

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS  
Minutes of the February 18, 2020, Regular Meeting  
**APPROVED**

The February 18, 2020, regular meeting of the Zoning Board of Appeals was called to order at 1:00 p.m. by Chairman (hereinafter Chair) Larry Anderson. Roll call of members present: Larry Anderson, Doug Dow, Robert Beemer, Liz Rettig, Tom Gold. Quorum. Also present: Charles Hilmer (Township Attorney), Van Thornton (VA) and members in the audience (sign-up sheet attached of those persons who signed in).

Chair advises that the first order of business is to approve the December 17, 2019, minutes. Dow gives Secretary Rettig two (2) minor typographical corrections. **Dow motions for approval of minutes as corrected; Anderson seconds; Voice vote: – ALL AYES (5). Minutes are approved as corrected.**

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Chair advises Board that **Case #1177 (Keith Abla - #11-07-0125-0003-27-1) has been withdrawn by applicant.**

As it pertains to Case #1178 (see below) Chair gives to Board some details of his residency (that he lives in Bethany Beach) and goes on to advise that he has no familial affiliation with any members who are bringing the case, has no business or financial interest in the property or neighboring property and only possible conflict would be that Chair sits on a committee for Bethany Beach to review plans only and gives go ahead for applicant to go to Township to get necessary permits, approvals, and variances. The Bethany Beach Board does not give approval for permits or variances and as such Chair feels there is no conflict and opens it to Board discussion. All members of Board give their concurrence that no conflict of interest exists.

**CASE 1178: Keith and Heidi Jensen property owner – 115 Spring Park Avenue, Bethany Beach, Sawyer, MI 49125. Property Code No.: 11-07-0770-0168-00-1. Shaun Lynch (builder) has made application for property owner. Applicant is asking to add a screen porch to the front of the house with a side yard setback of 4' 5-1/2", add a second story addition that will exceed the allowed height by 4 inches and increase lot coverage to 33%. This is an NCR1-A lot which has a 4777+ of lot area. Chikaming Township Zoning Ordinance Section 4.06(D)1 allows 20% maximum lot coverage, building height of 18 feet and a 10-foot side yard setback.**

Chair directs his comments to the Zoning Administrator (Van Thornton) and lays out the variances as follows:

1. Front porch – increasing lot coverage;
2. South side cantilever projections – projecting into the required 10' set back – are cantilevers allowed (as they have no foundation);
3. Northeast corner infill – tearing off back porch of house and deck and increase house in that area (instead of deck this will be living space);
4. Height – is this an issue;
5. Cellar door and foundation in back – encroach into setback and are they considered in lot coverage;

6. Front steps – do they encroach into setback
7. Lot coverage.

Van Thornton and Board speak back and forth about the calculations. Front setback is 30.4 and not at issue; Side yard setback still at issue and cantilevers are going into the setbacks. Gold interjects asking about architectural features being in setbacks (2 feet); Van answers that cantilevers are not architectural features (only eaves/soffits). Rettig reminds us that Attorney Hilmer had previously advised the Board that anything that break the plane of the setback or projects into the setback (upwards or downwards) shall be considered as structures when looking at setback (including cantilevers). Van continues that the end of the cantilever to the lot line is the measurement that needs to be considered. The initial lot calculations are incorrect (deck is only 102 sq. ft.) and current lot coverage is 27% (including the accessory structure). The proposed is 33%. As to the Bilco door (cellar door), it must be considered to the lot line and if it is more than 5' 4" there is a rear yard setback issue. All look at the plans and concur that the door is not in the setback (1/4" shy) and determined that this is not at issue, but door must be used in calculations for lot coverage. Chair asks about front porch stairs. Van advises that stairs are allowed to encroach.

Chair reads a letter from Warren Jensen (neighbor across the street) – very much in favor of upgrading this 100 year old house to make it more functional and good for the neighborhood.

Chair ask for comments from applicant stating that he also has the architect (Jeffrey Bulin) and builder (Shaun Lynch) are available to give answers; gives brief detail of cottage upgrades and all lots in Bethany are very small and these proposed changes keep it reasonable for neighborhood. Many neighbors have much larger homes and taller homes.

Chair asks for comments from the public – none.

Chair goes to Board discussion asking if Board wishes to continue with each remaining issue:

1. Font porch.
2. Side projections
3. Northeast corner infill
4. Lot coverage.

Beemer feels we also need to address off street parking. In our zoning we must have two (2) car spaces for single family homes. Chair addresses Van to see if we are looking at the new ordinance or old ordinance. Van clarifies that both the new and old zoning are basically the same requiring 2 - 9 x 8 feet spaces and if the space is in the front it must be identified by gravel or permanent surface and within the lot line – not in roadway. Applicant answers that there is space available. Beemer again clarifies to applicant that it must be within the lot line and applicant says that there is room in the back but the hemlock bushes need to be removed. Chair advises that the spaces should show on the plans.

Addressing each issue:

1. Front porch – lot coverage and projecting into side yard. The new front porch (which is covered) replaces the steps (which previously were not at issue). Enlarging the

- porch with the roof is increasing the lot coverage. Discussion continues. Resolution is that if 7' 10" setback is maintained (as current house exists) and porch is narrowed back to existing house line, the porch is acceptable and 25 square footage is gained in calculating lot coverage.
2. Side yard projections (cantilever) – the projection is 2' 4-1/2" farther into the setback. Applicant points out that neighbor is not close to the lot line and this additional footage will not disturb them. Board discussion as to what additional lot coverage is created by the cantilevers. What the porch lost in coverage, the cantilevers replaced. Board felt that cantilevers were minimal and there was adequate space to get around the house with no fire/safety issues.
  3. Northeast corner – the current structure (deck) has been there a long time and it is only being replaced with a closed area now. The footprint is not being changed. Deck being swapped out for living space. Wall of house is 35' 4-1/2" from setback and new structure is same measurement. Van advises that wood decks do not count toward lot coverage.
  4. Height issue is discussed. Calculations discussed. 17' 5-1/2" is height architect shows and indicates he had to use existing floor height and ceiling height (9') as an average (bottom of lowest eave and highest point). Doug interjects that highest top height has the most impact on the neighborhood. Zoning Ordinance says, "what is the building height?" Architect is asked if there is any potential to lower 4" – answer is no because of existing floor elevation as an existing condition. Builder says that many other houses in neighborhood are much higher. Conclusion is that 18' 4" is the roof height.
  5. Lot Coverage (per Van) was incorrectly calculated and currently there is 33% coverage because of the deck inclusion; the new structure is 33% - so lot coverage is a non-issue.

Dow goes over what is left in the way of variances narrowing it down to the front porch, side yard projection and the height. The neighboring houses all look substantially taller. The question becomes, given the local environment, what is reasonable?

Gold interjects that many times we average front yard setbacks in neighborhoods, so if we look at the roof height, this falls reasonably within that scope.

Dow reminds the Board that our goal is to not make a structure more non-conforming (if it already is non-conforming) and in this case, we push here and push there, how close can we come to accepting the principle. Gold agrees and says that if the porch is reduced (street view for neighborhood), we are very close to the original footprint.

Beemer feels that we are all pretty much in agreement, cantilevers are a good compromise, take off a portion of the porch, deck turned into living space, and 4" height is minimal – as long as we get off street parking, the requests are reasonable and minimal.

Gold asks architect about cantilevers being very close to the ground. The architect explains that the existing floor is something that had to be worked with and this dictated the height of the cantilever from the ground.

**Dow makes a motion that the variances are approved as follows:**

- 1. The front porch south wall be moved back even with the house to eliminate the encroachment;**
- 2. Board will accept the 2' 4" bump out cantilevers as shown in the plan.**
- 3. Consider the Northeast corner in fill replacing a deck to essentially be equivalent in coverage;**
- 4. We recognize lot coverage calculations with the wood deck included renders the new proposed structure essentially the same as the existing structure;**
- 5. We will require 2 off street parking spots for 2 vehicles at the applicant's discretion (front or rear)**
- 6. Would agree to a variance of an additional 4" on roof height.**

Chair goes over criteria:

- 1 Are there unique circumstances or conditions that exist? Yes – lot size non-conforming.
- 2 As result of the unique circumstances, strict compliance with the provisions of this ordinance would unreasonably prevent the use of the property for a permitted purpose, or be unnecessarily burdensome? Yes – burdensome because of insufficient space.
- 3 The unique circumstances do not result from the actions of the applicant? Yes.
- 4 The variance request is a minimum variance that will make possible the reasonable use of the land, building or structure? Yes.
- 5 Will the granting of the variance be in harmony with the spirit and intent of the Ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, and welfare? Yes.

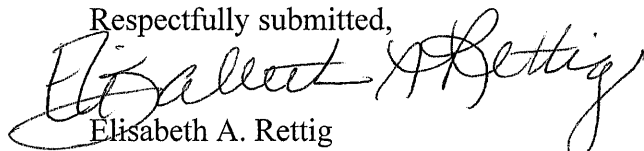
**Larry seconds the motion. Roll call vote: Dow, Rettig, Anderson, Beemer, Gold – all AYES.**

Architect asks to see if drawing can be marked up to expedite the building permit. Van answers that the Building Inspector (Ted) will in all likelihood be agreeable.

Chair asks if there is any other business to come before the Board. None.

Chair declares meeting is adjourned at 1:59 p.m. Meeting adjourned.

Respectfully submitted,

  
Elisabeth A. Rettig  
Recording Secretary

Date Approved MAY 19, 2020