearing and information may be updated prior to the meeting depending upon what the applicant may present.

Case 1119 at 1:10 p.m.: Brian Drimalla and Mary Drimalla, property owner, Property: 12 Echo Hill, Sawyer, MI 49125 Property Code No.: 11-07-0003-0006-24-8

The request is for a front-yard setback and lot coverage variance. Applicants propose an addition with a 19 ft. front-yard setback (30 ft. required) and a total lot coverage of 24.7% (20% max coverage). Zoning Board variance is being requested from Sections 4.06 NCR1-Nonconforming R.1 lots of record, D.1 Schedule of Regulations.

Chairman Strohl opens the floor and Architect Chris Brooks speaks on behalf of applicant. Their present structure does not meet the current zoning setbacks; the applicants are permanent residents; the garage which is currently on the property cannot accommodate a vehicle because the height is not correct. Their first wish is to have a garage and the only place to put a garage is in the front yard. The proposed one is 12' x 22' and is as small as I would recommend but it would accommodate a vehicle, but projects 11 feet into the front setback. The neighbors are not affected by the view. The other variance is for square footage coverage. The present home is small and tight. The applicants want to expand to accommodate an elderly parent. Bethany Beach has approved the site plan – 1 story addition with basement. Height requirements not an issue.

Chairman Strohl opens the floor to any public comments.

The Board members begin to discuss the case. Seller says this is not a minor variance; can understand the reason for the request; does not see any line of sight problems or with height; proposed addition seems nice, but will go over lot coverage. What is the hardship? Zarantenello says that hardship has not been made clear. Convenience is all that has been presented. The side setbacks are such that a driveway cannot be installed to put a garage in the back. Topography, however, does not enter into the equation for a variance. Garages can be built in rough topography, it just costs more. Sellers: what about safety. Zarantenello: I actually see a safety issue with using the front yard setback. Further discussion among Board regarding conformity to zoning requirements and taking setbacks seriously because of safety, visibility. The neighboring houses are in conformance with the front yard setbacks, so that part of the zoning cannot be utilized. Sellers questions how would emergency equipment get to the new proposed addition. Zarantenello comments that the addition could be built if it were reduced in size and the new proposed garage could not be built without a variance because 20% lot coverage is the maximum. Rettig: They are currently at 14.1% coverage and want to go to 24.7%. Is it possible for them to build the addition without a variance and utilize up to the 20% coverage? Further discussion about the front garage currently being storage only. Applicant comments that what they are requesting is a single car garage. More discussion among board regarding what constitutes lot coverage, decks, lean-to, patios, etc., and there is no room for a garage if they must stay behind the setback line. Sellers asks what the lot coverage would be without the garage addition and in the configuration as presented for the addition. Architect answers 22%. Discussion regarding changing current storage into garage but applicant advises that it is impossible. Board discusses further and offers some possible suggestions to applicant to remain under 20% coverage because whether it is 1% over or 4% over, it is still over the lot coverage. Porticos, lean-tos and other structures discussed. Anything built 24 inches off ground and roof is considered a structure and goes toward lot coverage. Applicant and architect say that they have done their best to minimize their request and even try to put the garage sideways, but grade differential won't allow and would block windows of the house. Zarantenello: The 1 story addition in back and basement would have to be reduced by 152 square feet (leaving them with a 565 square foot addition instead of 718 square feet) to bring it to the 20% coverage. Sellers questions what the addition would be; applicant answers that it would be a handicapped accessible bathroom and handicapped accessible bedroom. Sellers questions if reducing the size would still allow it to be handicapped accessible. Applicant says it would be tight. Chairman Strohl weighs in that hardship is still at issue. Sellers offers putting a patio for additional room in for the elderly person outside of the space which would not count toward coverage. Sizer says if we are going to adhere to the lot coverage, then there are no options and there seems to be no hardship. Rettig: The applicant has brought this request to us as one unit and we can't dissect. The problem is that the current lot size is already so small, it gives us few possibilities. The applicant should try to work with what they have to stay within coverage and without needing a variance. Sellers asks if a firetruck had to get to the new addition, where would they access. Applicant answers that it could be on either side or in back. The neighbors are not over the setback and there's plenty of room between the houses. Rettig advises the applicant that they may have to make a decision, reduce the addition and eliminate the garage. A garage is a convenience not a necessity or a hardship. Zarantenello: It would be expensive, but an expansion of the current structure/garage could be done, kept within the setback, and change the

driveway. The garage would be in the basement. Sizer: It is not our responsibility to try to solve the problem.

Zarantenello makes a motion to deny Case #1119 based on the finding of fact that no hardship exists; the request is not a minimal request; Sellers seconds. All Ayes. DENIED.

Case 1120: Neal Cooper, property owner, Property: 15473 Herron Woods Lane, Union Pier, MI 49129 Property Code No.: 11-07-0030-0023-07-7

The property location is a corner lot bordering Warren Woods Road and Herron Woods Lane. Applicants propose to construct a swimming pool, hot tub, gazebo, and equipment shed located in the front yard bordering Warren Woods Road. The request is for a variance from Article 15, Section 15.03 Location of Accessory Buildings B. which prohibits placement of an accessory structure within a front yard.

Chairman Strohl advises that the property has two (2) front yards. Strohl opens the floor to the applicant. The applicant gives a short history and advises why he needs to put the pool in the front yard because there is no back yard (pool on Warren Woods side) because the line of sight to the pool is very important for safety reasons and not enough room. Has three (3) letters from neighbors in agreement. Applicant owns the lot on the other side. Architect William McCollum shows that the height and topography (low land) is also an issue. There are no lot coverage issues. Applicant has plenty of buildable area. The second part of this is that approximately 38 feet is to be split off of the adjoining lot owned by the applicant to expand this lot for the placement of the garage. The split will not create a non-conforming lot and the other lot is still buildable. Sizer questions what the footage will be on Herron Woods Lane for the new lot if split is done and McCollum answers 150 feet. If the variance is granted, lot will be resurveyed to create two (2) new lots with new legal descriptions. Garage is consideration, but not why applicant is here today. This is specifically for placement of pool in front yard. Sizer: Do you meet all setbacks? McCollum: Yes. Rettig: What is the lot coverage? McCollum, under 30% - about 20%. This is a conforming lot. Zarantenello: With a 30,000 square foot lot, the best place and only place you can put this pool is in the front yard? McCollum: Yes. Sizer: The lot has 2 front yards this is the hardship. Zarantenello: I am trying to find the hardship. Sizer: 2 front yards. Applicant: We need the pool to be in the line of sight from the kitchen. Rettig: There is nothing else available? McCollum: No. Sizer says that the hardship is classic (2 front yards) and meets all other requirements, let's move on. Strohl: Are there any other comments. Strohl would like it to be subject to the split. Sizer reminds us that the garage is not in their request and we cannot put this on the table and is not our issue.

Sizer makes a motion to approve Case #1120 based on the finding of fact that there is a hardship of two (2) front yards and it otherwise meets all other requirements; there are no safety or health issues; Sellers seconds. All Ayes. APPROVED.

Case 1121: John S. Railing, property owner, Property: 15961 Lakeshore Road B, Union Pier, MI 49129 Property Code No.: 11-07-7321-0013-00-0

This property is an existing non-conforming lot. Applicant proposes to add an 11.2' x 5.6' addition to the rear of a non-conforming home (has only .7 feet side yard and 3.9 rear yard setback) and extend the 2nd story. Overall height of

the dwelling will increased by 1 foot. The request is for a variance from Section 14.02 which prohibits new construction that does not meet R-1 single Family requirements.

Strohl opens the floor to the applicant. Sheila Railing is present and John Railing is on speaker phone and Mrs. Railing does not speak as she feels we have everything we need in front of us. Strohl opens floor to Board discussion. Sellers asks about the expansion and questions the request for 2nd story and additional 1 foot in height. Rettig and Strohl both ask what the current lot coverage is. No one seems to know this. Zarantenello feels from looking at the survey drawing that more than 25% of lot is already covered. But putting all of that aside, the house is already 3.9 feet from the back lot and less than 1 foot on the side yard and already located in both of the setbacks and they are asking to expand on a non-conformity. Currently 100% of the proposed addition is in the setbacks. Increasing a non-conformity is the issue. There is no hardship. We are already over lot coverage. Sizer: The expansion is creating a terrible crush on the land and this goes to health and safety. Sellers asks the applicant about what the hardship is. Railing answers that there is no foundation. Zarantenello says that the lot coverage has not been provided, but all feel that it exceeds the requirements. Because it is a non-conforming lot, if they want to build on the same footprint, they can, but we cannot increase the non-conformity. Strohl asks if the applicant has any questions.

Zarantenello makes a motion to deny Case #1121 based on the finding of fact that no hardship has been demonstrated, it would be increasing an already non-conformity which is not allowed; Sizer seconds. All Ayes. DENIED.

Case 1122: Alan Berkshire, property owner, Property: 15496 Lakeshore Road, Lakeside, MI 49116 Property Code No.: 11-07-7710-0001-00-4

Applicants propose to construct a 28' x 22' detached garage. The Chikaming Township Zoning Ordinance prohibits structures in the front yard. All required setbacks will be met. The request is for a variance from Article 15, Section 15.03 Location of Accessory Buildings B. In all zoning districts except the AG and R2 zoning districts, an accessory structure shall not be located in any portion of a front yard.

Strohl opens the floor to the applicant, Mr. Berkshire. Rettig asks if there are surveys or anything besides the drawings. Berkshire: No, but the property is about 1.4 acres so it has 50,000 square feet and the only structure on the property is a cottage with approximately 900 square feet of footprint. This proposed garage is about 600 square feet and will comply with all other requirements. Rettig: I have a Beacon plat of the property, please show me where in proximity to the cottage the garage placement would be. Berkshire shows us placement of garage close to cottage and shows driveway will be moved. Sizer: This one to me is the same as the other one, the hardship is two (2) front yards. No coverage issues. Rettig: This meets all other setbacks. Strohl: Are there any other questions? Anyone in the audience wishing to speak. A neighbor asks if the driveway will come off of Lakeshore or Franklin. Berkshire responds: will remain off of Lakeshore. Ric McDaniel: Will any construction vehicles be parked on Franklin? Berkshire: No. Sellers: I don't see any issues with this application.

Sellers makes a motion to approve Case #1122 based on the finding of fact that there is a hardship of two (2) front yards, this is a minimal request, there are no health and safety issues, and it otherwise meets all other requirements and setbacks; Sizer seconds. All Ayes. APPROVED.

Strohl: Is there any business for the Board?

Zarantenello speaks regarding the last Planning Commission meeting. Four candidates were spoken to about the open position of the Zoning Administrator. Their proposal is that two (2) people would be hired part time. One would be the Zoning Administrator in the office (part time) to do the day to day work, prepare application, issue building permits, telephones. The other applicant would be more in the technical aspect, going over blue prints, going over site plans, going over the zoning to make certain that it meets the zoning requirements. Sellers asks if it would be after the first person says it ok, or in conjunction with the first person. Each person would be doing two (2) separate job descriptions. Sizer: Would they cover for each other? Zarantenello: Yes, they would cover for each other. It would be like having a full time person there, and there would be some cross coverage of time. There was no specification of time. One would go over the zoning book and enforcement and since building inspector has also resigned, that person could do inspections. Rettig interjects that she is unsure whether a building inspector can be the zoning administrator and also that Trustee Sullivan and herself (Rettig) have been tasked to interview two (2) people and anyone else that may come forward. Strohl: In the meantime Estelle Brinkman will still be handling applications for ZBA? Sellers then asks what the next step is and who makes the recommendation to hire. Rettig advises that Sullivan and she would make the recommendation to the Board. Sellers ask why not to the Planning Commission (PC). Zarantenello says that the PC has already done their job. Rettig says that the PC was tasked to find applicants for a Zoning Administrator position, write a job description, and come up with numbers for salary. Sellers: There was a question about the two (2) people which will be interviewed by Sullivan and Rettig and confusion if they were two (2) new people. Rettig explains that these are the same two (2) that the PC has already interviewed.

Strohl asks about another issue that came in front of the ZBA months ago regarding the Dollar General. It has been revealed by the attorney of Dollar General that the measurements were incorrect for the parking spaces which has gone to the PC. What is going on with that matter and will it be remanded to the ZBA? Zarantenello says there was discussion at the last PC to remand to ZBA. Strohl: But, this hasn't happened. Jerry Kohn from audience asks if anyone has read the article in the Palladium the other day. No one has. Kohn says it concerns the owners of the property and their interest in pursuing permitting and that the developers have kicked the whole permitting situation back to the property owners to pursue this permitting. Strohl says that he is constantly bombarded with questions as to the Dollar General situation. Attorney Hilmer takes the floor and says that the developer (Midwest V) sent a letter to the Township that they (Developer) are not going to pursue, but the landowners may pursue as the applicant and the Developer has sent letters supporting the landowner to go forward with the permitting. At the PC meeting the landowners were given the option of either doing what was directed by the PC in June which was to file a variance request with the correct information or asking the PC to make a decision based upon the information in front of them. Strohl: That explains why nothing has come back to the ZBA. Rettig: So, no one has made a decision to move forward at this time.

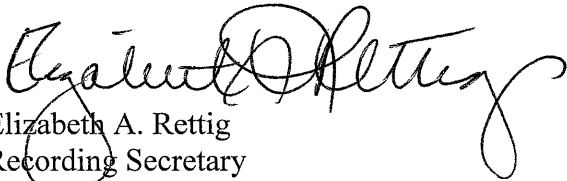
Additional comments from the audience:

Larry Anderson talks about a speaker at the July Planning Commission meeting and made a comment about hardship. Speaker said our ordinance does not allow a variance for hardship, our

ordinance only allows for Land Use Classification. I am struggling to understand how we are looking at cases and how two (2) front yards are a hardship. Speaker said that hardship was not a term to be used. Discussion ensues regarding the terminology. After much discussion, Practical Difficulty is the correct term and we seem to be using hardship in the context where we should be saying Practical Difficulty. Hilmer comments that our Ordinance defines Practical Difficulty under Section 23.04 D 1 – 5. All five (5) conditions must exist and be satisfied before Practical Difficulty exists. The ZBA Board members agree that the term Practical Difficulty should be used from here on in instead of the word hardship.

Rettig motions for adjournment at 2:30 p.m. Zarantenello seconds. All ayes. Motion carried.

Respectfully submitted,



Elizabeth A. Rettig
Recording Secretary
APPROVED: 11/15/16