

*Board of appeals members: Bill Fink, Christine Handler, Lori Baakko, Mark Jalkanen*

*Township Trustees: Bill Bingham, John Ollila*

*Public: DP contractor*

Came to order at 12:07 pm

Organized with Bill Fink as Chair, Christine Handler as Secretary

Bill Fink introduced the purpose of the meeting – to review a dimensional variance request for the Gus and Trisha Kirkish property located on lot 23 at 45170 Hwy US 41, Chassell, MI in the Lakeshore Residential Zoning District. The homeowners wish to construct an addition to their home that would encroach 3 feet within the 10 feet setback required by township ordinance.

The issue was presented by John Olila and Bill Bingham, per their briefing paper which was distributed to ZBA members. Building plans were provided to the ZBA showing the layout of the addition in relation to other property features and property lines. John noted that the option listed in the 'issue' handout to require the homeowner to 'borrow' from their adjoining property is not feasible because this is in a platted area where these type of adjustments are not allowed under current township zoning.

Several questions were posed by the ZBA and answered by the homeowner's contractor/representative:

- Bill Fink inquired about the site plan provided, which indicated that there was 10' of clearance with the addition. However, now we are saying it's actually only 7'? Do we have concerns about the accuracy
  - Answer from contractor: In their on-site review, Trustees Bill and John walked the line and measured the actual distance in the trees that border the property line. The 7 foot figure is accurate from that measure.
- Bill Fink asked why the addition much be on the side of the house that results in the encroachment, why not extend the other direction.
  - Answer: there is a septic system that constrains the other side/front
- GUY asked whether the addition could be made 3 feet smaller to avoid encroachment.
  - Answer: Would need to have the homeowners input on this. The addition is a master bed/and closet. It would shrink by 3X28 feet if the size of the addition was removed. This would mean the bedroom would have to be expanded into an already small living room.

Bill Fink reviewed the Michigan Township Association guidance for considering zoning variance requests with ZBA members. The ZBA used the MTA recommended process/review standards to review the request.

**Review Standard 1: The property is subject to exceptional or extraordinary circumstances or conditions that do not apply generally to other properties in the same zoning district.**

ZBA decision: Satisfied (unanimous)

Reason: The physical characteristics of the property would prevent the applicant from meeting the ordinance. Narrowness of the lot combined with existing utilities (any expansions to the other sides are encumbered by septic system), existing home was built only 14 feet from the property line (based on the plan site we received).

**Review Standard 2: The condition or situation of the specific piece of property for which the variance is sought is not of a general or recurrent nature; it does not apply to other properties. (Would it be preferable to change an ordinance rather than granting one variance at a time?)**

ZBA decision: Satisfied (unanimous)

Reason: This type of variance request is rare/infrequent.

**Review Standard 3: A variance is necessary for the preservation and enjoyment of a substantial property right, similar to the property rights possessed by other properties in the same zoning district and vicinity (will the applicant be prevented from doing something that the zoning ordinance would ordinarily allow any other property owner to do?)**

ZBA decision: Mixed (3 voted satisfied, one not satisfied)

Reason: There was much discussion about the meaning of this standard and what a 'substantial property right' is. However, in the end most agreed this was satisfied because other properties owners in the zoning district are allowed to add on to existing properties.

**Review Standard 4: A variance will not be significantly detrimental to adjacent property and surrounding neighborhood.**

ZBA decision: Satisfied (unanimous)

Reason: At this time, the requester owns the neighboring property. The addition would not crowd any existing houses on the neighboring property.

**Review Standard 5: A variance will not impair the intent and purpose of the zoning ordinance requirements that is the subject of the variance request.**

ZBA decision: Satisfied (unanimous)

Reason: We discussed the intent of the ordinance to prevent trespass, crowding, and for community safety (fire access, etc). Because they own the neighboring property and their addition would not be butting up to another structure on the neighboring property, we agreed this was satisfied. Also, we agreed that there is a lot of precedent of construction near the lot lines (pre-ordinance).

**Review Standard 6: The practical difficulty was not self-created by any affirmative action by the applicant.**

ZBA decision: Satisfied (unanimous)

Reason: The owners have not made other changes to their property that resulted in the need for the variance. The house was likely built long before the ordinance in its current location (14 feet from property line).

**ZBA decision: Approve the variance.**

Adjourn at 1:05 pm.