

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS
Minutes of the April 17, 2018, Regular Meeting
APPROVED – MAY 15, 2018

The April 17, 2018, regular meeting of the Zoning Board of Appeals was called to order by Chairman (hereinafter Chair), Larry Anderson at 1:00 p.m. Roll call of members present: Liz Rettig, Larry Anderson, Doug Dow, Doreen Bartoni; Alternate Member, Robert Beemer. Quorum. Also present: Zoning Administrator, Van Thornton (ZA), Attorney Charles Hilmer and many members in the audience (sign-up sheet attached of those persons who signed in).

Chairman Anderson advises that the first order of business is to approve minutes from the November 21, 2017, meeting. Chairman asks if there are any questions, comments, corrections. Dow has two minor clerical corrections: Page 1, 6th Paragraph: Not changes to no; Page 4, 2nd paragraph: Comma changes to colon. Dow makes the motion that the November 17, 2017, minutes be approved as amended; Bartoni seconds. Chair asks if all are in favor of approving minutes - **Voice vote: All in favor. Minutes approved.**

CASE 1144: Steve and Jill Berlinski, Applicants – 5634 Lily Lane, Sawyer, MI 49125 Property Code No.: 11-07-2220-0004-001

Applicant is requesting to place a 24' x 24' detached garage in the front yard. Chikaming Township Zoning Ordinance Section 15.03(B) states: "A detached accessory structure or building shall not be located in any portion of a front yard."

The Zoning Administrator is asked by the Chair if he has any comments. ZA advises that he has given his comments in writing to the Board members to read along with an e-mail and a letter.

Chair reads the e-mail from Jill Dunn of 5650 Lily, Unit 3, a neighbor to this property opposing petition stating that that the detached garage will impact property values and changes the ambiance and asks that the zoning ordinances be enforced.

Chair reads a letter from Lee and Bonnie Christopher of 5596 Sawyer Road, a neighbor which border the subject property. They state that they have had disagreements over the boundary line and the lines shown on the preliminary site plan of Abonmarche dated January 25, 2018, to be in incorrect. The boundary line as they have always known it would place the new proposed structure only 6 feet off of the side yard line. There was a tree line row and a wire fence which they have maintained for 36 years and it is marked with a surveyor's stake. They have contacted ZA, Wightman & Associates (surveyor), Farm Bureau legal department, Berrien County Surveyor John Kamer and are in the process of getting a boundary survey to establish the property line. They request a delay or table until the boundary issue is resolved.

Chairman asks if applicant is present. Applicants Steve and Jill Berlinski speak that the area is wide open space. The further state that the property line issue is new to them and need to determine if there really is an issue. Bartoni asks the applicants to clarify the portion which will be in the front yard. Applicants advise that it will be 11' x 24'. Beemer asks about the Preliminary Site Plan and the wire fence shown on the drawing. Mr. Christopher is also present and advises that the fence (when he bought

the property) was the established lot line. Rettig asks Mr. Christopher if the fence belongs to him. Mr. Christopher advises it is his fence and that's part of the issue, the garage won't be 10 feet off of the property line. Bartoni asks applicant about the rationale of the new garage, would it be about snowplowing? Applicant advises that they have a shared driveway and they can't back up their 4 x 4 truck without going onto the neighbor's property. In winter, the snow plowing service piles up the snow and the more snow there is the less driveway there is. Rettig asks applicant if they had thought about attaching the garage to the house and there would be no need for a variance. Applicants advise that the location of the garage would be against the master bath and master bedroom and would be difficult to access the garage. Rettig asks for clarity about the front 12 x 13 being the bathroom. Applicant Berlinski says, yes, it is the bathroom. Chair asks if the applicant has anything from the condominium association which speaks to approving or denying the request. Applicant says that he had a meeting with a group last year and everyone seemed fine with it. Chair restates and asks if the homeowner's association has issued a letter. Berlinski says he did not know it was required and says they can certainly get that. Mr. Rumsa (audience) who lives at 5668 Lilly (3 houses over) and advises that there are By-Laws which require a 75% approval of the HOA for common areas and common elements and there is an approval process. Mrs. Berlinski says that they are not changing any common elements. Mr. Rumsa says that you are changing the access to the road, which is a common element. Chair believes that approval would be needed from the HOA. Mr. Rumsa again speaks stating he is opposed to the variance request and urges applicant to think about an attached garage.

Chair asks if there is any further public comment. No further comments from the public. Public portion is closed.

Board Discussion: Chairman Anderson comments that he believes this matter should be tabled for a month until we get a corrected and agreed upon survey and in addition when we hear this again, something in writing from the condominium association. Dow agrees. Chair asks if there are any other comments? Rettig still feels that they should consider an attached garage, especially considering the boundary line and that they may very well lose the extra feet along the lot line.

Dow makes the motion that this matter be tabled until such time as the property line matter is settled and until we hear from the condominium association in writing. ZA interjects that Michigan State law advises we must set a date to table. Dow amends his motion to table until next regularly scheduled meeting. Anderson seconds. ZA asks that all interested parties please route all paperwork through him. Roll call vote: Bartoni. Yes; Anderson: Yes. Dow: Yes; Rettig: Yes; Beemer: Yes. VARIANCE IS TABLED UNTIL RECEIPT OF REQUESTED ITEMS/NEXT REGULARLY SCHEDULED MEETING. (NEXT MEETING MAY 15)

Chair Anderson goes to the next agenda item, election of officers. **Rettig makes a motion for a slate of officers as:**

Chair: Larry Anderson

Vice Chair: Doug Dow (Bartoni was requested but will be teaching in the fall and may have to leave the Board)

Secretary: Liz Rettig

Bob Beemer seconds. Discussion among board about who can be Chair. Rettig interjects that she knows she cannot be Chair, but wonders if Dow can or cannot be as he is on another board. Anderson looks to Attorney Hilmer, who says he is looking through the Rules of Procedure. It is found that under

Section I, C, a), of the Rules and Procedures that it states, “the Township Board of Trustee’s representative shall not be eligible to serve as Chair.” So, Rettig is the only one not eligible to Chair. No other restrictions.

Chair Anderson asks for vote on slate of officers: All vote unanimously and the above are the newly elected officers.

Chair Anderson moves onto our next agenda item: Adoption of the changes to the Rules of Procedure. Discussion among the Board that essentially the changes look good; it is asked of the ZA if this must be adopted at this time. Chair Anderson would prefer to see it all typed up as one document before we vote. Attorney Hilmer interjects that the new language for the conflict of interest has been taken from the Michigan Township Association’s website, however, there is a portion missing. Chair Anderson says that it best to put the whole thing together. **Anderson makes the motion that we table the adoption of any modifications to the Rules of Procedure pending consolidation of the information and attorney approval until the next regularly scheduled meeting. Seconded by Dow. All vote unanimously; motion carries.**

Chair Anderson asks if there is anything more to come before the Board. Nothing more.

Chairman Anderson announces the meeting adjourned. at 1:30 p.m.

Respectfully submitted,

Elizabeth A. Rettig
Recording Secretary

Date Approved: May 15, 2018