

Milton Township
Zoning Board of Appeals
April 15, 2021
Meeting Minutes

Members present: Chairman Anderson, Burdo, Kingon, Kopkau, Gray, Atkinson, and Jankowski.

Members absent: None

Also present: Weinzapfel

Anderson called the meeting to order at 7:01 pm and the Pledge was recited. This meeting was held on Zoom due to the Corona Virus pandemic.

Approval of meeting minutes dated 3.11.21

Correction: Add: The minutes were held via Zoom due to the Corona virus pandemic.

Motion to approve by Kingon as amended/Burdo. Motion carried.

Approval of Agenda

Motion to approve the agenda by Jankowski/Burdo. Motion carried.

Variance Request

2021-01: Brian and Gina Kilroy: Property tax# 05-12-524-018-02. AG Zoning District. Property Address: 12337 Sutter Road, Kewadin, MI 49648 is requested a three foot, nine inch (3'9") front yard variance request for an addition to their home.

Anderson discussed the variance request process.

Gina Kilroy and her father gave a presentation. The house was purchased and they didn't realize it was within the setback. We are trying to connect the existing house to an addition to hold our family. It looks far less invasive being on the site and that's why we are showing you via Zoom.

Weinzapfel asked about the setback. Originally on the listing, it showed the house 19 feet off the right of way. When we submitted our plan, we did it off the plan, which was incorrect. The direction is incorrect. The back of the house in in bounds by about a foot. As we went to check everything, we saw they weren't accurate. Weinzapfel said the back end of the house is at 51 feet. The existing house is within limits. So, this is where you can literally add on without a variance. We are looking at a much smaller area. The back of the house is at 51 feet without needing a variance. The door is at 47 feet from the edge of the road right of way. The back end of the house is at 51 feet. The new dimensions requested would be 3 foot, 3 inches, rather than 3 foot 9. Should it come off the siding or the foundation? It should come from the siding. That would be 2 foot 11 inches.

Correspondence

Letter received in favor of the variance from Dennis Irelan. This letter was read into the minutes

and will be included with the minutes.

Burdo asked if there is a safety issue regarding the door? Jankowski said that's not an issue for the ZBA.

Public Comments:

Sue Calue of Sutter Road said she has spoken with other neighbors and they are all supporting the Kilroy's in their project. The property hasn't been maintained in 30 years and anything they could do would benefit all of us.

Carol Oakley of Sutter Road is a neighbor and she supports the variance request. There is nothing that would create any negative impact.

Craig Oakley of Sutter Road said what they are proposing makes a lot of sense. He supports the variance request.

Anderson began board deliberations.

Jankowski said he did conduct a site visit. The owners were present on the property at the time. Looking at the justification for granting the variance, it will result in practical difficulty if the variance isn't granted because of the gap created between the existing and new structure.

Will it render substantial justice to the applicant? I believe it will. It will allow them to connect the existing building with the new structure.

Is the plight due to unique characteristics? Yes. The adjoining lots don't have any structures on them within the setbacks. This is a unique exceptional condition regarding this property. It doesn't exist on adjoining properties.

Has the need for a variance been self-created? No, because the house was built before zoning was enacted in this area and section 117.502B, which is non-conforming structure. A non-conforming structure in a conforming use, may be repaired altered or enlarged as long as it doesn't further the manner in which it doesn't conform. Based on that, I'm in favor of approving this variance request.

Gray asked regarding the existing structure, you can do anything as long as you don't come closer to the front property line. Jankowski said there was a recent finding that says it can be done as long as it doesn't increase the manner in which it doesn't conform.

Weinzapfel said we are talking about a very small area. The majority of the back end of the house already conforms. They can add on to a non-conforming structure in a conforming manner. They were asking for a variance for the whole back end. But the whole back end is at 51 feet. Right now, they are just asking for the small space to the door. They can't add volume to it. Now where we are adding on is just the back door. I'm unaware that the back end of the house, that's at 51 feet. From that point, they can add without a variance request.

Atkinson said her take on the ordinance was different than Jankowski. Any enlargement should

be contained in the set back. However, because the structure goes to 51 feet and they are just looking to connect the doorway.

Anderson said part of this is interpretation. Changes do not further the manner in which it fails to conform.

Gray said if we don't give the variance, they just can't connect the door area.

Burdo has no comments.

Kington said the old place doesn't meet the minimum for a dwelling. By attaching it to new structures, it will bring it into compliance with more than 1400 sq. feet. By allowing the connection we make it more conforming. I'd applaud them for trying to save a historic building.

Gray said he's shocked that the realtor didn't tell them about this, but that's for another day.

Motion to approve Variance Request 2021-01 for 2 foot 11 inches by 7 foot by Jankowski based on 117.502. Seconded by Atkinson.

Roll call:

Jankowski: Yea based on 117.502.

Kington: Yea based on improving the non-conformity regarding the square footage.

Atkinson: Yea based on the finding of fact and section 117.212, 117.303 and 117.603B, and Chapter 10 A and 117.1004 and 117.502.

Kopkau: Yea based on the finding of fact and section 117.212, 117.303 and 117.603B, and Chapter 10 A and 117.1004 and 117.502 and bringing it more into compliance with the square footage.

Burdo: Yea, based on the finding of fact and section 117.212, 117.303 and 117.603B, and Chapter 10 A and 117.1004 and 117.502.

Gray: Yea, based on the finding of fact and section 117.212, 117.303 and 117.603B, and Chapter 10 A and 117.1004 and 117.502 and bringing it more into compliance with the square footage.

Anderson: Yea based on the finding of fact and section 117.212, 117.303 and 117.603B, and Chapter 10 A and 117.1004 and 117.502 and bringing it more into compliance with the square footage.

Motion carried.

Correspondence:

Weinzapfel discussed the RV Park and the State of Emergency, which is going through July 31st.

Member comments:

None

Old Business:

None

New Business:

None

Report from Planning Commission:

As presented by Kingon

We are also working on an amendment to the ordinance for winery/cideries. It was tabled and then pulled off the table and voted it down. The SC introduced two proposals and discussed extensively and sent back to the SC.

The people who bought the ER Marina, purchased property in Kewadin where boats were stored. They are proposing a special use request moving forward to add light boat repair.

Adjourn

Motion to adjourn at 7:51 by Jankowski/Kopkau. Motion carried.