

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS
Minutes of the August 15, 2023, Regular Meeting
APPROVED

The August 15, 2023, regular meeting of the Zoning Board of Appeals was held at Chikaming Township Hall and called to order at 1:00 p.m. by Chairman (hereinafter Chair) Larry Anderson. Roll call of members attending: Liz Rettig, Larry Anderson, Phil Bender. 3 present - Quorum.

Noted that Attorney Hilmer and ZA Kelly Largent (hereinafter ZA) are also present along with others attending in the audience.

Chair advises that the next order of business is to approve the July 18, 2023, minutes. Chair asks for corrections/additions. None. **Anderson makes a motion to approve the minutes as presented, Rettig seconds. VOICE VOTE: 3 AYES. MINUTES APPROVED.**

Chair reads the case:

Case #2031 Applicant, Julia Woodruff, 12342 Tower Hill Road, Sawyer, Property Code #11-07-0820-0009-00-1 is requesting a variance to place a 12' x 16' shed in the rear yard which will exceed lot coverage by 2%. Section 8.02 of Chikaming Township Zoning Ordinance #144, as amended, allows 20% lot coverage in an R-1, Single Family Residential District.

Chair notes that the 2% shown on the agenda is different than the percentage shown on the summary review (21.4%). Kelly advises that there was discussion with the applicant about removing the old shed and that would bring the percentage to 21.4%; while if the old shed is not removed, the percentage of lot coverage would be 22.3%.

Letters:

Cindy Ellis: Supports the variance with the condition that the old shed be removed with only one shed on the property.

Robert Beemer/Deer Creek Open Space Association: Supports variance with conditions: 1) Remove existing shed; 2) No tools, equipment, materials to be stored alongside the shed building in view of our preserve property to the immediate west; 3) any exterior lighting to be dark-sky lighting; 4) no description of the building height or roof design, we assume it is a typical one-story 16 x 12 storage shed.

Chair asks Kelly Largent (ZA) to give details on this case. Kelly begins by stating this is a variance for lot coverage only. The new shed meets all requirements for setbacks of the ordinance. The lot size is 11,280 square feet according to assessing records. The size of the existing house with the existing shed exceeds the lot coverage percentage (20.6%). It does not exceed number of accessory structures. The updated numbers with both sheds would be 22.3% lot coverage. If the existing shed is removed, the coverage would be 21.4%.

Bender asks applicant if this is a non-user structure. Kelly responds that it is a non-user structure.

Applicant addresses the Board: The consolidation of 2 households requires us to have more storage. Kelly made me aware that we were over the lot coverage. Debated what to do with old shed. Amish company has built shed and will deliver and could remove old shed; considered selling old shed; new shed coming through the common area; want to keep old shed and that's why I decided to go with the variance.

Public Comment:

Gentlemen who is with the applicant just wanted to say that if they are allowed to keep the old shed it will be turned into a greenhouse.

Applicant asks to speak again to add that she built the fence to keep deer out of garden, in the public view of the “meadows” and wants to keep the existing shed and turn it into a beautiful greenhouse.

Board Discussion

Bender asks applicant to please expand on what she sees as the practical difficulties of the variance request. Applicant does not understand. Chair explains that we are constrained to look at the land, not to look at the wish list or other property, if the lot would have a creek or a ravine this would be the practical difficulty. This seems to be a flat piece of land with no constraints. Rettig interjects that the applicant answered “none” to question No. 1 of the application – what are the practical difficulties that would allow us to break the rules of the ordinance to grant a variance? The gentlemen with applicant answers that the house and shed existed for many years and there must not have been rules in the past about percentages. Board answers that rules did exist. Applicant affirms there are no practical difficulties, just needs the storage.

Rettig states that the land does not allow us to break the ordinance – there is nothing unique. If they want to take the old shed down, we may have some leeway on lot coverage. Chair agrees, stating he is giving credence to the neighbors who have given their support if the old shed comes down. To go from 20.6% to 21.4% is a very small percentage (.8%). Chair would be willing to approve if old shed comes down. Rettig, yes this makes this a minimal variance. Bender would go along with this. Kelly says if we look at standard rounding rules on percentages, the 20.6% would go to 21% and the 21.4% would go down to 21%. Which is pretty much the same.

Chair goes through the criteria:

1. Unique circumstances or conditions exist which apply to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. Yes. The unique circumstances are that the percentage of lot coverage stays the same by removing the old shed and replacing it with the new. All agree.
2. As a result of the unique circumstances or conditions, strict compliance with the provisions of this Ordinance would unreasonably prevent the use of the property for a permitted purpose, or would be unnecessarily burdensome. Yes. All agree – same as #1.
3. The unique circumstances do not result from the actions of the applicants, including the knowing purchase of a property limited by existing non-conformities. Yes, n/a.
4. The variance requested is the minimum variance which will make possible the reasonable use of the land, building, or structure. Yes. All agree – if shed is removed – minimal.
5. The granting of the variance will be in harmony with the spirit and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, and welfare. Yes. All agree.

RETTIG MAKES A MOTION, SUPPORTED BY BENDER, THAT WE APPROVE THE VARIANCE ON CASE #2031 TO ALLOW THE NEW SHED TO BE BUILD WHICH WILL HAVE APPROXIMATELY THE SAME LOT COVERAGE AS CURRENTLY EXISTS WITH THE FOLLOWING CONDITIONS:

- 1. REMOVE THE EXISTING SHED**
- 2. NO TOOLS, EQUIPMENT MATERIALS TO BE STORED ALONGSIDE THE NEW SHED**

3. ANY EXTERIOR LIGHTING TO BE DARK SKY LIGHTING

ROLL VOTE: Rettig - Yes, Anderson - Yes, Bender – Yes. Variance is approved with conditions.

Chair asks if there is any further business to come before the Board or comments from the public. None.

Chair asks Kelly for update on McLain house in Bethany Beach. Kelly says that they are redesigning. Chair reminds us that the issue was that they had applied for variances based on an existing structure and that existing structure had existing non-conformities that the board was going to allow to stay. They chose to tear everything down, does that make the variances go away? Kelly – yes, it nulls and voids the variance because it changes the circumstances upon which they received approval to build the structure. Because they changed the premise upon which the Board made their decision, their choices are to either conform to the zoning ordinance or come back for another variance. Chair: since it is a non-conforming lot, do they have to come back for a variance anyway? Kelly: No, as long as they conform to the standards of a non-conforming lot (20% lot coverage and meet all the setbacks), they won't need a variance. It is only if they cannot conform to the standards of Section 8.05 they would then have to come back for a variance.

RETTIG MOTIONS FOR ADJOURNMENT AT 1:20 P.M.; ANDERSON SECONDS. Voice vote: All ayes. Chair announces we are adjourned at 1:20 p.m.

Respectfully submitted,

Elisabeth A. Rettig
Recording Secretary

Date Approved: October 17, 2023