

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS
Minutes of the August 17, 2021, Regular Meeting
APPROVED

The August 17, 2021, 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, Paul Rook, Tom Gold. 5 present - Quorum. Noted that Attorney Hilmer is also present along with many others attending in the audience. ZA Kelly Largent (Kelly) also present.

Chair advises that the first order of business is to approve the July 20, 2021, minutes. Chair asks if the Board members have any corrections/additions. Paul Rook and Chair mention three small typographic changes to Secretary Rettig; corrections made.

Chair takes a roll call vote to approve minutes as corrected. Roll vote: Dow, Rettig, Anderson, Rook, Gold – 5 AYES. Minutes as corrected are approved.

Chair announces that **Case #1197: WITHDRAWN.**

Case #1196 which was tabled from July, brought back to the Board.

Case #1196- Anthony and Jacquie Sartoris, 15755 Lakeshore, Union Pier, Property Code #11-07-4600-0036-00-2; Applicant is requesting a variance to add a 22' x 23' 2-story addition, pool, whirlpool and the addition of eaves to the accessory building which will increase lot coverage to 26.91%. Chikaming Township Zoning Ordinance #144, Section 8.05(D)(1) allows 1-1/2 stories and maximum lot coverage of 20% in an NCRI-B District.

Chair reminds applicant that case was tabled so that applicant could come back with a revised submittal hoping to have resolution on the 2 story to 1-1/2 story and bringing lot coverage down.

Chair asks ZA Kelly Largent to walk the Board through the resubmitted application. Kelly agrees that besides the two (2) issues that the Chair mentioned, Gold also brought attention to expansion on a non-conforming lot. Kelly advises that the applicant has reduced the size of non-conforming bedroom by removing the balcony, moving the entrance, and are now requesting 2-foot expansion (on non-conforming) instead of 8-foot. Family room covers only 2/3rds of the 22' x 23' length and small unfinished attic storage – now meeting 1-1/2 story requirement with 20-foot height (7' 6" ceiling and attic ceiling drops down and does not count). With new roofline, there are no height issues. As to the lot coverage, we still have a main house and a guest house; they did not reduce the size on the footprint. Lot coverage is at 24.62% (original house was at 20.16%).

Anderson: We really haven't reduced lot coverage at all.

Chair asks for applicant to speak. Applicant (Sartoris) speaks and thanks the board for the ability to have this tabled. We are requesting 24.62% coverage and have reduced the garage. Sartoris states that he is still working on the catch basin system to capture some, if not all, of the water, but the effect of collection is the same as reducing lot coverage.

Anderson tells the applicant that one of our main concerns is lot coverage – what in particular about this piece of ground necessitates a variance for lot coverage? Many people come with wants and some come with needs, but what about this particular piece of ground requires a lot-coverage variance – that is what we are struggling with.

John Allegretti (architect) speaks and says that many things have been changed to come up with the 24.62% lot coverage. Part of the percentage for lot coverage is for the therapeutic pool and whirlpool and we have a doctor's letter for Mrs. Sartoris' health.

Chair asks for public comment.

Susan Koenigsberg speaks that she still has a problem with this variance stating that the ordinance clearly says that a non-conforming lot cannot be enlarged. I also have an issue with the pool – if this is a medical necessity, is your wife the only person using this pool and whirlpool? If this is granted, will the Board be extending the same increased lot coverage to anyone who comes in? There should be liability to the seller or realtor – this should have been thought out more fully before buying.

Jill Underhill speaks that she agrees with Koenigsberg. When people are looking for a property that doesn't suit their needs, do they think they can just buy it and change it with a variance? We have ordinances for a reason.

Chair asks if there are any letters. Susan Koenigsberg advises that she sent another letter. Chair asks Kim (Building Department) to look for letter. Gold asks if there was anything different in the new letter. Koenigsberg says there were some quotes in the new letter from the ordinances. Chair says he will read the letter as soon as it is found.

Chair closes public comment.

Chair goes to Board discussion. Gold begins stating that it is great that the height issues is resolved, but applicant is still 623 sq. ft. over lot coverage. Gold addresses applicant asking what are your priorities? Is the main house or the guest house more important - there is an obvious solution – modify the guest house to reduce the lot coverage.

Dow also comments that this is not a minimal variance. There is nothing unique about the lot – especially in the neighborhood – there are many small lots. One of our three criteria is: “the unique circumstances do not result from the actions of the applicant, including the knowing purchase of a property limited by existing non-conformities”.

All agree that there is nothing unique to the particular property. Rettig comments that the applicant has not made any real adjustments to the coverage. Gold states to the applicant – you see where our conversation is going. You don't seem to want to sacrifice on the main house or the guest house. I don't see any basis for giving the variance as they are already over.

Dow summarizes that the constraints we are operating under, and the homeowner needs to operate under the same constraints. There is nothing more we can do to expand the lot coverage based on our ordinance. It's non-conforming to start with – to increase even .01% is still increasing a nonconformity. We just don't have the authority. Each decision is unique based on unique circumstances. We are mindful of all the other lots in the area then wanting to increase their non-conformities. The wiggle room is just not there.

Anderson reminds the board that the main concern of the applicant is the whirlpool and therapeutic pool. The Board concurs that if the only ask would be these two minimal items for an increase, we may consider. But the ask for the remaining additional increase in lot coverage is too much.

Discussion among Board. Chair, addressing applicant, states that the Board is willing to give in on the pool/whirlpool.

Applicant gives his background about when he was purchasing the property and his conversations with Van Thornton about the garage and that they did their homework, and that Mr. Thornton said the increase was not an unreasonable request. Applicant continues stating that the water retention system was brought into this to compensate for the overage.

Gold says that he sympathizes with the applicant on conversations he had with former ZA Thornton. If the applicant could come in at 22% it would be more of a minimal request.

The Board still concurs that the lot coverage is still the major issue and that we can't trade off water retention system for lot coverage because it is not in our ordinance and can't give you credit.

Dow interjects that drainage has not been raised as an issue and that drainage has been proposed in ordinance amendments, but we don't have any ordinance on it today.

Chair asks if Attorney Hilmer has any comments on statements made by Mr. Thornton. Hilmer states that comments made by a zoning administrator does not ensure the applicant that they will get a variance.

Dow restates to the applicant that the biggest challenge we are facing is that you knew the property was already facing challenges on lot coverage and our ordinance clearly states, "the actions of the applicant, including knowing purchase of a property limited by existing non-conformities" is a reason for denial.

Kelly does some calculations which remove the whirlpool, pool, and screened in porch from the guest house, it brings coverage to 23.16% - and it still sounds like there's more work to do. Gold asks about setback issues (deck which already exist and encroaches) - deck, however, is a pervious surface. Discussions about removing deck; discussion ends.

Chair says that he would like to see applicant get down to a coverage of 21% or less. All agree.

Attorney Miller (representing applicant) advises that the applicant wishes to table this matter and they will figure out how to get there (lesser lot coverage). Dow interjects that we need to be clear; it is the consensus of the Board that if the applicant comes in at 21% lot coverage or less, the Board will look favorably upon the request. The medical condition - necessity of the pool and whirlpool - with a letter would certainly help. We won't get into design - but we need reductions. Rettig asks applicant if tabling for 1 month is enough; applicant asks for 60 days - the October meeting.

Kim now has the letter referred to earlier from Susan Koenigsberg which Chair reads into record. Summarizing: Koenigsberg objects to the granting of anything but a minor variance. Purpose of zoning is to ensure consistency. According to Ordinance #10, Section 2, building shall not be enlarged on a nonconforming lot - not at the discretion of the Board. The hardships are self-inflicted; ordinances are in place to preserve the character of the community and unfair to others who have tried to stay within the guidelines.

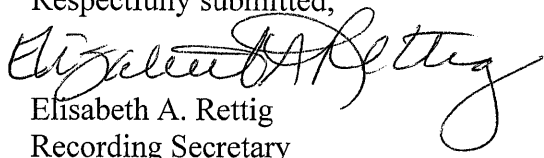
DOW MAKES A MOTION THAT AT THE REQUEST OF THE APPLICANT, CASE #1196 BE TABLED TO THE OCTOBER 19, 2021, MEETING FOR FURTHER CONSIDERATION. AS A FURTHER STIPULATION THE ZBA HAS DETERMINED THAT A SUBMISSION PROPOSING 21% LOT COVERAGE OR LESS WILL BE LOOKED AT FAVORABLY. FURTHERMORE, THIS VARIANCE REQUEST NEEDS TO INCLUDE THE THERAPEUTIC POOL AND WHILRPOOL SINCE THIS IS BASED ON MEDICAL NECESSITY WHICH WILL BE DEMONSTRATED BY A DOCTOR'S LETTER. ANDERSON SECONDS. ROLL VOTE: DOW, RETTIG, ANDERSON, ROOK, GOLD – ALL 5 AYES. MATTER IS TABLED.

Chair asks if there is any other business.

Gold directs a question to ZA regarding a parcel of property that the ZA originally gave information to an owner and a prospective Buyer that it was a buildable lot. The information which she originally gave out was that this was a non-conforming lot but buildable – but everything in our BSA system shows flags that said lot is non-conforming and needs a variance as being unbuildable. After further research it was found that this lot was originally owned together with 2 other non-conforming lots. 2 lots were sold off, leaving 1 non-conforming lot behind. Under the old ordinance and new ordinance, this is a prohibited sale. These owners now have this lot (that they have owned since 1993) that they cannot sell. Hilmer interjects that the ordinance does not force the lots to be combined, it just states common ownership – regardless of whether they were bought at different times or not. Had they been combined, then definitely it would have come to the attention of the township. Because these lots all had different tax numbers, the Register of Deeds did not question the sale of the 2 lots and the township never got involved. But to answer Gold's question, Hilmer continues that this was a violation of the zoning ordinance, and this is a civil infraction. The owners could sell to a neighbor but could never sell this as a stand-alone lot. This is self-created problem. Gold is concerned with if this would have gone through as a sale, this would be a lot that no one could build upon and could this happen again. Dow: There's nothing more we can do or fix in the ordinance. Anderson said that he has encouraged for many years that the township be proactive to advise people to combine non-conforming lots or give them notice that they are considered one parcel under the ordinance and cannot be sold separately. ZA advises that she told the realtor (who has the lot in question listed), that based upon new information, she has changed her opinion on the buildability of that particular lot. Title searches on only that parcel won't turn up the problem. Further discussion about changing the application for a variance making the applicant do homework and disclose on all undersized/non-conforming lots the history of that lot and whether or not it was ever part of a joint common ownership with another non-conforming lot or sold off from common ownership to avoid further problems.

With no further business to come before the meeting, the Chair declares the meeting adjourned at 2:31 p.m.

Respectfully submitted,


Elisabeth A. Rettig
Recording Secretary

Date Approved September 21, 2021