

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS
Minutes of the October 17, 2017, Regular Meeting
APPROVED – 11/21/17

The October 17, 2017, regular meeting of the Zoning Board of Appeals was called to order by Chairman (hereinafter Chair), Larry Anderson at 1:00 p.m. Roll call of members present: Liz Rettig, Larry Anderson, Doug Dow, Kathy Sellers, Doreen Bartoni. Quorum. Also present: Zoning Administrator, Van Thornton (ZA), and many members in the audience (sign-up sheet attached of those persons who signed in).

Chairman Anderson advises that the first order of business is to approve minutes from the September 19, 2017, meeting. Dow advises of one typographical correction on Page 6 (change the word setback to setbacks near last paragraph); Rettig makes note. **Dow then motions to approve minutes as corrected; seconded by Bartoni; Voice vote: All in favor. Minutes approved as corrected.**

CASE 1138: Steve and Kathryn Gotz/applicant 13578 Spring Bend Court, Harbert, MI 49115 Property Code No.: 11-07-0010-0038-14-2.

Applicant is asking to expand a non-conforming structure that will encroach into the 25-foot required front yard setback in a Commercial (C) District. Chikaming Township Zoning Ordinance Section 14.02 requires a 25-foot front yard setback in a Commercial (C) District.

Chris Brooks, Architect, speaks on behalf of owner. Application is in two (2) parts. They would like to add onto the house which increases the non-conformance. 1) Add on a small area to the house 4' x 24' and does not go into the setback. 2) Want a 3' x 8' porch that does go into the setback for wheelchair access. Corner lot and has 2 setbacks. Owner presents a letter to Board which will be part of the record.

The Zoning Administrator is asked if he has any comments. He advises that this is a very minor change from the original request. The challenge of the lot is that it is a corner lot with 2 front-yard setbacks. I believe the reason in the zoning for the 2 setbacks is because of traffic. Anything they do to this house, will not affect traffic or vision as they are far back on Spring Bend.

Chairman Anderson asks for clarity from the ZA: Site Plan A complies with the 25-foot setback. ZA: Yes, but it is an increase in a non-conformance (residential in a commercial location) and that's why they had to request Part A. Part B is going into the setback for wheelchair access. Bartoni asks how far they encroach into the setback. ZA: approximately 3 feet.

Chair Anderson asks if there are any comments from the public. There are none.

Sellers asks if the porch is ground level. Architect Brooks advises: yes.

Chair Anderson closes the public portion and goes to Board Discussion. There are no letters.

Board Discussion: Chairman goes through the five (5) criteria. 1. Unique Circumstances. Yes. 2. As a result of the unique circumstances, strict compliance would unreasonably prevent the use of the

property. Yes. 3. Unique circumstances do no result from actions of application. Yes. 4. Variances (both) are minimum requests. Yes. 5. Harmonious with Zoning Ordinance. Yes. Variance meets all criteria.

Dow makes the motion that that variance request A) add to the house and B) add porch which goes into the 3 foot encroachment be approved as it meets 1 – 5 of the criteria to grant a variance. Sellers seconds. Roll call vote: Bartoni. Yes; Anderson: Yes. Dow: Yes; Rettig: Yes; Sellers: Yes. VARIANCE IS GRANTED (A & B).

CASE 1139 – Applicants Robert and Janet Beemer, 137 Hillside, Sawyer, MI 49125, Property Tax No.: 11-07-0841-0001-00-2

Applicant is requesting to replace an existing garage that will encroach 2.4 inches into the front yard setback. Chikaming Township Zoning Ordinance Section 14.02 requires a 30-foot front yard setback.

Chair Anderson asks if someone is representing the owner. Robert Beemer speaks regarding the application and that the replacement of the garage (and keeping the south wall and roof lines in place) will cause the new garage to encroach 2.4 inches.

Chair Anderson asks if the ZA has any comments. ZA speaks that this is the utmost in maintaining accuracy to the law. The applicant is requesting a variance of only 2.4 inches. Because Mr. Beemer is on other boards and commissions, he felt it was critical they go through the entire process to make certain that all people in the township have the opportunity to use the services of the Zoning Board of Appeals.

Chairman asks if there are any other public comments, there are none.

Chair Anderson reads the letters received:
Ken and Ruth Klint – support application
Pat Conroy – supports application
Shorewood Hills Homeowners – support application

Public portion is closed; goes to Board discussion.

Board discussion: Chairman goes through the five (5) criteria. 1. Unique Circumstances. Yes. 2. As a result of the unique circumstances, strict compliance would unreasonably prevent the use of the property. Yes. 3. Unique circumstances do no result from actions of application. Yes. 4. Variance is a minimum. Yes. 5. Harmonious with Zoning Ordinance. Yes. Meets all criteria.

Dow motions that the variance to allow use of the existing garage footprint with a 2.4 inch encroachment into the setback be granted (meeting the 5 criteria) be approved. Bartoni seconds. Roll call vote: Barton: Yes; Rettig: Yes; Anderson: Yes; Dow: Yes; Sellers: Yes. VARIANCE IS GRANTED.

CASE 1140: Richard and Dena Ruff/applicant 112 Oak Grove, Bethany Beach, Sawyer, MI 49125 Property Code No.: 11-07-0770-0206-00-1.

Applicant is requesting a variance to allow a deck to encroach into the front-yard setback. Chikaming Township Zoning Ordinance Section 4.06(D)1 requires a 30-foot front yard setback in an NCR1-A Zoning District.

Chair Anderson asks if there is anyone to speak on the application. Owner Dena Ruff speaks asking if they can keep their deck. Owner advises that the land in front of the house was eroding away including under the house. The deck is ground level and is used because the older relatives need this for access to the house.

Chair asks if ZA Thornton has any comments. ZA advises that the homeowners (not knowing that they were in violation of the ordinance) installed the deck for safety purposes. I have been there and discussed it with them and feel their reasoning was logic. Right now they are just saying: we realize now that we should have obtained a variance and we are asking for it now. I see no public safety issues and recommend approving the request.

Chair: Any further comments from the public. Gunner Fogg addresses the board and does not know why it is in front of the Zoning Board and feels there is no violation. The deck is not attached to the house or part of the house. It is more of a sidewalk or boardwalk. The setbacks are only applied to structures. This is not a structure. It is less than 200 square feet and does not need a permit. He advises speaking with the president of the association and the President does not know why there is any concern here. In fact, he (President) said he was thinking of writing a letter. The house is 18 feet from the road; all of the houses on that road are in the setback. The deck is nicely constructed.

Chair asks if ZA has any comments on the requirements and Mr. Fogg's comments. ZA: The gentleman is correct in that any accessory structure less than 200 feet does not require a permit. However, it is a structure by definition in our zoning ordinance and as such, structures are not permitted in the setback and that is why the folks have requested a variance - not a building permit. The challenge is that it is actually in the 30 foot setback. In Bethany, the setbacks are only 13 – 14 feet from the road. They are asking for permission to leave it in that location.

No other public comments, Chair closes the public portion.

Chair allows the Board to discuss. Chairman goes through the five (5) criteria. 1. Unique Circumstances Exist. Yes. 2. As a result of the unique circumstances, strict compliance would unreasonably prevent the use of the property. Yes. 3. Unique circumstances do no result from actions of application. Yes. 4. Variance is a minimum. Yes. 5. Harmonious with Zoning Ordinance. Yes. Variance meets all criteria.

Rettig asks ZA if the neighboring house looks farther out into the setback and is wondering if a mean measurement of neighboring houses would benefit applicant. Dow answers that all the houses seem to be about the same distance from the road. The ZA continues saying that if we did an average of the neighbors, it would still be beyond the allowed setback and a variance request is in order.

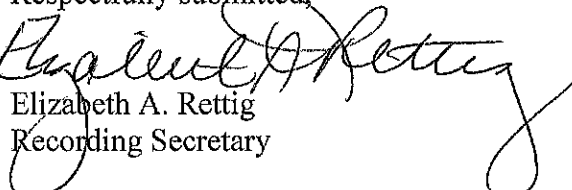
Anderson asks one more question of ZA. In a private HOA like this, does that organization not have its own rules that need to be applied before coming to the Township? ZA: The Ordinance speaks to home owners' association regulations, but the Township does not enforce them. Generally on new construction, I do get a letter of approval from the homeowner's association. Anderson: Do we have that approval? ZA: For this deck, I do not believe so. Anderson: I am worried about covering our bases; I should think that we would have a letter. Rettig: I believe that Mr. Fogg said that the association didn't feel that it was necessary because it was not new construction of a house. Dow agrees. Mr. Fogg interjects that he spoke with Mr. Jensen, the president of the association, and he said he didn't understand why a variance was necessary because it is not attached to the house and less than 200 square feet. Discussion ends. Chair asks for a motion.

Doug: I move that we grant the variance as proposed. Bartoni seconds. Roll call vote: Bartoni: Yes; Rettig: Yes; Anderson: Yes; Dow: Yes; Sellers: Yes. VARIANCE IS GRANTED.

Chair Anderson asks if there is anything more to come before the Board. None.

Chairman Anderson considers the meeting closed and adjourns at 1:28 p.m.

Respectfully submitted,


Elizabeth A. Rettig
Recording Secretary

Date Approved: 11/21/17