

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS
Minutes of the April 20, 2021, Regular Meeting
APPROVED

ELECTRONIC MEETING VIA ZOOM, PER GOVERNOR WHITMER'S ORDER

The April 20, 2021, regular meeting of the Zoning Board of Appeals (held electronically) was called to order at 1:14 p.m. (awaiting quorum) by Chairman (hereinafter Chair) Larry Anderson. Roll call of members attending electronically: Larry Anderson (from Sawyer), Liz Rettig (from Harbert), Tom Gold (from New Buffalo). 3 present - Quorum. Noted that Attorney Hilmer is also present along with many others attending via zoom. (29 participants at beginning of meeting)

Chair advises that the first order of business is to approve the January 19, 2021, minutes. Chair asks if the Board members have any corrections. Chair advises that Bob Beemer (who was present at the January meeting) has some comments/changes/corrections. Chair reads them into the record. Rettig notes that the minutes are not a verbatim record of everything that is said, but a summary. Rettig suggests that we approve the minutes and put these additional notes from Beemer with the minutes, Chair agrees. No one else has any further comments on the minutes as presented. **Chair takes a roll call vote on approving the minutes with the additional notes attached. Roll vote: Anderson, Rettig, Gold – 3 AYES. Minutes are approved with comments attached.**

[MEMBER PAUL ROOK IS NOW ABLE TO JOIN VIA ZOOM – 4 BOARD MEMBERS NOW PRESENT.]

Case #1192- Jocelyn Verlee, 15942 Red Arrow Highway, Union Pier. Property Code # 11-07-4570-0079-00-8; Applicant is asking to keep a newly constructed deck and steps that has no setback from an existing building and encroaches into the side yard setback. Chikaming Township Zoning Ordinance #144, Section 7.07(C)(2) requires a minimum setback of 10 feet from all structures and a 10-foot side yard setback in C-U Commercial District.

Chair asks for background from ZA (Van Thornton). Van gives a short version: After the construction of a deck the applicant contacted the building department to ask if a permit was needed. When the site plan was submitted, I (Van) determined that the setback to the side yard was not 10 feet as required by the Ordinance and the distance between 2 structures was not 10 feet as required by the Ordinance. The deck, since it was connected to the house, becomes part of the house structure and as a result, the deck was not 10 feet from the pole barn. The existing house and pole barn may have been non-conforming due to distance from the side setback. I advised that if the deck was modified so that it was equal to no more than the side setback of the existing building, it could be allowed at that dimension, since the non-conformity is not being increased.

Chair (addressing ZA), we have a deck that no permit was applied for, we do not know how it was constructed, since there was no permit, there was no inspection and we are being asked by the applicant to leave it in place in that condition when it violates the side-yard setback and violates the set back of being too close to the pole barn – does that summarize it? ZA answers yes.

Chair asks that applicant for comments. Applicant Verlee advises that she approached the Building Department regarding the platform (1 step up) and was told by the Building Department (by e-mail from Ted Hanson) that no permit was needed. I presented him with plans and application and he advises no

permit was necessary. Not understanding that I needed to go to zoning, I built the platform. Applicant goes on to describe the strange positioning of the house (built in early 1900's) and refers to survey and drawings. House and pole barn also a strange angle. Old deck was non-conforming and unsafe. Platform was meant to fill a totally unusable space, no room for safe egress from house to garage. French door is elevated and steps are necessary. It was not intentionally built without a permit. E-mail says I did not need one. Does not encroach anyone else's property lines.

Gold questions applicant as to copy of e-mail from Ted. ZA confirms that Ted waived the necessity of permit. Chair then asks Van, does the waiving of the permit effectively say that no variance is required? ZA answers that Ted did advise the applicant that even though a building permit was not required, it still needed to get zoning compliance approved. Chair (addressing ZA) asks if the applicant should have applied for a variance for practical difficulty prior to construction. ZA answers yes. Zoning approval is received before building permits are requested. Applicant says that it was not so conveyed.

Gold continues wondering how this got approved as this is a deck and a deck is a structure and a structure is governed by the code and clearly this property has issues, and now we are stuck with this. It's like begging for forgiveness instead of asking for permission. I don't understand why this was not done as a patio instead of a deck and we wouldn't be having this discussion. A stone patio could have been done. We have a building official who approved this. If Ted told her it was ok to go ahead, what do we have to talk about. ZA interjects that the e-mail did say he was waiving the permit for the deck, but that zoning compliance must still be achieved. Ted did not have the authority to waive zoning requirements and did advise the applicant that zoning was necessary. Rook asks if this was in writing and ZA answers, yes, it was an e-mail. Gold asks applicant why she did not submit for zoning before constructing the deck. Applicant says that it was not until later that she learned about the zoning and that she thought she was "good to go." Gold reads from the Code (Page 220): "Deck: A raised platform, commonly constructed of wood, which does not have a roof and is typically attached to or abuts a house and used for outdoor leisure activities." You can call it a platform, but you built a deck. You should have come to us before you built. Applicant: I was not aware. This is the first deck I have built. Applicant continues with information that this was an unusable space. Gold responds stating that he is a builder and always get permits. The applicant's builder should have known what was required. Chair interjects that the permit was waived but not the zoning application for practical difficulty. Applicant continues with her explanations about this being an upgrade, unusable space, non-conforming, and she filed necessary paperwork. Chair responds that she did NOT file the proper paperwork. Rettig adds that the applicant herself knew this was a non-conforming lot which should have prompted her to understand she needs a variance. Gold interjects: We are expanding a non-conforming use – which is not allowed.

Chair says that we have heard enough to understand what has happened.

Chair asks for letters. Rettig advises that she has received (from Kim Livengood of B/Z Department) a letter dated 4/12/20 from Kevin Leman, 9860 Woodlawn. Rettig reads letter into record and will be placed into file. Summation: deck improperly constructed/should have gotten building permit/not a minor item/need to enforce building/zoning laws; recommends reconstruction deck with proper setbacks.

Chair opens public comments. None.

Chair goes to Board discussion with no input from public or applicant:

Chair starts first and says he is inclined to agree with letter. This is a big ask to come in after the fact. Applicant clearly knew even though a permit may not have been required, a permit for zoning variance for practical difficulties was required. I would speak in favor of denying this deck to remain.

Rettig says there were many more options than building the deck so close to the barn structure; easily done as pavers and staying away from lot line. The fact that a variance was not applied for, agrees with Chair.

Gold agrees with both – more effort should have been taken by applicant before she took effort to build. Perhaps we can compromise, cutting the deck back. Connecting the building does not bother me as much as being so close to the lot line. If she takes 5 feet off the deck or takes it down and puts in a stone patio would be 2 solutions. This is clearly a structure – raised above the grade.

Rook: I don't see the closeness of the deck to the barn structure as a problem because the neighbor's house is 30 – 40 feet away. I would not support asking for a variance after the fact. Would allow them to leave as is.

Chair says his concern is this is the 2nd time someone has come after they have built and then requested a variance. It bothers me that people in our community are not following the rules. The requirement for a variance was well know, even though a permit was not required. I would be willing to hear a compromise.

Gold says, perhaps we can hear from the application if she is receptive to a compromise – otherwise we have to vote to tear it down.

Applicant now speaks saying she was going under the advice of the building inspector and all of this happened within 3 days. Mr. Hansen said I did not need a permit for the building.

Gold asks ZA (Van Thornton) if there was a time that Mr. Hansen took over. Van answers that he retired April 1, 2021, and during that time of this construction (early March) he was in charge. Van produces the e-mail from Ted sent to applicant dated March 9, 2021, which states: "Fence does not require a building permit but does require a zoning permit which I have attached for you. I have also included this to Van Thornton the zoning administrator. I do not need a permit for your platform between the house and pole barn."

Applicant: I have an e-mail from Ted (March 11) stating that Ted has been instructed to work on zoning application.

Gold: When did you build this? Applicant: Days after the e-mail that says I do not need a permit. 3-day build. Rettig asks for clarification. Applicant says they started around March 10, 11, 12 and 3 days following that.

Gold asks what happened to the application? Applicant says she has an e-mail from Ted stating that he is taking over the zoning application. Gold questions this as Van is supposed to be doing zoning.

Rettig says the e-mail does not seem clear – it talks about a fence not needing a permit but a zoning permit.

Rook chimes in about a variance requirement for the fence. Does not address deck.

Gold asks if any of this came over Van's desk.

Van answers that he saw and reviewed the fence application and then received a zoning compliance permit that indicated the deck information and that is where I made a determination that she was not in compliance. Chair: But the deck was already built? Van: Correct.

Gold goes back to board discussion. It seems like applicant jumped the gun. She was told she needed zoning approval, it came across Van's desk, Van responded that she has to wait until she gets a response. It takes time. She went ahead and built the thing. What I'm hearing is you didn't need a permit but you needed zoning approval. Now you're asking for us to give you a pass after the fact. I suggest a compromise – cut it off and make everyone happy.

Rettig thinks that Ted's e-mail was vague but nevertheless the problem exists and applicant is not in compliance. I would hope applicant would be willing to compromise.

Chair asks Attorney Hilmer regarding aspects of a Township official giving some approval but there seems to be confusion on what was required. Attorney Hilmer answers that misinformation or lack of understanding of the ordinance does not let the individual off the hook. The Township is not bound by a mistake that an official made. The ordinance controls.

We need to go through the criteria to see if we can leave it as is unless the applicant wants to make an effort towards a compromise.

Applicant wonders if it would be compliant if she cut back 1 edge of the deck to meet the corner of the house. To say that I went ahead and built it is not accurate. This was done under Ted's direction and he was instructed to take over zoning. I acted on full faith effort that this was ok to go ahead. There was no intention - there was no ask for forgiveness later, deck is a wonderful addition. Back to compliance, if I could move a line over instead of ripping this out.

Gold suggests coming at a right angle from the house between the stairs and the South corner of the house – right angle straight out and give us 5 feet from the fence – if you had come to us ahead of time – I would say you were making an effort to not get too close to the property line. I understand the weird lot argument. But this is expanding on a non-conforming lot.

Applicant: It is not impeding anyone. I was acting with full knowledge of the building department. I'm not sure what you mean by a 90 degree angle.

Chair: I'm now wondering if there's an issue on lot coverage.

Van: Lot coverage is not an issue since decks are a pervious surface. I have just forwarded to all of you, an e-mail from March 15, where I had reviewed the applicant's information and I sent her 5 items that needed attention. I have dealt with the applicant well over a year on many items relating to this property and she has always made good faith efforts on our requirements.

Chair now reads the e-mail from Van: (March 15)

You have several challenges:

1. Was a building permit issued? One is required

2. The deck may not be any closer to the barn than ten feet
3. The deck is too close to the property line. It may be no closer to the property line than the barn or the residence, whichever is closer.
4. The gate must be approved by the fire chief
5. The fence must be installed “good side out.”

Please re-submit a site plan complying with the requirements of Chikaming Township Zoning Ordinance #144, along with a building permit application for further review.

Applicant advises that this was after it was built. I got all of the information to Van.

Van: My recommendation of a building permit required, does not reflect Ted’s prior waiving of it and I would recommend that Item 1 not be considered since it was already waived.

Gold now presents a sketch suggesting that she square up the deck. Applicant advises she understands. I again ask that based upon the path that this took and it not affecting anybody, helping the neighborhood, helping this property with outside space, the lot lines were designated well after the house was there and based upon the history and dates and e-mails, I’m allowed a variance to keep it. Not impinging upon anyone else’s land.

Chair: I need a motion to determine what the criteria will be based upon – leaving the deck constructed and granting the entire variance... are we addressing it from the standpoint of a compromise...or all or nothing?

Gold – does the compromise appeal to any of the other board members. Chair: I believe cutting it back appears to be more unsafe. I personally would prefer it to be taken out and put at ground level.

Rettig interjects that the Zoning Compliance Officer (Nelson) has just given her a message that said that the platform was originally presented to the Building Department at ground level and now it is raised.

The Board generally agrees that it should be either leave it or take it out; no compromise – all or nothing.

Chair goes over criteria: (Page 194, Article 17)

- 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 – unique lay out of the property, where the house is located
- 2 As 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 be unnecessarily burdensome? No. (all agree)

Once we get to a “no” answer to the criteria questions, we do not have to go further.

Chair advises that based upon the answers to the criteria, the variance has been rejected.

Chair makes a motion that based upon the criteria not being met (specifically #2), we reject the variance application for practical difficulty. Gold seconds.

Roll vote: Rook, Gold, Rettig, Anderson. All yes.

Rettig now asks, what does that mean to the applicant? Does the building department now work with that? Chair advises this now goes back to Code Compliance (Greg, Ted).

Chair moves to next matter:

Appeal: Michael, Susan and Hannah Levine (and others), concerning a building permit issued for new construction on a property at 13560 Easy Lane, Harbert, property code number 11-07-0009-0004-51-1. Applicants are appealing the Zoning Administrator's decision that their appeal filed March 11, 2021, concerning the building permit issued January 4, 2021, with zoning approval of December 28, 2020, for said construction was not timely filed as required by Section 17.04(B)(2) of the Chikaming Township Zoning Ordinance, Ordinance No. 144. Section 17.04(B)(2) provides, in part, that an "appeal shall be requested by the applicant within 30 days of the date of the order, refusal, requirement, or determination being appealed."

Before we start, what we are looking at is the decision of Van that the appeal was presented too late.

Chair asks Van to comment. Van states under the Ordinance an appeal of an administrative decision be filed within 30 days of the decision. When I was initially contacted by the application, I advised them that their appeal was not timely and we could not consider or accept the application. Then with various e-mails back and forth, it was determined that it might be possible for the application to appeal the decision I made. That is up to the zoning board. Van's decision was they were not within the 30-day time limit. That is the appeal.

Chair gives some history: Hjelmaker applied for a building permit, Van issued some information, there was some back and forth with the health department regarding a septic field, but the actual building permit was issued January 4, 2021 – is that correct Van?

Van answers yes. We had several site plan revisions, but I believe my final approval was December 28, 2020. The permit was issued January 4, 2021, after payment was received.

Chair goes on: The appellant came in to gather information on January 25, 2021 and you answered their questions and they were aware that a permit had been issued as of January 4, 2021. Van, when did you receive the information filing the appeal? Van answers that he provided a timeline document. Many of the Board members say they did not get a timeline. Mr. Hilmer interjects that he was copied when the Township received the application on Thursday March 11, 2021. Chair: Our timeline is: the permit was issued January 4, 2021, January 25, 2021, the applicants came to the township looking for information, and applicants filed appeal on March 11, 2021. Rook asks when does 30-days start? Building permit date? Chair and Hilmer confirm the issuance of the building permit starts the 30 days. Rook: 30 days after January 4 is February 3 – long past appeal period. Van interjects that March 11, 2021, is the date of the application. Hilmer says that Van sent an e-mail on March 15, 2021, to the applicant stating that it was not timely filed. Gold summarizes that the appeal should have been applied for by February 3, 2021.

Chair (addressing the applicants) kindly asks for 1 person from the many applicants to speak. Carl Lindsay interjects his disgust with the Board. Rettig reminds the Chair that this is not public comment and to mute everyone but the applicant who is going to speak.

Several of the applicants speak out objecting and advise they all want to speak. Susan Levine wishes to speak to the timing issue. She further goes on to say that they did not know if this appeal was going to be to the timing of the appeal or the substance issue and was told by Kim of the Building Department that they could speak on both topics.

Chair advises applicant that in the zoning ordinance, (Section 17.04, Subsection B, A, a): “In hearing and deciding appeals under this sub-section, ZBA review shall be based upon the record of the administrative decision being appealed, and the ZBA shall not consider new information which had not been presented to the administrative official, board or commission from whom the appeal is taken. The ZBA shall not substitute its judgment for that of the administrative official, board or commission being appealed, and the appeal shall be limited to determining, based upon the record, whether the administrative official, board or commission breached a duty or discretion in carrying out this Ordinance.”

Chair continues, all of the supplementary information that came in after the ZA’s decision are not pertinent.

Applicant Susan continues regarding the timeline. I believe that some of the problem was due to COVID. As early as December 4, 2020, neighbors were expressing concerns to the Township on the clear cutting of the lot and asking to see building plans. It wasn’t until January 25, 2021, that Van first informed us that we could view the plans. Mike Levine went into the office to view the plans (marked as A-1). There were multiple red markings on the plan that were not in compliance. We did not know on that day that the plans were approved or a permit had been issued. This was just a few days before the 30-day window and we were not told and were not shown the approved plans. January 27, 2021, Van e-mailed us that we would be notified when the final plans would be available. We have not received that. On February 15 and 17, we have an e-mail from Van stating that we could appeal his decision. We then started to file the appeal. On March 15, 2021, we were notified our appeal was too late. They were told in an e-mail (February 15 and 17) we could appeal. We don’t understand how we could be timely, if we did not have access.

Gold questions Van how a permit could be issued on January 4, 2021, and they came in 3 weeks later January 25, and the plans were not final. Certainly, your permit was based on the construction set of plans? What documents were they given on January 25, if they were not final.

Van answers: The plans on the construction set were not complaint with a few items and I requested the architect to make a couple of changes so I could accept it. Those changes were labeling of a room in the accessory building as a kitchen and to delete the graphic of a stove which would then bring it into compliance for accessory buildings. Then the issue of the septic and approval of the county came up and we found out that the county approval must be indicated on the site plan. I then received an electronic version of that on or about December 28, 2020, and I approved that site plan.

Gold: Then, what were they given on January 25, 2021, that was not the final set? Van: I am not aware of what they were given. I asked the architect to provide plans to me electronically – in December.

Susan continues holding up a picture (on the plans we were given), there were many things circled in red – these were the A-1 site plans. Now we know there was an A-2, but we have not had access. We did not know when the plans were approved.

Gold (to the applicant): Did the construction company not post the permit on the site?

Application: We do not know the exact date. We had asked for the building plans in December but were not provided them until January 25, 2020. We asked multiple times, as early as December for the building plans but were not provided access to the building plans until January 25. February 15 and February 17, Van said you may file an appeal related to my decision related to the accessory structures and the building, not file an appeal as to the timing of my decision. We were misled and given challenging information.

Rook: You stated that on December 4, the neighbors saw the clear cutting started, but you could not get into Chikaming Township to review the plans until January 25. Were you told you could not get in due to COVID? Applicant: I have e-mails from December 4 to Van asking if we can see the plans and he never gave us the opportunity until January 25. He sent an e-mail on January 25 saying you may come to the office to see the plans. This is the first date allowable to us.

Gold: When you did come in on January 25, it would still have given you 3 days' chance to file an appeal. Are you stating that you were not told that you were almost at the deadline? Applicant: Correct, and the plans we saw were not the approved plans. That would have been an easy thing to share with the many e-mails we had.

Rettig: On February 15, when you are stating Van said you can still appeal, is this an e-mail? Applicant: Yes, an e-mail, I will forward this to you.

Gold: There is obviously a lot of passion around this issue, and because of Covid and other circumstances, I think we should hear the appeal. We may still rule against them, but I think we should hear the appeal. If they asked for the drawings and were not given them in a timely manner, this was a mistake on the building department and we should at least hear them.

Rettig: Especially on February 15, if they were told they could still appeal, that's my main concern.

Chair clarifies: We are hearing an appeal on Van's decision that their application was too late. If there's an issue on timeline.

Gold: Their appeal is whether or not the guest house and garage was properly permitted.

Chair: We cannot address that today. We can only address Van's decision. If we agree that Van's decision was correct that their application was too late, then the appeal is ended. If we look at it and say that Van or someone else from the township didn't give information or made a mistake or communicated ineffectively, we may make the decision as a group to grant the appeal that Van's decision was incorrect. At that point the applicant(s) can then make a further appeal of those prior decisions. We are only looking at Van's decision today to allow the appeal.

Applicant: That is not what we were told when we contacted the Zoning Board office (Kim) who said we would cover everything.

Chair: I'm sorry but that's not what the ordinance states.

Applicant: If you do grant the appeal to have a hearing on the accessory structure, can you also request that the building of the accessory structure does not start until the appeal is heard. The building has not yet begun.

Hilmer: The only thing the Board is tasked with today is making a decision on whether or not Van is correct that the appeal was not timely filed. If the Board decides that Van's decision is incorrect, the Board at this hearing cannot hear the substance of the appeal. It must be noticed out as an appeal and the other issues then must be addressed at a different hearing. That's a different subject than if Van made a correct decision. The board is limited to deciding today on Van's decision to allow the appeal.

Chair: I am interested from other applications any other information on timing. Is there some reason for the ZBA to grant the appeal of Mr. Thornton's decision as to the appeal?

Zurick Esposito speaks: The timeline that Susan presented seems to demonstrate that communication and information were not adequately provided to appeal any decisions that were already made. I encourage the Board to consider this request.

Rettig requests the e-mail from February 17. If the applicant's contention is that Van advised them they could appeal, I am very interested in that key document.

Chair reads a letter from Attorney Mark Miller into record dated April 15, 2021. (copy attached as part of record). The appeal must be dismissed because it is not timely. The review must be based on the record. ZBA shall not consider new information.

As we wait for the e-mail letter of February 17, Chair goes to public comment.

Mr. Levine responds to Mr. Miller's letter regarding woods on the adjacent lot. We understand that when someone buys property, they have a right to choose what they want on that property. It is also true that there are ordinances. We are objecting to a number of issues specifically the accessory structure....

Chair stops Mr. Levine and advises that we cannot hearing substance, only Mr. Thornton's decision to allow appeal.

Chair calls on Mary Kelly Heinz who understands the only issue we are addressing is timing. I am an attorney and one of the central principals in law is the right to be heard as a timing issue when there is notice. There has been no notice given of the permit issuance. The 30-day time rule does not start until notice is received. This has not happened. Request the denial of the permit issuance.

Van Thornton has internet trouble and may not be available.

No other input from the public.

Rettig advises she has the e-mail and Chair asks it to be read into the public record. Rettig advises it is a series of e-mails starting on February 12 where she asks some questions, then February 15, Van responds; then February 17, subject is Accessory Structure location, kitchen, and going forward, Van responds to Susan: "Our ordinance requires the accessory structure to be smaller than the principal structure. As long as the owner conforms to the zoning ordinance, I see little chance of a successful

appeal. This is only a personal opinion. You have the right to appeal, state your case and hope the Board agrees with you. I am certainly not trying to discourage you.”

Mr. Miller asks to be heard. I have not been to the site, but the owner Mr. Hjelmaker is in this meeting and asks Mr. Hjelmaker when the permit was posted on the job site. Mr. Hjelmaker says that he has to check with Zielke the Builder, but they certainly put the permit on site the day of excavation which was immediately following the issuance of the building permit. The permit has been on site from day 1 of construction. Construction began in early January. Miller declares: That’s your notice.

Rettig asks Mr. Hilmer: Is the posting of the building permit considered notice? Hilmer responds that notice of the issuance of the building permit is not required to be given to anyone other than the recipient of the permit. The way the public finds out is it gets posted on the premises and the permit basically says they have the right to start building. People know that it has been permitted by the municipality.

Mrs. Levine: With all of the communication going around about the ordinances and questions, never in any of that communication did Van tell us that the permit was granted and you have until “this” date to appeal and that we can see the plans. How can an appeal be filed if we don’t have access to the plans? There was much concern in the community. We were never told of the deadline date for filing.

Meg Foster: starts to speak about context. Chair stops her advising that she is out of order and can only speak to the timeline. There may or may not be a future appeal depending upon our decision.

Board Discussion: Gold feels there was confusion not allowing access to Township hall where the plans were, some miscommunication, Van did state they could appeal in a period of time that had passed. He should have said in that February 17 e-mail that the time had passed and you cannot appeal my decision. I believe there is much passion. I am not saying how I will vote on the granting of the permit, but we should take the time at the next meeting to hear out the applicants.

Rook: If I have these dates right, Mrs. Levine on December 4 asked to see the plans. The plans were approved on December 28, a permit was issued on January 4 and they were not allowed to see those plans until January 25 and only 3 days more to officially appeal. I feel this is the fault of the building department and we were lax in providing adequate information.

Rettig: If it’s true that they were not allowed to see the plans until January 25, I agree with Paul and Tom. My concern is with so many e-mails back and forth, why were the building plans withheld until January 25. I’m inclined to give the appellant their day in court.

Chair asks Mr. Hilmer: What are the implications if we vote and allow the appeal. Hilmer answers that it would be considered that their appeal was timely filed and the next step is to notice it out for public hearing by the Board of Appeals with appropriate notice and publication. Rettig: Would we then be able to hear about substance, would that be the appeal? Hilmer: We could then hear the substance of the appeal, the issuance of the building permit and that things shown in the plan were not in conformance of the ordinance.

Gold: The practical implication for the builder is the delay - they shouldn’t put in foundation as there would be financial implication to the owner and builder in disrupting his construction schedule.

Levine: They have not yet poured the foundation for the 2nd house – they have not yet even dug a hole. Chair advises applicant is out of order.

Rettig: Gold does have some valid points. The homeowner must stop building on the guesthouse. Gold continues, they may continue on the main house – that is not part of the appeal.

Larry weighs in. It should be a very simple thing. It is not incumbent on the Zoning Administrator to provide loads of information. He is there to answer questions and show what he has. If he made a mistake in terms of timing, the Township is not bound by the fact that he made a mistake. I am conflicted with that. I am also conflicted with the fact that the application has the ability to make an appeal under the ordinance and they had 30 days. I am further conflicted with all of the verbiage back and forth with Van stating that the appeal is still allowed.

Gold: We spent an hour and 10 minutes on a deck. The homeowner needs to live in the community. People need to air their grievances for the health of the community.

Chair in summary. We have heard from applicant, Zoning Administrator, Township attorney, the public. There is no criteria to go through.

Gold makes a motion to allow the appeal to go forward as soon as practically possible with the Building Department noticing this hearing immediately in time for the next hearing. Rettig seconds so that further discussion can continue. [Kim of the Building Department states that today is the deadline for filing an application. Hilmer interjects that the application is already filed. Notice must be 15 days before the hearing date.] **Roll call vote: Gold, Rook, Rettig, Anderson: All yes.**

Chair proceeds to next topic. Request from Zoning Administrator who has provided a plat of a parcel that is bounded by three (3) streets. Van wants an opinion as to what is the front yard, side yard, rear yard setbacks. Van does not want an opinion on this specific parcel, but has given us an example. Tom describes the situation as 1 of the 3 roads that abut this property as platted but not developed. This parcel has 3 roads with an address on Lakeshore. General consensus is that the front yard is the road with the address. The opposite lot line from the road is the rear yard. Rettig reminds the Board that this discussion has happened in the past where we ruled there were in fact 3 side yards and 1 front yard. This parcel is a corner lot so it already has 2 front yard setbacks. Which is the rear yard and what is allowed to be built in a rear yard? Each parcel must be taken on a case-by-case basis. We cannot make a general ruling. Every case stands on its own. Can they build an accessory structure? Where? Is there any situation where there could be 3 front yards? This particular site seems to have 3 roads, which really would be 3 front yards. This seems unfair and a hindrance to the parcel. For instance, where can the pool be placed? Never in the front yard. It comes down to identifying the rear yard. If one of the roads is undeveloped, then probably it could be considered a rear yard. There may be a situation where a parcel COULD have 3 front yards. The consensus is that each parcel must be looked at and taken on an individual basis. We can't craft a general rule or policy. Mr. Hilmer weighs in stating that it would be difficult to adopt a policy where there are 3 roads causing 3 front yards without looking at the specific facts for each lot. **BY CONSENSUS THE BOARD DECIDED THAT EACH PARCEL THAT IS UNIQUE WITH 3 POSSIBLE FRONT YARDS (ON STREETS) MUST BE LOOKED AT INDIVIDUALLY TO DETERMINE SET BACKS AND ALLOWED ACCESSORY STRUCTURES.**

Next order of business, election of officers. After discussion the following slate of officers was offered:

Larry Anderson	Chairman
Tom Gold	Vice Chair
Liz Rettig	Secretary

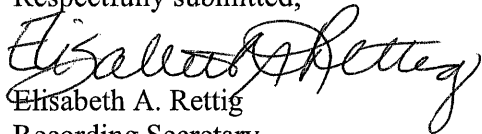
Roll vote: Rettig, Gold, Anderson, Rook - All Yes.

Kim from the Building Department asks a final question of the Board and Attorney Hilmer as to the Levine application. Do they have to submit a new application?

Hilmer replies: No. Van said the application was not timely filed. The Board decided it was timely. The current application just moves forward. The next step is to schedule it and notice it out. It's an appeal of the issuance of the permit of the guesthouse/garage. Their paperwork stands as submitted.

With no further business to come before the meeting, the Chair declares the meeting adjourned at 3:35 p.m.

Respectfully submitted,


Elisabeth A. Rettig
Recording Secretary

Date Approved May 18, 2021