

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS
Minutes of the May 15, 2018, Regular Meeting
APPROVED

The May 15, 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, Kathy Sellers; Alternate Member, Robert Beemer. Quorum. Also present: Zoning Administrator, Van Thornton (ZA), Attorney Charles Hilmer and some 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 the minutes from the April 17, 2018, meeting. Chairman asks if there are any questions, comments, corrections. Hearing none, Chair motions for approval of minutes; seconded by Bob Beemer - **All in favor. Minutes approved.**

CASE 1145: Kevin Buccellato, Architect representing applicant/owners, RICH AND JULIE CARRIGAN – 15324 Lakeshore Drive, Lakeside, MI.

Applicant is asking to construct a 28 x 18 deck on the lakefront side of this property. This lot has 2 front yards, Lake Michigan and Lakeshore Drive. 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 asks the Zoning Administrator if he has any comments. He has none.

Chair reads the letter from Frank and Jan Tomacek (15302 Lakeshore) who have no objection to the application.

Chair asks if the applicant is present. Architect Buccellato speaks to the application stating that he has taken measures so that no sight line will be blocked.

Chair asks if there are any other public comments. None heard, public comment portion is closed.

Sellers asks if there is any height restriction on the fireplace which is a part of the drawing. ZA answers: No. Beemer asks about the other deck with the roof. Architect Buccellato answers that it belongs to the neighbor. Anderson asks about the shed. It is determined it not an issue.

Chairman Anderson proceeds to go through the criteria of the terms under which a variance can be granted.

1. Unique circumstanced or conditions exist. YES. Through lot.
2. Strict compliance would unreasonable prevent the use of the property. YES.
3. The unique circumstances do not result from the actions of the application. YES.
4. The variance request is the minimum variance. YES.
5. The granting of the variance will be in harmony with the spirit and intent. YES.

Chairman asks Architect Buccellato about the comment on the application which says that the engineers at Abonmarche have notified the MDEQ as well as the U.S. Army Corp. of Engineers of this project.

Does this mean, are you asking for their approval? Buccellato says that Abonmarche has advised by report that it is not high risk or in a critical dune and have drafted a letter on behalf of the Carrigans to the MDEQ but has not received a response from them. A response, however, has been received from the Army Corp. giving approval. Both letters are to be part of the official record. Chair asks Attorney Hilmer if a conditional approval (based on receiving approval from MDEQ) or an unconditional approval is in order. Attorney Hilmer responds that his review of the letters and file feels that because it is neither high risk or critical dune an unconditional approval be given. ZA interjects that under the building code process, he will verify with MDEQ prior to issuing the building permit. Further MDEQ does not regulate decks or stair structures.

Anderson makes the motion that this matter be APPROVED because it meets all the criteria for a variance under the zoning rules; Sellers seconds. Roll call vote: Rettig: Yes; Anderson: Yes. Sellers: Yes; Beemer: Yes. VARIANCE IS GRANTED.

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

TABLED AT THE APRIL 17, 2017 MEETING.

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."

Rettig motions that the above case #1144 be reopened; seconded by Anderson.

Anderson advises that a letter has come from the Flynn Grove Association, which is read. The letter states that the Association does NOT give its approval for the variance stating that it is a negative impact on the property values in Flynn Grove, the current Chikaming Ordinance prohibits the construction, and the esthetics of the neighborhood (tree line) will be adversely affected. Under their rules, there is not a 75% vote in favor of the variance.

The Zoning Administrator is asked by the Chair if he has any comments. ZA advises that in addition to the above information from the HOA, he has received a request from the application Berlinski that the Board consider re-tabling the matter to the June meeting so that applicant can pursue any legal action he has available to deal with the HOA.

Anderson reminds everyone that there were other issues which caused the tabling at the last meeting which involved the lot line issues with the Christophers. Anderson asks if that has been resolved. ZA advises that this morning notification had been received that the Christophers have had an independent survey and the property line question is resolved to everyone's satisfaction. ZA further says that the resolution of the lot line does allow the 10 foot setback for the applicant.

Sellers asks if the 5 criteria were ever gone through on this application (because she was not at the April meeting). Rettig and Anderson advise her that it never reached that point because of the other issues which came up (no HOA approval and the survey/setback with Christophers). Sellers wonders if the applicant is aware of the 5 conditions and request if she can take a few minutes to review the information.

While waiting, Chair asks ZA if the information for the adoption of the changes to the Rules of Procedure is final yet. ZA advises that it is not yet complete. Chair requests that the ZA put this matter on the agenda of the next meeting.

Discussion returns to Case #1144. Sellers wonders if the applicants realize that perhaps they don't realize that the ZBA feels that this does not meet the criteria and before they spend a lot of money on attorneys, they may want to know that the Board may feel denial is imminent. More discussion as to the criteria and that this application does not have unique circumstances, but circumstances self created. Rettig wonders if the ZA should inform the application that the Board feels the criteria are not met. ZA suggests that we grant the applicants' request to table the matter to the June (or next) meeting of the ZBA, and further he will advise the applicant that in an informal discussion of the 4 members present at this board meeting it was felt that even though applicant may bring approval from the HOA, it is doubtful that his request for variance will pass and he may want to take that into consideration before spending a lot of money on legal expenses.

Chairman Anderson motions that this case be tabled until our next regularly scheduled meeting; seconded by Sellers. Vote: all in favor. MOTION TO TABLE IS CARRIED.

Chair asks if there is anything else on the agenda. No further comments from the public.

Rettig motions for adjournment at 1:25; Chairman Anderson seconds. All ayes. Meeting adjourned.

Respectfully submitted,

Elizabeth A. Rettig
Recording Secretary

Date Approved: JUNE 19, 2018