

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS

Minutes of the December 20th, 2011 Regular Meeting

APPROVED

The December 20th, 2011 meeting was called to order at 1:00 p.m. by Chairman Lee Strohl with members Jeanne Dudeck, Kathy Sellers, and Mario Zarantenello present.

Zoning Administrator Betsy Bohac and Recording Secretary Theresa Priest were also present.

Member Carol Sizer was absent.

Zarantenello moved and Sellers supported to approve the minutes, as proposed, for the November 15th, 2011 meeting.

Motion carried.

Case No. 1020 Property Code No 11-07-5620-0013-00-2 9219 Shaffner Rd. Union Pier, MI 49129

David Kozak, property owner, was in attendance to present his request for a variance from Section 14.02 of Chikaming Township Zoning Ordinance No. 87, as amended, which requires 20,000 sq. ft. of lot area to be a buildable lot in an R-1 Single Family Residential District. If granted, the variance would allow a 90 ft. x 100 ft. lot of record to be declared a buildable lot. The existing dwelling unit will be demolished and new construction will be at a later date. No correspondence was received and no one was in attendance at the hearing in regards to this case.

Mr. Kozak began his presentation by explaining that he and his brother just purchased this property in the Sheriff's sale. Due to the condition of the home, if this variance is granted, demolition will begin very soon. His brother and he will then decide whether to build themselves or sell the lot. A buildable status will make it more marketable for resale if that is what they choose to do. Member Dudeck asked if the home was salvageable and Kozak stated that it was not. The home had been vacant for 10 years or more and is in very poor condition. Zarantenello then asked Kozak if he was aware that there would be a very small buildable envelope with this lot size and that rebuilding would mean that the non-conforming guidelines would be in place; Kozak replied again that at this point they are just trying to make it marketable if they choose to sell.

Member Dudeck then motioned to approve the variance as requested on the finding of fact that this is an existing lot of record, platted in 1934, the request is minor and poses no public health or safety issues. Sellers supported the motion with all members voting aye.

Motion carried.

Case No. 1021 Property Code No. 11-07-7280-0006-00-8 9096 Leo Lane, Union Pier, MI 49129

Fred Carli, property owner, was in attendance to present his request for a variance from Section 4.03.2 of Chikaming Township Zoning Ordinance No. 87, as amended, which does not allow a non-conforming structure to be enlarged, expanded or altered in such a way that would increase its non-conformity; and Section 4.06D which requires a 30 ft. front yard setback for an NCR1-A lot. If granted, the variance would allow the existing new construction of a 19' x 12' screen porch (done without a building permit) to remain, with a front yard setback of 17 ft. off Roosevelt Ave. The original 14'x12' room that stood was damaged by a tree and the repair changed the use to a screen porch and extended the porch size by 5 ft. The setback from Roosevelt Ave. was 17 ft. and will remain the same.

1 (one) letter of correspondence from Sue Split of 9126 Leo Lane was received in approval of the variance request and Mr. Lowell Smith who owns property on Leo Lane was in attendance to show his support of the variance request.

Mr. Carli began by offering an apology to the board for beginning his work without a permit. He then explained that the room in question had a tree through the roof when he purchased it. Instead of rebuilding the room as it was, they decided to turn it into a screen porch. The screen porch is being built on the existing deck that the previous room had been built on, so the actual footprint is no larger, just the screen porch taking up 5 more feet of the deck. This allows the 17 ft. front yard setback to remain as it was.

Member Dudeck stated that she thought the 17 ft. setback off Roosevelt was adequate as the road will never be expanded and there is very little traffic in that area. Zarantenello and Sellers both agreed.

Member Dudeck then moved to approve the variance request on the finding of fact that the home has 2 (two) front yards, 1 (one) on Roosevelt and 1 (one) on Leo Lane, the request is reasonable and minor and poses no public safety issues. Zarantenello supported the motion with all members voting aye.

Motion carried.

CASE NO. 1022 Property Code No. 11-07-0820-0073-00-1 123 Hillside Drive, Shorewood Hills

This case began with Zoning Administrator Betsy Bohac addressing the Board in regards to 2 (two) typographical errors that were made in the Public Notice. The first was that the notice should have read Lot 10 in Shorewood Hills, not Lot 9. The second was in regards to the height of the building, the notice read 22 ft.; it should have read 21 ft.

Michael & Jeanne James, property owners, and Chris Brooks, Architect, were in attendance to present their request for a variance from Section 4.03.2 of Chikaming Township Zoning Ordinance No. 87, as amended, which does not allow a non-conforming structure to be enlarged, expanded or altered in such a way that would increase its non-conformity; and Section 4.06D which requires a 30 ft. rear yard setback for a NCR1-A lot and allows a maximum building height of 18ft. and maximum lot coverage of 20%. If granted, the variance would allow the existing 19.1'x 22.2 ft. one story rear yard addition to be removed and rebuilt as a two-story 19' x 25' addition that would have a 22.2' rear yard setback and have a building height of 21 ft. on an NCR1-A lot. The new construction would not increase the existing lot coverage, nor extend any further into the existing rear yard setback, and would also meet the required 10 ft. side yard setback.

Also in attendance were Matt Urban, 125 Hillside Dr., Shorewood Hills (the neighbor directly to the right of the James property) and his Attorney, Sally Taylor of Passaro, Kahne & Taylor Law Office. 4 (four) letters of correspondence were received in regards to this case: a letter from Matt Urban, who is against the variance request, 2 letters in support of the variance, 1 (one) from Michael Johnson & Elizabeth Barnes, 1 (one) from Linda Anderson and a letter from Clyde Rode, Shorewood Hills Zoning Chairman, in regards to the typographical errors in the Notice.

Chris Brooks began his presentation by explaining that the reason for the request is a desire for more living space to accommodate their growing and extended family. Presently, the addition (which will be removed if variance is approved) is part family room, part storage space and underutilized. He also clarified that the height of the proposed addition will be 21' from the grade to the midway point on the roof. Brooks also explained that the current footprint of the home and garage will remain the same and the home is currently not up to code; by allowing the addition to be built; the home will become more code compliant.

Sally Taylor (on behalf of Matt Urban), began her presentation on the reasons the variance request should be denied by presenting the Board with pictures (now a part of the permanent record) taken from the Urban's property. These pictures show the distance from the eaves of the James's garage to the privacy fence on the property line and also the views from the Urbans back yard and inside the home. She stated that the Urbans have great concerns regarding this request. They feel the nonconformities are in excess and the value and enjoyment of their own property will be greatly impacted by allowing this addition to be built as proposed. Although the Urbans have a double size lot, their only outside living space is directly next to where the proposed addition would be. By allowing a height of 21' with the large hill directly behind the homes, the addition would effectively box in the Urbans entire yard, block their view and have a huge detrimental impact on their property, if the James were willing to move the addition they would not need a variance, it could meet all setbacks of an NCR1-A lot. Taylor also stated that they feel the variance request does not satisfy the Zoning Ordinance, that there is no evidence to support the practical difficulties stated in the application and by allowing the variance as proposed, it would create serious public safety issues in case of an emergency. Taylor then stated that her clients are not against the James improving their property, but there are ways it could be improved without such excessive non-conformities and without needing a variance request.

Member Dudeck commented that it is not up to your neighbor to protect the views from your own property; that is not the reason for the ZBA. She continued by saying that in her opinion there are major public safety issues with this request such as the already reduced side yard setback of 2.8" and 6.9 ' and that she would not be able to support it for that reason. Member Zarantenello then added that he feels a "practical difficulty" needs to be a true "practical difficulty" and this is not one. He agrees there is a way for the James to add a 2nd story or more living space to their home without the need for a variance. Zarantenello commented that he also does not take into account a neighbors feelings when it comes to the blocking of views, and he agrees with Member Dudeck that there are great public safety concerns for him as well. Member Sellers also stated her concerns with the public safety issues and she felt it was not a good design.

Member Zarantenello then moved to deny the variance requests on the Finding of Fact that a Practical Difficulty has not been established, and there a major public safety issues with this design. Sellers supported the motion with Roll Call vote as follows:

Strohl-AYE, Dudeck-AYE, Sellers-AYE, Zarantenello-AYE.

Motion to Deny carried.

With no further business, Member Dudeck motioned to adjourn at 2:10 p.m. with Member Sellers supporting.
Meeting adjourned.

Respectively Submitted,

Theresa Priest
Recording Secretary
Chikaming Township
Zoning Board of Appeals