

**CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS**  
**Minutes of the July 19, 2022, Regular Meeting**  
**APPROVED**

The July 19, 2022, 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, Bob Beemer, Tom Gold. 5 present - Quorum. Bob Beemer (Alternate ZA Member) is substituting for Paul Rook

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

Chair Anderson advises that the first order of business is to review and approve the June 21, 2022, minutes. Dow has presented three (3) minor typographical corrects on page 2 to Secretary Rettig; changes noted.

**ANDERSON ASKS FOR A MOTION TO APPROVE THE MINUTES AS CORRECTED; DOW MOVES; ANDERSON SECONDS. VOTE: 5 AYES. MINUTES APPROVED AS CORRECTED.**

*Case #2007 Scott McClain, 21 First Street, Sawyer, Property Code #11-07-0770-0213-00-7; Applicant is asking to increase lot coverage to 39.8%, front and side yard encroachments and exceed building height in an NCR1-A zoning district. Section 8.05(D)(1) of the Chikaming Township Zoning Ordinance #144, as amended, allows 20% lot coverage and maximum building height of 18 feet side yard setback of 10 feet and 30-foot front yard setback.*

Chair Anderson recuses himself; Vice Chair Tom Gold assumes role of chair.

Chair Gold reads letters:

Frank Vincent, 102 Oak – (summary) gives project full support  
Kearns, 23 First Street– (summary) in support of variance.

Chair Gold asks ZA to comment on the case.

ZA reminds us that at a previous meeting, applicant was advised by the Board to go back and redo their plans because they were significantly over the 20% lot coverages; Kelly shows the changes to the plans on the screen noting that there were no changes to the height, but they did improve percentages of lot coverage. Kelly goes over chart showing existing conditions and proposed additions showing a percentage decrease from 38.6% (existing) to 32.6% (without concrete driveway) (proposed). New proposal includes a detached porch and patio pavers. Gold interrupts stating that they have decreased the lot coverage by having pervious deck and pavers. Kelly continues...and they have detached the porch to solve the rear set back issue. Kelly is not sure which is the final proposal – with or without driveway; we have no issues with side setbacks anymore with the revised plans – just lot coverage and building height.

Dow clarifies that there still are issues with the side yards in that they are still in the setbacks, but less non-conforming. Kelly agrees. Dow continues, 2ndly, we also agreed we could live with the building height; 3rdly, the front yard variance request has been dropped; finally, we have a decrease in the lot coverage.

Beemer also wants to clarify the platted roadway (called fire lane) which is used as a roadway and asks Kelly why this was not considered in the setback. Kelly answers that she has no information to show this is a roadway. Attorney Hilmer speaks from the audience stating he has a Plat which shows that the section

Mr. Beemer is referring to is dedicated on the Plat as a playground area and there has been no change to the Plat to his knowledge. Mr. Hilmer provided a copy of a 1930 Plat map (copy attached). Kelly says that it is shown as a fire lane. Beemer feels that it is inconsistent to say this is a playground because it has gravel and is used as ingress and egress. Kelly says there is nothing to show anything but a fire lane – but that does not make it a road. Gold says we have to look at this from the Plat identification.

Chair asks if applicant has any comments. Mrs. McClain advises that the architect has worked hard to make changes and adjustments have been made to the front entrance. Gold advises that we need a decision if this variance should or should not include the driveway and this would be a significant difference. Dow advises that Bethany is particularly high in impervious surfaces and a gravel driveway would be an improvement and I want to recognize the architect's work in reducing lot coverage. The applicant asks that we consider the variance with a gravel driveway. Dow interjects that this is a great reduction in the percentages, and he would be in support considering the concessions made by the applicant. Beemer wants to add for the record that the 2006 Zoning Ordinance when passed did not include driveways, but the new zoning ordinance does. Beemer disagrees with this zoning change when it allows for greater building density, height, or bulk on an NCR lot.

Chair asks for public comment. Pam Carlson asks if a precedent is being set for other home who want to exceed lot coverage. Chair answers “no” this board operates on each case being individual and judged on its own merits. Dow adds that in this case, they are taking something and shrinking the non-conformity, not adding to the non-conformity – improving the situation.

Public Comment closes. Gold asks if the Board wishes to discuss further. No further discussion.

Chair moves forward with going 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. Non-conforming lot. 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. Unique circumstances do not exist. Yes. All agree that the applicant has tried to decrease the non-conformity.
4. The variance requested is the minimum variance which will make possible the reasonable use of the land, building, or structure. Yes. All agree – decrease in non-conformity.
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 TO APPROVE THE AMENDED VARIANCE REQUESTED AS PRESENTED TODAY IN THE DRAWINGS INCLUDING THE REMOVAL OF THE CONCRETE DRIVEWAY TO A PERVIOUS SURFACE. BEEMER SECONDS.**

**ROLL VOTE: DOW, RETTIG, BEEMER, GOLD - ALL 4 AYES. VARIANCE IS APPROVED.**

[ANDERSON RETURNS TO THE BOARD TABLE TO CONTINUE THE MEETING AS CHAIR.]

***Case #2010 Applicant, Benjamin Parker, 9192 Murphy Grove, Lakeside, Property Code #11-07-5090-0004-01-0 is requesting a variance from Chikaming Township Zoning Ordinance #144, as amended,***

***Section 4.02. Applicant is requesting to place an 18.5' x 16.5' accessory structure in the front yard with a 10' front yard setback (Grove Court); Section 7.02(C)(1) which states in part "detached accessory structures shall not be located in the front yard" and Section 4.02 which requires a 30' front yard setback.***

Chair asks Kelly to give her comments. Kelly shows diagram of proposed addition and shows Murphy Court as a platted roadway. When you visit the site, you can see that Murphy Court is not developed and ends at the applicant's property. I can find no evidence that the road has been vacated. The drawings show the proposed addition is 10 feet from the house and 10 feet from Murphy Court in the front yard.

Rettig asks Kelly about the shower structure and if it is considered an accessory structure. Kelly advises it has no roof, so it is not.

Anderson asks Kelly about a previous case having 3 front yards (in fact the property across the street) at which time we considered Murphy Court to be a road. Kelly concurs that it is platted, but not developed beyond this property.

Chair asks applicant to speak. Mr. Parker states that the property has purchased in 1989 and between where our driveway ends and Gottlieb, the road has never been developed – it is a jungle - although Kelly indicated it was platted. Because it is undeveloped, we would like our variance approved. Mr. Jack Murchi (neighbor sitting next to applicant) says that he lives 2 houses away and there is no evidence that this road will ever be opened any farther than it is.

Chair asks for comments from the public. None.

Chair advises there are no letters. Applicant continues that he personally spoke to the neighbors who were very much in support.

Chair goes to Board discussion but first asks Kelly about the accessory structures – we have a house, we have a pool, we have a shed – so this would be the 3<sup>rd</sup> accessory structure. Kelly advises that yes this is the 3<sup>rd</sup> and maximum allowed. Chair asks if this would be an ADU? Kelly says, yes, depending upon what is inside (dwelling space means they would have to come in for the special land use). Chair asks applicant what is going to be the use of the space – applicant answer – this would be a 2-story guest house – no kitchen - 2 sleeping rooms, 1 bathroom. Anderson asks Kelly if this would comply as an ADU? Kelly affirms it would. Chair defines ADU – an accessory dwelling unit which would require the planning commission to review and approve it and then it can only be used for family – cannot be rented. Discussion whether or not a kitchen is the trigger for PC review. Kelly says that in all instances if it has sleeping space, PC must review/approve. Gold – so every space over a garage needs PC approval? Kelly reads from the zoning ordinance which states that PC must review, and a SLU must be obtained. (Page 55) Dow asks Kelly to look at 4B same page – and determines that detached triggers the SLU.

Board discussion continues and Beemer asks what height the building will be; Dow interjects that if this were attached, this solves the SLU; Kelly answers, yes, must be attached, heated, insulated and this is a 2 front yard problem. Anderson says this could be attached without the SLU – this then would be considered an addition. Anderson says there are options for attaching this without it being so close to the roadway; or perhaps a 2<sup>nd</sup> story on the primary structure. Gold feels that Murphy Court will never be opened and does not see the problem of being 10 feet from the road. Rettig and Anderson both feel that we have to look at this road as a platted road and enforce setbacks. Beemer – the obvious is that the road is platted. What about moving the building nearer to the pool; all concur this is still in the front yard. No matter if it were nearer the pool, it would still be in the front yard but would only need 1 variance instead of 2.

Applicant interjects that originally, the property he owned had 2 lots, and the 2 lots were combined in 2015, but previous to that the pool was on a separate lot. After the combination, the pool was in the front yard – this was an existing nonconformity. Gold offers some possibilities of moving this structure nearer to where the shed is, so it wouldn't be so close to the road, and move the shed. Kelly interjects that if the structure would be moved to where the shed is and attach, it would encroach the 30-foot rear yard setback.

Anderson (addressing the applicant) asks the applicant about tabling this (as he hears how the board is seeing this variance – too close to the road; possibly moving the structure) to redo the plans or possibly be denied and cannot come back for 1 year if we rule on what has been presented. Beemer offers possibly vacating the private roadway.

**Applicant is requesting that this matter be tabled to the September 20th meeting to decide about changing the lay-out. CHAIR AFFIRMS THAT IT WILL BE PLACED ON THE CALENDAR IN SEPTEMBER.**

***CASE #2011 – JOHN STAIB – 15901 GOODWIN, UNION PIER PROPERTY CODE #11-07-4600-0001-00-4 – WITHDRAWN BY THE APPLICANT.***

***Case #2012 Applicant, Randy Bibler, representing owner Cindy Cook, 326 Orchard, Sawyer, Property Code #11-07-0820-0034-00-5; Chikaming Township Zoning Ordinance #144, as amended, Section 8.02(D)(1) allows 20% maximum lot coverage on an NCRI-B lot.***

Chair reads letters:

Steven Skahn – no objection to variance.

Kristine Bretl – approve of granting the variance

Knute/Jeanine Larsons – approve of a favorable response

Darlene Gramigna – not concerned with the construction

Mary Ann Skahn – in support of addition

Chair asks Kelly to give us details. Kelly starts by stating this is a request for lot coverage; no other issues with setback or building height. I did some calculations, and the new addition would put them at 33.7% lot coverage if we include the driveway; existing is at 31.6% which includes the impervious driveway. Without the driveway – existing is 23.9%; new proposed would be at 26%; addition adds 2.1% (240 square feet) – required is 20%.

Chair wants clarity on some different numbers submitted by Mr. Bibler. Kelly - The submission on the lot diagram is correct as I have stated above.

Chair asks – how are we here after construction has started? Kelly answers that originally she advised Mr. Bibler by e-mail that she needed more information (April/May) and this went into spam and he began construction. Gold – he started construction without a permit? Chair thinks this construction may have started in fall? When was foundation begun? Kelly says she was made aware of the construction when this the application was submitted, but not previous. Chair – is there a permit now? Kelly – no. Chair – no permit was issued in fall and construction started? Who has inspected the walls, roof? Kelly – no inspections. Gold – how can the inspector go back to inspect the foundations if it is already existing? Beemer – was there an application submitted back in fall? Kelly – no.

Chair – I think we are clear that the project started without a permit. Gold – if construction started, was this red flagged? Kelly – work has ceased when it came across my desk. Gold – why has the enforcement officer not red flagged this. Kelly – because the variance application was submitted.

Board has many questions for applicant.

Chair now hears from applicant. Mr. Bibler (the contractor) says he has a permit dated 9/3/2021 for kitchen remodel, master bath remodel, enlarge 3 season room, and installing windows. Ted came out to inspect foundation but noted there were no drawings. Bibler says that architect drawings were submitted. Many times, on these small additions we will do our own drawings and submit those, too. We got no notification of a zoning issue – we did not realize that we had a problem. We framed it up because there was an insulated floor and the outside elements. When I talked to Ted, we submitted a 2<sup>nd</sup> permit and referred to the 1<sup>st</sup> one. June 17, 2022, is the first time I knew of a problem.

Gold asks exactly what the 1<sup>st</sup> permit said. Bibler reads the permit again. Gold focuses on “enlarge” – what was being added? Bibler – 240 square foot enlargement. Gold asks if this was detailed on drawings? Gold and Anderson asks to see the sketches. Bibler continues that ground was not broken until March 22 – only working inside. I have done a number of these in Shorewood Hills and other areas and if we don’t hear back, we figure we are ok to go.

Gold again asks to see the sketch. Builder does not have it. Rettig asks Kim to find it in the Township file. Gold (addressing the builder) continues by stating if you have a permit to add 240 square feet and you start digging without a permit, I think you have been in the business long enough to know that’s not kosher. Bibler - We only had sketches and we wanted to get the permit applied for. Beemer – so you have a permit which includes enlarging the porch? What does that mean – where was the Township in this process? Gold – if you are changing the footprint at all, there is a lot coverage issue – someone dropped the ball. We have to see what you applied for. Chair continues to builder – you are an experienced builder and I should think you would know that every lot in Shorewood Hills is a non-compliant lot and needs a variance. Bidber answers that he has built for 15 years in Shorewood Hills and had no idea this was the case. Rettig/Anderson both pose the question – you didn’t know this was a non-conforming lot? Bibler – I had no idea that there was a 20% lot coverage limitation. The entire Board is amazed and doesn’t know why he hasn’t read the zoning ordinance and question how many more additions has this builder built in Shorewood Hills that need reviewing? Dow feels we don’t have a consistent fact basis. Somehow a permit was issued; something triggered Ted to inspect the foundation. Multiple points of failure. Dow feels there is no resolution today until we get more information. Gold disagrees, the builder is supposed to build according to the code – ignorance of the law is no excuse – how can he build in Shorewood Hills and not know the lots are non-conforming. Kim now enters the room and advises there is no drawing in the file but brings the file to Gold.

Chair asks the applicant to speak. Mrs. Cook says that we have had a building permit on our window since September 13, 2021, and it says enlarge 3 season room. If our lot is non-conforming, how was the permit even issued? Chair agrees there are many disconnects.

Gold reads the information in the file. The first permit is in the file and the zoning application but no drawings.

Anderson addressing the applicant asks if they would be willing to table this for 1 month so we can review the information. The owner says No. We have been on hold waiting for this meeting. Beemer interjects that we are all quite excited about how this was permitted, and mistakes made – if we look at the project, a 240-foot addition – setbacks are all met – height remains 1 story. This is nearly invisible on the back of the house. This is a minor addition. Earlier we approved another small addition. The reality is that this project is minimal, and the neighbors are all in agreement. Rettig asks about the percentage of addition; Kelly answers 2.1% increase in lot coverage. Dow summarizes, this is a basically a 2% increase, the builder says he has a permit. The builder states that he will take responsibility for any mistakes, but please

don't hold up the project. Dow offers doing something about the driveway to make the driveway pervious to minimize the lot coverage overage. Gold reminds us of the last case where the people tried to decrease the lot coverage, in this instance they are increasing and didn't ask permission. Dow talking to Gold – yes, we are dealing with forgiveness. If we were dealing with no permits at all, I would be much less forgiving. The record is spotty at best. There was a permit (underspecified), but a permit. How do we resolve this in a reasonable way?

Chair asks if there are any comments from the public. None.

Back to Board discussion. Gold – any resolution needs to include a reflection on the builder's lack of forthrightness. If they were planning on an addition of 240 square foot from the beginning, drawings should have been submitted. Bad on the Township for allowing him to go forward. Some penalty should be paid by the builder for putting us in this position.

Chair moves forward with going 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. Non-conforming lot; building permit was issued by the Township. Vote: 4 yes – 1 no (Gold)
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. Vote: 4 yes, 1 no (Gold)
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. Unique circumstances do not exist. Yes – given the building permit. Vote: 4 yes, 1 no (Gold)
4. The variance requested is the minimum variance which will make possible the reasonable use of the land, building, or structure. Yes - 5 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. 5 all agree. 5 letters of support.

**BEEMER MAKES A MOTION TO GRANT THE VARIANCE REQUEST OF CASE #2012 WITH THE STIPULATION THAT THE BUILDER WORK WITH THE ZA AND BUILDING INSPECTOR TO DETERMINE WHAT WENT WRONG AND BUILDER IS TO READ THE ZONING ORDINANCE; DOW SECONDS. ROLL CALL VOTE TAKEN. DOW, RETTIG, ANDERSON, BEEMER - YES; GOLD - NO. 4-1. VARIANCE IS GRANTED.**

***Case #2013 Applicants, Maile Solis and Vilmar Arias, 8722 East Road, Lakeside, Property Code #11-07-0020-0038-01-8 is requesting a variance from Chikaming Township Zoning Ordinance #144, as amended, Section 7.02 (C)(4) which states in part “no more than 3 detached accessory structures or building are permitted per parcel.” Applicant is requesting to add a pool house (4<sup>th</sup> accessory structure).***

Chair ask Kelly to give details. Kelly shows diagram on screen which shows house, detached garage, detached existing shed, existing pool, and the proposed pool house. Anderson asks if there are lot coverage issues – Kelly says no. Rettig asks the zoning – Kelly answers R1.

Chair asks applicant to speak. Maile states her property is 2.76 acres; garage and storage shed were existing when they purchased; pool built in fall of 2020 and thinks ordinance changed since they purchased. Kelly corrects her by stating that the last amendments in November did not change the ordinance as to number of accessory structures allowed. Applicant continues that pool house will have a

bathroom because house bathroom is too far from pool. The existing storage shed is necessary for lawn equipment and feel that this variance is a minimal request. Neighbors to east have expressed support; Neighbors to west have many structures.

Chair asks for comments from public. None.

Chair reads letters:

Thomas Kerwin – in support.

Tom has a question for the applicant – why don't you just put the storage shed in back of the pool house and connect? Applicant (Vilmar) – we were unaware that the pool was considered a separate structure and the addition of the shed would be awkward. Maile continues that the cost of moving the storage unit is too expensive and would be difficult. Gold continues – why don't they just connect the garage and shed and then we would not be here. Dow wonders about the square footage of the accessory structures (under Section 7.02(3)(a) total square footage of accessory building shall not exceeding 50% of the principal building). Principal is 1,536 square feet. Kelly says that each structure cannot exceed ½ the primary structure. Pole barn is 24 x 32 = 768 square feet and is currently at ½ of the house square footage. If we join the shed (10 x 30) and pole barn, we would be at 1,152 (without connection), and adding connection, this would be another 50 (10 x 5) square feet – so approximately 1,202 square feet. Gold says he would rather give a variance for being over the square footage on an accessory structure if the barn and shed are joined than allowing a 4<sup>th</sup> structure on the property. Gold questions if the pool structure will have any living quarter. The applicant says no – only bathroom and changing area. Kelly: They would need an amended application for a 434 square feet over square footage on an accessory structure and would have to be renoticed because of the changes. Applicant could ask for an extension of 1 month to redesign/combine the structures; they would not need to reapply and pay again.

**Applicant makes a request to the Board to table this case to August 2022, to allow time to submit a redrawing and renote the variance request. The Chair accepts the requests.**

Chair asks if there are any comments from the public. None.

Chair asks if there is any further business to come before the meeting, Dow motions for adjournment; Anderson seconds. Meeting adjourned at 2:46 p.m.

Respectfully submitted,

Elisabeth A. Rettig  
Recording Secretary

Date Approved: August 16, 2022