

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS  
Minutes of the April 16, 2019, Regular Meeting  
**APPROVED**

The April 16, 2019, 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: Doug Dow, Liz Rettig, Larry Anderson, Tom Gold, Kathy Sellers. Quorum. Also, present: Zoning Administrator (ZA) Van Thornton, and some members in the audience (sign-up sheet attached of those persons who signed in).

Chair advises that the first order of business is to approve the March 9, 2019, minutes. Dow points out three (3) minor typographical errors; Secretary Rettig makes corrections; **Dow makes a motion to approve minutes as corrected; Anderson seconds; Voice vote: All five (5) members - AYE. Minutes are approved as corrected.**

ZA asks to speak and addresses Chair: ZA advises that they have been attempting to work with the applicant Ruschke (Case #1162) but are unable to attend because of a medical emergency.

**CASE 1162: Karen Ruschke property owner – 9895 Nolan Avenue, Union Pier, MI 49129. Property Code No.: 11-07-4570-0009-02-6. *Applicant is asking to demolish the 2 existing non-conforming structures and replace with 1 single family dwelling that will meet all requirements of an NCR1-B lot. Chikaming Township Zoning Ordinance Section 4.02(c) states in part, “The Zoning Board of appeals may, in accordance with the provisions of Article 23, grant a variance to allow construction of a dwelling on a vacant nonconforming lot of record which does not meet requirements of this Ordinance for minimum lot area, minimum lot frontage or both.”***

ZA has presented two (2) motions for consideration by the Board and giving some circumstances and costs involved for publication costs, mailing, etc., the reasons for these motions.

**Dow makes a motion that this Board lay on the table the application of Karen Ruschke (Case #1162) until the May 21, 2019, meeting of the Zoning Board of Appeals in order to allow the applicant to be present at the meeting; Sellers seconds.** Discussion among Board about conference calls not being allowed, necessity for applicant or representative to be present at hearing; Chairman calls for a vote on the motion. **ROLL CALL VOTE. Dow: Yes; Rettig: Yes; Anderson: Yes; Gold: Yes; Sellers: Yes. Motion carries. 5 – 0.**

**Anderson makes a motion that this Board recommend to the Board of Trustees that the Chikaming Township Rules of Procedure for the Zoning Board of Appeals be amended to require that the applicant or an authorized representative of the applicant be present at all public meetings and hearings regarding the application; and that the Board of Trustees authorize an additional filing fee of up to Four Hundred (\$400) Dollars for additional mailing and publication expenses when a meeting or hearing is cancelled due to the actions of the application; Gold seconds.** Discussion among Board regarding what the ZBA application says about appointing an authorized representative and who can be an authorized representative; and that this becomes part of the rules and procedures of the ZBA for future applications. Chair calls for a vote on the motion. **ROLL CALL VOTE. Dow: Yes; Rettig: Yes; Anderson: Yes; Gold: Yes; Sellers: Yes. Motion carries. 5 – 0.**

Next order of business is a request for interpretation of the following:

1. Article 1909(C)(5) states that in relation to a bed and breakfast establishment, “The dwelling shall be the principal residence of the owner and operating of the establishment.”

Does this mean:

- a. That this property must be occupied for the entire year by the owner?
  - b. The owner could reside here during the summer and winter elsewhere?
  - c. That as long as the operator, who is not necessarily the owner, is present the business may be active?
  - d. That the owner shall also be the operator and the business may operate only if the owner is present?
2. Is proof of partial ownership (as in a partnership) an indication of compliance with the owner requirement?
    - a. In this instance, if only one owner in a partnership establishes a permanent residence, is that acceptable?
  3. Should proof of fee ownership of the property be required with an application?
  4. Should proof of residency, e.g. driver’s license, voter registration, etc., be required?

Much discussion among Board centering around ownership of property is not necessarily owner of the business; Discussion that historically a bed and breakfast has typically been operated by the owner opening his doors and allowing people to stay; Discussion about what constitutes principal residence/primary residence (principal residence for a tax payer means they must be a titled owner and does not rent out his property and lives there) (principal residence for voting could be an apartment and where you reside, where you have a driver’s license); owner of business being a partner; are the operator/owner a resident (24/7 there); definition of vested interest; how does business partnership enter into the operation of a B & B; principal dwelling; leases; example: purchase of properties then hire a manager is not the same as ownership; go over comments given to us by Attorney Hilmer; go over Section 2-2 of Ordinance – which does not bring in ownership; Section 19.C brings in ownership; “skin in the game” being the intention; requirement of percentage of ownership; owner of land/building also runs the business; owner/operator being the same person; business shuts down when owner not there; different ownership configurations come into play: trusts, partnership, corporations, llcs; bottom line: The Property owner shall also be the operator and the business may operate only if the owner is present.

THEREFORE:

The Chikaming Township Zoning Board of Appeals has interpreted Section 19.09(C)(5) of the Chikaming Township Zoning Ordinance to mean:

- a. That ownership requires a vested interest in the real property
- b. That the property owner shall also be the operator
- c. That the business may operate only if the owner is present
- d. Proof of ownership must be provided upon application
- e. Proof of residency must be provided
- f. That the dwelling shall comply with all life-safety requirements of the Chikaming Township Rental Ordinance #141

**ELECTION OF OFFICERS:**

**Rettig makes a motion that the slate of offices for the 2019-2020 term of the ZBA be as follows:**

**Chair: Larry Anderson**

**Vice-Chair: Doug Dow (who shall act when Anderson unavailable)**

**Secretary: Liz Rettig**

**Gold seconds. Chairman calls for a vote. ROLL CALL VOTE. Dow: Yes; Rettig: Yes; Anderson: Yes; Gold: Yes; Sellers: Yes. MOTION CARRIES. 5 – 0.**

**PUBLIC COMMENT:** None.

Chairman asks if there is any other business for the board. With no further business to come before the board, **Chair and board give a consensus adjournment at 2:09 p.m. Meeting adjourned.**

Respectfully submitted,

Elizabeth A. Rettig  
Recording Secretary

Date Approved: May 21, 2019