

MINUTES
LONG LAKE TOWNSHIP ZONING BOARD OF APPEALS
LONG LAKE TOWNSHIP HALL
8870 NORTH LONG LAKE ROAD
TRAVERSE CITY, MI 49684
TUESDAY, NOVEMBER 1, 2011

1. CALL TO ORDER – 6:00 P.M.

2. ROLL CALL – Board members present were Johnson (alternate for Linnerson), Bott, Humitz, Geerlings, and Kaupas. Also in attendance were Peter Wendling, the Township Attorney, Sara Kopriva, the Zoning Administrator, Lynette Wolfgang, the Recording Secretary and many members of the public.

3. APPROVAL OF AGENDA - Moved by Kaupas supported by Humitz to approve the agenda as presented. Motion carried.

4. CONFLICT OF INTEREST STATEMENT (Declare and cite agenda item)- None stated.

5. ELECTION OF OFFICERS – Moved by Kaupas supported by Johnson to keep the current slate of officers if they wish to continue serving in their position. Geerlings – Chairman, Humitz – Vice-Chair, and Bott – Secretary. Motion carried.

6. APPROVAL OF MINUTES: August 3, 2011 (REGULAR MEETING) – Moved by Kaupas supported by Bott to approve the minutes of the August 3, 2011 Regular Meeting with the following changes:

1. Correct spelling of Kaupus to Kaupas throughout.
1. Page 2 number 7 should read “outlot”, not outlet.

7. PUBLIC COMMENTS (any person may speak for up to 3 minutes.) – No public comment.

8. POSTPONED BUSINESS: NONE

9. PUBLIC HEARING(S)

A) ZBA 11-11-09, David Rowe (applicant), 1241 E Eighth St, Traverse City, MI 49696 on behalf of Brett and Karen Able (owners) of 829 N. South Long Lake Rd, Traverse City, MI 49685, requests an administrative appeal at Property Id. No. 28-08-035-024-00, Sec. 35, T27N R12W, Long Lake Township, Grand Traverse County, commonly addressed as 829 N. South Long Lake Rd, Traverse City, MI 49685. PURPOSE: To request an appeal from the Zoning Administrator's decision to revoke land use permit number P06987 on August 22, 2011.

1) **OPEN THE PUBLIC HEARING** : 6:08 pm. Chairman Geerlings asked that the Zoning Administrator to number the exhibits (written correspondence) at this time.

E-mail from Fred Tough received October 28, 2011 – exhibit M
Letter from Ed Roy dated October 28, 2011 – exhibit N
Letter from Evelyn Peterson – exhibit O
Letter from Mr. Czubak – exhibit P
E-mail from Ed Roy – exhibit Q
Letter from Arthur Branco – exhibit R

2) CONFLICT OF INTEREST STATEMENT: None

3) PRESENTATION OF REQUEST, AS RECEIVED BY STAFF: Peter Wendling, Township Attorney stated that the applicant has requested a postponement due to potential issues involving the Planning Commission and a possible ordinance amendment. He also stated that the Able's may request an additional ordinance amendment and a variance request. Mr. Wendling also stated that as counsel to the township it would be appropriate for him to issue a memo outlining whether or not the Zoning Administrator is empowered under the Zoning Ordinance to issue a stop work order. Based on Section 20.12 the Township Attorney's opinion is that the Zoning Administrator does in fact have authority to issue a stop work order and he would like to provide the ZBA with a memo with case law that supports this opinion. The Township Attorney also stated that in the applicant's correspondence is a letter from Mr. Rowe, dated September 12, 2011 requesting that the ZBA overturn the Zoning Administrator's revocation and stop work order and in addition determine that Section 12.3.(7) does not apply to decks constructed on top of the existing structure. Mr. Wendling stated that he is not sure that the request regarding Section 12.3.7 was included in the notice requirement. He stated that a postponement would allow for this to be included. Mr. Wendling stated that no work would be allowed to proceed during the postponement, and recommended tabling this issue and continuing it at the December meeting, but allowing the public to comment tonight. Board member Kaupas asked why the applicant filed this appeal and then asked that it be postponed. The Township Attorney stated that there is a 21 day time limit for the applicant to file an appeal. He also stated that it is not unusual for the applicant to look at other avenues that may resolve the issue. Mr. Wendling recommended the ZBA take their time to look at all the information before making a decision. Kaupas stated that the only case tonight is whether the Zoning Administrator had the right to issue the stop work order, and that he has enough information to make that decision tonight.

4) COMMENTS AND EXPLANATIONS BY APPLICANT: Dave Rowe, representing the applicant reviewed the initial request and stated that Section 5.3 has always been interpreted to allow structures to go vertical. He referenced another open LUP that has not been issued a stop work order. He also stated that he has addressed the Planning Commission regarding an amendment to the ordinance, and that the planner's intent was not to prohibit structures such as rooftop decks. Mr. Rowe stated that the applicant will submit a request for a variance before the end of the week. He asked that the ZBA honor the request to table.

5) OPEN PUBLIC HEARING TO PUBLIC COMMENT (Any person may speak for up to 3 minutes.)

Ed Roy – Representing the Ables' neighbors, the Kiehles, spoke regarding the issues of noise, privacy, blocking the view of the lake and the fact that the Ables have three (3) major accessory buildings. He asked Mr. Rowe to present a photo or LUP where a structure with a waterside setback, and no side yard setback is allowed to add a second story structure. He stated that the Ables could have applied for a variance at the time they received the Zoning Administrator's letter, because an amendment to the ordinance is a three to six month process.

Evelyn Peterson, 843 S. Long Lake Road. - Does not think that a postponement is necessary. She stated that the Kiehles took what they got and did not change a thing. Ms. Peterson stated that the ZBA's decision will set a precedence, and spoke regarding how she and her neighbors take care of their stretch of the lake, and how her neighbors requested variances from the Township.

Rick Kiehle, 819 S. Long Lake Road – Presented photos that the Ables presented to the Planning Commission and the Zoning Administrator of boathouses with decks. Mr. Kiehle stated that these are actually decks with safety railings that are at grade. He stated that the Able's deck is not at grade, as they have had to build stairs to get up to it. He stated that the photos also demonstrate that the Able's have changed the use of the boathouse to living quarters. He also presented signatures from neighbors that are very upset about what they Able's have done.

Tammy Sanders, 7775 S. Outer – Spoke regarding the remodel done on her home two (2) years ago and how the Township required her to remove an existing porch and deck. She stated that "That is just how it is".

Motion by Kaupas supported by Geerlings to not table this case. Motion carried 3 yes -2 no.

There was discussion regarding Section 20.1.2 and 20.01, other issues besides vertical issue, and 5.3, and the degree or extent of nonconformity.

6) CLOSE THE PUBLIC HEARING TO PUBLIC COMMENT: 7:03 pm

7) QUESTION/DISCUSSION BY THE ZBA: There was discussion regarding the LUP stating "deck as new roof", the substantial remodel of the boathouse, and the work being beyond the scope of the LUP.

8) DELIBERATION BY ZBA

9) DISPOSITION BY THE ZBA; APPROVE, APPROVE WITH CONDITIONS AND/OR RECOMMENDATION, POSTPONE, DENY. ALL STATED WITH FINDINGS OF FACT, CONDITIONS AND RECOMMENDATIONS.

Moved by Bott supported by Kaupas that the Zoning Administrator was correct in issuing the stop work order because the LUP was issued to construct a new roof on an accessory building, and that the change of use for the boathouse and the expansion of the building is a "substantial remodel" of the boathouse, all in violation of the Zoning Ordinance which precludes expansion of a building located within 50 feet of water, based on Section 12.3(7), and based on the general findings of fact. Motion carried. 5 yes – 0 no.

10. PENDING BUSINESS: NONE

11. NEW BUSINESS:

A) BY-LAWS AND RULES OF PROCEDURE: Amend to reflect new meeting time

Moved by Kaupas supported by Bott to amend the by-laws to reflect the new meeting time of 6:00 pm. Motion carried.

12. PUBLIC COMMENT (Any person may speak for up to 3 minutes.): Additional public comment was taken.

13. REPORTS

A. PLANNING COMMISSION REPRESENTATIVE - Humitz reported there will be a meeting in December.

B. ZONING ADMINISTRATOR - report submitted, nothing to add.

C. TOWNSHIP BOARD REPRESENTATIVE – not in attendance.

14. CORRESPONDENCE: None.

15. ADJOURNMENT: Moved by Kaupas supported by Humitz to adjourn at 7:21 pm. Motion carried.

DRAFT