

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS
Minutes of the March 21, 2017, Regular Meeting
APPROVED – APRIL 18, 2017

The March 21, 2017, regular meeting was called to order by Chairman Lee Strohl at 1:05 p.m. with the following regular members present: Lee Strohl, Liz Rettig, Carol Sizer, and Kathy Sellers. Mario Zarrantenello was absent. Alternate Larry Anderson was present in the room and was asked to sit the Board.

Also in attendance were the following: Zoning and Building Administrator (ZA) Van Thornton, Robert Ezerins, Robin Gantman, and Debbie Jacobs.

The first order of business was to approve minutes from the March 14, 2017, Special Zoning Board of Appeals meeting. Strohl and Sizer have minor grammar corrections on Pages 2, Page 3, Page 4, Page 8, and Page 9. Sizer motion to approve the minutes with the corrections; Sellers seconds. All in favor. Motion approved.

ZA Thornton requests to speak to the board regarding an Opinion and Order dated March 10, 2017, of Judge Sterling R. Schrock in Case No. 2016-000059-AA, Martha Cares Olsen, et al. (Appellants) vs. Chikaming Township Zoning Board of Appeals (Appellee) and Jude and Reed, LLC, a Michigan Limited Liability Company (Intervening Appellee), this refers back to ZBA Case #1114, brought on to be heard on January 19, 2016, before the ZBA. The Order in essence overturned the ZBA's decision because the hardship was self-created.

Van presents the board with two (2) suggested motions – one to approve and one to deny. Van reminds the Board that in order to approve any variance request it must meet all of the requirements of Section 23.04 conditions 1 – 5. In order approve the request must comply with ALL of the conditions must be met. In order to deny the request, we must give a reason for the denial. This is critical for record keeping purposes and as seen in the Court reversal, these reasons become important to the Court for appeal purposes. The Court only has the written record of the ZBA and does not have the opportunity to speak to anyone. I encourage you, when you make a motion, please state why you are denying. It only takes one (1) condition to deny.

Sellers gets clarity on the suggested guidelines from Van.

Case 1125: Robert Ezerins representing property owners Helmut and Benita Lackajs, 15918 Lake Shore Road, Union Pier, MI 49129 Property Code No.: 11-07-0125-0003-20-3.

Applicants are requesting to construct a 620 sq. ft. addition in the front yard setback and will exceed the maximum height requirement by 2 feet. Chikaming Township Zoning Ordinance Section 4.06D(1a) states in part, structures with NCR-1 designations must be setback from the property line a distance equal to the average front yard setback of the nearest two lots on either side of the subject or 30 feet, whichever is less and Section 4.06D(1) states building height shall not exceed 18 feet.

Chairman Strohl opens the floor and Robert Ezerins speaks on behalf of applicant on this case and goes over the application. Advises if Board has questions he will gladly answer.

Chairman Strohl opens discussion to Board. Sizer questions if requests the average front yard setback of the neighboring yards. So then the only variance is the two (2) foot heights. Ezerins requests that the Board interpret this and felt without making an assumption, he would come to the Board. Sizer asks for confirmation from ZA Thornton. ZA reserves answering until after all discussion is completed. Sizer again asks specifically what the Board is being requested to consider. Larry Anderson asks for clarification of the neighboring parcels and are they the average. Mr. Ezerins clarifies that yes they are as shown by the drawings presented. Rettig asks if the 620 expansion is in the same set back. Sizer reiterates that there is no variance required on that and asks about lot coverage. Mr. Ezerins clarifies that the expansion meets the 20% lot coverage. Discussion about meeting zoning requirement of the average of the two (2) neighbors. Expansion does not exceed that same average line. ZA Thornton interjects that we need to look a Section 4.04 (non-conforming land or structure) talking about non-conforming not being allowed to be expanded to as to increase the non-conforming use. By adding the 620 square feet it appears that they are enlarging a non-conformance and not permitted by ordinance. Rettig wonders if they could move the expansion back to meet the 30 feet setback and not exceed lot coverage, then the only issue is the roof line. Sellers and Sizer both feel that this does not fall under the expansion as going into the setback because the "average set back line" has been established by the neighboring parcels. ZA Thornton needs to determine the front yard and side yard. Sizer says that the ordinance says "30 feet or the average of the 2 houses." For the front yard setback, that is correct. So we need to determine which is the front yard. This is not a through lot. Rettig asks where the front door is. Mr. Ezerins says the "average set back line" side is the address side of the house. Rettig confirms then that this is the "front yard." Anderson says in reading 4.06 Section D(1)(a) in lieu of complying with front yard setback, buildings and structures must be set back from the property line a distance equal to the average front yard setback of the nearest two (2) lots on either side of the subject lot or 30 feet, whichever is less. So, if we are viewing the line and then building it the way they are showing it, it is allowable. It is one or the other 30 feet or the average. Larry Anderson to the chair, I feel that this portion of the application (size and location) is allowable under our code and the difficulty is the roofline. Chairman, so we will remove this portion of the application – are we all in agreement – let's ask the ZA. ZA feels it is appropriate and we have stated the utilization of the ordinance. All consent that the setback is not at issue.

Chairman now reminds that Board that the roofline is at issue. Sizer asks Mr. Ezerins to explain why he needs the extra two (2) feet. Mr. Ezerins says before he explains, we need to establish the average grade. Mr. Ezerins presents the Board with the schematics. Goes on to say, high topography at the property line and explains the elevation and 18 feet to midpoint of a gable roof would be allowable. Asking for a shed roof, the only area that would be non-conforming is the red hatched area on the drawing. Anderson: Is this red-hatched area only for architectural purposes? Mr. Ezerins: We could live without the shed portion. It is not a hardship, its purpose if architectural and to allow more glass and is lower than the bluff and does not intrude into views. The adjoining properties are two (2) stories in height, but mostly an architectural feature. Sellers talks about 19 feet vs. 20 feet because of insulation. Mr. Ezerins says that the insulation is part of the request. We are looking at a 6:12 slope. It is not primarily aesthetic. The impact is

not more than a foot if you add in the insulation and we are trying to establish the average grade. Sellers asks about other homes and the size of their lots and are they equal. Mr. Ezerins says that most of the lots are about the same. Sellers asks if it is up to the application to determine the mean height or is it up to the Board or the building inspector. ZA Thornton finds that the dimensions and drawings are well founded and professional and would accept them as correct. Mr. Ezerins says that a surveyor prepared the drawings showing the grade. Chairman asks about the 2 foot request, and one of our criteria to meet (#4), is this a minimum variance. Is the extra 2 feet is for insulation or is it architectural? Mr. Anderson asks Mr. Ezerins if he previously said, "this really isn't necessary, it's just an architectural feature." Sizer, so on the fact, it doesn't meet #1 or #4. No practical difficulty and not a minimum request. The Board looks at each item (1 – 5). Sizer says it is a minimal request, but it is self-imposed (so it doesn't meet #3).

Strohl: Before we go to decision making, let's see if there is anyone else who needs to speak on this matter. ZA Thornton reminds us to analyze the lot coverage. Definition of structure read aloud, which include decks. Lot coverage must include all principal and accessor structures. They have not included the deck in their lot coverage in the calculation. Sizer: This has not been addressed in the variance request. ZA Thornton: Yes, but we must consider this and the deck does not comply with the lot coverage. Anderson: The total lot coverage would then be nearly 34.9%. ZA Thornton feels there was an omission in the application, but it should have been included. Anderson: What section of the ordinance discusses permeable vs. nonpermeable. ZA Thornton: I am considering it as a structure. I don't know of any part of the zoning that discusses this definition except for parking areas. Sellers: I agree we do have to consider the coverage of a deck. If we were to grant the variance, we would have to consider the deck. Sizer: We have already agreed that the variance isn't needed for the coverage, so we are looking at the roofline. Rettig: I also feel that the deck should have been included. Anderson: I would ask that the ZA research this to see if there is a difference and usually permeable is not counted. Seller: Is deck on ground or off ground? Mr. Ezerins: Off the ground. Rettig: With footers? Mr. Ezerins: Yes. Rettig: This is a structure then. Sellers: Permeable or not, this is a structure. Anderson: I think we should table, and look from more information. Sizer: And if in fact, the request exceeds the 20% lot coverage, then the variance be changed. Anderson goes on to define permeable (like a deck with slates to allow the water to run through) or nonpermeable like a concrete driveway. If in the research we find it to be over the lot coverage, then this gentleman would be coming back. Rettig: The variance either needs to be amended. Anderson: What is the process for tabling? Chairman: Explains that if tabled, the decision would be delayed to the next meeting. Mr. Ezerins: I would say we don't have to include the deck and we will do whatever we need to do at ground level. If there was a deck added at a later time, if we decrease the overall footprint. We can handle this administratively and we can handle the average grade administratively as well. Can we build this addition where it is, and the roof line – these are the main thrusts. The deck can be handled later and we can clarify that by then.

Chairman Strohl: Let's discuss without a deck, if we can find all five of the criteria either for or against the application – let's not pass this on for another month. Sizer: The deck is not part of the request and we can make reference to it in our decision. Anderson: Have we agreed that the addition is not required. (All say yes.) And we have talked about the roof structure – so this is what's at issue. We need to reference in our motion and minutes to research permeable. Rettig: The building department can research. Sellers: So let's go through the five criteria.

Kathy: 1. Unique Circumstances. So isn't this a non-conforming lot.

Anderson: We have to meet all five to approve, we only have to meet one to deny. So, the controlling to deny is #3, which is that they have made their roofline unable to meet the ordinance. Sizer: #2 – cannot meet because the can reasonable use the property. Strohl: Also cannot meet #4.

Kathy makes a motion that we DENY this request because it cannot meet #3 criteria, the unique circumstance or conditions do result from the actions of the applicant. So it does not meet our ordinance. After discussion, all Board members find that a variance is not required for the expansion of the building into the front yard setback because it does not require a variance as it meets the average set back line of the neighboring properties. This only applies to the request for the addition and not to the construction of the deck as no deck shall be included in this decision. Sizer seconds. Roll call vote: Strohl: Yes; Anderson: Yes; Sizer: Yes; Rettig: Yes, Sellers: Yes. APPLICATION FOR VARIANCE IS DENIED. Chairman Strohl also advises that there were no letter sent as to this application.

ZA Van Thornton speaks to the Board one two (2) issues which are actual situations and seeks the advice of the Board:

- 1) Section 4.02(D) refers to adjoining lots under the same ownership and non-conforming status of one or more of the lots. The ordinance says that if one (1) is a non-conforming lot, they shall be joined together. This is somewhat difficult to achieve in the real world without an extensive legal process. A person has inquired, 2 adjacent lots, both have road frontage, and the rear yards are contiguous, one is improved, and one is vacant. The question is: Do both lots have to be vacant in order to bring in the requirement to join them together? This is because the owner has asked to sell the vacant lot. These are lots of record.

Sizer: My first inclination is no.

Anderson says that this has come before the Board before. We gave a variance to a party with 2 improved lots and they wanted to sell and we gave the variance so there wouldn't be 2 houses so we allowed them to separate. We also had a big discussion on if 2 lots were adjacent one improved and one unimproved it had to be joined. That's what the ordinance says. We went so far as to say, how do we go about finding out where these conditions exist and notifying the owners and then making it the owner's responsibility to combine them with one tax identification.

Sizer: The whole reason for the ordinance is to not create non-conforming lots where 2 together would be conforming. The intent is that they be required to be combined whether or not 1 was improved.

Strohl: Are the ordinances silent on this?

Thornton: I agree with Mr. Anderson that the ordinance is clear that 2 adjoining lots under the same ownership which are non-conforming shall be joined. The question that came up was the question of the ability to market the vacant lot and this would violate the intent of the ordinance by creating another non-conforming lot.

Rettig: If we will remember on the Court order that was just reversed by the Berrien County Trial Court (Olsen Case #2016-000059-AA) where the ZBA gave the ok to build on a non-conforming lot because it was lost to tax sale, the Court reversed our decision. Although it was not the fault of the current owner it was the fault of the previous owner who made them non-conforming so it is self-inflicted.

Strohl: We don't want to increase the non-conformity. Is it incumbent for the Township to put the wording in the new ordinance.

Anderson: What is the opinion of our attorney?

Thornton: The State ordinance says go to your ZBA first for interpretations.

Sellers: At what point do they have to join them?

Thornton: I would think when we become aware of it.

Rettig: Think about the ownership purchase. Why are you buying? To make the lot more saleable, build a bigger house, a pool, or protection for no one else to build. To make 2 lots non-conforming is totally against the intent of the ordinance.

Question from Robin Gantman: If the properties were in different names but the same family, it would be totally ok.

Rettig: It would never come to us because we wouldn't know that the different ownerships were related.

Gantman: But this happens every day, through inheritance, and the lots are 14,000 square foot each, so why should they not be able to sell.

Rettig: Why didn't they take title differently?

Gantman: I had the same thing and changed ownership right before the ordinance changed. It's all mixed up and it doesn't make sense.

Sellers: Their back yards abut, 2 different streets? But they are in different names?

Gantman: No

Sizer: I do have sympathy, we can only go by the intent of the ordinance. 20,000 is the minimum. The intent is not to increase non-conformity. The reason they shall be joined is to create a conforming lot – out of 2 non-conforming or not sell off a part to make it nonconforming. That's what we are stuck with.

Rettig: Every lot of record is able to be built upon if they come for a variance except that the ordinance says that non-conforming lots shall be adjoined. The Court has slapped us three different times for not following the ordinance. Our current ordinance says combine – we have no other choice.

Sizer: There are probably many people who we don't know about, under the same circumstances, but once we know about it, we are forced to follow the ordinance. We should try to identify these situations and get notices out to those who are in this situation.

Thornton: My situation is I have rules and I have to enforce. My rules say that this property must be joined by the terms of our ordinance and may not be sold.

Rettig: As an enforcement agent, I think we should go through the records and use our ordinance as the reason for the combination.

Anderson: We were going to go through the records. Send a letter that says it is incumbent upon you as owners to join the parcels.

Strohl: Unfortunately it didn't happen.

Sizer: Would it also apply to a conforming and a non-conforming.

Anderson: Yes. They can't get rid of the non-conforming.

Sizer: You wanted a vote?

Thornton: Yes. A vote on the interpretation. Restating: In the case of 2 contiguous non-conforming lots, 1 of which is improved, 1 of which is vacant, may the vacant lot be sold contrary to the requirements of section 4.02?

Anderson: Amend that to say 2 lots – 1 or both of which is non-conforming

Sizer: No; Rettig: No; Stroh: No; Anderson: No. Sellers: No

Thornton: That will be approached with our new zoning ordinance.

- 2) The next item is clarification of Section 15.03A we have a table that defines the maximum square footage of accessory structures on lots in an R-1 district. Does the 1,500 square foot allowance for lots between 1 and 2 acres, does that refer to a total area for all accessory buildings on a property – in other words if there are 3 accessory buildings are they limited to 1,500 square feet total or may each of the accessory buildings be as large as 1,500 square feet as long as we do not exceed the lot coverage. If we look at the table and go down the column, it refers to maximum lot coverage. My sense is that you may build as many 1,500 square foot accessory structures up to any other terms that would apply.

Sizer: If you use the percentage, 1 acre (43,560 square feet), so 1500 is much less than 20%. Our zoning does not limit accessory structures?

Rettig: Like a pool, gazebo, deck, shed – accessory structure. My interpretation is 1500 per structure.

Sellers: That's my interpretation as well – per structure.

Sizer: My first reaction is that they would have stated more than one structure.

Thornton: It doesn't speak to that.

Anderson: Is there a case that you have?

Thornton: Yes, someone brought a preliminary site plan and this would apply. He has the square footage and the lot is large enough and wants 3,000 square feet of accessory structures.

Anderson: My concern would be if we say you can have as many as you want, it doesn't seem to be what is written here.

Sizer: Nor does it seem to be the intent – as we try to keep those things to a minimum.

Anderson: I'm not sure that we should be giving this person any sort of approval without bringing it in for review.

Strohl: Let's play what if, being on the Board of Review, we get many people coming in with many structures and the assessor is not allowed to go on the property to assess. There are multiple building – when is it too much. The ordinance is silence on the number of structures. I think your interpretation is correct.

Sellers: How can you put a number on how many you can build. Tell me what the ordinance says.

More discussion among board and discussion that there are limits based on square foot coverage/lot coverage. The key word in the ordinance is “total” on the lot.

Anderson: So you are seeking clarification for us to say that for a 1 – 2 acre lot they can have a 1,500 square foot building or 2 – 750 or 3 – 500.

Thornton: Yes. If they have the lot size, could they put multiple 1,500 structures.

Anderson/Strohl/Rettig/Sizer/Sellers: No, 1,500 total. Once you reach 1,500 – 3 buildings of 500 – you are done. Total for the lot.

Sizer addresses the board: I own property in the Township, but I no longer vote in the township and as such I cannot stay on the board, so this is my last meeting. It has been a pleasure to work with everyone on the board and kept me involved in the community. I have enjoyed it. I moved to Benton Harbor and vote there.

Sizer motions for adjournment at 2:37 p.m. Sellers seconds. All ayes. Motion carried.

Respectfully submitted,

Elizabeth A. Rettig
Recording Secretary
Approved: 4-18-2017

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS
Minutes of the March 21, 2017, Regular Meeting
APPROVED – APRIL 18, 2017

The March 21, 2017, regular meeting was called to order by Chairman Lee Strohl at 1:05 p.m. with the following regular members present: Lee Strohl, Liz Rettig, Carol Sizer, and Kathy Sellers. Mario Zarrantenello was absent. Alternate Larry Anderson was present in the room and was asked to sit the Board.

Also in attendance were the following: Zoning and Building Administrator (ZA) Van Thornton, Robert Ezerins, Robin Gantman, and Debbie Jacobs.

The first order of business was to approve minutes from the March 14, 2017, Special Zoning Board of Appeals meeting. Strohl and Sizer have minor grammar corrections on Pages 2, Page 3, Page 4, Page 8, and Page 9. Sizer motion to approve the minutes with the corrections; Sellers seconds. All in favor. Motion approved.

ZA Thornton requests to speak to the board regarding an Opinion and Order dated March 10, 2017, of Judge Sterling R. Schrock in Case No. 2016-000059-AA, Martha Cares Olsen, et al. (Appellants) vs. Chikaming Township Zoning Board of Appeals (Appellee) and Jude and Reed, LLC, a Michigan Limited Liability Company (Intervening Appellee), this refers back to ZBA Case #1114, brought on to be heard on January 19, 2016, before the ZBA. The Order in essence overturned the ZBA's decision because the hardship was self-created.

Van presents the board with two (2) suggested motions – one to approve and one to deny. Van reminds the Board that in order to approve any variance request it must meet all of the requirements of Section 23.04 conditions 1 – 5. In order approve the request must comply with ALL of the conditions must be met. In order to deny the request, we must give a reason for the denial. This is critical for record keeping purposes and as seen in the Court reversal, these reasons become important to the Court for appeal purposes. The Court only has the written record of the ZBA and does not have the opportunity to speak to anyone. I encourage you, when you make a motion, please state why you are denying. It only takes one (1) condition to deny.

Sellers gets clarity on the suggested guidelines from Van.

Case 1125: Robert Ezerins representing property owners Helmut and Benita Lackajs, 15918 Lake Shore Road, Union Pier, MI 49129 Property Code No.: 11-07-0125-0003-20-3.

Applicants are requesting to construct a 620 sq. ft. addition in the front yard setback and will exceed the maximum height requirement by 2 feet. Chikaming Township Zoning Ordinance Section 4.06D(1a) states in part, structures with NCR-1 designations must be setback from the property line a distance equal to the average front yard setback of the nearest two lots on either side of the subject or 30 feet, whichever is less and Section 4.06D(1) states building height shall not exceed 18 feet.

Chairman Strohl opens the floor and Robert Ezerins speaks on behalf of applicant on this case and goes over the application. Advises if Board has questions he will gladly answer.

Chairman Strohl opens discussion to Board. Sizer questions if requests the average front yard setback of the neighboring yards. So then the only variance is the two (2) foot heights. Ezerins requests that the Board interpret this and felt without making an assumption, he would come to the Board. Sizer asks for confirmation from ZA Thornton. ZA reserves answering until after all discussion is completed. Sizer again asks specifically what the Board is being requested to consider. Larry Anderson asks for clarification of the neighboring parcels and are they the average. Mr. Ezerins clarifies that yes they are as shown by the drawings presented. Rettig asks if the 620 expansion is in the same set back. Sizer reiterates that there is no variance required on that and asks about lot coverage. Mr. Ezerins clarifies that the expansion meets the 20% lot coverage. Discussion about meeting zoning requirement of the average of the two (2) neighbors. Expansion does not exceed that same average line. ZA Thornton interjects that we need to look a Section 4.04 (non-conforming land or structure) talking about non-conforming not being allowed to be expanded to as to increase the non-conforming use. By adding the 620 square feet it appears that they are enlarging a non-conformance and not permitted by ordinance. Rettig wonders if they could move the expansion back to meet the 30 feet setback and not exceed lot coverage, then the only issue is the roof line. Sellers and Sizer both feel that this does not fall under the expansion as going into the setback because the “average set back line” has been established by the neighboring parcels. ZA Thornton needs to determine the front yard and side yard. Sizer says that the ordinance says “30 feet or the average of the 2 houses.” For the front yard setback, that is correct. So we need to determine which is the front yard. This is not a through lot. Rettig asks where the front door is. Mr. Ezerins says the “average set back line” side is the address side of the house. Rettig confirms then that this is the “front yard.” Anderson says in reading 4.06 Section D(1)(a) in lieu of complying with front yard setback, buildings and structures must be set back from the property line a distance equal to the average front yard setback of the nearest two (2) lots on either side of the subject lot or 30 feet, whichever is less. So, if we are viewing the line and then building it the way they are showing it, it is allowable. It is one or the other 30 feet or the average. Larry Anderson to the chair, I feel that this portion of the application (size and location) is allowable under our code and the difficulty is the roofline. Chairman, so we will remove this portion of the application – are we all in agreement – let’s ask the ZA. ZA feels it is appropriate and we have stated the utilization of the ordinance. All consent that the setback is not at issue.

Chairman now reminds that Board that the roofline is at issue. Sizer asks Mr. Ezerins to explain why he needs the extra two (2) feet. Mr. Ezerins says before he explains, we need to establish the average grade. Mr. Ezerins presents the Board with the schematics. Goes on to say, high topography at the property line and explains the elevation and 18 feet to midpoint of a gable roof would be allowable. Asking for a shed roof, the only area that would be non-conforming is the red hatched area on the drawing. Anderson: Is this red-hatched area only for architectural purposes? Mr. Ezerins: We could live without the shed portion. It is not a hardship, its purpose if architectural and to allow more glass and is lower than the bluff and does not intrude into views. The adjoining properties are two (2) stories in height, but mostly an architectural feature. Sellers talks about 19 feet vs. 20 feet because of insulation. Mr. Ezerins says that the insulation is part of the request. We are looking at a 6:12 slope. It is not primarily aesthetic. The impact is

not more than a foot if you add in the insulation and we are trying to establish the average grade. Sellers asks about other homes and the size of their lots and are they equal. Mr. Ezerins says that most of the lots are about the same. Sellers asks if it is up to the application to determine the mean height or is it up to the Board or the building inspector. ZA Thornton finds that the dimensions and drawings are well founded and professional and would accept them as correct. Mr. Ezerins says that a surveyor prepared the drawings showing the grade. Chairman asks about the 2 foot request, and one of our criteria to meet (#4), is this a minimum variance. Is the extra 2 feet is for insulation or is it architectural? Mr. Anderson asks Mr. Ezerins if he previously said, "this really isn't necessary, it's just an architectural feature." Sizer, so on the fact, it doesn't meet #1 or #4. No practical difficulty and not a minimum request. The Board looks at each item (1 – 5). Sizer says it is a minimal request, but it is self-imposed (so it doesn't meet #3).

Strohl: Before we go to decision making, let's see if there is anyone else who needs to speak on this matter. ZA Thornton reminds us to analyze the lot coverage. Definition of structure read aloud, which include decks. Lot coverage must include all principal and accessor structures. They have not included the deck in their lot coverage in the calculation. Sizer: This has not been addressed in the variance request. ZA Thornton: Yes, but we must consider this and the deck does not comply with the lot coverage. Anderson: The total lot coverage would then be nearly 34.9%. ZA Thornton feels there was an omission in the application, but it should have been included. Anderson: What section of the ordinance discusses permeable vs. nonpermeable. ZA Thornton: I am considering it as a structure. I don't know of any part of the zoning that discusses this definition except for parking areas. Sellers: I agree we do have to consider the coverage of a deck. If we were to grant the variance, we would have to consider the deck. Sizer: We have already agreed that the variance isn't needed for the coverage, so we are looking at the roofline. Rettig: I also feel that the deck should have been included. Anderson: I would ask that the ZA research this to see if there is a difference and usually permeable is not counted. Seller: Is deck on ground or off ground? Mr. Ezerins: Off the ground. Rettig: With footers? Mr. Ezerins: Yes. Rettig: This is a structure then. Sellers: Permeable or not, this is a structure. Anderson: I think we should table, and look from more information. Sizer: And if in fact, the request exceeds the 20% lot coverage, then the variance be changed. Anderson goes on to define permeable (like a deck with slates to allow the water to run through) or nonpermeable like a concrete driveway. If in the research we find it to be over the lot coverage, then this gentleman would be coming back. Rettig: The variance either needs to be amended. Anderson: What is the process for tabling? Chairman: Explains that if tabled, the decision would be delayed to the next meeting. Mr. Ezerins: I would say we don't have to include the deck and we will do whatever we need to do at ground level. If there was a deck added at a later time, if we decrease the overall footprint. We can handle this administratively and we can handle the average grade administratively as well. Can we build this addition where it is, and the roof line – these are the main thrusts. The deck can be handled later and we can clarify that by then.

Chairman Strohl: Let's discuss without a deck, if we can find all five of the criteria either for or against the application – let's not pass this on for another month. Sizer: The deck is not part of the request and we can make reference to it in our decision. Anderson: Have we agreed that the addition is not required. (All say yes.) And we have talked about the roof structure – so this is what's at issue. We need to reference in our motion and minutes to research permeable. Rettig: The building department can research. Sellers: So let's go through the five criteria.

Kathy: 1. Unique Circumstances. So isn't this a non-conforming lot.

Anderson: We have to meet all five to approve, we only have to meet one to deny. So, the controlling to deny is #3, which is that they have made their roofline unable to meet the ordinance. Sizer: #2 – cannot meet because the can reasonable use the property. Strohl: Also cannot meet #4.

Kathy makes a motion that we DENY this request because it cannot meet #3 criteria, the unique circumstance or conditions do result from the actions of the applicant. So it does not meet our ordinance. After discussion, all Board members find that a variance is not required for the expansion of the building into the front yard setback because it does not require a variance as it meets the average set back line of the neighboring properties. This only applies to the request for the addition and not to the construction of the deck as no deck shall be included in this decision. Sizer seconds. Roll call vote: Strohl: Yes; Anderson: Yes; Sizer: Yes; Rettig: Yes, Sellers: Yes. APPLICATION FOR VARIANCE IS DENIED. Chairman Strohl also advises that there were no letter sent as to this application.

ZA Van Thornton speaks to the Board one two (2) issues which are actual situations and seeks the advice of the Board:

- 1) Section 4.02(D) refers to adjoining lots under the same ownership and non-conforming status of one or more of the lots. The ordinance says that if one (1) is a non-conforming lot, they shall be joined together. This is somewhat difficult to achieve in the real world without an extensive legal process. A person has inquired, 2 adjacent lots, both have road frontage, and the rear yards are contiguous, one is improved, and one is vacant. The question is: Do both lots have to be vacant in order to bring in the requirement to join them together? This is because the owner has asked to sell the vacant lot. These are lots of record.

Sizer: My first inclination is no.

Anderson says that this has come before the Board before. We gave a variance to a party with 2 improved lots and they wanted to sell and we gave the variance so there wouldn't be 2 houses so we allowed them to separate. We also had a big discussion on if 2 lots were adjacent one improved and one unimproved it had to be joined. That's what the ordinance says. We went so far as to say, how do we go about finding out where these conditions exist and notifying the owners and then making it the owner's responsibility to combine them with one tax identification.

Sizer: The whole reason for the ordinance is to not create non-conforming lots where 2 together would be conforming. The intent is that they be required to be combined whether or not 1 was improved.

Strohl: Are the ordinances silent on this?

Thornton: I agree with Mr. Anderson that the ordinance is clear that 2 adjoining lots under the same ownership which are non-conforming shall be joined. The question that came up was the question of the ability to market the vacant lot and this would violate the intent of the ordinance by creating another non-conforming lot.

Rettig: If we will remember on the Court order that was just reversed by the Berrien County Trial Court (Olsen Case #2016-000059-AA) where the ZBA gave the ok to build on a non-conforming lot because it was lost to tax sale, the Court reversed our decision. Although it was not the fault of the current owner it was the fault of the previous owner who made them non-conforming so it is self-inflicted.

Strohl: We don't want to increase the non-conformity. Is it incumbent for the Township to put the wording in the new ordinance.

Anderson: What is the opinion of our attorney?

Thornton: The State ordinance says go to your ZBA first for interpretations.

Sellers: At what point do they have to join them?

Thornton: I would think when we become aware of it.

Rettig: Think about the ownership purchase. Why are you buying? To make the lot more saleable, build a bigger house, a pool, or protection for no one else to build. To make 2 lots non-conforming is totally against the intent of the ordinance.

Question from Robin Gantman: If the properties were in different names but the same family, it would be totally ok.

Rettig: It would never come to us because we wouldn't know that the different ownerships were related.

Gantman: But this happens every day, through inheritance, and the lots are 14,000 square foot each, so why should they not be able to sell.

Rettig: Why didn't they take title differently?

Gantman: I had the same thing and changed ownership right before the ordinance changed. It's all mixed up and it doesn't make sense.

Sellers: Their back yards abut, 2 different streets? But they are in different names?

Gantman: No

Sizer: I do have sympathy, we can only go by the intent of the ordinance. 20,000 is the minimum. The intent is not to increase non-conformity. The reason they shall be joined is to create a conforming lot – out of 2 non-conforming or not sell off a part to make it nonconforming. That's what we are stuck with.

Rettig: Every lot of record is able to be built upon if they come for a variance except that the ordinance says that non-conforming lots shall be adjoined. The Court has slapped us three different times for not following the ordinance. Our current ordinance says combine – we have no other choice.

Sizer: There are probably many people who we don't know about, under the same circumstances, but once we know about it, we are forced to follow the ordinance. We should try to identify these situations and get notices out to those who are in this situation.

Thornton: My situation is I have rules and I have to enforce. My rules say that this property must be joined by the terms of our ordinance and may not be sold.

Rettig: As an enforcement agent, I think we should go through the records and use our ordinance as the reason for the combination.

Anderson: We were going to go through the records. Send a letter that says it is incumbent upon you as owners to join the parcels.

Strohl: Unfortunately it didn't happen.

Sizer: Would it also apply to a conforming and a non-conforming.

Anderson: Yes. They can't get rid of the non-conforming.

Sizer: You wanted a vote?

Thornton: Yes. A vote on the interpretation. Restating: In the case of 2 contiguous non-conforming lots, 1 of which is improved, 1 of which is vacant, may the vacant lot be sold contrary to the requirements of section 4.02?

Anderson: Amend that to say 2 lots – 1 or both of which is non-conforming

Sizer: No; Rettig: No; Stroh: No; Anderson: No. Sellers: No

Thornton: That will be approached with our new zoning ordinance.

- 2) The next item is clarification of Section 15.03A we have a table that defines the maximum square footage of accessory structures on lots in an R-1 district. Does the 1,500 square foot allowance for lots between 1 and 2 acres, does that refer to a total area for all accessory buildings on a property – in other words if there are 3 accessory buildings are they limited to 1,500 square feet total or may each of the accessory buildings be as large as 1,500 square feet as long as we do not exceed the lot coverage. If we look at the table and go down the column, it refers to maximum lot coverage. My sense is that you may build as many 1,500 square foot accessory structures up to any other terms that would apply.

Sizer: If you use the percentage, 1 acre (43,560 square feet), so 1500 is much less than 20%. Our zoning does not limit accessory structures?

Rettig: Like a pool, gazebo, deck, shed – accessory structure. My interpretation is 1500 per structure.

Sellers: That's my interpretation as well – per structure.

Sizer: My first reaction is that they would have stated more than one structure.

Thornton: It doesn't speak to that.

Anderson: Is there a case that you have?

Thornton: Yes, someone brought a preliminary site plan and this would apply. He has the square footage and the lot is large enough and wants 3,000 square feet of accessory structures.

Anderson: My concern would be if we say you can have as many as you want, it doesn't seem to be what is written here.

Sizer: Nor does it seem to be the intent – as we try to keep those things to a minimum.

Anderson: I'm not sure that we should be giving this person any sort of approval without bringing it in for review.

Strohl: Let's play what if, being on the Board of Review, we get many people coming in with many structures and the assessor is not allowed to go on the property to assess. There are multiple building – when is it too much. The ordinance is silence on the number of structures. I think your interpretation is correct.

Sellers: How can you put a number on how many you can build. Tell me what the ordinance says.

More discussion among board and discussion that there are limits based on square foot coverage/lot coverage. The key word in the ordinance is “total” on the lot.

Anderson: So you are seeking clarification for us to say that for a 1 – 2 acre lot they can have a 1,500 square foot building or 2 – 750 or 3 – 500.

Thornton: Yes. If they have the lot size, could they put multiple 1,500 structures.

Anderson/Strohl/Rettig/Sizer/Sellers: No, 1,500 total. Once you reach 1,500 – 3 buildings of 500 – you are done. Total for the lot.

Sizer addresses the board: I own property in the Township, but I no longer vote in the township and as such I cannot stay on the board, so this is my last meeting. It has been a pleasure to work with everyone on the board and kept me involved in the community. I have enjoyed it. I moved to Benton Harbor and vote there.

Sizer motions for adjournment at 2:37 p.m. Sellers seconds. All ayes. Motion carried.

Respectfully submitted,

Elizabeth A. Rettig
Recording Secretary
Approved: 4-18-2017

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS
Minutes of the March 21, 2017, Regular Meeting
APPROVED – APRIL 18, 2017

The March 21, 2017, regular meeting was called to order by Chairman Lee Strohl at 1:05 p.m. with the following regular members present: Lee Strohl, Liz Rettig, Carol Sizer, and Kathy Sellers. Mario Zarrantenello was absent. Alternate Larry Anderson was present in the room and was asked to sit the Board.

Also in attendance were the following: Zoning and Building Administrator (ZA) Van Thornton, Robert Ezerins, Robin Gantman, and Debbie Jacobs.

The first order of business was to approve minutes from the March 14, 2017, Special Zoning Board of Appeals meeting. Strohl and Sizer have minor grammar corrections on Pages 2, Page 3, Page 4, Page 8, and Page 9. Sizer motion to approve the minutes with the corrections; Sellers seconds. All in favor. Motion approved.

ZA Thornton requests to speak to the board regarding an Opinion and Order dated March 10, 2017, of Judge Sterling R. Schrock in Case No. 2016-000059-AA, Martha Cares Olsen, et al. (Appellants) vs. Chikaming Township Zoning Board of Appeals (Appellee) and Jude and Reed, LLC, a Michigan Limited Liability Company (Intervening Appellee), this refers back to ZBA Case #1114, brought on to be heard on January 19, 2016, before the ZBA. The Order in essence overturned the ZBA's decision because the hardship was self-created.

Van presents the board with two (2) suggested motions – one to approve and one to deny. Van reminds the Board that in order to approve any variance request it must meet all of the requirements of Section 23.04 conditions 1 – 5. In order approve the request must comply with ALL of the conditions must be met. In order to deny the request, we must give a reason for the denial. This is critical for record keeping purposes and as seen in the Court reversal, these reasons become important to the Court for appeal purposes. The Court only has the written record of the ZBA and does not have the opportunity to speak to anyone. I encourage you, when you make a motion, please state why you are denying. It only takes one (1) condition to deny.

Sellers gets clarity on the suggested guidelines from Van.

Case 1125: Robert Ezerins representing property owners Helmut and Benita Lackajs, 15918 Lake Shore Road, Union Pier, MI 49129 Property Code No.: 11-07-0125-0003-20-3.

Applicants are requesting to construct a 620 sq. ft. addition in the front yard setback and will exceed the maximum height requirement by 2 feet. Chikaming Township Zoning Ordinance Section 4.06D(1a) states in part, structures with NCR-1 designations must be setback from the property line a distance equal to the average front yard setback of the nearest two lots on either side of the subject or 30 feet, whichever is less and Section 4.06D(1) states building height shall not exceed 18 feet.

Chairman Strohl opens the floor and Robert Ezerins speaks on behalf of applicant on this case and goes over the application. Advises if Board has questions he will gladly answer.

Chairman Strohl opens discussion to Board. Sizer questions if requests the average front yard setback of the neighboring yards. So then the only variance is the two (2) foot heights. Ezerins requests that the Board interpret this and felt without making an assumption, he would come to the Board. Sizer asks for confirmation from ZA Thornton. ZA reserves answering until after all discussion is completed. Sizer again asks specifically what the Board is being requested to consider. Larry Anderson asks for clarification of the neighboring parcels and are they the average. Mr. Ezerins clarifies that yes they are as shown by the drawings presented. Rettig asks if the 620 expansion is in the same set back. Sizer reiterates that there is no variance required on that and asks about lot coverage. Mr. Ezerins clarifies that the expansion meets the 20% lot coverage. Discussion about meeting zoning requirement of the average of the two (2) neighbors. Expansion does not exceed that same average line. ZA Thornton interjects that we need to look a Section 4.04 (non-conforming land or structure) talking about non-conforming not being allowed to be expanded to as to increase the non-conforming use. By adding the 620 square feet it appears that they are enlarging a non-conformance and not permitted by ordinance. Rettig wonders if they could move the expansion back to meet the 30 feet setback and not exceed lot coverage, then the only issue is the roof line. Sellers and Sizer both feel that this does not fall under the expansion as going into the setback because the “average set back line” has been established by the neighboring parcels. ZA Thornton needs to determine the front yard and side yard. Sizer says that the ordinance says “30 feet or the average of the 2 houses.” For the front yard setback, that is correct. So we need to determine which is the front yard. This is not a through lot. Rettig asks where the front door is. Mr. Ezerins says the “average set back line” side is the address side of the house. Rettig confirms then that this is the “front yard.” Anderson says in reading 4.06 Section D(1)(a) in lieu of complying with front yard setback, buildings and structures must be set back from the property line a distance equal to the average front yard setback of the nearest two (2) lots on either side of the subject lot or 30 feet, whichever is less. So, if we are viewing the line and then building it the way they are showing it, it is allowable. It is one or the other 30 feet or the average. Larry Anderson to the chair, I feel that this portion of the application (size and location) is allowable under our code and the difficulty is the roofline. Chairman, so we will remove this portion of the application – are we all in agreement – let’s ask the ZA. ZA feels it is appropriate and we have stated the utilization of the ordinance. All consent that the setback is not at issue.

Chairman now reminds that Board that the roofline is at issue. Sizer asks Mr. Ezerins to explain why he needs the extra two (2) feet. Mr. Ezerins says before he explains, we need to establish the average grade. Mr. Ezerins presents the Board with the schematics. Goes on to say, high topography at the property line and explains the elevation and 18 feet to midpoint of a gable roof would be allowable. Asking for a shed roof, the only area that would be non-conforming is the red hatched area on the drawing. Anderson: Is this red-hatched area only for architectural purposes? Mr. Ezerins: We could live without the shed portion. It is not a hardship, its purpose if architectural and to allow more glass and is lower than the bluff and does not intrude into views. The adjoining properties are two (2) stories in height, but mostly an architectural feature. Sellers talks about 19 feet vs. 20 feet because of insulation. Mr. Ezerins says that the insulation is part of the request. We are looking at a 6:12 slope. It is not primarily aesthetic. The impact is

not more than a foot if you add in the insulation and we are trying to establish the average grade. Sellers asks about other homes and the size of their lots and are they equal. Mr. Ezerins says that most of the lots are about the same. Sellers asks if it is up to the application to determine the mean height or is it up to the Board or the building inspector. ZA Thornton finds that the dimensions and drawings are well founded and professional and would accept them as correct. Mr. Ezerins says that a surveyor prepared the drawings showing the grade. Chairman asks about the 2 foot request, and one of our criteria to meet (#4), is this a minimum variance. Is the extra 2 feet is for insulation or is it architectural? Mr. Anderson asks Mr. Ezerins if he previously said, "this really isn't necessary, it's just an architectural feature." Sizer, so on the fact, it doesn't meet #1 or #4. No practical difficulty and not a minimum request. The Board looks at each item (1 – 5). Sizer says it is a minimal request, but it is self-imposed (so it doesn't meet #3).

Strohl: Before we go to decision making, let's see if there is anyone else who needs to speak on this matter. ZA Thornton reminds us to analyze the lot coverage. Definition of structure read aloud, which include decks. Lot coverage must include all principal and accessor structures. They have not included the deck in their lot coverage in the calculation. Sizer: This has not been addressed in the variance request. ZA Thornton: Yes, but we must consider this and the deck does not comply with the lot coverage. Anderson: The total lot coverage would then be nearly 34.9%. ZA Thornton feels there was an omission in the application, but it should have been included. Anderson: What section of the ordinance discusses permeable vs. nonpermeable. ZA Thornton: I am considering it as a structure. I don't know of any part of the zoning that discusses this definition except for parking areas. Sellers: I agree we do have to consider the coverage of a deck. If we were to grant the variance, we would have to consider the deck. Sizer: We have already agreed that the variance isn't needed for the coverage, so we are looking at the roofline. Rettig: I also feel that the deck should have been included. Anderson: I would ask that the ZA research this to see if there is a difference and usually permeable is not counted. Seller: Is deck on ground or off ground? Mr. Ezerins: Off the ground. Rettig: With footers? Mr. Ezerins: Yes. Rettig: This is a structure then. Sellers: Permeable or not, this is a structure. Anderson: I think we should table, and look from more information. Sizer: And if in fact, the request exceeds the 20% lot coverage, then the variance be changed. Anderson goes on to define permeable (like a deck with slates to allow the water to run through) or nonpermeable like a concrete driveway. If in the research we find it to be over the lot coverage, then this gentleman would be coming back. Rettig: The variance either needs to be amended. Anderson: What is the process for tabling? Chairman: Explains that if tabled, the decision would be delayed to the next meeting. Mr. Ezerins: I would say we don't have to include the deck and we will do whatever we need to do at ground level. If there was a deck added at a later time, if we decrease the overall footprint. We can handle this administratively and we can handle the average grade administratively as well. Can we build this addition where it is, and the roof line – these are the main thrusts. The deck can be handled later and we can clarify that by then.

Chairman Strohl: Let's discuss without a deck, if we can find all five of the criteria either for or against the application – let's not pass this on for another month. Sizer: The deck is not part of the request and we can make reference to it in our decision. Anderson: Have we agreed that the addition is not required. (All say yes.) And we have talked about the roof structure – so this is what's at issue. We need to reference in our motion and minutes to research permeable. Rettig: The building department can research. Sellers: So let's go through the five criteria.

Kathy: 1. Unique Circumstances. So isn't this a non-conforming lot.

Anderson: We have to meet all five to approve, we only have to meet one to deny. So, the controlling to deny is #3, which is that they have made their roofline unable to meet the ordinance. Sizer: #2 – cannot meet because the can reasonable use the property. Strohl: Also cannot meet #4.

Kathy makes a motion that we DENY this request because it cannot meet #3 criteria, the unique circumstance or conditions do result from the actions of the applicant. So it does not meet our ordinance. After discussion, all Board members find that a variance is not required for the expansion of the building into the front yard setback because it does not require a variance as it meets the average set back line of the neighboring properties. This only applies to the request for the addition and not to the construction of the deck as no deck shall be included in this decision. Sizer seconds. Roll call vote: Strohl: Yes; Anderson: Yes; Sizer: Yes; Rettig: Yes, Sellers: Yes. APPLICATION FOR VARIANCE IS DENIED. Chairman Strohl also advises that there were no letter sent as to this application.

ZA Van Thornton speaks to the Board one two (2) issues which are actual situations and seeks the advice of the Board:

- 1) Section 4.02(D) refers to adjoining lots under the same ownership and non-conforming status of one or more of the lots. The ordinance says that if one (1) is a non-conforming lot, they shall be joined together. This is somewhat difficult to achieve in the real world without an extensive legal process. A person has inquired, 2 adjacent lots, both have road frontage, and the rear yards are contiguous, one is improved, and one is vacant. The question is: Do both lots have to be vacant in order to bring in the requirement to join them together? This is because the owner has asked to sell the vacant lot. These are lots of record.

Sizer: My first inclination is no.

Anderson says that this has come before the Board before. We gave a variance to a party with 2 improved lots and they wanted to sell and we gave the variance so there wouldn't be 2 houses so we allowed them to separate. We also had a big discussion on if 2 lots were adjacent one improved and one unimproved it had to be joined. That's what the ordinance says. We went so far as to say, how do we go about finding out where these conditions exist and notifying the owners and then making it the owner's responsibility to combine them with one tax identification.

Sizer: The whole reason for the ordinance is to not create non-conforming lots where 2 together would be conforming. The intent is that they be required to be combined whether or not 1 was improved.

Strohl: Are the ordinances silent on this?

Thornton: I agree with Mr. Anderson that the ordinance is clear that 2 adjoining lots under the same ownership which are non-conforming shall be joined. The question that came up was the question of the ability to market the vacant lot and this would violate the intent of the ordinance by creating another non-conforming lot.

Rettig: If we will remember on the Court order that was just reversed by the Berrien County Trial Court (Olsen Case #2016-000059-AA) where the ZBA gave the ok to build on a non-conforming lot because it was lost to tax sale, the Court reversed our decision. Although it was not the fault of the current owner it was the fault of the previous owner who made them non-conforming so it is self-inflicted.

Strohl: We don't want to increase the non-conformity. Is it incumbent for the Township to put the wording in the new ordinance.

Anderson: What is the opinion of our attorney?

Thornton: The State ordinance says go to your ZBA first for interpretations.

Sellers: At what point do they have to join them?

Thornton: I would think when we become aware of it.

Rettig: Think about the ownership purchase. Why are you buying? To make the lot more saleable, build a bigger house, a pool, or protection for no one else to build. To make 2 lots non-conforming is totally against the intent of the ordinance.

Question from Robin Gantman: If the properties were in different names but the same family, it would be totally ok.

Rettig: It would never come to us because we wouldn't know that the different ownerships were related.

Gantman: But this happens every day, through inheritance, and the lots are 14,000 square foot each, so why should they not be able to sell.

Rettig: Why didn't they take title differently?

Gantman: I had the same thing and changed ownership right before the ordinance changed. It's all mixed up and it doesn't make sense.

Sellers: Their back yards abut, 2 different streets? But they are in different names?

Gantman: No

Sizer: I do have sympathy, we can only go by the intent of the ordinance. 20,000 is the minimum. The intent is not to increase non-conformity. The reason they shall be joined is to create a conforming lot – out of 2 non-conforming or not sell off a part to make it nonconforming. That's what we are stuck with.

Rettig: Every lot of record is able to be built upon if they come for a variance except that the ordinance says that non-conforming lots shall be adjoined. The Court has slapped us three different times for not following the ordinance. Our current ordinance says combine – we have no other choice.

Sizer: There are probably many people who we don't know about, under the same circumstances, but once we know about it, we are forced to follow the ordinance. We should try to identify these situations and get notices out to those who are in this situation.

Thornton: My situation is I have rules and I have to enforce. My rules say that this property must be joined by the terms of our ordinance and may not be sold.

Rettig: As an enforcement agent, I think we should go through the records and use our ordinance as the reason for the combination.

Anderson: We were going to go through the records. Send a letter that says it is incumbent upon you as owners to join the parcels.

Strohl: Unfortunately it didn't happen.

Sizer: Would it also apply to a conforming and a non-conforming.

Anderson: Yes. They can't get rid of the non-conforming.

Sizer: You wanted a vote?

Thornton: Yes. A vote on the interpretation. Restating: In the case of 2 contiguous non-conforming lots, 1 of which is improved, 1 of which is vacant, may the vacant lot be sold contrary to the requirements of section 4.02?

Anderson: Amend that to say 2 lots – 1 or both of which is non-conforming

Sizer: No; Rettig: No; Stroh: No; Anderson: No. Sellers: No

Thornton: That will be approached with our new zoning ordinance.

- 2) The next item is clarification of Section 15.03A we have a table that defines the maximum square footage of accessory structures on lots in an R-1 district. Does the 1,500 square foot allowance for lots between 1 and 2 acres, does that refer to a total area for all accessory buildings on a property – in other words if there are 3 accessory buildings are they limited to 1,500 square feet total or may each of the accessory buildings be as large as 1,500 square feet as long as we do not exceed the lot coverage. If we look at the table and go down the column, it refers to maximum lot coverage. My sense is that you may build as many 1,500 square foot accessory structures up to any other terms that would apply.

Sizer: If you use the percentage, 1 acre (43,560 square feet), so 1500 is much less than 20%. Our zoning does not limit accessory structures?

Rettig: Like a pool, gazebo, deck, shed – accessory structure. My interpretation is 1500 per structure.

Sellers: That's my interpretation as well – per structure.

Sizer: My first reaction is that they would have stated more than one structure.

Thornton: It doesn't speak to that.

Anderson: Is there a case that you have?

Thornton: Yes, someone brought a preliminary site plan and this would apply. He has the square footage and the lot is large enough and wants 3,000 square feet of accessory structures.

Anderson: My concern would be if we say you can have as many as you want, it doesn't seem to be what is written here.

Sizer: Nor does it seem to be the intent – as we try to keep those things to a minimum.

Anderson: I'm not sure that we should be giving this person any sort of approval without bringing it in for review.

Strohl: Let's play what if, being on the Board of Review, we get many people coming in with many structures and the assessor is not allowed to go on the property to assess. There are multiple building – when is it too much. The ordinance is silence on the number of structures. I think your interpretation is correct.

Sellers: How can you put a number on how many you can build. Tell me what the ordinance says.

More discussion among board and discussion that there are limits based on square foot coverage/lot coverage. The key word in the ordinance is “total” on the lot.

Anderson: So you are seeking clarification for us to say that for a 1 – 2 acre lot they can have a 1,500 square foot building or 2 – 750 or 3 – 500.

Thornton: Yes. If they have the lot size, could they put multiple 1,500 structures.

Anderson/Strohl/Rettig/Sizer/Sellers: No, 1,500 total. Once you reach 1,500 – 3 buildings of 500 – you are done. Total for the lot.

Sizer addresses the board: I own property in the Township, but I no longer vote in the township and as such I cannot stay on the board, so this is my last meeting. It has been a pleasure to work with everyone on the board and kept me involved in the community. I have enjoyed it. I moved to Benton Harbor and vote there.

Sizer motions for adjournment at 2:37 p.m. Sellers seconds. All ayes. Motion carried.

Respectfully submitted,

Elizabeth A. Rettig
Recording Secretary
Approved: 4-18-2017