

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS
Minutes of the July 18, 2023, Regular Meeting
APPROVED

The July 18, 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: Doug Dow, Liz Rettig, Larry Anderson, Tom Gold, Bob Beemer. 5 present - Quorum.

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

Chair advises that the next order of business is to approve the June 20, 2023, minutes. Chair asks for corrections/additions. Rettig makes note of a few minor corrections: Dow notes: Page 1 - number of members present should be 5; Beemer notes: Page 3 3rd paragraph second to last line should read “it could **not** go out 13 feet”; Page 6 last paragraph, 1st line should read “platted as 25 feet wide but **the pavement** is much narrower than that and **the full 25 foot wide roadway is** owned by Shorewood Hills”; Page 6, Board Discussion, last paragraph 6th line: “Beemer corrects her stating that the only parking spaces for the existing cottage are on the roadway”; Page 7 2nd to last paragraph, last line: “Beemer: **Let’s require all downward, shielded lighting.**”

Dow makes a motion to approve the minutes as corrected, Anderson seconds. VOICE VOTE: 5 AYES. MINUTES APPROVED AS CORRECTED.

Chair reads the case:

Case #2030 Applicant Raymond Weber, 14693 Meadow Lane, Lakeside, Property Code #11-07-4900-0002-00-0 is requesting a variance to construct a second accessory structure in the front yard that will meet all setback requirements. Section 7.02 of Chikaming Township Zoning Ordinance #144, as amended, states detached accessory buildings are not allowed in the front yard.

No letters.

Chair asks Kelly (ZA) to give details on this case. Kelly shows us an old survey presented when applicant did the garage. On that plan, the survey said, “for future use” and they would be coming back for the construction of the pool house. The property is a triangularly shaped parcel with 2 front yards. Kelly shows us on the map where the new garage placement it. Dow interjects, yes, there are 2 garages currently there. The little garage is still there and the new garage. Kelly continues: The framed garage will be coming down and that’s where the pool house will be located. Kelly points on map the location of the pool house. Chair: So, the variance is only related to the pool house. Chair asks if the pool and deck are leaving. Kelly: The deck is not all coming down, it is getting refurbished. The fence is currently 6-foot tall. If they tear it down and replace it, they would only be able to do a 4-foot tall fence. The architect was going to go back to the homeowner and have a discussion and do a refurbishment to keep the fence. The other fence on the other side which is shown is only going to be 4 foot tall. Gold asks about the proposed raised stone deck. Kelly answers: the pool is partially built into the hillside – partially in ground and some above ground. They are going to do stone along the property line, but leaving the part where the fence exists. The fence is an existing non-conforming condition. Dow asks about the back part where the fence is, is this side yard or back yard? Kelly answers: They have declared Meadow a front yard, this would be a side yard – the property has 2 fronts and a side. Chair asks about permeable surfaces – does that come into play for the square footages? Kelly answers: No, the size of their lot is large, and the maximum lot size calculation is 40% or 19,440 square feet.

Gold asks about the strange condition with the neighbor's garage. What does the ordinance say about setbacks from someone else's structure on your property? You have your structure basically right next to the neighbor's. Chair asks, is it too close for fire department to access? Kelly advises, we do not have setbacks for fences, some are on the lot line. Dow, so the space between the neighbor garage and pool house is essentially a side yard with a 10-foot set back? Kelly confirms.

Chair asks to hear from applicant. Mr. Raymond Weber begins by stating that the neighbor's existing garage is on their property according to an easement that the previous owner to their property signed in 1987. The neighbors know it's on our property. Gold asks how it can be maintained. Weber says there is space there and we walk between there all the time.

Chair asks for Public Comment. None.

Board discussion. Chair begins by stating this meets what we say we are going to accept. 2 front yards, meets all setbacks, no impervious surface issues, no lot coverage issues, an existing structure that will be removed which will make it better, getting replaced by a smaller structure. Gold: My concern was the maintenance of something right on the property line. If they are tearing out the deck and rebuilding it with raised stone, it is not a structure, basically like landscaping. Kelly: If the retaining wall is functioning as the retaining wall for the landscaping, it is considered landscaping. The fence cannot be on top of the landscaping, but they could back it off the retaining wall and the fence could still be at 6 foot tall. A side yard would allow a 6-foot fence. Beemer asks about the extension of the 6-foot fence. Kelly: If they tear it down and rebuild it, it would have to comply with the ordinance. But since it exists, it makes it a legal non-conforming fence – they can replace the boards.

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. Triangular lot with 2 front yards, 1 side yard. 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, all agree.
4. The variance requested is the minimum variance which will make possible the reasonable use of the land, building, or structure. Yes. 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. Yes. All agree.

DOW MAKES A MOTION THAT WE APPROVE THE VARIANCE ON CASE #2030 TO ALLOW PLACING THE ACCESSORY STRUCTURE IN THE FRONT YARD. GOLD SECONDS. ROLL VOTE: Dow -Yes, Rettig - Yes, Anderson - Yes, Gold – Yes, Beemer - Yes. 5 ayes. Variance is approved.

Chair asks if there is any further business to come before the Board.

Gold asks Mr. Dow to look at some changes/questions he has as to the ordinance which he would like taken to the planning commission. There is a phrase "mother-in-law suite" in the ordinance that seems archaic. Also, Section 6.15.g.4.c.8 prohibit the sale or rental of an accessory dwelling. Since we allow

rentals in our area, how can we prohibit people from renting a guest suite above the garage, this seems to prohibit people from renting out their space even if they rent out their entire house. Dow, the language prohibits a separate rental or a separate sale. It must be 1 rental for both the house and accessory dwelling. Gold: so if you live there, you can't rent out the space above the garage while you are there, what is the point of that? Kelly: A special land use permit is not going to allow that. Dow: the point of that is when you construct the space, you are restricted to family only as part of the special land use. Gold: This seems unnecessarily burdensome and restrictive on people who are struggling to make their mortgage who may count on rentals and they are not allowed. Dow: The issue is, we are awash in rentals. About 2 years ago about 40% of the R-1 properties in Chikaming have rental licenses. Even the state of Michigan in its legislation (which appears to have died) was going to remove the control of rentals from local governments and apply state control putting a limit of 30% on rentals. We are taking what measures we can. Beemer: Yes, keep it residential. Chair: When you build an ADU on your property, it is for your family, not to rent it out. Kelly: With the SLU and an ADU, they are not allowed to rent either, past experience shows us that it will bleed over and they will rent. Once I get a SLU, they cannot rent either the house or the accessory structure. The ordinance specifically states – for the property owner's family. The renters are not the owners and then the owner loses their special land use. Beemer: Abusing good intentions, by allowing ADU family use to become a commercial rental operation. Discussion ends.

DOW MOTIONS FOR ADJOURNMENT; ANDERSON SECONDS. Voice vote: All ayes. Chair announces we are adjourned at 1:25 p.m.

Respectfully submitted,

Elisabeth A. Rettig
Recording Secretary

Date Approved: 8/15/23