

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS
Minutes of the February 7, 2017, Special Meeting
APPROVED

The February 7, 2017, Special Meeting was called to order by Chairman Lee Strohl at 10:02 a.m. with the following regular members present: Lee Strohl, Liz Rettig, Carol Sizer; alternate member Phil Bender also present. No other members were present.

Also in attendance were the following: Zoning and Building Administrator Van Thornton (hereafter ZA), Kim Livengood (ZA Assistant) and the following in the general audience: John Railing.

This Special Meeting was called by ZA Thornton because the application under Case #1121 15961 Lakeshore Road B, Union Pier, MI 49129, Property Code No. 11-07-7321-0013-00-0, (originally heard at the Public Hearing on October 18, 2016), John S. Railing was denied a variance. Although the application had accepted that decision and was prepared to move forward with rebuilding on the same footprint as was indicated by the ruling of the Board at the October 18, 2016, meeting, the ZA has discovered multiple sections of the building code that prohibit reconstruction of the structure on the “exact same footprint” as follows:

The code requirements refer to distance from lot line for fire rated walls, the requirement for emergency egress windows in all bedrooms, and the prohibition of any window in a fire rated wall.

As a result of the variance denial, the ZA seeks clarification of the intent of the Board’s statement to “rebuild on the same footprint.”

The applicant (Railing) in order to meet the above code requirements has requested two (2) minor modifications to the ruling of the zoning board of “rebuilding on the same footprint”:

1. Relocate the structure approximately eighteen (18”) inches to the East in order to achieve a greater distance from the neighbor’s lot line and to prevent the necessary excavations from damaging the neighbor’s property. This relocation would still require the construction of a one (1) hour rated firewall, which the application has agreed to do.
2. Relocate the structure approximately twenty-four (24”) inches to the South in order to allow the structure to have a minimum five (5’) foot setback from the rear property line and subsequently permit the installation of a conventional wall and bedroom emergency egress window.

The new structure (moved as above proposed) will be exactly the same footprint as the previous structure and meets the October 18, 2016, ruling of the Board. The minor relocation will result in a safer structure and safer installation. These modifications will not bring the structure into complete compliance, but does indeed reduce the level of non-conformance of the previous structure. The ZA has recommended to the Board that these minor modifications be approved.

The Chairman asks the Board to deliberate. After a general discussion among the members, all on the board felt that the minor relocation would be an improvement over allowing the structure to be rebuilt on the same footprint and a better solution given the information provided by the ZA.

Sizer makes the motion to accept the minor changes of reconstruction with the minor adjustments as outlined above; Bender seconds. Vote taken with all saying aye: Rettig, Sizer, Strohl, Bender. MOTION PASSES.

The next order of business is a related to **Case #1119 Brian & Mary Drimalla, 12 Echo Hill, Sawyer, MI 49125, Tax #11-07-0003-0006-24-8.** The Zoning Administrator, Van Thornton, speaks as follows:

Section 23.03(A) of the Zoning Ordinance requires the ZA to receive all appeals to the Board of Appeals. Subsection B requires the ZA to fix a reasonable time for a hearing and forthwith transmit to the Board of Appeals all papers relevant to the matter; Section 23.04 defines the matter in which the Board of Appeals shall make a decision; Section 23.04 (D) determine the review standards that the Board shall use in a variance request. The challenge that application Drimalla encountered during the time of their submission of the application for appeal was that there was no active “Zoning Administration” for Chikaming Township. As a result the applicant was unable to comply with Section 23.03(a) by submitting the appeal to a “Zoning Administrator.” It would follow that the ZA’s duties include 1) receive all pertinent applications; 2) check all applications for thoroughness and compliance with the Zoning Ordinances; 3) counsel the applicant on the thoroughness of the application, the proper use of the review standards, and the best format in which to make their request; 4) offer a recommendation to the applicable Board as to the appropriateness of the application’s request.

In this case, due to employee turnover and Chikaming Township having to contract with outside personnel for a temporary Zoning Administrator, it is this ZA’s position that the applicant Drimalla did not receive the “due process” that is guaranteed by our ordinances.

In addition, the applicant reports that the applicant did not submit the extensive drawings for consideration by the board because they were instructed to only provide a site plan.

As a result, ZA Thornton requests that the Board of Appeals re-opens this case to have all pertinent submittals presented and to consider a more thorough explanation of the request by the application. ZA Thornton feels from his discussions with the application that they did not have a thorough understanding of the process and did not submit the documentation that they spent a lot of money on due to this misunderstanding. If a Zoning Administrator would have been available, the applicant would have presented a much more thorough case after proper counseling from the Zoning Administrator. ZA Thornton requests that the Board agree to reconsider the Drimalla application after appropriate public notice requirements have been complied with.

The members of the Board hold a general discussion. Chairman Strohl feels that the matter deserves a new consideration as it was not given the proper due process. All the members agree.

Rettig makes the motion that Case #1119 be placed on the agenda for the next meeting of the Board (March 7, 2017); Bender seconds. All ayes. Motion passes unanimously. CASE #1119 WILL BE REHEARD ON MARCH 7, 2017.

Rettig motions for adjournment at 10:15 a.m. Sizer seconds. All ayes. Motion carried.

Respectfully submitted,

Elizabeth A. Rettig
Recording Secretary
APPROVED: 3/14/17