

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS
Minutes of the August 21, 2018, Regular Meeting
APPROVED

The August 21, 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. Quorum. Also present: Zoning Administrator, Van Thornton (ZA or Van), Attorney Charles Hilmer and some members in the audience (sign-up sheet attached of those persons who signed in).

The first order of business is to approve the minutes from the July 17, 2018, meeting. Chairman asks if there are any questions, comments, corrections. Dow points out a few typographical errors/changes; Bartoni adds 1 change; Dow motions for approval of minutes as amended; seconded by Bartoni - **All in favor. Minutes approved.**

CASE 1149: Garnet and Jill Patterson, owners – 13743 Big Oak Lane, Harbert, MI 49115. Property Code No.: 11-07-0015-0032-00-3. *Applicant is asking to construct a screen porch in the front yard with a setback of 19 feet. Chikaming Township Zoning Ordinance Section 14.02 requires a “30-foot front yard setback.”*

Chair advises that there are no letters. (Later, the applicant brings a letter from the neighbor Bridgman ** see below.) Chair asks ZA for any comments at which time Van advises that the existing concrete slab is considered a structure and non-conforming. The slab will not be used for the new structure because of structural issues, but the new structure will use the existing footprint and that should be taken into consideration by the board, but the slab will be removed.

Dow interjects that the house is already non-conforming and they are not increasing the non-conformity, just maintaining.

Chair asks if applicant present. Jill Patterson speaks to the application to add roof and screened in porch to side of house. Currently the house that was built many years ago is at 20-foot setback instead of 30-foot setback and the porch will be placed on the footprint of the slab. Issues are elevation, internal problems. Applicant brings letter from Mr. Bridgman, who has no objection (**letter placed in file).

Chair asks if there are other public comments. Hearing none, public portion of meeting is closed and matter goes to Board discussion.

Board discussion: Bartoni comments that it is already an existing structure, using the same footprint. Dow, Rettig and Anderson agree.

Motion made by Dow, Bartoni seconded, to construct a screen porch in the front yard with a setback of 19 feet maintaining the foot print of the current slab. Anderson asks to amend the motion, requesting that the application must verify whether or not the current slab is structurally sound or replace it with a proper slab

and obtain all the necessary permits. **ROLL VOICE: Bartoni, Rettig, Anderson, Dow. ALL AYES. APPROVED 4 – 0.**

CASE 1150: Claudia and Steven Schwartz, owners – 15616 Lakeshore Road, Union Pier, MI 49129. Property Code No.: 11-07-7200-0011-00-1. *Applicant is asking to construct an accessory structure on the lakefront side of the property. This property has 2 front yards, Lake Michigan and Lakeshore Road. Chikaming Township Zoning Ordinance Section 15.03(B) states “An accessory structure or building shall not be located in any portion of the front yard.”*

Chair advises that there are no letters. Chair asks if there are any comments from the ZA. ZA advises that this is a preliminary structure used for storage while they are building their new house. This will eventually become an accessory structure and currently has an existing house. At some point there will be an accessory structure with no primary building; but there will be building permits in place.

Bartoni: Is this a storage unit. ZA: Yes, a prefab storage unit (shipping container). This will come first to store construction material and equipment. This needs approval because it is in the front yard.

Applicant is asked to address. This will eventually be a permanent beach structure. Easier to do this now than after the house is built.

Chair: Is this in a critical dune area? ZA: No, this has all been checked by the architectural firm. It was my recommendation, however, that the applicant not apply for any permits until the approval of this committee is received.

Chair asks for any public comments. None.

Chair goes to board discussion. Bartoni asks applicant to describe. Applicant advises that they are building a beach house and the shipping container will be clad with wood, but air tight and water tight. Bartoni: No plumbing? Applicant: No, just electric.

Chair goes through the zoning standards:

1. Are there and what are the unique circumstances or conditions that exist? Yes – 2 front yards.
2. As result of unique circumstances, would strict compliance be unnecessarily burdensome? Yes, because of the 2 front yards.
3. Did the unique circumstances result from the actions of the applicant? No.
4. Is the variance request a minimum variance that will make possible the reasonable use of the land, building or structure? Yes. Does not go into lot coverage or impede any setbacks.
5. Will the granting of the variance be in harmony with the spirit and intent of the Ordinance and not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, and welfare? Yes, in harmony with others.

Dow makes a motion to approve the structure; Anderson seconds. Voice vote. ALL AYES. APPROVED. 4 – 0.

CASE 1151: Connect Home Buyers, LLC, owners – 15982 Wintergreen, Union Pier, MI 49129. Property Code No.: 11-07-4570-0080-02-2. *Applicant is asking to construct an 8' x 13.4' covered porch in the front yard setback. The new structure will have a front yard setback of 25 feet. Chikaming Township Zoning Ordinance Section 14.02 requires a "30-foot front yard setback."*

Comments from the ZA: The structure has been dramatically changed in that it previously faced red arrow highway with a small front porch and many years ago had been granted a variance for that structure. The new owner has removed that and now faces Wintergreen. It will now have a Wintergreen address. Still a corner lot with 2 front yards. Drawing shows that they want to add a covered porch for access to front door. Chair: Is there a variance for the garage (distance to house). ZA: Yes, this was previous allowed variance.

Letters: None.

Applicant speaks giving a little background.

Public Comment: None

Board Discussion: Chair asks why there's a need for 8' porch? (and not maintaining current). Dow interjects that existing house is already 3 foot into setback. Rettig: 2.3 feet of non-conformity. Bartoni: feel that request is minimal.

Chair goes through the zoning standards:

1. Are there and what are the unique circumstances or conditions that exist? Yes – 2 front yards.
2. As result of unique circumstances, would strict compliance be unnecessarily burdensome? Yes, because of the 2 front yards.
3. Did the unique circumstances result from the actions of the applicant? No.
4. Is the variance request a minimum variance that will make possible the reasonable use of the land, building or structure? Yes.
5. Will the granting of the variance be in harmony with the spirit and intent of the Ordinance and not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, and welfare? Yes, in harmony.

Dow makes a motion to approve the variance; Bartoni seconds. Voice vote. ALL AYES. APPROVED. 4 – 0.

CASE 1152: George and Kathy Peoples, owners – 15635 Streed Avenue, Union Pier, MI 49129. Property Code No.: 11-07-4730-0022-05-1. *Applicant is asking for three (3) variances: 1) to add a 528 sq. ft. covered front porch which will have front yard setback of 12 ft. 2) allow lot coverage of 25% 3) to build a deck on the rear of the house with a rear yard setback of 28 ft. Chikaming Township Zoning Ordinance Section 14.02 requires a "30-foot front and rear yard setback, and Section 4.06D(1) allows 20% lot coverage in an NCR1-A District."*

Letters: Susan Helsey who does not feel that the 12' setback is sufficient (puts house too close to street) and not in harmony with neighbors. Does not object to rear yard setback request.

Comments from the ZA: Applicant wants to amend application and is only asking for 2 variances. Item #2 (request for larger lot coverage) is eliminated because applicant has joined 2 non-conforming parcels together (as required under the ordinance and because they are under common ownership). No lot coverage issue. This is now a corner lot, but this has no bearing on this variance. Rettig asks for clarification of exactly where the new front door will be. Board reviews map and determines that the current 28.5-foot street location from house will now be only 12' from road. Dow interjects that the house is already non-compliant in relationship to distance from street and added that the variance would make it more non-conforming.

Applicant asked to speak: Changing from a duplex to a single-family home. There were formerly 2 entrances. Large flat faced building. Adding shed and front porch. The front door will be on the right side of the current building. Porch will only be 10 feet, so 18 feet from porch to road. Rettig explains to applicant that our goal is to not make the property "more non-conforming" and if the space is available, the front porch could be along the side and not require a variance at all. Additionally, the question is posed if there are other homes along the same side of the street, an average of these homes could help the applicant in determine the average setback. The house across the street has a very close proximity to road, however, the averages must be on the same side and only a few houses adjacent. Dow researches Beacon and finds that the averaging of the homes on the same side does not assist the applicant and ZA affirms. Dow reiterates that we are not here to design homes, adding anything to the front building would not give enough space for her intentions or the best utility. Further, the applicant is given some directive that with the combination of the adjoining lot and adding the porch to the side, there would be no variance needed if the current 28' setback is maintained. Chair: would the applicant like to amend her application to extend the front line along Street toward Red Arrow so that a completely new drawing is not necessary. Rettig states that applicant would still have to ask for the variance to extend the front line of the house (because the new construction would be using the 28' setback line and this is still a variance from the ordinance of 30' setback), however, if the current applicant is amended, then a second application fee would not need to be paid. Dow says we can handle this in 2 ways. 1) postpone the decision on the front letting the applicant amend her variance request and giving the applicant the time she needs to reconfigure; and 2) move onto the ruling on the rear deck today. Applicant says she does want us to decide on the rear deck today.

Dow makes a motion to postpone ruling on the front-yard setback pending receiving an amended variance request; Anderson seconds. Voice vote. ALL AYES. APPROVED. 4 – 0.

Chair moves onto the rear-yard variance. Discussion among Board regarding the 5 criteria; concluding that it meets the criteria and it is a minimal request.

Anderson makes a motion to approve the variance for the deck on the rear yard with a 28-foot setback; Dow seconds. Voice vote. ALL AYES. APPROVED. 4 – 0.

Bartoni asks about roof and what portion of a roof can go into the setback. ZA clarifies that eaves, soffits and cornices and other architectural features can go into the setback, but a structure cannot go into the setback without a variance.

ZA asks if applicant would request something like an eyebrow, could they include that as part of their variance (since their house has a flat front) to take the flatness away from the front face. Chair advises that it could be part of their amended request.

CASE 1146: Robin Carlson, Camp Carlson Trust, owners – 315 Orchard Boulevard, Sawyer, MI. Property Code No.: 11-07-0820-0062-00-9. *Applicant is asking to construct a 12' x 16' three-season room on the rear of the property. The new structure will have a rear yard setback of 25 feet. Chikaming Township Zoning Ordinance Section 14.02 requires a "30-foot front yard setback."*

Chair asks for comments from the ZA. ZA advises that there have been multiple communications and since this is an amended application, the Board needs to discuss whether this is substantially different than original application. Chair asks for drawing showing lot lines. Chair shows map shows that the setback is now 33' and the deck is now coming down to 12' x 16' with 25' from the setback (currently house is 39' from lot line). The existing deck is 29.2 feet currently from lot line.

Letters:

Paul Rook – full support of application on rear yard setback

Cyndi Ellis – Shorewood has reviewed again and have no problem with 25' vs. 30' setback because this is a double lot

Jeanine Larson – in favor of the application

Bill Termini – in support

Michael Johnson – in support

Comments from Applicant: lot coverage does not seem to be an issue. Understands that increasing the deck makes the lot more non-conforming and the only variance request is the 3-season room.

ZA: Agreed – no issue as to lot coverage. They would be allowed 2,898 to 3,000 square feet. They are currently at about 2,600.

Public Comment: None.

Chair: Have you thought about reconfiguring the room to meet the setbacks?

Applicant: Yes.

Board Discussion: Dow interjects on the issue of substantially different plan. Let's look at 23.04(f). The new evidence is a big part of discussion (lot coverage) and that allows us to rehear this. Is the variance requested minimal (5-foot encroachment in setback)? Bartoni agrees that it is now minimal especially since the deck size has been reduced. Rettig suggests that it is only about a foot or 2 that is in the set-back.

Chair goes through the zoning standards:

1. Are there and what are the unique circumstances or conditions that exist? Yes – 2 front yards and non-conforming lot.
2. As result of unique circumstances, would strict compliance be unnecessarily burdensome? Yes, because of the 2 front yards.
3. Did the unique circumstances result from the actions of the applicant? No.

4. Is the variance request a minimum variance that will make possible the reasonable use of the land, building or structure? Yes.
5. Will the granting of the variance be in harmony with the spirit and intent of the Ordinance and not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, and welfare? Yes, in harmony and 5 letters in support.

Dow makes a motion to approve the variance request as amended; Bartoni seconds. Voice vote. ALL AYES. APPROVED. 4 – 0.

Chairman asks if there is any other comment or business for the board. With no further business to come before the board, **Dow moves for an adjournment at 2:10. Anderson seconds; All ayes. Meeting adjourned.**

Respectfully submitted,

Elizabeth A. Rettig
Recording Secretary

Date Approved: September 18, 2018