

MINUTES OF ZBA MEETING ON AUGUST 27, 2018

The meeting was convened at 10:00am.

Present: Jim Thorburn, Thomas Kizer, John Klein, Mike Briggs, Barb Stauffer
Excused Absence: Walt Mikula

Chairperson Jim Thorburn called the meeting to order.

Persons present included the above board members; applicants and their attorney Richard Jaskowski; members of the public; and the building official Jason Jansen.

The Pledge of Allegiance was recited.

The Minutes of the July 16, 2018 were tabled for consideration at the end of the meeting and then at that time moved by Stauffer and seconded by Klein to approve. Passed unanimously.

The Chairperson then convened the rehearing on the appeal 17-06 referred back to the ZBA by the Circuit Court. The Chairman noted again the variance request due to the denial of the building permit which established the proposed addition is over the maximum square footage allowed by 57%.

The appeal was read into the record by Thorburn.

The members of the Board affirmed they each had no conflict in considering this appeal.

Six communications were received and read into the record all of which were in support of the variance requested. Those were from Joan and Rodney Munchiando; Kathy and Bill Frank; John Baird and spouse; Gerald and Marlene Hensler; Louise Luch and family; Alan and Jane Spencer.

Several neighbors were there and two spoke in favor of granting the variance.

The Board reviewed the 7 factors and the applicant's written responses and discussed them. Applicant and her attorney responded by answering questions and clarifying their requested variance and its purpose.

Following the discussion a motion was made by Kizer, seconded by Klein as follows:

Motion to approve the variance request in No. 17-06 based upon the following facts:

- 1. The five foot addition was contemplated in 1987.**
- 2. No variance would have been required except for the re-plat and the re-plat only applies to this property of Sundance Shores Association.**
- 3. This addition conforms to fire department needs of setback for safety.**
- 4. The ADA and case law could support the request to the ZBA and denial of this reasonable request could be a governmental denial of ADA protections.**
- 5. The government knew at the time the plat was created that the Plat would create non compliance as to each residence and it would be unreasonable to deny this variance to make the cottage usable to applicant.**

6. This is the minimal amount necessary for the reasonable use of applicant.

Further the motion to approve is for the reasons set out in the presentation of Applicant as contained in the brief on pages 14-17 which reasoning is adopted herein. Further, in 1987 it is reasonably clear that the Township did not object to the five foot addition to the West of Applicant's cottage and it was contemplated that such an addition would be made in the future. Further, had the internal repeating not occurred for the Association no variance would have been required.

Roll call vote occurred: Klein, Kizer, and Thorburn supported the motion. Opposed to the Motion were Stauffer and Briggs. Motion to Grant the Variance was carried 3-2.

No further business to come before the meeting, it was adjourned at approximately 12:10PM.

Dated: August 27, 2018

Thomas Kizer, Secretary