

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

WEDNESDAY, NOVEMBER 3, 2010

1. CALL TO ORDER: The meeting was called to order by Chairman Geerlings at 7:02 p.m. at the Long Lake Township Hall
2. BOARD MEMBERS PRESENT: Bill Kaupas, Mark Humitz, Howard Geerlings, John Linnerson and Max Bott.

Township staff present was Sara Kopriva, Zoning Administrator and acting Recording Secretary.

Twelve members of the public were present.

3. APPROVAL OF AGENDA: Linnerson, supported by Kaupas, to approve the agenda as presented. Motion carried.
4. CONFLICT OF INTEREST STATEMENT: There was none.
5. APPROVAL OF MINUTES: AUGUST 4, 2010 REGULAR MEETING Kaupas supported by Linnerson to approve the Minutes as presented. Motion carried.
6. PUBLIC COMMENT: There was none.
7. POSTPONED BUSINESS: There was none.
8. PUBLIC HEARING:

- A) ZBA 11-10-03, ALBERT & KAREN HATCH (OWNERS), 8101 SUNSET DRIVE, TRAVERSE CITY, MI 49685, PROPERTY ID. NO. 28-08-185-014-00, LOT 14, HOLSEM'S PENINSULA ESTATES, SEC. 27, T27N R12W, LONG LAKE TOWNSHIP, GRAND TRAVERSE COUNTY, COMMONLY ADDRESSED AS OWNER ABOVE. PURPOSE: TO REQUEST A 26-FOOT VARIANCE FROM THE REQUIRED 50-FOOT FRONT YARD SETBACK. APPROVAL REQUEST IS FOR AN AFTER-THE-FACT APPROVAL FOR A 26' X 18' IRREGULAR-SHAPED GROUND LEVEL DECK. THIS PARCEL IS LOCATED WITHIN AN LDR, LOW DENSITY RESIDENTIAL DISTRICT.

OPEN THE PUBLIC HEARING – 7:04 PM

The Zoning Administrator presented the request. This variance is from the 50 foot front yard setback. According to a survey submitted for the previous ZBA case the front of the house sits in the front yard setback. The variance is for a deck that was discovered

during the Assessing Department's site inspections. There were seven letters received that need to be added to the Exhibit list.

Albert and Karen Hatch, the applicants, presented the request stating that the deck was constructed seven years ago and they have received no negative comments from the neighbors.

OPEN PUBLIC HEARING TO PUBLIC COMMENT

There were no phone calls regarding this request and eight letters received in support. Letters included in the Exhibit List that are attached to these Minutes.

Four members of the public spoke in favor of the request.

CLOSE THE PUBLIC- 7:20 PM

The Board asked why the deck was not located in the rear yard and there was discussion about the berm located between the deck and the road.

The General Findings of Fact were read aloud.

Humitz, supported by Bott, to approve the General Findings of Fact with minor correction. Motion carried.

FINDINGS OF FACT UNDER SECTION 23.4.3.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 the variance is due to the unique circumstance the house being placed on the property prior to the establishment of the current 50 foot front yard setback which results on a variance being needed for anything. (Exhibit F and O)
 - b. The Board finds that the need for the variance is due to the unique circumstances that the home was constructed prior to the Zoning Ordinance and this is not due applicant's personal or economically hardship. (Exhibit A and O)
 - c. The Board unanimously finds that this standard has been met.
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 need for the variance is self-created and that a deck could have been constructed without a variance. (Exhibit C and H)
 - b. The Board finds that there are other places to put a deck on the property (ie. backyard). (Exhibit C and H)
 - c. The Board finds 3-2 that this standard has not been met.
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 the Zoning Ordinance would be unnecessarily burdensome. (Exhibit E)
 - b. The Board finds 4-1 that this standard has been met.
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 that [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 a lesser relaxation to allow a 10 foot deck would give substantial justice to the owner and other property owners. Other property owners are allowed to have a deck that encroaches 10 feet into the setback. (Exhibit H)
 - b. The Board finds 3-2 that this standard has not been met.
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 the variance will not cause adverse impacts because the neighbors support the deck. (Exhibits Q through X and public comment)
 - b. The Board finds 3-2 that this standard has been met.
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 a use variance. (Exhibit H)

DECISION

Motion by Kaupas, seconded by Bott to approve the variance because it has met 3 out of the 5 standards. Roll call vote: Yea-Kaupas, Bott, Geerlings Nay-Linnerson, Humitz. Motion carries 3-2.

See attached: Copy of the decision form with General Findings of Facts, Board Findings of Facts and Exhibit List

9. PENDING BUSINESS: There was none.

10. NEW BUSINESS:

There was discussion about how many standards have to be met to approve and deny a variance. The Board asked the Zoning Administrator to contact the Township Attorney.

There was a discussion about if the meeting time should be moved. It was agreed that the meeting time should remain at 7 pm.

11. PUBLIC COMMENT: There was none.

12. REPORTS:

A.) PLANNING COMMISSION REPRESENTATIVE - The Planning Commission is working amendments to the new Zoning Ordinance.

B.) ZONING ADMINISTRATOR – written report received. There will be a special meeting November 16, 2010 at 6:00 pm.

C.) TOWNSHIP BOARD REPRESENTATIVE – Linnerson explained how the fire department will be staffed.

10. CORRESPONDENCE: There was none.

7. ADJOURNMENT: Linnerson supported by Humitz to adjourn at 8:27 pm. Motion carried.

MAX BOTT, SECRETARY
LONG LAKE TOWNSHIP ZONING BOARD OF APPEALS

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

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