

**CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS**  
**Minutes of the September 21, 2021, Regular Meeting**  
**APPROVED**

The September 21, 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 Acting Chairman (hereinafter Chair) Tom Gold. Roll call of members attending: Doug Dow, Liz Rettig, Tom Gold, Paul Rook, Bob Beemer. 5 present - Quorum. Noted that Attorney Hilmer is also present along with many others attending in the audience.

Chair advises that the first order of business is to approve the August 17, 2021, minutes. Chair asks if the Board members have any corrections/additions. Dow give Secretary Rettig 4 minor corrections/typographic changes; corrections made.

**Dow makes a motion to approve minutes as corrected; Rettig seconds. Vote: - 5 AYES. Minutes approved as corrected.**

***Case #1198- Brad and Sally Rosenlund, 111 Spring Park, Sawyer, Property Code #11-07-0770-0167-00-5; Applicant is requesting to remove a balcony and replace it with an enclosed space. This addition will increase lot coverage to 26.83% and the proposed addition will encroach into the side yard setback by 1 foot and the South side yard setback by 2 feet. Chikaming Township Zoning Ordinance #144, Section 8.05(D)(1) allows 20% lot coverage and 10 feet side yard setback in an NCR1-A District.***

Chair asks for public comment. None.

Chair asks for applicant to speak. Architect Ashley Osborne on behalf of Applicant speaks advising that the enclosure will not change the current footprint. Because the applicants are enclosing existing space (balcony), the current encroachments will continue to encroach in the setbacks.

Rettig asks how the lot coverage increases if footprint does not change. Architect answers stating that the enclosure (because of the roof) changes the lot coverage. Dow clarifies that we are not increasing the current non-conformity of the lot (balcony that encroaches over setback lines), the existing setbacks will remain the same. Dow asks about the outdoor shower; architect says that structure will remain and that it is under the current balcony and is included in the existing lot coverage because it is touching the ground. Gold says that this gets to the definition of impervious surface. I am concerned with how you are handling downspouts. Architect answers that this is mostly sand and no change in the downspouts. The only change will be the added gutter along the small addition. The balcony did not count before, but it will now count toward lot coverage because of the roof.

Chair goes to Board discussion asks if there are any more comments from the Board. Beemer comments that his concern is the off-street parking. Zoning requires 2 off-street parking spots and there is currently only 1. If this variance is granted, we would expect that there be 2 spots to meet safety and emergency requirements. Architect answers that there is currently 1 off street and 2 on-street parking spots on Spring Park. The discussion focuses around that there could be 1 additional spot in front if the landscaping were modified. Beemer continues: There is plenty of space in the alley. Gold asks about the 2 sheds in the back. Architects says it is for garden equipment/lawn mowers. Gold asks about rearranging the sheds or removing to make 2 parking spots. Architect says that the changes would be discussed with applicant. Discussion about removing 1 shed to reduce lot coverage and find that the small shed is not included in

the lot coverage. Gold summarizes that at the owner's discretion, whether they choose to make the 2 off-street parking spots in front or back, it could be accomplished.

Chair asks if there are any letters. None.

Chair closes public comment.

Dow asks the Board that if we grant the approval of the variance request, in addition to the 2 off-street parking requirements, would it make sense to note that we are improving a very small lot coverage extension because it is due to a roof overhang and not an extension of a footprint building. The Board all agree. The footprint is not changing, only the roof overhang – and this is what makes it unique. The overhang is the only reason the lot coverage is changing.

Chair: Let's go through our 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 small lot with existing nonconformity. All Board members 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. All Board members agree - yes. Also, no change to the footprint.
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 Board members agree – there is no change to the footprint – the lot coverage change is due to a technicality; all vote yes.
4. The variance requested is the minimum variance which will make possible the reasonable use of the land, building, or structure. All Board members agree – yes.
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. All Board members agree – yes. Additionally, we are making the lot, less non-conforming because we are insisting on 2 on-site parking and making public safety a requirement.

Dow interjects that there was a letter from the Bethany Beach Homeowners Association. Gold reads the letter into record from Stan Erickson, Chairman of the Building and Alterations Committee. The HOA has no objections to the alteration.

**DOW MAKES A MOTION THAT WE APPROVE THE ZONING REQUEST WITH THE FOLOWING 2 STIPULATIONS:**

- 1. THAT THE PROPERTY BE BROUGH INTO CONFORMANCE WITH THE ORDINANCE REQUIRING 2 OFF ROAD PARKING SPACES.**
- 2. WE NOTE THAT THE UNIQUE NATURE OF THIS REQUEST THAT THE BUILDING FOOTPRINT WHICH IS ALREADY NOTED TO BE NON-CONFORMING IS NOT BEING MADE MORE NONCONFORMING. RATHER IT IS A FUNCTION OF THE LOT COVERAGE CALCULATION, NOW INCLUDING AN EXTENDED ROOF WHICH IS ON THE SECOND FLOOR, AND THERE IS ADEQUATE DRAINAGE.**

**ROOK SECONDS. ROLL VOTE: ALL 5 AYES. VARIANCE IS APPROVED.**

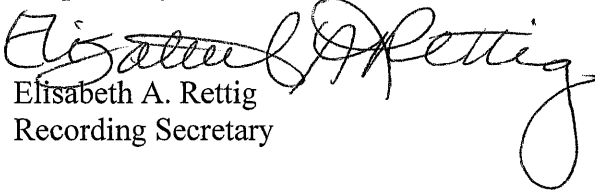
Chair asks if there is any other business.

Beemer asks a question about setback/deck in the case heard in August. Discussion among the board: Deck needs to meet setback requirements and is defined as a structure, but it is a pervious surface, so it is not calculated in lot coverage. Even if there's a large deck, it will not be considered in lot coverage, but considered a structure. Each separate deck counts as a structure, but not calculated in lot coverage.

Paul Rook advises he has had 3 hours of ZBA training. Asks about going onto people's property to view. Rook asks Kim Livengood if we have a permission check box on our application form. Kim advises we do.

With no further business to come before the meeting, Dow motions for adjournment, Rook seconds. Chair declares the meeting adjourned at 1:31 p.m.

Respectfully submitted,

  
Elisabeth A. Rettig  
Recording Secretary

Date Approved OCTOBER 19, 2021