

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS
Minutes of the July 21, 2020, Regular Meeting
APPROVED

ELECTRONIC MEETING VIA ZOOM, PER GOVERNOR WHITMER'S ORDER

The July 21, 2020, regular meeting of the Zoning Board of Appeals (held electronically) was called to order at 1:00 p.m. by Vice Chairman (hereinafter Chair) Doug Dow. Roll call of members attending electronically: Doug Dow, Liz Rettig, Tom Gold, Phil Bender and Kathy Sellers. Quorum.

Chair advises of the following also in attendance: Charles Hilmer (Township Attorney), Van Thornton (ZA), Allison Schleckter, Jill Underwood, Jeff Dryden, Ashley Osborne. Later joining Mark and Bev Nichols.

Chair advises that the first order of business is to approve the May 19, 2020, minutes. Dow asks if any of the Board members have any corrections. Dow advises Secretary Rettig of three (3) typographical errors; Rettig makes corrections noted. **Sellers motions for approval of minutes as corrected; Gold seconds; Chair asks for roll call vote: Dow, Bender, Rettig, Gold, Sellers – all AYES. Minutes are approved.**

Case #1180- Property owners Mark and Bev Nichols, 28 First Street, Sawyer. Property Code # 11-07-0770-0163-00-0. *Applicant is asking to increase lot coverage to 28% and are requesting a front yard setback of 26'6". Chikaming Township Zoning Ordinance #144, Section 8.05(D)(1) states maximum lot coverage cannot exceed 20% and Section 8.05(D)(1)(a) states the setback from the front property line must be 30' in an NCRI-B district.*

Chair asks the Zoning Administrator for comments. ZA asks the Board to consider the variance request as separate items (A and B) in the event one portion is approved and the other is denied. Gold asks if this needs to be voted on. Dow asks Attorney Hilmer if this can just be framed separately in the motion and Hilmer advises, "yes."

Chair ask for comments from applicant. Applicant's daughter Allison asks to speak for parents and gives a short description of front porch being in need of rehabilitation and the side porch area which is on top of a concrete pad be changed to a screened-in porch with a small kitchen addition. Parents now come online and continue. Ashley Osborne (on behalf of the HOA) advises the applicants that the Board discussed whether this application may be discussed separately – front porch being one issue and side porch being the other. Mark Nichols elaborates that the front porch definitely needs reconstruction and the side porch will be removed and replaced and a porch added. Dow addresses ZA regarding whether or not the concrete is already included in coverage and ZA advises that it is, but the second issue is the roof cover on the porch. ZA clarifies that putting a roof on the porch will not change lot coverage. Allison elaborates further stating that the intention is to reduce the concrete size to bring into compliance with side yard setbacks – concrete disappears and new foundation uses part of same footprint except is being reduced to make setback compliant. The non-conformity is being lessened.

Chair proceeds to written comments. None.

Chair interjects that he saw in the notes that the HOA has approved the variance and asks the applicant if they have this letter. Applicant believes they do and will send to the Chikaming office.

Chair asks for comments from the public.

Sellers asks ZA if applicant were to leave the concrete and cover it with a roof, would they need a variance at all? ZA responds to the Chair – possibly not, but with addition of front porch enlargement, total lot coverage now needs to be considered. If it were not for the addition, they would not have to come.

No public comments. Chair closes public comment portion.

Sellers asks one more question – would the kitchen be extended into this new screened porch area? Applicant answers that yes, kitchen would be extended into porch. Sellers asks if the walls are extended to include the kitchen. Chair clarifies and applicant concurs that while the kitchen may be extended, it does not change the lot coverage issue. So, stand alone, the screened porch (as is or covered) does not change lot coverage. The replacement of the front porch moving closer to the road, encroaches 4'6" into the front yard setback and the widening of the front porch increases lot coverage. ZA gives clarification that encroachment is only 3' 6".

Gold interjects that the decrease of the concrete is a decreased in non-conformity – it's mostly a swap for what they are asking for in the front of the house and done in the spirit of trying to improve the current situation. The net difference is approximately 60 square feet on lot coverage.

Seller comments that the area is very dense and tight; Chair agrees that all lots are small on First and Second Streets but adds that any change keeps in harmony with the rest of the community.

Chair goes to Board discussion, comments, questions.

Dow asks for consensus of Board whether the issues should be separated or handled together. Gold – together; Rettig – together; Phil – together; Kathy – together. This will be treated as one (1) request.

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 – small house with a small lot.
- 3 The unique circumstances do not result from the actions of the applicant? Yes – small non-conforming lot.
- 4 The variance request is a minimum variance that will make possible the reasonable use of the land, building or structure? Yes – minimal; except Sellers feels that the increase of the non-conformity is at issue. 4 yes. 1 no.

A question arises about the new front porch – will it have a roof? Applicant answers yes. Rettig asks, if the new front structure would be deck only, under the new ordinance, it would not be considered as lot coverage and would not need a variance. ZA clarifies that the new ordinance allows a deck to be 50%

of the front setback, but with a roof, it must be considered in lot coverage. If it were just a deck, the setback issue disappears. Applicant says the goal of the roof was not to scrape icy steps in winter. ZA clarifies that steps extend beyond the roof, so ice still a problem.

Dow continues:

- 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. HOA (Bethany Beach) in agreement.

Rettig makes a motion that the variance is approved for both the front yard setback variance and side yard covered porch construction in accordance with the plans submitted and following the review of criteria, and it meets those criteria; Bender asks that motion be amended contingent upon demonstrating the approval of Bethany Beach. Rettig amends to include the HOA approval; Gold seconds the motion. Roll call vote: Gold - YES; Dow – YES; Rettig - YES, Bender – YES; Sellers – NO; 4-AYES; 1 - NAY. VARIANCE REQUEST GRANTED.

Case #1181- Property owner Jeff Dryden, 17 Echo Hill, Sawyer. Property Code # 11-07-0003-0006-20-5. *Applicant is asking for a side yard setback of approximately 3 feet. Chikaming Township Zoning Ordinance #144, Section 8.05(D)(1)(a) states the setback from the side yard property line must be 10’.*

Before we go into this case, Chair wants to get clarity on the side-yard setback. The measurement on the plan presented shows 6.7 feet on the South side and 7.2 feet on the North side as remaining footage of setback. ZA clarifies that the request is to have a 6.7’ resulting setback. Dryden agrees that 6.7’ is the closest to the lot line. **Encroachment** into setback would then be approximately 3 feet.

Chair asks the Zoning Administrator for comments. ZA asks if the Board received the photograph of the challenges with the rear yard. All have received.

Chair ask for comments from applicant. Applicant advises that the homeowners association has approved and has submitted same to Chikaming. There is only 1 neighbor who is affected and that neighbor has given support.

Chair proceeds to written comments. 1 Letter from Jim Reese read into record - goes on record in support of variance.

Chair interjects that he does not have the HOA approval letter in file. ZA confirms that he has received this letter.

Chair asks for comments from the public. No public comments. Chair closes public comment portion.

Chair goes to Board discussion, comments, questions.

Gold asks if hot tub will be set on ground and deck will be built around? Applicant affirms. Specs suggest a pad and deck will be a sitting area and wraps around deck – 2 feet or so. Gold believes it

could be done in the back of the house but it would be costly; the applicant feels that the terrain is challenging and Gold agrees.

Bender asks for clarification of term “unique circumstances.” Chair gives a short synopsis of unique and that even though this is a fairly large lot for Bethany Beach, the uniqueness is that there is not much space that is buildable as shown by the photo – ½ of the land unusable. Dow asks applicant to give clarity on the survey (position of house); which he does. Gold gives his comments on “unique circumstances” stating that while this lot may not be unique to Bethany Beach, it is unique if we think of the entire Township.

No other Board comments.

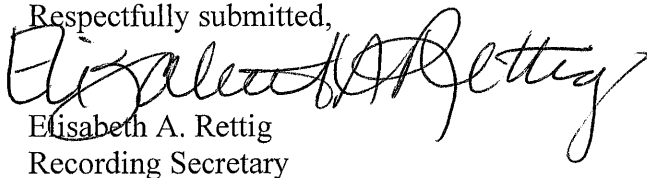
Chair goes over criteria:

1. Are there unique circumstances or conditions that exist? Yes – unique because of the land; steeply sloping ravine and a difficult site and a non-conforming lot.
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 – not a lot of space to work with.
3. The unique circumstances do not result from the actions of the applicant? Yes – non-conforming lot with steep sloping ravine.
4. The variance request is a minimum variance that will make possible the reasonable use of the land, building or structure? Yes – minimal.
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. Letter from neighbor and HOA (Bethany Beach) in agreement.

Sellers makes a motion that the variance is approved with the criteria having been met; Bender seconds the motion. Roll call vote: Gold - YES; Dow – YES; Rettig - YES, Bender – YES; Sellers – YES. VARIANCE REQUEST GRANTED – 5 - 0.

Chair declares meeting is adjourned at 1:54 p.m. after hearing no other business before the Board.

Respectfully submitted,


Elisabeth A. Rettig
Recording Secretary

Date Approved AUGUST 18, 2020