

ZONING BOARD OF APPEALS
December 17, 2012

Meeting called to order at 10:30am.

BOARD MEMBERS PRESENT: Chairperson Case, Secretary Dennings, Cooke, Boyle and Stauffer.

OTHERS PRESENT: Terry Newton; Zoning Administrator, Thomas Kizer, Bryan Costello, Joe D’Felio, Mr. and Mrs. James Thorburn and Wade Alderman.

Motion by Dennings, second by Cooke: CARRIED
that the Board approve the November 19, 2012 meeting minutes with a clerical amendment under ‘Correspondence’ to change Oevosso to Owosso.

Introduction to current appeal number 12.07 by Thomas Kizer for property number 72-004-103-012-0000 located at 101-A Bittersweet.

CORRESPONDENCE READ:

- a. Letter from R.J. Rathsack, dated November 30, 2012, of 606 N. Lakeshore Dr., Ludington, MI 49431 opposing granting of appeal 12.07
- b. Letter from Pat Butcher, dated December 13, 2012, of 112 Bittersweet Lane, Roscommon, MI 48653 supporting approval of appeal 12.07
- c. Letter from Mathew D. Rathsack, dated December 14, 2012, of 105 Bittersweet Lane, Roscommon, MI 48653 opposing granting of appeal 12.07.

NEW BUSINESS:

Chairman Case declared a public hearing on appeal number 12.07 for property number 72-004-103-012-0000 located at 101-A Bittersweet was opened at 10:41am. A reading of Building and Zoning Administrator Robert Yaske’s letter of denial for building permit, dated November 16, 2012, was read by Stauffer. Chairmen Case outlined the appeal as filed to be: Proposal to construct a new upper floor on an existing nonconforming structure, therefore increasing nonconformity by adding to the cubic content of the structure within the deficient setback. Current deficiencies include setbacks to the lake and the lot lines on the West and North sides of the building (Section 6.4(A) (1) and Table 3-4). The existing waterfront setback is 52 feet and required setback is 68 feet. The existing setback to the North side lot line is 4 feet, required is 6 feet. Setback to the west lot line, Don M. Boulevard, is 0 feet, required is 25 feet.

Thomas Kizer, owner of the property in question, was provided the opportunity to address the Zoning Board of Appeals. Mr. Kizer explained that the sole intention of his request was because he and his family love their home and want to make it more usable. He researched the history of construction and traced history back to original owners, B. Fultz, whose family built in 1963. He also spoke with previous owners, the Apostle’s. Both informed him that the neighboring home, which established the average waterfront setback, was built after his home and is approximately 14 feet further back than his home. Mr. Kizer stated that the placement of this building after his was built caused him to be placed in this deficiency through no fault of his own.

Mr. Kizer then explained that the roof has structural issues and is in need of significant repair. The new roof will be steeped with a 3 foot higher pitch that includes shed dormers for better ventilation. This upstairs area has traditionally been used for sleeping space both before and after purchase. Mr. Kizer addressed the issue of the side lot lines to both the north and south and the north lot line on Don M. Boulevard. He reiterated that the home has always been in that position and that he does not intend to change the footprint. He stated that, when a new well needed to be put in place, the Roscommon County Road Commission had granted permission for use of Don M. Boulevard as there was no other practical solution.

The letters of opposition were rebutted by Mr. Kizer by stating that he did not believe there was a fire hazard by increasing the height, but to the contrary safety would be improved. The current staircase is roughly 2.5 feet and a proper staircase will be added with the new construction. There will also be improved egress and accessibility. In regards to concerns that the height increase may block the view, Mr. Kizer stated that the proposed construction was not going toward the lake on Don M. Boulevard but was simply changing the door location to the lakeside and allowing for a conforming staircase to be installed. Mr. Kizer also stated that he was unsure why the Rathsack's would be unresponsive of his project but thought it may be in relation to an easement usage issue. He closed by stating he had a 50ft lot and was trying to work as close to the ordinances as possible and in the spirit of the ordinances by improving aesthetics, usage and safety.

Chairman Case then opened up the floor to allow members of the Zoning Board of Appeals to question Mr. Kizer. K. Dennings asked Mr. Kizer to confirm that the addition of 2ft was sideways and not toward Don M. Blvd and also if the 2nd room would be used as a bedroom. Mr. Kizer confirmed the 2ft location and stated that it was not his intention to expand the number of bedrooms.

R. Boyle noted that the permit as issued by the Health Department was for 2 bedrooms and that the architectural rendering as proposed showed 3 bedrooms. Mr. Kizer stated there would be 2 bedrooms downstairs and one on the second floor but that the room on the bottom would be an office. Boyle stated that it could be potentially used as a fourth bedroom and that he would want Health Department approval prior to granting variance request. If there was not a request to change the number of bedrooms there would not be need for Health Department approval.

B. Costello, for T. Kizer, explained that there is room for a new septic and would cost \$2600.00. T. Kizer explained that his intent is to keep the usage of rooms the same as when he had purchased but would be okay with a caveat that stated the approval was based on Health Department approval.

R. Boyle explained that the concern is for an increased influx of people in an already crowded area with a septic field that may not handle the usage. K. Dennings stated that the Health Department approval paperwork (in 2010) was granted provided there was no increase in the foot print or change in bedrooms and that the architectural rendering provided does add an additional bedroom. He supported the idea of adding a caveat to any potential ZAB variance approval that would include a requirement that the Health Department must first review the proposed drawings and give its' approval before a construction permit could be issued.

Mr. Kizer stated that the upstairs room is used for storage and the downstairs as an office. If they sold the house people could change the use of those rooms. He agreed to contact the Health Department for an okay. K. Dennings explained that the Zoning Board of Appeals members were going by the documents laid before them and that they would need further documentation from the Health Department. R. Boyle noted that the bathrooms also increased from 2 to 3 and that was also not documented on the Health Department report. J. D'Felio, resident, stated that he believed occupancy was the concern of the Health Department. S. Cooke asked if the Board would want the Health Department to approve the architectural drawings prior to building permit being issued and Chairman Case concurred, stating that the permit would not be issued until the Health Department okayed the septic based on the drawings.

Chairman Case asked Mr. Kizer about the location of the pump house. Mr. Kizer stated it is on Don M. Blvd. and had 'been there forever'. It is not the well but for the sprinkler system. Chairman Case then asked B. Costello for a clarification of lot size. B. Costello stated it is 50ft. wide. Chairman Case asked where the lot line on the north is located and Mr. Kizer stated it is beyond the neighbor's fence. B. Costello drew the Board's attention to the survey which shows the lot line approximately 4" beyond the fence. He explained that this makes the very back NE corner the only deficiency.

Chairman Case then inquired to the shed and the length on the property. Mr. Kizer said it has been there a long time and suggested the Board put its removal in as a condition of approval. His intent is to beautify and protect.

R. Boyle asked T. Newton the current status of Don M. Boulevard. T. Newton replied that it is still a public road. Mr. Kizer said he believes there is 200ft of length that is public and the majority of the width is underwater. R. Boyle clarified that is indeed public.

Chairman Case stated he was not as concerned with height but wanted to know how high the outer walls would be raised. B. Costello stated a total of 6ft. R. Boyle asked from which point and Chairman Case asked for height from floor to eaves. B. Costello stipulated roughly 3.5 feet to 4ft. R. Boyle asked the difference in wall space now versus after. B. Costello stated it would vary from 1ft. to 5ft. The pitch would be 4/12 in some spots and up to 10/12 in one spot.

B. Stauffer questioned if the 2ft extension was due to the staircase and requested Mr. Kizer to show the ZBA on the architectural rendering, specifically where the front door is currently located. Mr. Kizer showed it is currently south and will be west. R. Boyle then asked if the driveway was legally documented. Mr. Kizer said yes, the driveway was a legally documented 8ft easement.

Chairman Case asked if, hypothetically, the 13 1/2ft by 18ft section in the back of the house could be used for the proposed improvements; is there another way to add on without violating existing ordinances? Mr. Kizer stated that he did not believe it was functionally possible due to change in roof lines. B. Costello also supported Mr. Kizer by stating that the building permit would still be denied for the same front lot line setbacks.

Discussion then changed to the front NW corner and Chairman Case stated that the Board did not have a document in front of them that confirmed the 7ft distance. B. Costello said he had previously measured right before the meeting and Chairman Case asked if the final measure was 6ft. 8inches from the house. He asked T. Newton if Building and Zoning had confirmed this and T. Newton stated they had.

Chairman Case then opened the floor to public comments at 11:10am. W. Alderman spoke, stating that he and his wife had discussed Mr. Kizer's need for variance and were in support. He feels that Mr. Kizer has made tremendous improvements to a property that had previously been in disrepair and believed it would improve safety and aesthetics.

Chairman Case then informed the Board that he would entertain motions regarding appeal number 12.07. K. Dennings asked to clarify some findings of fact.

FINDINGS OF FACT:

1. Practical difficulties do exist due to a 50ft wide, nonconforming property.
2. The structure is not expanding the current footprint.
3. The set back from Don M. Boulevard is not a concern as the property is 52ft. from the waterfront, which meets the requirements for an existing structure.
4. Mr. Kizer had no control over the location of neighborhood buildings
5. There is concern with the number of bedrooms in relation to the septic system and Health Department approval granted in 2010. The Board would request the Health Department review and approve proposed construction prior to a building permit being issued by Gerrish Twp.
6. There exist certain practical difficulties which are burdensome and prevent Mr. Kizer from enjoying full use of his property.

R. Boyle asked K. Dennings to clarify the Drain Commissioner's requirements. K. Dennings stated it is 50ft from water's edge for existing structures. Chairman Case reviewed the findings of fact, adding that there is not encroachment upon Don M. Boulevard.

MOTION:

Motion by Cooke, second by Dennings: CARRIED
that the variances as requested in appeal number 12.07 be granted provided the Health Department reviews existing building plans and makes an approval for a building permit and that the owner removes the existing shed on the NW corner. Gerrish Township building permit will not be granted until the Health Department issues approval. The building permit may be granted on the day of Health Department approval or any day thereafter if it is ten days after variance approval. Variance is granted due to nonconformities that the current occupant has no control of that cause an undue hardship.

Roll Call: Ayes: Case, Dennings, Cooke, Stauffer
Nays: Boyle

The Chairman declared the variance carried with certain stipulations applied.

Meeting adjourned at 11:40am.

Chairperson, William Case

Secretary, Kenneth Dennings

Approved

The minutes are subject to review and approval of the Zoning Board of Appeals at its' next scheduled meeting.