

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS
Minutes of the July 17, 2018, Regular Meeting
APPROVED

The July 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 some members in the audience (sign-up sheet attached of those persons who signed in).

CASE 1148: Brett Mackie and Robert Walters, owners – 15177 Shrago, Lakeside, MI 49116. Property Code No.: 11-07-5620-0033-00-3. *Applicant is asking to demolish both the existing shed and concrete patio and replace it with a 16' x 18' screened porch and 6' x 8' shed, which will both encroach into the 30' yard setback. Chikaming Township Zoning Ordinance Section 4.06(D)1 requires a "30-foot rear yard setback."*

Chair advises that we reviewed this case at the June 19, 2018 meeting, but had asked the applicant to provide more information, clarify dimension, lot coverage, and specifically the front porch.

Applicant speaks to the case reiterating that the difficulty with this property is that it is a corner lot with unique setbacks and the requests are minimal. 5 variances being requested (not all were part of the original request):

1. Font yard porch set back
2. Removal of concrete patio
3. Build screened porch
4. Build new shed
5. Build new deck

Chair asks ZA for comments. ZA indicates that applicant has been very diligent and is comfortable with the recalculations as presented by the application. Chair asks about the 3' space between buildings and is there a safety/fire department issue. ZA feels that there should be no problem because there are other accesses to the main structure.

Bartoni asks if porch attached to house and deck attached to porch. Yes (applicant).

Dow questions 5 variance, but packet shows 4. Applicant corrects himself – there are only four. The removal of the concrete porch is not a variance issue.

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 asks why deck can't be even with porch. Applicant answers that this was intended to go partly into the space where current concrete is. Porch more livable space and didn't want to go as far as concrete had but want to get as much deck as possible. Beemer initial thoughts: 8100 sq. ft. lot and this is not even close to the setbacks. We have zoning rules for good reasons. Bartoni: The

existing cement . . would that have been included in lot coverage? Chair states that concrete is impervious and would probably be included in lot coverage. ZA gives definition of what constitutes a structure: concrete around pool has typically not been used as a structure or included in lot coverage (in previous decisions) but for the purpose of lot coverage, impervious decking should be included as a structure and in lot coverage. Strictly speaking, deck and concrete is on the ground and is a structure. However, the board has been lenient with pervious vs. impervious. Applicant is requesting impervious to be removed and replace it with pervious to allow water to drain. This is a judgment call on each. They do have some draining problems. I feel that he is making his situation better. Bartoni again asks if the previous concrete pad was allowed (even though it does not meet setbacks). Board determines that we have no way to know if it was ever allowed or given a variance.

Chair feels that with 4 different requests, should we look at them separately or together. Dow feels we should look at the whole. Non-conforming lot, corner lot are the problems. The new changes tend to make the lot “less” non-conforming. Van interjects that in a previous appeal of a non-conforming lot, the board allowed a structure to be “rebuilt” in the previous footprint. Beemer feels that a concrete pad is not the same as a structure. Bartoni argues that the porch and deck are structures vs. a concrete pad. Dow: Is this detrimental to the neighborhood and is he trying to improve the property with challenging constraints. Beemer: Improving property – agreed. But is this a minimum request? – this is a maximum, but let’s look not forget the setback requirements.

Chair: That’s why we need to look at them separately. Chair asks applicant if the percentage (33% old – new 27%) is deck included? Application says “no” deck was not included in lot coverage, but screened in porch was. Rettig: Is the front steps included in the lot coverage? Applicant answers that he did not include the front porch. Applicant asks once more, does deck count as lot coverage. Chair: Impervious counts and structures count. Van: The board has gone both ways and the Board has leaned toward a wooden deck as not being counted in lot coverage because of being pervious. As far as water retention, he has definitely helped the drainage problem. Rettig: Is concrete going to be removed in its entirety? Applicant: Yes. Bartoni wants clarification from application, does the front yard deck/steps go over the existing concrete. Applicant: Yes.

First: Front yard setback for deck and steps (additional 2 feet): (deck variance – 21 feet)

1. Unique circumstances or conditions that exist. Yes – non-conforming lot
2. As result of unique circumstances, would strict compliance be unnecessarily burdensome?
Yes – non-conforming lot
3. Did the unique circumstances result from the actions of applicant? No.
4. Is the request minimal? Yes
5. Is it in harmony and spirit of the neighborhood? Yes.

**ALL IN FAVOR OF IMPROVING THE VARIANCE OF THE FRONT YARD TO 19.75 FEET.
ALL 5 AYES.**

Second: Deck Rear yard setback for the new deck for 8’ from the property line.

1. Unique circumstances or conditions that exist. Yes – non-conforming lot
2. As result of unique circumstances, would strict compliance be unnecessarily burdensome?
Yes – non-conforming lot

3. Did the unique circumstances result from the actions of applicant? No – building in current footprint.
4. Is the request minimal? No. The Board feels the deck should be smaller (8 feet in back is the issue). Deck must be even with screen porch reduce from 17' x 22' request to 17' x 16' to line up with 16' depth of porch (**maintaining 14 feet rear setback**). Another suggestion: Could be length of house but even with porch.
5. Is it in harmony and spirit of the neighborhood? Yes.

Motion made by Dow, Rettig seconded to approve rear deck adjusted to 17' x 16' lining up with porch and maintaining 14' rear setback. VOICE VOTE: ALL AYES.

Third: 16 x 18 Screen Porch – 14' from rear setback

1. Unique circumstances or conditions that exist. Yes – non-conforming lot
2. As result of unique circumstances, would strict compliance be unnecessarily burdensome? Yes – non-conforming lot
3. Did the unique circumstances result from the actions of applicant? No.
4. Is the request minimal? Yes – because already in existing footprint.
5. Is it in harmony and spirit of the neighborhood? Yes.

Motion made by Dow, Bartoni seconded to approve new 16 x 18' Screen Porch maintaining a 14' rear setback. VOICE VOTE: ALL AYES.

Fourth: New 6' x 8' Shed – 5 feet from rear setback.

1. Unique circumstances or conditions that exist. Yes – non-conforming lot
2. As result of unique circumstances, would strict compliance be unnecessarily burdensome? No.

Board has trouble with 3' (closeness to house) and 5' rear setback and additional lot coverage. Applicant advises board of the current drainage/water issues. Old shed was on railroad ties and is now gone and new shed cannot be where the old one was because of the water issues. Van: Ordinance says that a structure under 120 sq. feet can be within 5 feet of rear or side lot line and he could tuck the shed in other corner and he would be in compliance except for lot coverage and he must stay 10 feet from another structure.

Chair: As proposed, the shed would probably not be approved.

Dow moves that we postpone a ruling on the placement of the shed variance until the applicant submits an amended application showing the placement of the shed. Postponed until next meeting or next opportunity that the applicant has to come before the board; Rettig seconds. VOICE VOTE: ALL AYES.

Public comment: Robin Carlson (referring to CASE 1146 FROM JUNE 2018 MEETING) speaks that she now knows how important it was to attend June's meeting and that her contractor arrived late, and she missed the opportunity to present her case. Wants to know if she can be heard in August. Chair: Under our rules of procedure under a Zoning Variance, once you are denied you must wait a year to apply unless the proposal is significantly different than what was originally applied for. Dow says

contractor had discussion with board following the meeting and possible modifications were proposed, but the biggest issue was that the already non-conforming lot was being made more non-conforming increased. Chair again advises applicant that if there is a way to make it less non-conforming and wants to come back in August IF IT IS SIGNIFICANTLY DIFFERENT, Board will hear.

Chairman Anderson advises that the next order of business is to approve the minutes from the June 19, 2018, meeting. Chairman asks if there are any questions, comments, corrections. Hearing none, Dow motions for approval of minutes as presented; seconded by Anderson - **All in favor. Minutes approved.**

With no further business to come before the board, **Chairman Anderson asks for an adjournment at 1:50 by voice vote: All ayes. Meeting adjourned.**

Respectfully submitted,

Elizabeth A. Rettig
Recording Secretary

Date Approved: August 21, 2018