

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS
Minutes of the November 20, 2018, Regular Meeting
APPROVED

The November 20, 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: Doug Dow, Kathy Sellers, Liz Rettig, Larry Anderson. Quorum. Also present: Zoning Administrator Assistant, Kim Livengood, Attorney Charles Hilmer and some members in the audience (sign-up sheet attached of those persons who signed in). *Note: Tom Gold joined the meeting at 1:10 p.m. (during first case #1158).*

Chair takes roll to determine quorum of 4.

Chair advises that the next order of business is to approve the October 16, 2018, minutes. Dow, Rettig, and Sellers point out some clerical and typographic changes; Secretary Rettig makes corrections; **Sellers makes a motion to approve minutes as corrected; Anderson seconds; discussion; call for vote: All in favor (4 members). Minutes are approved as corrected.**

CASE 1158: Property owners Douglas and Meredy Fisher – 12854 Country Lane, Sawyer, MI 49125. Property Code No.: 11-07-0002-0056-12-3. Applicant is asking to place (keep) a 6' fence built in the front yard. Chikaming Township Zoning Ordinance Section 15.02 states, "In any required front yard no fence or wall shall be permitted to exceed a height of 4 feet."

Chair asks if applicant is present and would like to make a statement. Douglas Fisher gives a statement regarding the dynamics of his property, headlights shining at night, high traffic, noise level, busy streets (94 and Sawyer Road), property is zoned commercial, next to Lion's Den (open 24 hours) and across from gas station. Mr. Fisher reads from a Herald Palladium article whose topic is the Lion's Den and its impact on the area. The article summarizes the busy street and noise. Mr. Fisher goes on to say he thought that Country Lane was a driveway and not a private road and as such thought he didn't need a permit to build a fence (being totally on private land). He acknowledges he should have come to the Township for a permit. House sits back 215 feet from road and has two (2) front yards. Told by Van Thornton that his existing circumstances could be considered hardships in this high traffic, noisy area.

GOLD ARRIVES AND JOINS MEETING.

Chair goes on to question applicant as to whether or not the fence exists and if he wants to add a new fence. Fisher continues that there was already an existing 6-foot fence on part of the property when he purchased. Chair asks if applicant has a survey. Applicant advises he does not. Chair is curious to know where his property is in relationship to Country Lane. Applicant believes that his property line is 4 - 5 feet from the fence.

Chair opens the floor to public comment. None. Public portion is closed and moves to Board deliberation.

Dow: Asks for clarity on where applicant wants to put the new fence. Applicant advises that the fence is already built and there is no new fence. Permission to leave the current fence is at issue. Dow: So,

this is approving something already done? Chair: There are 2 front yards. Applicant: My fault for not coming to the Township.

Rettig: As a point of clarity, doesn't the new zoning ordinance allow for 6' fences? Chair: Actually, it allows for 8' fencing but only 4' in the front yard and has to do with driving safety. Sellers: When was this fence built? Application: Last summer 2017.

Chair reads a letter from Carol Watkins. She is not opposed to the fence. Talks about boulders on Country Lane. Carol Watkins now comments and there is some discussion with the applicant about the boulders.

Sellers again questions the applicant regarding if he knew he needed a permit to erect the fence. Applicant acknowledges he was not aware a permit was needed. Kathy talks about the sound issue and whether or not the 6' fence helps with the sound. Applicant answers that: No, it does not. Kathy asks applicant if he knew he needed a fence right away. Applicant: After we lived there a while, we knew we needed a fence. Sellers continues to the Chair asking if the 6' fence is a safety issue. Gold interjects that with the house being over 200 feet back from the road, it does not seem to be a safety issue.

Watkins comments that the trucks are no longer allowed to park at the Lion's Den. The noise is from the busy road. The front of both the Watkins house and Fisher house face Sawyer Road.

Chair asks Watkins if she is objecting to the fence or height of the fence. Watkins does not object. Watkins talks about the fence and being cited on an ordinance violation for her garage. Sellers comments that these are two (2) separate issues.

Dow comments that approving the variance would not violate the harmony of the neighborhood as it is far enough back from Sawyer Road. It is a reasonable request.

Chair goes through the zoning standards:

1. Are there unique circumstances or conditions that exist which apply to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district? Yes. 2 front yards and additionally they have a neighborhood issue with lighting, noise, and traffic.
2. As result of unique circumstances, would strict compliance with the provisions of this ordinance unreasonably prevent the use of the property for a permitted purpose, or be unnecessarily burdensome? Yes.
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 will be not be injurious.

Motion made by Dow to approve the variance as requested; Second by Anderson. Discussion: none. ROLL VOTE: ALL AYES. VARIANCE APPROVED. 5 – 0.

CASE 1159: Attorney Sally Taylor representing Owner Locke Road, LLC – 15910 Locke Road, Union Pier. Property Code No.: 11-07-1970-0009-00-9. Applicant is asking to declare this property a buildable non-conforming lot of record per Chikaming Township Zoning Ordinance Section 4.02(C). This property is 1.21 acres with only 91.8 feet of road frontage.

Rettig addresses chair and discloses that before starting case #1159, the office of Farina & Wojcik, P.C., and specifically Elizabeth Rettig prepared the Deed when the owners (Locke Road, LLC) purchased the property from Lunog. Rettig wants to disclose in the event anyone sees a conflict of interest. Chair advises that it is up to the Board member to recuse if that person feels there's a conflict. Rettig says she does not feel there's a conflict and ask Attorney Taylor, who has no object and feels there's no conflict.

Attorney Taylor steps forward on behalf of applicant. Taylor presents a history of the property and shows that since at least 1954 the property has been in its current configuration and has been conveyed in this configuration to present. The property was created in its current dimensions prior to the implementation of the 1964 Zoning Ordinance. Has been under individual ownership without split or combination since 1954. No rule of merger issue or change of legal description. There is more than enough area to meet the current zoning, but it is shy of the required 100-foot road frontage. Under Section 4, if it is an existing and lawful parcel prior to the effective date of the ordinance, it should be recognized as a non-conforming lot of record. The house that is currently on the property will be torn down. The owners want to be assured that they can rebuild because they will not be doing it within one (1) year. When rebuilding they won't be using the current footprint. The owners want to show that historically they have been in compliance and don't want to lose the buildable status of the lot.

Chair advises that there was no correspondence.

Chair asks for any public comments. None heard, closes public comment and moves to board discussion. Board discussion going over the information presented.

Chair goes through the zoning standards:

1. Are there unique circumstances or conditions that exist? Yes. Lot created prior to current zoning ordinance.
2. As result of unique circumstances, would strict compliance with the provisions of this ordinance unreasonably prevent the use of the property for a permitted purpose, or be unnecessarily burdensome? Yes.
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 will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, and welfare? Yes, in harmony and will not be injurious.

Gold makes a motion to approve the variance to make this an existing non-conforming buildable lot; Dow seconds. ROLL CALL VOTE. ALL AYES. VARIANCE IS APPROVED. 5 – 0.

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 1:40 p.m. Meeting adjourned.**

Respectfully submitted,

Elizabeth A. Rettig
Recording Secretary

Date Approved: December 18, 2018