

**CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS**  
**Minutes of the February 21, 2023, Regular Meeting**  
**APPROVED**

The February 21, 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, Bob Beemer, Tom Gold. 4 present - Quorum.

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

Rettig makes a motion amend the Agenda to add two (2) items:

1. Discussion of Michigan State University Extension article
2. Board and Commission Members Best Practices document (dated 2/8/23) from the Chikaming Township Board of Trustees

Chair seconds and takes a voice vote; all ayes.

Chair makes an announcement that Paul Rook, member of the ZBA, passed away in January and reads a letter from wife advising that Paul enjoyed working on the ZBA and thanks the Township for the flower arrangement at his celebration of life memorial.

Chair read the Best Practices documents (full document attached). In summary:

1. Members should confirm attendance to scheduled meetings;
2. Packets should be picked up in ample time to review;
3. Communication should be by township e-mails;
4. ZBA members must visit the property related to the case;
5. Cellphones turned off during meeting.

Chair turns over discussion to Rettig. Rettig summarizes article she previously received at an MTA conference. (Summarizing): 1<sup>st</sup> standard: Zoning ordinances are inherently rigid, and board must be rigid in our decision making. ZBA should figure out a way to accomplish a way without a variance, even if inconvenient or expensive; if design can be changed and variance not needed, variance should be denied. Gold continues with 2<sup>nd</sup> standard: if there are valid health and safety reasons for zoning setback and when these regulations treat an applicant unfairly, they should be relaxed, and lesser variances should be considered.

Beemer continues with 3<sup>rd</sup> standard (historic neighborhoods) are like our NCR-1 and reminds us to look at the land and the 4<sup>th</sup> standard deals with self-created actions by owner or previous owner.

Gold completes the discussion with ZBA members' roles are unenviable. Hard decisions must be made without bias and consistently.

Chair Anderson advises that the next order of business is to approve the December 20, 2022, minutes. Chair asks for corrections/additions. None. **VOICE VOTE: 4 AYES. MINUTES APPROVED.**

***Case #2024 Applicant/owner, Constance Etter, 13447 Main Drive, Harbert, Property Code #11-07-4670-0122-00-7, is asking for an appeal of the Zoning Administrator's decision or a variance to allow a 22 x 24 garage that will exceed lot cover (26%) but meets all required setbacks. Chikaming Township Zoning Ordinance #144, as amended, Section 8.05(D)(1) allows 20% lot coverage in an NCR1-A district.***

Chair asks Kelly (ZA) to give details on this case. Chair notes that after visiting the site, the building on the site is much larger than the survey as presented, so our lot coverage calculations are off. Kelly shows the plat of survey (dated 10/31/14).

Chair interrupts to state that he and Kelly have been talking about the submission of surveys and drawings and that they need to be within one (1) year and a current depiction of what structures are on the parcel. Rettig interjects that if no change has occurred on a property, then an older survey could work – just common sense.

Gold adds that the surveyor can recertify an older survey.

Kelly continues that she did more research and found there was a closet addition and when submitted, the contractor did not include the accessory structure when calculating the lot coverage. The lot is only 7300 square feet and I redid the calculations and found the lot coverage to be 21.7%. With the new proposed addition, the lot coverage is 26%. Since then, however, I found the application for the closet and another permit for enclosing the existing deck (screened in porch). The existing lot coverage with the house, shed, closing and porch is 26% currently. The proposed lot coverage (removing the existing shed and building the new garage at 24' x 22') brings us to 30.3%. I spoke to the applicant so she would not be blind-sided and advised that no zoning variance was requested when the porch got screened in. No final building inspection has been done for the closet or the screened in porch and the permits have expired (from 2020). The owner hired the contractor in good faith and he has not completed the permits and I am not comfortable with blaming the owner.

Chair: I don't think the ZBA can address the enclosed porch being too close to the side yard and front yard with no variance requested or issued. We can address the current application to go to 30.3% from 26%.

Kelly: If she would decide to remove the deck, then the lot coverage would come down. The deck is 312 square feet (about 4%).

Gold: We are still over on the percentage.

Chair: To clarify, we thought the current condition was 21.7% and it is really 26%; We thought she was going to ask for 26% and really she is asking for 30.3%

Beemer: Was the deck done with a permit. Kelly: Permit yes, but no zoning permit application.

Chair to ZA, was there an e-mail string on the zoning variance? Kelly affirms, but the variance was never followed through on, but Van, never received the proper information from the contractor omitting the shed on the site plan. Rettig asks if there was a final on the closet or porch. Kelly says nothing final and will talk with Ted as this is a building code issue.

Chair asks to hear from owner. Owner advises she is shocked to hear that her permits were not final and goes on to say that contractor fell off a ladder in fall of 2020 and was hospitalized. Owner does not know why shed was not shown on drawing. Thought that deck was always part of square footage calculations and did not realize that enclosing the deck would change the calculations as it was existing. Being penalized and not being able to have a garage, seems harsh. I won't take the roof off of my porch. Can I make the proposed garage smaller?

Chair reads letters into record: (summarizing – complete letters in applicant's file)

Patterson (13415 Main) – in support of variance request; reasonable.

Phillips-Zabel (13402 Main) Michael Sheehan – in support.

Chair asks for Public Comment. None.

Board discussion begins. Gold feels that some of the paperwork needs to be cleaned up; the existing shed 18' x 12' could certainly support a car; and I would be in favor of rebuilding shed if necessary.

Chair agrees that shed should be big enough.

Rettig reminds us that we are already at 26% and to go to 30% is a third larger and a big ask.

Beemer weighs in that the closet and enclosing the deck is self-created.

Chair adds that the reality is that the closet and screened in porch should have both needed a variance for lot line setbacks and added to the lot coverage which would also need a variance.

The applicant is again asked why the shed can't be used as a garage as it is adequate in size. Applicant says the shed is from the 40's; Board advises to rebuild the shed in the same footprint. Applicant asks if it can be increased to 18' x 20'; the Board all agree that any increase is not allowed. Applicant feels an SUV will not fit.

Chair continues that our job is to look at the request in front of us and is opposed. Had we seen the variance request for the lot coverage on the closet and porch, we may not have approved those.

Kelly interjects that the shed does not currently meet the side yard setback and she would have to shift.

Rettig: Any rebuild to replace the shed would have to meet current zoning ordinance as to location.

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. No. 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. No. All agree.
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. The increased coverage is self-imposed. All agree.
4. The variance requested is the minimum variance which will make possible the reasonable use of the land, building, or structure. No – coverage too high – all agree.
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. Not in harmony. All agree.

**RETTIG MAKES A MOTION THAT WE DENY VARIANCE #2023 BASED ON NOT MEETING THE APPROVAL CRITERIA; TOO MUCH LOT COVERAGE IN ACCORDANCE WITH ORDINANCE 8.02(D)(1). GOLD SECONDS. Roll vote: Rettig- yes; Anderson – yes; Beemer – yes; Gold – yes. 4 – 0. VARIANCE DENIED.**

On record: Any rebuilding of the shed must be exactly the same size and meet current setbacks. A follow through on the building permits and inspections is required.

***Case #2024 Applicant/owner, Alexis and Jeff Leverenz, 6866 Warren Woods Road, Three Oaks, Property Code #11-07-0027-0004-02-1, are requesting to install a pool which would bring the number of accessory structures to four (4). Section 7.02(3)(4) of Chikaming Township Zoning Ordinance #144, as amended, states “No more than three (3) detached accessory structures are permitted per parcel.”***

Chair goes to ZA for input. Kelly puts drawing on screen for viewing; advises the location of where applicant wishes to put pool; applicant already has 3 accessory structures. Pool counts as an accessory structure.

Chair: No letters.

Chair asks applicant to speak. When Applicant purchased it was advertised as “plenty of room for a pool.” Trying to find out if there are any options, short of tearing down 1 structure. Other party with applicant also speaks and questions what the purpose is of allowing only 3 accessory structures.

Chair responds that reasoning behind the 3 structures is about lot coverage, too many structures on 1 property, permeable surfaces.

Discussions about what can be attached to pool. Kelly responds that a pool is an accessory structure, and a pool house is an accessory structure. Gazebo on the property does not have footings, but has a roof and is considered a separate structure. The pool equipment will be attached to the house. Kelly defines structure vs. building. Rettig interjects that lot coverage is not an issue and 2 buildings could be combined so that only 3 buildings will exist. Further discussion about road frontage and breaking lot in half – not enough road frontage. More discussion about attaching the small garage to the current larger garage and removing concrete (if the garage is moved).

Public Comment: None.

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. No. 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. No. All agree.
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. No.
4. The variance requested is the minimum variance which will make possible the reasonable use of the land, building, or structure. No not minimal. All agree.
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. No. All agree.

**BEEMER MAKES A MOTION THAT WE DENY THE VARIANCE REQUEST #2024 AS IT DOES NOT MEET THE CRITERIA. GOLD SECONDS.** Roll vote: Rettig- yes; Anderson – yes; Beemer – yes; Gold – yes. 4 – 0 **VARIANCE DENIED.**

Chair asks if there is any further public comment. None.

**GOLD MOTIONS FOR ADJOURNMENT; RETTIG SECONDS. Voice vote: All ayes.** Chair announces we are adjourned at 2:00 p.m.

Respectfully submitted,

Elisabeth A. Rettig  
Recording Secretary

Date Approved: March 21, 2023