

**CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS**  
**Minutes of the December 19, 2023, Regular Meeting**  
**APPROVED**

The December 19, 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, Thomas Gold. 4 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 November 21, 2023, minutes. Chair asks for corrections/additions. Dow presents 2 minor typographical corrections (Page 5); Rettig notes and makes the corrections. **Chair calls for a voice vote to approve the minutes as corrected. VOICE VOTE: 4 AYES. CORRECTED MINUTES APPROVED.**

Chair reads the cases:

***Case #2041 Applicant, Andrea Hellstern, 13000 Flynn Road, Sawyer, Property Code #11-07-0011-0029-07-9, is requesting approval for an addition that would have a 5.8' side yard setback. Section 4.02 of Chikaming Township Zoning Ordinance #144, as amended, requires a 10' side yard setback.***

**Letters.** Chair notes there are no letters.

Kelly shows a sketch of the existing house which has a 5.8' side yard setback already and notes that the new addition would mimic that same wall as exists from the property line – with no step back. They have 20+ feet from the North property line, so they do have space.

Chair asks if there is an overlay on the plat of survey showing the new and old. Kelly points out that the sketch does show the existing and the new but not on the survey.

**Applicant:** Andrea Hellstern speaks stating they became residents in 2020 and need the addition for extra space and comfort. Attempted to stay within the visual structure for the add on. This is a long 1-acre parcel and going forward this is the best choice. We have an egress driveway, and while it looks like a lot of room, it is mostly the neighbors. There is a long line of evergreen trees and a small forest in the front. Applicant's husband speaks advising that between them and the neighbor, Dan Barskus, there is a small overgrown area which is a buffer between the homes with brush between 15 and 20 feet. Mr. Barskus is in favor of the addition. We purchased the house with the existing 5.8' side yard setback on the current house.

**Public Comment:**

Daniel Barskus (neighbor) appreciates them as neighbors and understands why they need to build. New addition would not be objectional and completely appropriate to himself and any future owner.

**Board Discussion:**

Gold begins by telling the applicant that this is a totally self-created hardship; and they could easily have reconfigured the layout to get the same square footage by moving closer to Flynn Road and we would not be here. I do not see the necessity for a variance. Anderson concurs – and sees no practical difficulty with the land. There's lots of space and they could comply with the ordinance. Rettig adds that although they cannot change the existing wall which is 5.8' from the setback, they certainly could change their

plans by 4.2 feet. It is not unreasonable to ask them to stay away from the setback for the new addition. Dow agrees – there is nothing specific to the land that would warrant a variance. Gold further adds that they would be making a non-conforming setback more non-conforming. The variance has to be about the land – there are no constraints on this flat piece of property.

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. All agree. 4 No.
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. All agree. 4 No.
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. All agree. 4 No. The action would be self-imposed.
4. The variance requested is the minimum variance which will make possible the reasonable use of the land, building, or structure. 4 No.
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. 4 No. Not in harmony with the Ordinance.

**DOW MAKES A MOTION THAT WE DENY THE VARIANCE REQUESTED FOR CASE #2041 BASED UPON THE FACT THAT THE REQUEST DOES NOT MEET THE CRITERIA. THERE IS NO PRACTICAL DIFFICULTY AND HAS NOTHING TO DO WITH THE LAND FOR THE GRANTING OF A VARIANCE. GOLD SECONDS. 4 VOTE YES TO DENY VARIANCE.**

The Applicant asks if everyone on the Board has been to the house to visit the site. Rettig answers that it is the responsibility of each Board member to visit the site and all nod in agreement that they have visited the site.

***Case #2042 Applicant, Michael Cote, 7542 Harber Road, Three Oaks, Property Code #11-07-0016-0034-00-6, is requesting approval for an addition that would have an 8.5' side yard setback. Section 4.02 of Chikaming Township Zoning Ordinance #144, as amended, requires a 10' side yard setback.***

**Letters: None**

Chair asks Kelly to take us through the case. Kelly starts by stating this is a corner lot and a non-conforming lot which means we have 2 fronts and 2 sides by definition. Front along Johnson Lane; front along Harbert and a 10' side yard setback and a 10' side in the back. There is a structure on the property, which is already existing and non-conforming, but we are not here about that building. We are here about the addition. Presently they want to build a screened-in porch in the area of the deck. They have been working with an arborist to get the front deck configuration, a new deck in the rear, and the porch configuration because there is a very old pine tree, perhaps one of the oldest in the state. The owners are very interested in saving the tree which has caused them to ask for an 18" encroachment into the side yard setback for their addition.

**Applicant:** Michael Cote and father (Architect) state that they have been working for 2 years to try to find a way to sleep 2 additional people and convert the existing screened in porch into a 3-season room. There is another large tree in the South corner which we are also trying not to disturb. I have asked the

neighbor on the side, and they have told us they have no issue with the variance because there is a fence. We will reroute the water from the roof to save the tree in the front. The back tree will not be impacted.

**Public Comment: None**

**Board Discussion:** Gold begins by asking the applicant if they intend to use the existing deck footprint? Applicant affirms and states they are asking to extend the existing deck by 6 inches. Gold: so, the footers are already in the setback. Anderson: I see the deck being completely rebuilt for the new addition – you will need to bring it back into compliance. Gold continues: You have all this space, why do you need this 18”? Anderson: 21’ x 23’ or make it 19-1/2 x 23 – that’s a big room. Applicant says they focused on furniture arrangements, location of fireplace, and the tree, and making the room large enough to seat 8 people. Anderson: What is it about the land that would require this variance? There is no practical difficulty. Gold: there would be a number of different configurations that could work. Rettig: 21 x 23 are your dimensions? It seems odd that you wouldn’t go to the edge of the house – wood does not come in 23-foot dimension. You are cutting a board to make this 21 x 23. Why not bring it to the edge and make the room 24 x 19-1/2 – make it longer. then there would be no need for a variance. You are giving up 3 feet on one side to ask for 18”. Anderson: Plus, the new deck is being built right up to the edge of the tree. We are not here to redesign, but there seem to be alternatives. Dow: The short answer is there is nothing to do with the land – no topographical area - which would require this variance. Applicant shows a model and talks about the roof lines. Rettig interjects that our responsibility is to look at the land. What makes your property in need of a setback variance?

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. All agree. 4 No.
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. All agree. 4 No. There are alternatives.
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. All agree. 4 No. It would result from the actions of the Applicant.
4. The variance requested is the minimum variance which will make possible the reasonable use of the land, building, or structure. 4 No. All agree – not minimal/not needed.
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. 4 No. Not in the spirit of the Ordinance.

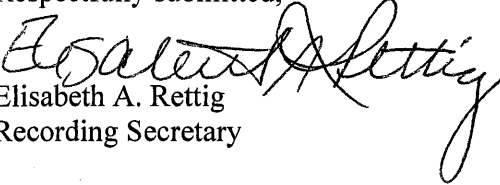
**GOLD MAKES A MOTION THAT WE DENY THE REQUEST FOR THE 18” VARIANCE IN CASE #2042 BECAUSE IT DOES NOT MEET THE CRITERIA. DOW SECONDS. ROLL: 4 VOTE TO DENY. VARIANCE DENIED.**

Discussion and review of 2024 calendar for board meetings; no meeting in January and no other potential conflicts with holidays. **Chair calls for a voice vote to approve the 2024 calendar. All 4 say aye. Calendar approved.**

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

**RETTIG CALLS FOR ADJOURNMENT AT 1:27 P.M. All second. Voice vote: All ayes. Chair announces we are adjourned at 1:27 p.m.**

Respectfully submitted,

  
Elisabeth A. Rettig  
Recording Secretary

Date Approved April 16, 2024