

**MINUTES SILVER CREEK TOWNSHIP
ZONING BOARD OF APPEALS HEARING HELD ON JUNE 6, 2018**

The hearing was called to order by Chairman Jerry Donley at 7:00 p.m. on Wednesday, June 6, 2018. The Pledge of Allegiance to the Flag of the United States of America was recited.

MEMBERS PRESENT: Mike Glynn, Bruce Nevins, Jean Rowe, Jerry Donley, Adele Straub

OTHERS PRESENT: Building/Zoning Administrator Todd Herter, Supervisor Bill Saunders, Recording Secretary Lindsay Krohne, several members from the public.

ABSENT: None

APPROVAL OF MINUTES

Mike Glynn motioned to approve the April 4, 2018 Zoning Board of Appeals minutes. Jean Rowe seconded. Motion passed by voice vote.

PUBLIC HEARING

Chairman Jerry Donley read the Notice of Public Hearing, stating the reason for the hearing, being that applicant Tina Caravette is asking for a variance to build a deck with a permanent kitchen, which would require the proposed deck to comply with setbacks per the zoning ordinance.

Building/Zoning Administrator Todd Herter explained that the proposed deck would be approximately on the waterø edge, approximately two feet from the south property line. He stated that the deck surface would be 10 inches under grade, which would not have to comply with the zoning ordinance in a normal situation, but the minute you put a permanent structure on that deck, it raises the elevation above 18 inches and it must comply with the zoning ordinance. He stated it has to be a minimum of 30øback from the normal high water mark and a minimum of seven feet from the side property line.

Todd Herter stated that his opinion is to uphold the ordinance, based on the Five Standards of Review.

PUBLIC COMMENT

Jerry Donley opened the floor for public comment.

Applicant Tina Caravette stated that she has owned the property on 55955 Inn D Inn Drive since 2010. Tina stated that her family visits from Father's Day to Labor Day each summer, and that she has been coming to Sister Lakes since grade school.

Tina stated that she is Italian-American and expressed her enjoyment for cooking and entertaining for family and friends. She passed out a jar of Italian bruschetta to each Zoning Board of Appeals member.

Jean Rowe asked "this is bribery, right?" and Tina Caravette answered "a little bit, but honestly I love to cook and I love my family and friends." She stated that she wants them to understand the reason for the function of the outdoor kitchen on their dock, and that it is important for them socially. Tina stated that the pier needs repaired, and due to their health issues they have spent the last 2-3 years trying to find a solution for the dock and pier. Tina stated that she wants to make their pier and dock safe and increase their property value. Tina stated that most Indian Lake lots are less than 40' and have 30' setbacks, and most of them were built before 2015 when the ordinance came to be. She also stated that it is not unique in the sense that their home has nonconforming docks or uses in the 30' setback. Tina added that expanding the dock itself is not a problem and at the very least she hopes the Board will approve the expansion to 14' x 36'. Tina stated that they did not self-create the situation, that their pier is in a horrible configuration and they have wanted to repair it for years.

Tina Caravette stated that the structure would not change the character of the area. She provided photos of the current deck with the couch shown, to show how tall the proposed kitchen would be. The photos were marked Exhibit 1, Exhibit 2, and Exhibit 3.

Chairman Jerry Donley asked for anyone who wished to speak in favor of the variance to come forward and state their name and address, and there was no response.

Jerry Donley asked for anyone who wished to speak in opposition of the variance to come forward and state their name and address, and there was no response.

Jerry Donley closed the public comment.

COMMUNICATIONS

Adele Straub read a written statement received from Cora and Brian Murphy of 55965 Forest Beach Road. The letter stated that as neighbors of the Caravette/Buchholz family, they have no objection to their plans to put in a new pier and outdoor kitchen/grill area.

Adele Straub read a second written statement received by Michael Boddy of 55938 Inn D Inn Drive, stating that he supports the variance request and it will improve property values.

COMMISSION MEMBER DISCUSSION

Mike Glynn asked Tina Caravette to clarify that by "dock" she meant "deck", in which she replied yes.

Mike stated that the Board was here only to consider the variance for the built-in kitchen due to the side yard and front yard setbacks, because the structure would be over 18 inches. He explained that they were not considering the size of the deck because it is in compliance with the ordinance already.

Mike stated that the side yard setback is 7' and the front yard is 30' and the structure is over 18 inches. He commented that he believes Todd laid that out very well.

Jean Rowe stated that she visited the site twice, and found that the flags were only on one side, one being in the water, which could be due to the recent weather. She stated that she spoke with Jerry Donley before visiting a second time to look at the proposed area for the project.

Tina Caravette explained that the deck is already 2' in the water, and that it is nonconforming since it's in that 7' setback.

Jean Rowe asked for clarification on the location of the property line. Tina Caravette stated that they purchased an additional 15'

Bruce Nevins stated that his questions were already answered.

Adele Straub stated that the deck is already there. Tina Caravette explained that they are expanding the deck to 36' and that the height of the kitchen they want to build would be the same as the couch that is currently on the deck.

Chairman Jerry Donley asked for clarification, that there would be no issue if the kitchen was not there. Building/Zoning Administrator Todd Herter stated that was correct.

Jerry Donley stated that "permanent" was their biggest problem, and that the ordinance is pretty straightforward. Jerry stated that he heard what Tina said about all the cumbersome work going back and forth between the house and deck, but the ordinance is in place for a reason.

Tina Caravette commented that utility and common sense prevail. She added that they want to use the least amount of space with the same utility.

Mike Glynn stated that if approved, the variance would go with the property, meaning that down the road another structure could be built in the same print. He gave examples: a lattice wall, screening it in, adding a roof for shade, etc. Mike stated that if a permanent structure was granted, it could cause issues if it wasn't clear that it was only for the outdoor kitchen.

Mike Glynn stated that generally they look at practical difficulty, and they are supposed to consider the lot. Mike stated there is no practical difficulty with this lot, and all the lots in the area are similar. He explained that a hill with steps going down to the lake would be a practical difficulty, but a flat 30'x55' yard similar to other properties in the area is not a unique situation.

Bruce Nevins commented that they should go over the Standards of Review. Jerry Donley stated that it was next on the agenda.

Jerry Donley explained he was going to read the Five Standards of Review, and that they would not be commenting on each one, but were taking them into consideration. He added that they are not required to discuss them. Jerry proceeded to read the Five Standards of Review:

155.253 STANDARDS OF REVIEW.

(A) *Granting of non-use variances.* A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are addressed.

- (1) The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
- (2) The variance will not impair the intent and purpose of this chapter.
- (3) The immediate practical difficulty causing the need for the variance request was not created by any action of the applicant or predecessor.
- (4) The variance requested is the variance necessary to meet the purpose and intent of the chapter and to meet the other standards of review in this section.
- (5) Would a lesser relaxation than applied for give substantial relief to the owner of the property involved and be more consistent with justice to other property owners, and whether relief can be granted in such fashion that the spirit of the chapter will be observed and public safety and welfare secured.

**MOTION TO DENY VARIANCE REQUEST FOR PERMANENT OUTDOOR
KITCHEN**

Jean Rowe motioned to disapprove the variance request. Mike Glynn seconded.

Roll call vote:

Yes (5): Mike Glynn, Bruce Nevins, Jerry Donley, Jean Rowe, Adele Straub

No (0): None

Absent (0): None

Motion passed by roll call vote. Chairman Jerry Donley declared the variance request by Tina Caravette denied.

Chairman Jerry Donley stated that the applicant would receive a copy of the application and that her appeal time begins upon receipt.

ADJOURNMENT

The hearing adjourned at 7:40 p.m.

Respectfully submitted,

Lindsay Krohne
Recording Secretary

Adele Straub, Secretary

To be approved at the next Zoning Board of Appeals meeting