

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS

Minutes of the March 18, 2008 Meeting

The March 18, 2008 meeting was called to order at 4:00 p.m. by Chairman Carl Anderson with members Jeanne Dudeck, Lee Strohl, Mike Livengood and Kathy Sellers present.

Also present were Zoning Administrator Betsy Bohac and Recording Secretary Marisue Hojnacki.

Strohl moved, supported by Sellers to approve the minutes of the February 19, 2008 meeting. Motion carried.

Case 933 – Property Code No. 11-07-0125-0019-02-9, 15942 Goodwin Avenue, Union Pier, MI 49129. (4:00 p.m.) Larry Frankle, attorney for property owner Conrad Muehrcke, was in attendance to present a request for a variance from Section 4.03.2 of Chikaming Township Zoning Ordinance No. 87, as amended, which states “A nonconforming structure may be enlarged, expanded or altered, so long as the nonconforming characteristic of the structure is not enlarged upon, extended or increased in its degree of nonconformance and from Section 14.02 which requires a 10 foot side yard setback and 30 foot front and rear setback, and 18’ maximum building height on a NCR-1A lot. If granted, the variance would allow a partial second story addition (757 square feet) on a lot with 3,837 square feet of lot area not including the right-of-way. This is a triangular shaped lot with frontage on both Greenwood and Goodwin, the existing dwelling does not meet any required setbacks. The proposed addition will exceed the 18’ allowable building height by 2’8”. Frankle stated that the existing house is part of Union Pier’s history, a cute little cottage that used to be next to the mobile home park. The mobile home park was replaced by commercial there with Filoni Vestimenti and now Pier 9 Bungalows is there. The square footage and triangular shape of the lot are problematic. Except for one boundary, all the boundaries are on streets. Anderson commented that there are no safety issues there as a fire can be fought from either side. He thought the architect did a nice job putting things to scale. Frankle said that the building maintains the same footprint. It just goes up. He added that in order to get the living space on the second floor, they had to go to 20 feet. He felt it fit into the neighborhood. He also stated that his clients are willing to put in a thicker fire wall on the side that abuts the neighbors. He did not think the height would make it any more of a safety issue. Patricia Paulauskas, the owner of the home next to the property, wrote against the variance as it would look like “a giant tsunami wall” three feet from her property line. She also mentioned other additions that she did not approve of. Frankle pointed out that the house is nine feet from the property line, not three. He also did not see other additions. Dudeck felt that the west corner looked like it was an addition. There were also two letters in favor of the variance, one from Philip and

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Colleen Ruddy and another from Michael Ensdorf. Strohl wondered how necessary it was to go 2'8" over the 18' allowable height and Frankle responded that the architect said the 18' height was not practical. Even with a flat roof it wouldn't work. Dudeck said that she did not feel it was a reasonable request due to the size of the lot. She felt that the house that was on that lot was all that should be there. She felt she needed to have some understanding of the neighbor's concern. She said that it looked like the neighbor was meeting her setbacks. Dudeck said that a 3,800 square foot lot needs to have a small house. Livengood agreed. Dudeck added that the Planning Commission tried its best to deal with this issue with the change in the ordinance. Frankle felt that the neighbor's house would change in the future as the neighborhood has already changed. Dudeck responded that if that happens in the future and the neighbor's house gets a second story, then she could see this house having a second story. Right now, she would be looking at a wall. Dudeck stated again that her concern was that it was a very small lot and the planning commission had just completed the ordinance that addressed this issue. Frankle asked the board if they would be against his client making the existing house any larger, and they said that they would be against it. Bohac pointed out the fact that there is no off street parking for this lot and adding two more bedrooms would be adding more vehicles.

Dudeck moved to deny the variance request on the finding of fact that it is not a reasonable variance as the square footage of the lot does not support a larger structure. Anderson supported the motion. All members voted in support of the motion. Motion carried. (4:24 p.m.)

Case 934 – Property Code No. 11-07-0125-0003-01-7, 15880 Lakeshore Road, Union Pier, MI 49129. (4:24 p.m.) William McCollum, architect, and property owner, Holly Crowl, were in attendance to present a request for a variance from Section 14.03, as amended, which requires a 50 foot rear yard setback in an R-1 Single Family Residential District and Section 4.03.2 which states "A nonconforming structure may be enlarged, expanded or altered, so long as the nonconforming characteristic of the structure is not enlarged upon, extended or increased in its degree of nonconformance." If granted, the variance would allow construction of a 450 square foot, ½ story loft addition to the existing dwelling. The existing rear yard setback is 15 feet. McCollum said that they are asking for the variance to build one additional room on the second floor. It does not cover the entire first floor. He added that there are two story buildings on two sides of the house. It will be a 400 square foot room with a stairway up on the backside in the screen porch. It will be under the 18 feet in height and they are pushing the second floor to the rear of the building. Anderson was concerned that with the additional bedroom there would be additional occupancy and he questioned the sewage system. The township requires a 50 foot rear yard setback for buildings with a septic system and they only have 15 feet. He asked what kind of septic system they had and where it was located. McCollum said that there are two big holding tanks on one side of the house that are cleaned out annually. Dudeck asked if it was on the left side and was told it was. McCollum

added that it is really not a year round house. They shut it down during the winter. Dudeck asked what the water arrangements were and McCollum said that every house has a tap off a two or three inch diameter pipe. It is turned off on Halloween and turned on again April 15. She said that she had public safety concerns about Edgewater Villa and how a fire would be fought in that crowded situation without municipal mains or fire hydrants. Between the entranceways, trellises and chain link fences it is not a safe condition for firemen to work. McCollum pointed out that there is another driveway and Dudeck responded that today it was not accessible, it was a mud way. Dudeck stated that they are adding an additional room so there would be more people and more sewage. Crowl said that she has two children and they are getting bigger and they need the additional bedroom. There would be no more people than the people who come there already. Strohl mentioned that there were other houses with second stories and McCollum said that they were changed before the new zoning ordinance. Crowl said that they put in a new septic system eight years ago. Anderson said that he supported Dudeck's feelings on the safety factor. He stated that the footprint would not change; the lot coverage would not change and the number of plumbing fixtures would not change. His concern still remains with the waste disposal system. He felt that he could approve it with the condition that the sewage system be fully certified by the Berrien County Health Department. Livengood stated that he could not find a hardship, practical difficulty. Strohl felt Anderson's suggestion was an excellent one with the provision that the sewage disposal be certified. Bohac said that the certification would come in the form of a letter from the Berrien County Health Department. Sellers said that she did not think that they were over asking as long as they are not asking to make it bigger to rent it out.

Anderson moved to grant the variance as requested with the contingent that a building permit not be given until the Zoning Administrator receives a letter of certification/approval from the Berrien County Health Department of the septic system with the finding of facts that the footprint of the building and setbacks are not changing and it was built before zoning. The height of the new loft will be within the ordinance requirements. The practical difficulty is the location of the existing house on the lot giving it a 15 foot rear yard setback. Sellers seconded the motion. Dudeck stated that her concern is the public safety of the entire area. In a roll call vote Livengood, Sellers, Anderson and Strohl voted yes. Dudeck voted nay. Motion carried.

Livengood, seconded by Sellers motioned to adjourn at 4:56 p.m. Motion carried.

Marisue Hojnacki
Recording Secretary.