

# CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS

## Minutes of the September 18, 2007 Meeting

The September 18, 2007 meeting was called to order at 4:00 p.m. by Chairman Carl Anderson with members Jeanne Dudeck, Lee Strohl and Kathy Sellers present. Mike Livengood was absent.

Also present were Zoning Administrator Betsy Bohac, her assistant Kim Livengood and Recording Secretary Marisue Hojnacki.

Strohl moved, supported by Dudeck to approve the minutes of the August 21, 2007 meeting as presented. Motion carried.

### **CASE 919 - Property Code #11-07-4670-0066-00-0, 13354 Pine Drive, Harbert, MI 49115.**

(4:00 p.m.) Anderson is a neighbor to this property so he recused himself from the Board for this case and turned the meeting over to Vice Chairman Strohl. Frank De Francesco, attorney for property owner William R. Melton, was in attendance to request a variance from Section 14.02 of Chikaming Township Zoning Ordinance No. 87, as amended, which requires 100 feet of road frontage on a public or private road in an R-1 Single Family Residential District. If granted, the variance would allow the existing building to be remodeled or replaced on a lot with 20.05 feet of road frontage on Main Drive. The existing home is accessed by an easement off Pine Drive. De Francesco said that it is a unique property in a subdivision created quite some time ago. The roadway was plotted as a lot. The Client's predecessor acquired part of that lot resulting in Main Drive dead ending at the property. There is no way for him to meet the ordinance requirement of 100 feet on a road due to the way the subdivision was created. It is not the fault of his client it was the way the property was configured. Dudeck asked him if the lot was for sale and the perspective buyers were asking if they can rebuild the house. De Francesco said that it was under contract and the buyers wanted to come to the Township and to the DEQ, but it would take too long so they did not buy the property. Now, the owner feels that if they do this first, it would be off the list of concerns of a perspective buyer. Dudeck then said that what they are asking for is buildable status for this lot and if there were easements for water and gas. De Francesco felt that there were and Melton said there were. Dudeck then added that the Township has an easement across the yard and perspective buyers should be aware of that. Strohl asked if any new owner would enter the property from Pine as it is now and was told yes. There were two letters, one from Tim Hansen of 13362 Main Drive and another from Rhona Hoffman, both opposed to the variance and concerned about traffic on Main Drive. Dudeck stated that every property owner has the right to use all the drives in a subdivision. Strohl said it was a non issue because it would not be a use of the property any differently than it is right now.

Sellers stated that it is a lot of record and the approach that is paved is wide and sufficient for emergency vehicles. If there was a way to say that the lake was the rear, except that they bought the little piece of property that was Main Drive, they would have 100 feet on a private road. She therefore made a motion to grant the variance. Dudeck supported the motion with

the additional Findings of Fact that it is unique in that Main Drive is dead ended and incorporated into the parcel. It is a single family dwelling and will remain a single family dwelling. She said that the lake is the front side and the opposite is the back and both need 30 feet. Strohl added that because it says remodel or replaced he wanted to add that any new replacement would meet all the setback requirements and all permits needed by the DEQ. All agreed. Bohac reminded everyone that if the DEQ says the new structure has to be set in a spot where it would not meet the required setbacks, they would have to come back before the Board of Appeals. All members voted aye. Anderson abstained. Motion carried. (4:15 p.m.)

**CASE 920 - Property Code # 11-07-0019-0033-01-2, 9147 Murphy Grove, Lakeside, MI 49116.** (4:15 p.m.) Howard Kahne, attorney for prospective buyers Michael and Barbara Schmitt, was in attendance to request a variance from Section 14.02 of Chikaming Township Zoning Ordinance No. 87, as amended, which requires 100 feet of road frontage and 20,000 square feet of lot area in an R-1 Single Family Residential District. If granted, the variance would allow demolition of the existing dwelling and reconstruction of a new house on a lot with no road frontage and 17,859 square feet of lot area. Access to the property is by an easement. This property is served by municipal water and sewer. Anderson said that two letters were received. One was from Jack Murchie of 9155 Murphy Grove, who had no objection. He requested that they require proper maintenance and periodic restoration of the road during and after construction. Judy Curry also had no objection as long as all other setbacks were met. Kahne said that the Schmitts are under contract to purchase the property. He gave them a survey that was received that day which showed the existing residence as well as the easement which was the access to this property and others to the south. He said that they have a warranty deed dated 1948 that shows that the property existed as a separate parcel. They also had a copy of the easement that extended Murphy court. The parcel does not have road frontage or the required square footage and is subject to NCR-1C setbacks. The front of the house would be towards the easement and the new residence would be more centrally located on the property than the old one was. Seller asked if they had a drawing of the new house and was told no. Anderson asked about all the out buildings and Kahne said it was his understanding that they would all be razed. Anderson said that the lot was undersized by a small margin and there is ample space available for any new structure to meet setback requirements. Sellers felt that the new positioning was a better use of the property. She had been concerned about how narrow it was back there, but they can make it roomy enough for any emergency vehicles, especially where it dead ends. Kahne said that the easement is for ingress, egress and utilities. Anderson stated that the placement of the building alleviates the safety concern.

Dudeck moved to approve the variance request with the Findings of Fact that it is a lot of record created in 1948 that has adequate frontage, but not on a public or private road. It is a little shy of the required 20,000 square feet so that is acceptable. She placed the condition on the variance that all accessory buildings that are nonconforming be removed or placed correctly. Anderson seconded the motion. All members voted aye. Motion carried. (4:30 p.m.)

**CASE 921 - Property Code # 11-07-0770-0202-00-5, 202 Oak Grove Avenue, Bethany Beach, Sawyer, MI 49125.** (4:30 p.m.) David Carlson was in attendance to request a variance from Section 14.03.2 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 30 foot front and rear yard setbacks and a ten foot side yard setback; and Section 4.06D which allows maximum lot coverage of 20% and maximum building height of 18 feet in an NCR-1A lot. If granted, the variance would allow demolition of the existing main bedroom structure (20'6" x 15'), garage and existing foundation. The new 2 1/2 story addition would be built over a 20'6" x 20' foundation (five foot larger than the existing footprint) and would consist of a ground floor garage, a main floor bedroom and dining area and an upper story bedroom and bath. The addition would be 21 feet in height, have a two foot front yard setback off Second Street; have a 29 foot setback off the alley (this does not include the proposed deck); and a three foot side yard setback. Lot coverage would be 40%. A letter was received from Warren Jensen in favor of the variance. Carlson said that it is a small lot. There would be a reduction in the existing deck. It is a sloping lot. What is the garage is really a basement. He said that there is a deck at the main level that is 20' by 20' and if the house is expanded, it would be cut off. He said the foot print right now of the house is 35% and a new one would be 38%. He wants to demolish because the construction is substandard. He added that the deck would be reduced in size by five feet. Sellers said that he was definitely making nonconforming more nonconforming and asked if there was anything he could do to enhance the space and not be so nonconforming. Carlson said it is a sloping lot so the front looks grade, but the back looks tall. Dudeck felt that it was a full story in back. Bohac suggested that because it was such a difficult site that a certified survey be done and the grades shown. She said that when they visited the site there was no way to decide where the property lines where to measure the setbacks. She apologized for letting this one come before them without her proper review, but it came in on deadline when she was not in the office. Dudeck asked that it be put in the record that from now on they ask both Shorewood and Bethany to list their Findings of Fact when they sign off on these variances. Anderson said that from a safety standpoint on the back side there is a serious problem. Bohac said that the height is measured from the average grade to the half way point between the peak and first eave. She felt that the bottom portion would qualify as a story because it was exposed more than 50% above grade. She said that because of the size of the lot it is limited to one and half stories and a maximum height of 18 feet.

Anderson said that he was very uncomfortable with this as well as the dismissal of the deck that goes almost all the way out to the alley line. Sellers asked if the increase in five feet include the deck and was told no. She then said it is just the new foundation that would be five feet bigger. Dudeck commented that they just went through amending their Zoning Ordinance to address these small lots. People can not just cover their whole lot. Carlson did not see a problem with demolishing the deck as it was not in great shape. Sellers wondered if they could table a decision and let him come back. Bohac said that if it is denied and he makes a significant difference in the plan then he can come back. Otherwise he would have to wait one full year. Strohl said he was thinking the same thing and wondered if they would table until they get a survey showing the grade or an architect's drawing giving them the information they need. Bohac said that he can't just change the plan because then they would have to send out a new notice. Dudeck felt it had to be redesigned so that it would not have this three story look from two sides. She then moved to deny the variance as presented with the Finding that there are too many variances required to allow this to happen. Sellers commented that to give

Carlson direction it is the height and coverage that they are concerned with. Dudeck said that need to have all the facts to make a decision. She pointed out that he has nine feet between him and the house to the south and they normally want 20 feet for safety reasons. Anderson supported the motion. All members voted aye. Motion carried. (5:03 p.m.)

Dudeck moved, supported by Sellers to adjourn at 5:05 p.m. Motion carried.

Marisue Hojnacki  
Recording Secretary