

CHIKAMING TOWNSHIP BOARD OF APPEALS

Minutes of the May 20, 2008 Meeting

The May 20, 2008 meeting was called to order at 4:00 p.m. by Chairman Carl Anderson with members Jeanne Dudeck, Lee Strohl and Mike Livengood present. Kathy Sellers arrived at 4:15 p.m.

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

Strohl moved, supported by Livengood to approve the minutes of the April 15, 2008 meeting as presented. Motion carried.

Case 939 – Property Code No. 11-07-0010-0040-15-5, 13687 Red Arrow Highway, Harbert, MI 49115. (4:01 p.m.) Lawrence Frankle, attorney for property owners, Susan Brower and Michael Howe, was in attendance to present a request for a variance from Section 15.03, paragraph B, of Chikaming Township Zoning Ordinance No. 87, which states an accessory building or structure shall not be located in the front yard; Section 14.02 which requires a 30 foot front yard setback and Section 15.03D which requires ten feet between principal structures and accessory buildings in a Commercial District. If granted, the variance would allow construction of a one story, 17' x 17' addition to the dwelling with a front yard setback of 19.5 feet and a 24' x 30' detached 1-story garage located in the front yard only meeting the ten foot side yard setback. Frankle said that the property is on the corner of Prairie Road and Red Arrow Highway. Howe bought it in 1988 as a bigger piece of property. When Judith Racht was interested in purchasing it her son discovered that in 1959 there was a law suit and the Road Commission owned almost all of it. Howe had a Title Policy and was paying property taxes for all of the property for 15 years. Frankle said that they went to the Road Commission and they agreed to abandon 22 feet. Right now the structure is 900 square feet which includes the garage. He said that they need two variances, one for the room addition and the other for the garage because the house was built all the way back on the property. The Road Commission did not want to give them any more land due to visibility. Frankle added that over the years his client has had a problem with the township over storing things outside. They have tried to clean it up. They want to take the garage out of the house. They need a one car garage with an attic to store things. They agree not to make it a living space. He said that one neighbor complained about the light, but the trees block the light. They are very limited even though they thought they had a lot more space. He thought it would look better with the house improved and agreed not to store things outside. The property is zoned Commercial, but used for Residential. Anderson asked if they ever got a Special Land Use for Residential in Commercial and Frankle did not

know. Dudeck said she did not think so. Frankle said that they would take the shed down in back.

Ann Kuppe thought they needed a third variance as the garage would be less than ten feet from the house. She felt it was an excess number of variances for this property. She did not think that the history with the Road Commission was relevant. She owns the building next door and thinks what they are building is too big. She felt that if it was a nonconforming lot, it should not increase the nonconformity. She thought the request was excessive. Anderson said that because it is a Residential use in Commercial that makes it nonconforming. He also said that Commercial has a different set of rules than Residential. She asked that one of her tenants speak. Kevin McGuan said that one of his front room and one of his bedroom windows looks at that property. He said that with the pitch of the roof and the ten foot wall the garage will block his skyline and he will just see the side of a roof. He said he asked if they could turn the garage 90 degrees or do 25 feet instead of 30 feet. Linda Strohl said she was sympathetic to storage, but wondered if the township was in the business of granting additional variances for storage. She said it looks like they are having a perpetual yard sale so it looks like with the extra storage they will have more things for sale and cause more problems on an already congested corner. She felt they were encouraging additional commercial activity at an already dangerous corner. She said that they already have an issue with Luisa's Restaurant and the number of accidents that take place at that corner. Judith Racht, who owns the gallery next store, said the only reason she was interested in buying the property was because it has already been a mess and an eyesore so she wanted to clean it up. She felt that if they put a building on her side it will cut down on the visibility of her gallery from the road. She said it has been an ongoing problem with the mess and the more storage you have, the more you collect. She added that it hasn't been cleaned up much since they had the hearing in December even after they promised that it would all be cleaned up. She said that it impacts her business. There were also three letters in opposition to the variance. One was from Ann Kuppe, who had already spoken. A second was from Laura and Stan Holtz, who live at 13592 Prairie Road. The third was from Candice Conley, who felt the size of the garage was excessive and it was a potential safety issue on a busy corner.

Frankle showed photos of the neighbor's house and felt there would be light. Anderson wondered if the roof could be scaled down. Frankle said that the structure there now is only 900 square feet and that includes the attached garage. He said they would be fine with the restriction that there be no commercial use. They would not have yard sales so they did not need to worry about traffic. The property would look better with a new house and garage front. He did not see how it would block Racht's gallery. He added that the property has not been kept up and is nonconforming. It is the maximum the Road Commission would give them and the minimum they could do. Frankle said that they could make it an attached garage and downscale it. The property is wet so

they can't put a basement in. Dudeck wanted to clarify things with Frankle. She asked him 1) There would be no commercial use of the property. No outdoor sales - garage sales or otherwise. 2) No outside storage of collectibles as there has been. 3) The existing shed will be removed. Frankle said that they agree to all of those items. Dudeck then said that the points are well made that this is an excessive request for a variance on this property. She believed that a garage is needed but that it should be 20' by 24' with nine foot high walls. Livengood added a maximum pitch of 5/12. It should be attached to the house. She had no objection to the 17' by 17' addition to the house that was requested. She moved that the variance be granted as she had detailed it with the conditions that there be no commercial use, no outdoor sales, no outdoor storage and the shed removed. Her findings of fact were that it is an existing lot of record with an odd configuration. Anderson supported the motion. There will be a ten foot setback from the neighbors and the garage will be situated with a six foot setback in the front yard. All members voted aye. Motion carried. (4:40 p.m.) Racht asked for a timeframe for the stuff to be cleared out of the yard. Frankle said 15 to 30 days after the garage is completed. Bohac said that they have six months to complete the garage once the building permit is issued.

Case 940 – Property Code No. 11-07-7350-0006-00-0, 14280 Red Arrow Highway, Harbert, MI 49115. (4:42 p.m.) Venoy McAndrew, architect for the Church of the Mediator, was in attendance to present a request for a variance from Section 19, Special Land Uses, paragraph G, additional conditions for Houses of Worship, of Chikaming Township Zoning Ordinance No. 87, which requires a 50 foot setback in the front, rear and side yards for the main structure and the parking setback shall be 20 feet in the front yard, and the maximum height of a steeple shall be 60 feet. If granted, the variance would allow an 11,464 square foot addition to the existing church that will encroach into the 50' front and rear yard setback requirements. The parking lot will encroach into the required 20 foot setback; six feet into the Lakeshore Road setback and six feet into the Red Arrow Highway setback at the Southwest corner. The proposed steeple would exceed the allowed 60 foot height by 11 feet three inches. Rev. Paula Durren introduced McAndrew. Anderson asked if the placement of the sanctuary was set by some liturgical dogma. Durren said that traditionally the altar faces east, but it is not mandated. McAndrew said that the lot is fronted on two sides by Lakeshore Road and Red Arrow Highway. The Zoning Ordinance requires a 50 foot setback so that would take away 100 feet and the property at its widest is only 190 feet. This puts a burden on the property to place a functional church. The lot is a long, narrow, tapered site. It is Zoned R-1 Residential which requires a 30 foot setback which they would meet in all cases. The existing building was built in 1965 prior to the current zoning ordinance so the 30 foot setback runs through the existing building. They are asking to meet the 30 foot setback with the new structure. The Sanctuary is on the right and the Fellowship Hall is on the left. Originally they thought that they would put the Fellowship Hall in the basement, but because the flood water level is at four and a half feet they can't do a basement. They have a new entrance and exit drive

with a covered canopy. The accessory buildings will be removed and a space at the back of Fellowship Hall will be used for storage. They also need a variance for the parking. Twenty feet from the property line is required. Due to the narrowness of the property they will encroach at the top and bottom on the east and west side a little bit. They have placed 57 spaces for angled parking and made the drives one way and used minimum dimensions. The Ordinance requires ten feet side yards and they are doing 20 feet. The Ordinance requires landscaping to screen the parking and they have planned landscaping. The third variance is for the steeple. The Ordinance has a maximum height of 60 feet. They want to give a vertical element to a very horizontal building with the steeple that is 71'3" to the top of the cross, 65' to the cross and it is 60'8" to the midpoint. The exterior is stone with shake siding. Anderson asked if a number of trees would go and was told yes. There will be plantings along the front drive area with low flowering bushes and perennials. McAndrew said that they hope the Fellowship Hall will be used by the community for weddings and large gatherings. It will have full commercial type kitchen. Anderson asked if it would be two stories and was told no. However, the existing building is a story and a half. In the back they plan to have a garden space and a labyrinth. Anderson asked if they had submitted the plan to the Drain Commission and the Road Commission and gotten responses. McAndrew said that they had not gotten any written responses, but they did have a verbal one on the driveway as long as they keep the radius as presented. As far as the detention area, they may not have to have one because they are using paver block and the parking lot will be planted in grass with the spaces designated by wheel stops.

Dudeck said that they gave a wonderful presentation and that it is a very attractive plan. Livengood agreed. Dudeck commented that the top six feet on the steeple was a cross and not a structure and that it did not bother her. However, she could not find a practical difficulty for it. Anderson said that it is a long narrow property. McAndrew said that everywhere else in the ordinance the height is measured to the midpoint between the ridge and eaves. It was noted that it is not livable space. Livengood said that it is not a public safety issue. Dudeck commented that it will be a shock to the people to the south and she felt that they should plant something more than one foot cedars, but they will deal with that when it comes to the Township Board. It was noted that they are looking at a Conservation Easement for the wooded area to the north. Linda Strohl asked how much bigger it will be than the existing church. McAndrew said that it will be 11,000 square feet from 4,000. She then asked if the congregation was there to fill it. Rev. Durren said that they have 50 to 55 in the six month, off-season period and grow to 93 in the summer. She said that the Albert Institute says that if you build it, you will fill it. McAndrew said that the new sanctuary can hold 210. Linda Strohl then asked the height of other steeples in the area compared to the tree line. Dudeck did not think there were any in the area. It was noted that the trees along Lakeshore Drive are not on the church's property. Dudeck said that you can tell that a lot of thought and study has gone into the plan and moved that the variance be granted as it was a minimum variance to accomplish what is needed

by the church community with the finding of fact that they have ample area in a narrow configuration. Livengood supported her motion and added that there were no safety issues. It is a narrow lot size compared to the square footage. All members voted yes. Motion carried. (5:07 p.m.)

Rules of Procedure for the Board of Appeals

Bohac presented the Board with updated Rules of Procedure. Anderson moved, supported by Livengood to recommend to the Township Board that they adopt the updated Rules of Procedure for the Board of Appeals. Motion carried.

Strohl moved, supported by Livengood to adjourn at 5:10 p.m. Motion carried.

Marisue Hojnacki
Recording Secretary