

Milton Township  
Zoning Board of Appeals  
Meeting Minutes  
May 12, 2022

Members present: Chairman Anderson, Burdo, Hefferan, Atkinson, and Jankowski

Members absent: Gray (resigned), Kopkau, excused

Also present: Kopriva and 7 audience members.

Anderson called the meeting to order at 7:00 pm and the Pledge was recited

Roll Call

Public Comment

No one wished to speak

Approval of Agenda:

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

Approval of meeting minutes dated November 11, 2021

Motion to approve the minutes by Hefferan/Atkinson. Motion carried.

Old Business

None

New Business

A. 2022-01 Torch River Shack Rentals, LLC, 7711 Crystal Beach Rd, Parcel Number 05-12-006-044-00 Waterfront Setback Variance and Enlargement of Non-Conforming Structure for construction of stairway and landing

Anderson discussed how the variance request process works.

Rob Lorrea of Land Use Consulting, on behalf of the owner. The variance is for construction of a stairway and landing. The project is designed to limit impact. It's to access the second floor. It's hard to get employees. The intent is to get an exterior entrance so we can get workforce housing. Currently the stairway is in store interior and creates problems with the store itself. We have the survey and drawings to show you how this is specific to this request. We tried to place it so it wasn't protruding or sticking out as far as the building itself. The intent of the deck is to give them a place to relax after work. The store has rental slips, food and beverages. There are concerns about noise. The property closes at 9 pm. We provide free boat slips for Antrim, Kalkaska, and DNR marine patrol at no cost. The request is for a variance and we have water on three sides. We are on a peninsula. There is no way the building could be built today. We just want to take one window out and put a door in and allow us to have a secure store while not interfering with the residence on top. The intent is to get the stairway. Burdo complained that the

chain was up and he couldn't access the property. Lorrea apologized.

Hefferan said he visited the property and asked about the three stakes. Lorrea explained on the map. Jankowski asked where the stairway is on the interior. Loorea showed on a map. A blueprint was presented showing the stairway.

Anderson asked if the interior stairs couldn't be relocated. This was discussed how difficult this would be for the owner. The intent was to try to get it done without coming to the board and if we could have done it inside without needing a variance, we would have. They would have to move a bathroom and all of the HVAC. The owner bought the property in August 2020. The previous owners lived upstairs. The owner's insurance company said he couldn't have anyone stay there because it brings you right into a store. It could only be the owner since the stairs bring you into the store.

Hefferan asked regarding previous variances. Lorrea showed photos. He said this is the only commercial business on a peninsula. Any other business would be allowed to do this. Anderson said the stairs and deck would be quite close to the edge of the water. They are open to discussing other options. Atkinson said it's not our job to redesign something. It's our job to interpret the ordinance as written. Lorrea said a lesser variance can be granted.

#### Correspondence:

Anderson read five letters

Kathleen Hale of Torch Bridge Court sent a letter opposed to the variance request.

Sally Bell Mathias of Torch Bridge Court sent a letter opposed to the variance request.

Sue Kelly of Torch Bridge Court set a letter opposed to the variance request.

Susan Severns of Torch Bridge Court set a letter opposed to the variance request.

Jean Kuras of Torch Bridge Court sent a letter opposed to the variance request.

#### Public Comment:

Dan Packard of Torch Bridge Court said he's concerned about the size of the deck. The residents around there are concerned about this area but it makes me feel better that this is for workforce housing. When someone asks for a variance they are asking to do something illegal to alleviate a practical difficulty with approval. What should be granted is the minimum. An 8x12 deck is not the minimum required. The intended use is for workforce housing, but once that variance request is granted, short term rentals are an approved use and could be a short term rental overnight.

Sally Bell Mathias of Torch Bridge Court asked if this could never be a short term rental.

Anderson said no. She asked to deny the variance.

The owner said the landing is making it larger to cover one of the air conditioning units. When the snow comes off, it destroys the machines.

Fred Gulik of East Elk Lake Drive said he's in favor of the variance request so he can house his workers and make it easier for him to pay his bills. Sure he bought it knowing, but it's an area not being used and he's found a good use for it. It's been noisy down there forever. Now the DNR is building a new launch down there and it will be just as noisy. This won't change anything or

make it better or worse. Gulik said he has a problem with this board. I don't know how you have the authority to tell him what to do. Guilk read from state statues.

Sally Bell Mathias said the noise has gotten worse in the five years she's lived there.

Lorrea said the business is an easy target for complaints. Renters should shut down by 9 pm. The ordinance permits variance for the uniqueness for the property. There is no other commercial property like this one so it will not set a precedent. If the deck is an issue, we can make it 4x4. We are here to be good neighbors or cause any issues.

Anderson closed public comment and began board deliberations.

Atkinson said the big picture of our job here is if we grant relief to you, we have to do it for everyone. This board has been very consistent with enforcing our ordinances. The minute we say that we will grant a variance to you, but not to everyone else requesting the same relief is when a large problem is created. It appears there are options available to you, and this request doesn't appear to meet any of the standards for granting a variance. It's not easy to say no since we try to support our businesses and I applaud you for trying to get work force housing, but I don't support this variance request.

Hefferan asked Kopriva regarding her report regarding max lot coverage. The lot coverage is only for the building. It's only 5%. The lot is .25 of an acre. She can verify that, but it wouldn't make a difference in this case as the deck wouldn't be included in the calculations.

Hefferan asked the applicant, Scott, your insurance company has said that no one can reside there unless it's the owner? He said he can't have anyone upstairs going in and out of the store unless they were the owners.

Hefferan said looking at the residential uses in buildings, we've seen the situation today. We have no control over what you do with that residence. We don't doubt you, but you may not decide to use it for workforce housing and we can't do anything about that.

Jankowski said you have a non conforming building that wouldn't be allowed today. The deck and the stairway is an enlargement. We disallowed the front porch on the Russell house because it was in the setback. We also didn't allow the raised deck at Rex Terrace because it was an enlargement of the non conformity. With the 50 foot setback, you are surrounded on three sides and you couldn't have anything and abide. He's not in favor of this variance because it wouldn't adhere to our ordinance and would be an enlargement of a non conforming structure.

Burdo said he's concerned about the 50 foot set back from the water. It's a non conforming structure and there is no way to make it conform.

Anderson went through the standards:

No variance shall be granted unless the ZBA makes findings based on evidence that a practical difficulty exists. A review of the standards with determination are as follows:

A. Compliance with the ordinance would prevent the owner from using the property

Atkinson: No

Jankowski: No

Hefferan: No

Burdo: No

Anderson: No

B. A lesser variance would do justice and be more consistent with justice to others

Atkinson: No

Hefferan: No

Burdo: No. There is no real way to provide a lesser variance

Jankowski: No

Anderson: No

C. That the need for the variance is due to unique circumstances of the property

Hefferan: Yes

Atkinson: Yes

Anderson: Yes

Jankowski: Yes

Burdo: Yes, it's unique because it's on a peninsula and has water on three sides.

D. The need for a variance is not occasioned by the actions of the current and/or previous owners. Is the request causing the issue?

Hefferan: Yes

Atkinson: Yes

Anderson: Yes

Burdo: Yes

Jankowski: Yes. The building was built before zoning. The owners didn't cause this issue.

E. That granting of the variance will insure that the spirit of the ordinance is observed and public safety secured

Atkinson: No

Anderson: No

Hefferan: No

Jankowski: No

Burdo: No

Motion to deny the request for variance because of ordinance sections 117.603 B, 117.1104, and 117.502 and because it doesn't meet the standards of granting a variance by Atkinson/Burdo.

Motion carried.

#### ZBA Member Comments

Jankowski said the sheet he has shows our appointments expired in January. Those were updated with the board.

Atkinson is resigning from the ZBA effective tomorrow. Dick Gray has resigned as well due to

health reasons. Anderson thanked both for their service.

**Report from Planning Commission Representative**

Hefferan said the master plan survey is being formulated and will go out shortly. ZBA has added two alternates. There has been an application to move RV parks from Commercial to Ag. Steep slopes subcommittee is being discussed.

**Adjourn**

Motion to adjourn at 8:17 pm by Atkinson/Hefferan. Motion carried.