

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS  
Minutes of the June 20, 2017, Regular Meeting  
**APPROVED – JULY 18, 2017**

The June 20, 2017, regular meeting was called to order by Chairman, Larry Anderson at 1:00 p.m. Roll call: Phil Bender, Liz Rettig, Larry Anderson, Doug Dow, Kathy Sellers. Quorum. Also present: Zoning Administrator, Van Thornton.

Chairman Anderson advises that the next order of business is to approve minutes from the April 18, 2017, meeting. Anderson asks if there are any corrections. None heard; **Anderson motions to approve the minutes with a roll call consent vote. All in favor. Minutes approved.**

Case 1129: Taite Anderson/applicant 7246 Huntington Drive, Sawyer, MI 49125 Property Code No.: 11-07-1200-0003-05-6.

*Applicant is requesting to construct an accessory structure in the front yard. This lot has 2 front yards, Lake Michigan and Huntington Drive. This structure will be located in a high risk erosion area and will be served by separate septic and utilities. Chikaming Zoning Ordinance Section 15.03 states, an accessory structure shall not be located in the front yard.*

ZA Thornton addresses the board advising that the property is a through lot and is in the Critical Dune Area (Lake frontage and road frontage). Plans for the main structure have been submitted, but plans for the accessor structure have not yet been submitted. This is a request by the owner to determine if an accessory structure can be built. The building permit for the principal structure has not yet been issued because the final approval has not yet been received from the MDEQ or the septic approval from the Health Department.

Chairman Anderson asks ZA if MDEQ approval is necessary for the accessory structure? ZA: No, the accessory structure is not in the critical dunes area but is in a high risk erosion area. Going up the hill (this is where the principal structure will be located).

Rettig: Is the request to build the accessory structure first or in conjunction with the principal residence? ZA: In conjunction with. Rettig has a concern as to the timing of the building of the accessory structure before the principal residence. ZA assures us that he has every confidence that the principal structure will be built because of all of the engineering and work with the MDEQ. Owner's wife interjects: We will not be building the accessory structure first. It will be with the principal residence.

Chairman Anderson asks if there are any letters. ZA: Not to my knowledge. Chairman Anderson closes the public portion and goes to Board discussion.

Board discussion: Dow interjects that this is a through lot and this is the problem; Rettig notes that the lot has a most unusual shape. ZA Thornton points out where the house will be (in the middle of the lot) and the accessory structure in the flat area nearer the road. Chairman Anderson goes through the finding of facts.

1. Unique circumstances or conditions – through lot;

2. Strict compliance would unreasonably prevent use of property or be unnecessarily burdensome?  
All agree that yes, it meets this criteria
3. Did the unique circumstances result from actions of applicant? No.
4. Is the variance requested a minimum variance? Yes.
5. In harmony with spirit and intent of Ordinance and not be injurious to the neighborhood? In harmony/not injurious.

Sellers voices concern of area being tight and worried about public safety vehicles. ZA Van interject that it would be most difficult for any fire vehicles to go up the road, but this is governed more by the MDEQ for the roadway. Van continues that he has recommended that sprinklers be put into the property. Seller continues with her concerns that are we allowing structures that fire trucks cannot reach. Van answers that this could be such a structure where a firetruck would have difficulty, but possibly hoses could reach a fire. The fire marshal and Van have looked at the plans and the site and Van again advises that MDEQ is the higher authority for issuing restrictions and they will also limit the type of driveway which can be built on a critical dune.

**Anderson makes a motion that this variance be approved with the provision that it is contingent upon MDEQ approval of the house and also contingent upon a permit being issued for the house and that the house and accessory structure be built concurrently or the house before the accessory structure. Dow seconds. Voice vote: All vote yes.**

**APPROVAL OF VARIANCE #1129 WITH CONDITIONS.**

Case 1130: Fellowship Bible Church/applicant 12243 Red Arrow Highway, Sawyer, MI 49125  
Property Code No.: 11-07-0002-0010-15-8

*Applicant is requesting to replace the existing message board with an illuminated (LED) sign. Chikaming Township Ordinance Section 16.03.3 does not allow flashing or intermittent illumination on any sign.*

ZA Thornton asks to comment and advises that he has cautioned the pastor that flashing signs are prohibited in the Township. This specific proposal is about the installation of an LED and the pastor proposed the possibility of a continuously lit with only one (1) change in wording every 24 hours. The questions posed by the applicant to Mr. Thornton were if a sign is continuously lit and changes only once a day is it intermittent? There is no definition in the ordinance for intermittent or flashing.

Sellers questions if in the new zoning hearings has anything come up regarding the definition for intermittent. Thornton says that he has not seen it come up yet, but it is in the list of definitions which he wants addressed under the new ordinances. Sellers comments that flashing signs are distracting, but changing wording once a day is not in her opinion intermittent.

Chairman Anderson asks the board to hold off on discussion.

Dow asks ZA to give exactly what our current Ordinance states with regard to intermittent or flashing. Thornton says that our Ordinance has nothing and feels that LED is becoming the standard with lighting

(state of the art) and we will be approached with similar situations. This seems to be a good opportunity for us to discuss.

Chairman Anderson now reads the 6 letters received.

1. Jill Underhill expresses her opposition to any LED sign in Chikaming Township. Not a good fit in the green corridor; has buzzing sounds; an eyesore. Gives an example of the River Valley Senior Center sign which is distracting and runs day and night. Has attending many of the zoning meetings and LED signs has come up many times with opposition.
2. Leo Krusek discusses the aesthetics of LED signs and gives an example of the River Valley Senior Center sign and condemns it. Cites that in 2018 the new ordinances will go into effect and feels this should not be voted on now, but be delayed until after new ordinances go into effect.
3. Mary Stahota expresses her opposition citing it is ugly and distracting. Also examples the Senior Center and the High School as “tacky” signs.
4. Kathy Randolph feels the sign would be distracting and asks us to vote against.
5. Scott Rappe requests that we defer action on this matter until after the new zoning is in place. Feels sign would be inappropriate.
6. Amy Mader has reviewed the current ordinance. Feels that since we are in the middle of moving forward with new ordinances, this request should not be granted at this time.

Chairman opens the floor to public comment. Pastor Paul Delmark of the Church speaks on behalf of the sign. The church congregation voted on the sign and reiterates that the sign would only change once a day and the sign they now have is currently lit. Does not feel it would distract the traffic since it would not be flashing.

Tom Hackley speaks regarding his work on the Master Plan and the Green Corridor and our Township image. Addresses signs and changing messages saying that they are distracting and especially at night and number of messages on signs and number of messages per minute and hopes that the new ordinance will address these issues. Talks about River Valley High School and since they are a government entity, did not require permission and the same for the Elementary School. Does not know how the Senior Center got permission. Feels the new ordinance will address.

Pastor restates that they currently do have a lighted sign. Several member comment that they have not seen the sign “on.”

Chairman Anderson gives us a comment from Attorney Hilmer in response to a question posed by building & zoning office assistant Kim Livengood regarding lighted signs of the schools and senior center. Mr. Hilmer advises that the schools got the signs approved through a 2003 Michigan Supreme Court decision that held schools to be exempt from local zoning and the zoning administrator at the time felt that the signs fell under this exemption.

Chairman Anderson asks if there is any other public comment. Hearing none, he closes the public comment portion and goes to Board discussion.

Discussion begins by going through the five (5) finding of facts criteria. Dow proposes that we stop discussion at this time and reminds us of how much opposition there is against the sign. Dow feels that our current ordinance is “gray” and does not give us a clear ruling. Dow points out that on June 6 the consulting firm hired to assist with the new ordinances has addressed LED signs in four (4) bullet points of their proposal:

1. Permitted in commercial (electronic/LED)
2. Motion or animation is prohibited
3. Copy change would be allowed once every 10 seconds.
4. Required automatic dimmer at night

Dow goes on to request that we defer action on this request until a new ordinance is in place and then follow the guidance of that ordinance. Smartest move in fairness to all and when we get a new ordinance in place, we can revisit this.

Chairman states, so we are not approving or denying; we will ask the Pastor to come back to revisit this question after the new ordinances are in place. Dow: yes, we expect to have this done by the end of the year.

**Dow makes a motion that we defer this variance request until the new Chikaming Township Zoning Ordinance is in place and approved. Bender seconds. Voice vote: All vote in favor. VARIANCE IS DEFERED UNTIL AFTER THE NEW ORDINANCES ARE APPROVED.**

Thornton wants to clarify for the Board and the Church that this is not a denial; Not tabling this matter; we are deferring this until after the adoption of the new ordinance at which point, if their proposal does comply with the new ordinance, they do not have to come back to the Board. If, however, their proposal does not comply with the new ordinance, they may return to the Board and there will be no additional fee for this matter to be reheard. Chairman Anderson advises that he was going to clarify that there would be no additional fee should the Church have to come back again.

**Case 1131: Architect William McCollum representing Joe Sundberg owner/applicant 14950 Lakeside Road, Lakeside, MI 49116 Property Code No.: 11-07-0019-0070-00-7**

*Applicant is requesting to construct a 530 square foot attached garage that will increase lot coverage to 45% and will have a rear yard setback of 6 ft. Chikaming Township Ordinance Section 14.02 states maximum lot coverage shall not exceed 40% and shall have a rear yard setback of 30 feet in a Commercial District.*

Owner Sundberg explains the addition and McCollum correct the application to advise that the size of the building got smaller so that the coverage went from 40% to 33% so that there is only one request on the variance and coverage is no longer an issue. Owner still asking for a 6-foot rear yard setback (Lakeside Road is the front yard) and we have another setback on Pier Street – to clarify 2 front yards, 1 rear yard and 2 side yards. McCollum gives a brief history of the architecture. Garage to be 14 x 36 and another parking space is outside. Garage is set back 10 feet from side yard (pushing it back another foot so as not to impede side yard setback). This is all a pre-existing non-compliance (1920’s). This was the old post office building. There is also a standing water issue, but not what we are here for. Dow advises that this property was granted a special use permit (residential in a commercial). The coverage of 40%

is commercial code. Still a commercial parcel and has a special land use and commercial code governs. Van interjects: Setbacks for commercial: Rear 30 feet; front 25; and there are some different opportunities for side yards. Sellers asks if there is no other place? McCollum: None.

Chairman asks for any other public comments. Ellen Rosenberg (neighbor) asks to look at map and ask for clarity of location of building. McCollum assists her. Rosenberg ask: How will owner get into garage and when will work begin. McCollum answers: Through existing driveway and right away.

Chairman asks if there is any other public comment. None heard. Public portion is closed and goes to Board discussion. Board discusses the findings of facts one by one and finds that all criteria are met.

**Sellers makes a motion that this variance be approved as it meets all five (5) of the criteria of the finds of facts; Anderson seconds. Voice vote: All vote yes.**  
**APPROVAL OF VARIANCE #1131.**

ZA Thornton asks to speak to the Board regarding some questions:

1. Accessory Structures. Some popularity in our township is for accessory structures to be dwellings/sleeping quarters; but the ordinances says it cannot have a kitchen or an area used for preparation of food.
  - a. A resident who is elderly wants her daughter to live on her property in a separate structure;
  - b. A resident wants their elderly parents to live on her property in a separate structure.

In both of these above situations, the parties have suggested purchasing a manufactured home without the kitchen. If it meets all other parameters and the manufactured home meets the specifications of the state of Michigan (without a kitchen), has bedroom, bathrooms, living areas, is that an approved accessory structure? Anderson: Do you mean a trailer home, or like a Wausau Home on a foundation? Van: On a fixed foundation – like a modular home and as an accessory structure, all plumbing, etc., must be fed from principal structure; cannot hook up separate utilities. Rettig interjects, what is the intent of the ordinance? If you have an accessory structure with sleeping quarters for when company comes, that’s one thing, but if you are talking about a “permanent” structure (2 structures on one parcel), the Township has tried not to let this occur. Sellers: I don’t see why they can’t add on or add a garage. Van: Personally, I don’t think this is what the ordinance intends. I believe it intends that if you wish to build an accessory structure, the added benefit is that it can have sleeping quarters. I need some guidance. I agree that there are several other options. Anderson: If we allow them to build this, what’s to stop them from turning a bedroom into a kitchen in a few years; or it’s a rental, or a B &B. Rettig: I know there are several in our Township that have done the very same thing. Bender: With your electric grills and mini refrigerators, it’s pretty hard to define what is a kitchen. If you have sink facilities, this can all be circumvented. All agree that it is not the intent of the ordinance. Doug: I believe it’s a slippery slope. Van asks for a voice vote on whether a manufactured home as an accessory structure meets the intent of the ordinance. Voice vote: ALL SAY NO.

2<sup>ND</sup> QUESTION: Footprint

We have a theoretical home of 1,000 square feet and the contractor wants to put a ½ story (because of height requirements) and ordinance says it that it may be 75% of the floor area directly below. My interpretation is the floor area and not “directly below it.” Anderson: In my mind if you have a 40’ x 60’ structure and you have a roof, underneath the roof you can put 75% of your total 1<sup>st</sup> floor because of roof pitches, dormers, and I believe it’s the total footprint of the 1<sup>st</sup> floor. Van: I need clarity on “directly” below. All Board members are in agreement, total footprint of the floor below.

3<sup>rd</sup> QUESTION: Footprint = foundation?

Van: This is one you are somewhat familiar with, what is a footprint? Van shows the Board a picture of a survey with house, deck accessory structure and a former porch. This owner has already been approved to build a second story, but wants to extend the 2<sup>nd</sup> story over the former portion of a porch (either a beam or cantilever). If we determine the foundation is the footprint, may I allow him to extend over the former porch? Anderson asks if the porch has a foundation. Van: No. Anderson: Then in my opinion it’s a no because you are allowing him to build into setbacks which we have previously said no to and we would not allow this. This one is already in non-compliance. The real question is what can be built in a footprint in a non-compliant parcel. Can we invade the airspace? Several board members discuss. Van: Is the footprint the foundation and does it go to the sky? Homeowner Railing speaks (as this is his situation/survey) about his lot. He reminds us that he was granted a variance to move the house foundation so as not to be so close to the setbacks. He is hoping to build over the former porch. Anderson: Reminds him that the rear setback should be 30 feet. Doug: Tell us if the former porch had a foundation? Roof? Owner: No, nothing had a foundation. There was rear door to the patio with no structure over. Anderson: I believe we have gone too far down this road. We will address your question in general. Van: Again, a definition of footprint. Doug: The general answer is a footprint equals a foundation. The variance is a different matter. Van: We have already addressed this, we cannot increase a non-conformance area. Sellers: Why is the porch not considered the foundation? Van: Because it had no roof. The entire structure is now gone. Increasing the non-conformance is still the issue. Am I correct in taking away from this, foundation is the footprint and only a foundation with a roof structure is included. ALL BOARD MEMBERS AGREE. Owner asks about a cantilever. Anderson says that cantilevers are allowed, but cannot go into the setbacks. Van comments that our ordinance gives permission to average structures on each side to modify the setback. In this instance, we would not be moving into the “average” setback.

Chairman asks Thornton: Anything else?

Van: No. Thank you all.

Doug motions to adjourn at 2:25 p.m. Rettig seconds. Chairman announces we are adjourned.

Respectfully submitted,

Elizabeth A. Rettig  
Recording Secretary  
Approved: July 18, 2017