

MINUTES
LONG LAKE TOWNSHIP ZONING BOARD OF APPEALS
8870 N. LONG LAKE ROAD
TRAVERSE CITY, MI 49684

REGULAR MEETING

TUESDAY, JULY 1, 2008

1. CALL TO ORDER: The meeting was called to order by Chair Geerlings at 7:00 p.m. at the Long Lake Township Hall.
2. ROLL CALL: Mark Humitz, Howard Geerlings, John Linnerson, Bill Kaupas, and Max Bott (Alternate for Ron Lautner) were present.

Township staff present: Shirley Mesch, Zoning Administrator, and Sara Kopriva, Recording Secretary.

Also present: There were 12 members of the public present.

3. MINUTES: JUNE 3, 2008 (REGULAR MEETING) Moved by Linnerson supported by Humitz to approve the minutes of the June 3, 2008 meeting as presented. Motion carried.
4. AGENDA:
5. CONFLICT OF INTEREST STATEMENT: Geerlings declared a conflict with item 7.C., ZBA 07-08-03
6. PENDING BUSINESS: None
7. NEW BUSINESS:

A) ELECTION OF OFFICERS

Moved by Kaupas, supported by Linnerson to Nominate and re-elect the present slate of officers, those being Howard Geerlings as Chairman, Mark Humitz as Vice-Chairman and Ron Lautner as Secretary. Motion carried. (To be noted that the positions are for fiscal year July 1, 2008 through June 30, 2009)

- B) ZBA 07-08-02, BLAIR & DEBORAH ANDERSON (OWNERS), 5680 BAY MEADOWS DRIVE, TRAVERSE CITY, MI 49684, & COOLEY CONTRACTING, LLC (APPLICANT), 1266 INDUSTRY DRIVE, SUITE B., TRAVERSE CITY, MI 49686, PROPERTY ID. NO. 28-08-026-058-00, SEC. 26, T27N R12W, LONG LAKE TOWNSHIP, GRAND TRAVERSE COUNTY, COMMONLY ADDRESSED AS 7797 S. OUTER DRIVE, TRAVERSE CITY, MI 49684.

PURPOSE: TO REQUEST A (1) A 27-FOOT VARIANCE FROM THE REQUIRED 50-FOOT FRONT YARD SETBACK, (2) A 15-FOOT VARIANCE FROM THE REQUIRED 15-FOOT EAST SIDE YARD SETBACK AND (3) A 5-FOOT VARIANCE FROM THE REQUIRED 15-FOOT WEST SIDE SETBACK TO ENABLE THE CONSTRUCTION OF A 8' X 6' X 12.1' X 6.2' X 26.5' X 17.8' X 4.8" IRREGULAR SHAPED, COVERED/UNCOVERED, GROUND LEVEL, DECK TO AN EXISTING SINGLE FAMILY DWELLING PER ARTICLE 4 – GENERAL PROVISIONS, SEC. 4.5.2. THIS DECK IS A WRAP-AROUND DECK THAT IS ON THE WEST, NORTH, AND EAST SIDES OF THE EXISTING SINGLE FAMILY DWELLING. THIS PARCEL IS LOCATED IN AN R-2, LAKE RESIDENTIAL DISTRICT.

- 1) OPEN PUBLIC HEARING: Chairman Geerlings opened the Public Hearing at 7:04 pm
- 2) CONFLICT OF INTEREST: None declared
- 3) PRESENTATION BY THE STAFF: Mesch explained that the parcel was created prior to the Zoning Ordinance. The parcel is a pre-existing non-conforming lot of record and because of its small size, would need a variance to make any changes on it. She indicated the location of the parcel, the plot plan for what the applicant is asking for, showing the location of the setbacks from the road right-of-way and Long Lake and the 15 foot side yard setbacks, noting that the front and lake front setbacks overlap each other. The more detailed information is part of the General finding of facts.
- 4) PRESENTATION BY APPLICANT: Jim Cooley, agent for Mr. and Ms. Anderson presented the project. There is currently a problem with water runoff because of the topography of the parcel, the raised road bed for the private road which provides the entrance to Long Lake Peninsula, and the way the asphalt drive is situated. The owners are going to be removing the asphalt drive and installing gravel and are proposing to build a wood walkway and decking at the front and sides of the single family home.
- 5) PUBLIC COMMENT: An email was received and filed from Tom and Therese Waters, supporting the variance request for the improvements
- 6) CLOSE PUBLIC HEARING: There being no further public comment, Chairman Geerlings closed the public hearing at 7:14pm
- 7) DISCUSSION BY BOARD MEMBERS:

The Board discussed the problem of the water run-off, not only into the crawl space of the owner/applicants, but also the water run-off onto the neighbor's property to the south. They also discussed the small size of the parcel and that less impervious surface would be an improvement in regards to water quality of the lake.

8) DECISION:

GENERAL FINDINGS OF FACT

1. The Board finds that the property is currently zoned R 2 Lake Residential per Article 9, of the Long Lake Township Zoning Ordinance #60, as amended and the Long Lake Township Zoning Map, as amended.
2. The Board finds that Article 9, permits one single family detached dwelling, on a minimum net lot size of one acre with a minimum width of 150 feet at the front setback line and a minimum width of 100 feet at the water's edge.
3. The Board finds that this parcel is a non-conforming lot of record as it was established prior to the enactment of the Township Zoning Ordinance. The parcel does not meet the net lot area nor the width requirements.
4. The Board finds that Article 9, Section 9.4 District Regulations, item 5b through d, states that b) Front (Road Side) each lot shall have a front yard of not less than fifty (50) feet in depth from the right-of-way line; c) side. Every dwelling or other principal building or accessory structure over one hundred (100) square feet shall have a side yard of fifteen (15) feet; and d) rear (water side) each water front lot shall have a rear yard of not less than fifty (50) feet from the ordinary high water mark as defined herein.
5. The Board finds that the existing single family dwelling was constructed in 1936+/- and encroaches into the 50 foot front yard setback, into both side yard setbacks and into the water side setback.
6. The Board finds that on June 19, 1990, the Township Zoning Board of Appeals considered a variance request under case number ZBA 06-90-09 which reads as follows: to provide for a variance of 46 feet, from the required 50 foot lakeside setback and to provide for a variance of 10 feet from the 10 foot separation requirement from another separate structure. To enable the provision of a storage shed to be placed at the rear of the existing small 1 car garage to be used for storage purposes. The variance requests were denied.

Having reviewed the General Findings of Fact it was moved by Linnerson, supported by Kaupas to accept general findings of fact as stated above, Motion carried.

FINDINGS OF FACT UNDER SECTION 23.04.3.a OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 23.04.3.a of the zoning ordinance for each of the following standards listed in that section:

1. That the need for the requested variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water, or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.

a. The Board finds that the need for a variance is due to the narrowness, topography and unique shape and small size of the parcel.

2. That the need for the requested variance is not the result of actions of the property owner (self-created) or previous property owners.

a. The Board finds that the previous property owner asphalted the driveway which is now causing water runoff problems.

3. That strict compliance with area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this Ordinance does not automatically make compliance unreasonably burdensome.)

a. The Board finds that because of the small size of the lot, that the house does not meet either the lake front (rear) 50 foot setback from the water nor the 50 foot front yard setback from the edge of the right-of-way that this house would need a variance to make any changes to the structure.

4. That the requested variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than [than] applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

a. The Board finds that these changes are improving the lot since there will be less impervious surfaces.

b. The Board finds that this will stop runoff into the basement of the home and on to neighbor's properties.

5. That the requested variance will not cause adverse impacts on surrounding property, property values, or the use and enjoyment of property in the neighborhood.

a. The Board finds that this variance will correct the water run-off problem that currently exists.

6. That the requested variance will not permit the establishment within a district any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

a. The Board finds that item 6 is not applicable as the request is not for a change of use.

DECISION

The Board having considered the application ZBA 07-08-02, a public hearing having been held on July 1, 2008 after giving due notice as required by law, the Board having heard the statements of the owner/applicant, the Board having considered letters submitted by members of the public and any comments by members of the public, the Board having considered 9 Exhibits and having reached a decision on this matter, states as follows:

Upon motion by Kaupas, and supported by Linnerson the Board RULED that the Applicants' variance request be GRANTED, subject to the conditions listed below;

CONDITIONS, IF ANY

1. There shall be no walls or covers over the porch/deck.

Motion carried.

- C) ZBA 07-08-03, MARK & DONNA CERNY (OWNERS), 620 LAKEWOOD ROAD, TRAVERSE CITY, MI 49684, PROPERTY ID. NO. 28-08-285-012-00, LOT 10, PICKEREL POINT PLAT, SEC. 34, T27N R12W, LONG LAKE TOWNSHIP, GRAND TRAVERSE COUNTY, COMMONLY ADDRESSED AS OWNER ABOVE. PURPOSE: TO REQUEST A 23-FOOT VARIANCE FROM THE REQUIRED 50-FOOT LAKEFRONT SETBACK TO ALLOW FOR THE CONSTRUCTION OF AN IRREGULAR-SHAPED COVERED/UNCOVERED WOOD DECK THAT IS 15' DEEP BY 37' AT IT'S WIDEST WHERE IT ATTACHES TO THE EXISTING SINGLE FAMILY DWELLING, TAPERING DOWN TO 27' IN WIDTH AT THE EDGE CLOSEST TO THE LAKEFRONT. THIS REQUEST IS PER ARTICLE 9 – R-2 LAKE RESIDENTIAL, SEC 9.45.D. THIS PARCEL IS LOCATED IN AN R-2, LAKE RESIDENTIAL DISTRICT.

Geerlings turned the meeting over to Vice Chairman Humitz, excused himself from the board and sat in the audience.

- 1) OPEN PUBLIC HEARING: Vice Chairman Humitz opened the Public hearing at 7:22pm
- 2) CONFLICT OF INTEREST: To be noted that Geerlings declared a conflict of interest for this case.
- 3) PRESENTATION BY THE STAFF: Mesch presented the application. This is a non conforming lot. The house was built in 1961 and is built within the 50 foot lake setback. The existing seawall has been in place since before the Zoning Ordinance. Its location is being used for the 50 foot setback from the Ordinary High Water Mark. Currently, no lakefront decks have been placed on the water side of the property.
- 4) PRESENTATION BY APPLICANT: Mark Cerny presented the proposed project. Cerny stated that the house was built before zoning and does not meet the current Zoning Ordinance. The deck would be a low profile deck, no more than a foot off the ground. There should be no runoff into the lake because the yard is level from the house to the seawall. He also stated that the way that the house is situated there is no other place to put a deck in order to be outside and enjoy the water.
- 5) PUBLIC COMMENT: There was one e-mail received in support of the request.
- 6) CLOSE PUBLIC HEARING: There being no further public comment Humitz closed the Public Hearing at 7:27pm
- 7) DISCUSSION BY BOARD MEMBERS:

The Board agreed that this is a unique parcel because it sits on a point of land out into the lake and that any changes to the house would require a variance because of its location.

- 8) DECISION:

GENERAL FINDINGS OF FACT

1. The Board finds that the property is currently zoned R 2 Lake Residential – Low Density Residential, per the Long Lake Township Zoning Ordinance #60, as amended and the Long Lake Township Zoning Map, as amended.
2. The Board finds that Article 9, permits one single family detached dwelling, on a minimum net lot size of one acre with a minimum

- width of 150 feet at the front setback line and a minimum width of 100 feet at the water's edge.
3. The Board finds that this parcel is a non-conforming lot of record as the Plat of Pickerel Point was approved on November 14, 1957 prior to the enactment of the Township Zoning Ordinance, May 8, 1979. The lot does not meet the net lot area or the width requirements.
 4. The Board finds that Article 9, Section 9.4 District Regulations, item 5b through d, states that b) Front (Road Side) each lot shall have a front yard of not less than fifty (50) feet in depth from the right-of-way line; c) side. Every dwelling or other principal building or accessory structure over one hundred (100) square feet shall have a side yard of fifteen (15) feet; and d) rear (water side) each water front lot shall have a rear yard of not less than fifty (50) feet from the ordinary high water mark as defined herein.
 5. The Board finds that the existing single family dwelling was constructed in 1960 (approximately) and encroaches into the 50 foot water front setback.
 6. The Board finds that a "sea wall" was constructed at the water's edge prior to the enactment of the Township Zoning Ordinance.

Having reviewed the General Findings of Fact it was moved by Kaupas, supported by Linnerson to accept general findings of fact as stated above. Motion carried.

FINDINGS OF FACT UNDER SECTION 23.04.3.a OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 23.04.3.a of the zoning ordinance for each of the following standards listed in that section:

1. That the need for the requested variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water, or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.
 - a. The Board finds that the need for a variance is due to the unique physical shape of the parcel.
2. That the need for the requested variance is not the result of actions of the property owner (self-created) or previous property owners.

- a. The Board finds that the house was built prior to zoning.
 - b. The Board finds that this request is no result of the owners.
3. That strict compliance with area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this Ordinance does not automatically make compliance unreasonably burdensome.)
- a. The Board finds that strict compliance with setbacks would not allow a reasonable use of the property.
4. That the requested variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than [than] applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
- a. The Board finds that this request is a reasonable size and will do substantial justice.
5. That the requested variance will not cause adverse impacts on surrounding property, property values, or the use and enjoyment of property in the neighborhood.
- a. The Board finds that this variance will not adversely impact neighbors.
6. That the requested variance will not permit the establishment within a district any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.
- a. The Board finds that this is not applicable.

DECISION

The Board having considered the application, ZBA 07-08-03, a public hearing having been held on July 1, 2008 after giving due notice as required by law, the Board having heard the statements of the owner/applicant and its agent, the Board having considered letters submitted by members of the public and any comments by members of the public, the Board having considered 6 Exhibits, and the Board having reached a decision on this matter, states as follows:

Upon motion by Kaupas, supported by Linnerson the Board Ruled that the Applicant's variance request be granted. Humitz supported by

Bott to amend the motion to include the condition that no walls or roof be allowed. Moved by Kaupas, supported by Linnerson to grant the variance per the amended motion. Motion Carried.
The Board granted the variance request subject to the conditions listed below.

CONDITIONS, IF ANY

1. No walls or roofs allowed over the deck.

8. PUBLIC COMMENT: A member from a Boy Scout Troop asked about the Zoning Ordinance

9. REPORTS
 - A. PLANNING COMMISSION REPRESENTATIVE

Humitz stated that the Planning Commission was still working on the new Zoning Ordinance and that the timeline for adoption was the end of the year.

 - B. ZONING ADMINISTRATOR

Mesch stated that the number of Land Use Permits for single family dwellings for June 2008 was 9 compared with 7 for June of 2007. The Board may be seeing some additional variance requests as the assessing department continues its property by property site visits. The next meeting will be Wednesday, August 6, 2008 because of the primary election.

10. CORRESPONDENCE: None

11. ADJOURNMENT: There being no further business, it was moved by Kaupas supported by Linnerson to adjourn the regular meeting at 8:10 pm. Motion carried.

RON LAUTNER, SECRETARY
LONG LAKE TOWNSHIP ZONING BOARD OF APPEALS

SARA KOPRIVA, RECORDING SECRETARY
LONG LAKE TOWNSHIP ZONING BOARD OF APPEALS

NOTE: THESE MINUTES ARE SUBJECT TO AMENDMENT AND/OR CORRECTION PRIOR TO THEIR ADOPTION.