

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

REGULAR MEETING

TUESDAY, JANUARY 5, 2010

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

Township Staff present: Shirley Mesch, Zoning Administrator, Bryan Graham, Township Attorney and Sara Kopriva, Recording Secretary.

Also present were six members of the public
3. MINUTES: NOVEMBER 4, 2009 (REGULAR MEETING) There being no concerns, Motion by Lautner, seconded by Kaupas to approve the Minutes of the November 4, 2009 meeting as presented. Carried
4. AGENDA: There being no concerns, Motion by Linnerson, seconded by Bott to approve the agenda as presented. Carried
5. CONFLICT OF INTEREST STATEMENT: None stated.
6. PENDING BUSINESS: None
7. NEW BUSINESS – PUBLIC HEARING:
 - A) ZBA 01-10-01, SCOTT & CHRISTINE VOET (OWNERS), 16639 ROLLING OAKS LANE, HOLLAND, MI 49424, PROPERTY ID. NO. 28-08-026-051-00, SEC. 26, T27N R12W, LONG LAKE TOWNSHIP, GRAND TRAVERSE COUNTY, COMMONLY ADDRESSED AS 1165 N. SOUTH LONG LAKE ROAD, TRAVERSE CITY, MI 49684. PURPOSE: (1) TO REQUEST A .68 ACRE (29,760 SQUARE-FOOT) VARIANCE FROM THE REQUIRED 1 ACRE (43,560 SQUARE FOOT) MINIMUM NET LOT AREA, A 24-FOOT VARIANCE FROM THE REQUIRED 100-FOOT MINIMUM LOT WIDTH ON THE WATER, AND A 66-FOOT VARIANCE FROM THE REQUIRED 150-FOOT MINIMUM LOT WIDTH ON THE FRONT SETBACK LINE; (2) TO REQUEST A .73 ACRE (31,960 SQUARE FOOT) VARIANCE FROM THE REQUIRED 1 ACRE (43,560 SQUARE FOOT) MINIMUM NET LOT SIZE REQUIREMENT, A 24-FOOT VARIANCE FROM THE REQUIRED 100-FOOT MINIMUM LOT WIDTH ON THE WATER, AND A 66-FOOT VARIANCE FROM THE REQUIRED 150-FOOT MINIMUM LOT WIDTH ON

THE FRONT SETBACK LINE. TO ENABLE THE OWNER TO DIVIDE AN EXISTING .59 ACRE PARCEL INTO TWO SEPARATE PARCELS; PARCEL #1 TO BE .32 ACRE (13,800 SQUARE FEET), WITH 76.3-FEET ON THE WATER AND 84-FEET ON THE FRONT SETBACK LINE.; PARCEL #2 TO BE .27 ACRE (11,600 SQUARE FEET), WITH 76.3-FEET ON THE WATER AND 84-FEET ON THE FRONT SETBACK LINE. THIS PARCEL IS LOCATED WITHIN A LAKE RESIDENTIAL DISTRICT, PER ARTICLE 9, SEC. 9.4, DISTRICT REGULATIONS.

Graham asked to add Brad Benbow's letter received January 5, 2010 as item 16 of the exhibit list and Karen and Dennis Wiands' email received January 5, 2010 as item 17 of the exhibit list.

- 1) OPEN PUBLIC HEARING: The Public Hearing as opened by Vice Chairman Humitz at 7:04 pm
- 2) CONFLICT OF INTEREST: None stated
- 3) PRESENTATION OF REQUEST, AS RECEIVED BY STAFF: Mesch presented the application. Exhibit #7, the location map in the packet, hash-marked the parcel before the Board as 28-08-026-052-00, addressed as 1125 N. South Long Lake Road. This is the wrong parcel. The correct parcel was identified as 28-08-026-051-00, addressed as 1165 N. South Long Lake Road. The Board requested that a correction be made to Exhibit #7 location map, to show the parcel before the Board to be 28-08-026-051-00, addressed as 1165 N. South Long Lake Road. Mesch presented the 1976 tax maps to the Board. These maps are from before there was zoning in Long Lake Township. The Board reviewed how the lots were configured at that time. Mesch presented the 1986 tax maps and the Board reviewed. Kuapas mentioned how the lots are configured very similar today as they were in 1976. The lot in question is a legal non-conforming lot that was created prior to the adoption of the Zoning Ordinance, May 8, 1979. Today's Ordinance requires an area of 1 net acre, 150 feet on the road and 100 feet on the water. The owners/applicants would like to split their lot into two lots. The existing lot has 152 feet on the water, 172 feet on the road and an area of 25,400 square feet. According to Exhibit 4, Parcel A would have 76 feet on the water, 86 feet on the road and have an area of 13,800 square feet. Parcel B would have 76 feet on the water, 86 feet on the road and an area of 11,600 square feet. The existing home on the lot does encroach on the side yard setback on the North. Mesch stated that the owners intentions are to leave the existing house and build a new house on the second parcel.
- 4) PRESENTATION BY APPLICANT: Tom Fitzpatrick, representative for owner/applicant in attendance, Scott Voet, presented their case.

The existing house was built in the 1950's on the lot. Mr. Voet and his wife inherited the property. Mr. Voet feels that without the variance half of the lot would be useless. Fitzpatrick presented to the Board a copy of Long Lake Township Zoning map, as amended December 11, 2007, that he had highlighted existing lots surrounding the lake that he thought were non-conforming. According to his calculations, there are 640 non-conforming lots on Long Lake and 155 conforming lots. Fitzpatrick feels that by granting this variance the new lots would be compliant with a majority of the community on Long Lake, and the lot sizes would be consistent with other existing lots. Kaupas asked if the sole reason for the variance was monetary. Fitzpatrick stated it was to maximize the use of the property. Mr. Voet stated that he has a friend interested in the property to build a new house on, or the family would build a house on it to enjoy. Mr. Voet understands the neighbors concerns.

Graham asked that Fitzpatrick's map be added as exhibit 18.

- 5) PUBLIC COMMENT: Three members of the public spoke against the variance. Humitz read Benbow's and Wiand's letters aloud. Both are against the variance.
- 6) CLOSE PUBLIC HEARING: There being no further public comment, the Public Hearing was closed by Vice Chairman Humitz at 7:41pm.
- 7) DISCUSSION BY BOARD MEMBERS: Graham stated that the Zoning Board of Appeals is not allowed to consider the neighboring properties when considering this variance as the variance must be based on the individual property. Graham handed out proposed Findings of Fact as a starting point for the Board. Fitzpatrick responded to Graham's comments.

After review by the Board members, Motion by Kaupas, seconded by Linnerson to accept the General Findings of Fact as presented. Carried.

- 8) DECISION by the Board members.

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 the requested variances is due to the applicants' desire to divide the property into two (2) parcels with approximately the same area and widths. (Exhibits 2, 3 and 4)
 - b. The Board finds that there are no unique circumstances or physical conditions concerning the property that necessitates the requested variances, and that whenever any property is proposed to be divided into parcels that do not independently meet Zoning Ordinance requirements there will be a need for similar variances.
 - c. The Board finds that this standard has not 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 requested variances is due to the applicants' desire to divide the property into two (2) parcels with approximately the same area and widths. (Exhibits 2, 3, and 4). The need for the variance is self created.
 - b. The Board finds that if the property is not divided, the applicants will be allowed to continue the nonconforming use of the property and the use of the nonconforming dwelling.
 - c. The Board finds 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 the property is currently zoned Lake Residential (R-2) under the Zoning Ordinance.
 - b. The Board finds that Section 9.2.1 permits single-family dwellings as a use by right in the Lake Residential district. (Exhibit 1)
 - c. The Board finds that the property has an existing single-family dwelling located on it approximately 4.1 feet from the northwest property line. The Board further finds that the setback for the single-family dwelling of 4.1 feet from the existing northwest property line would constitute a nonconformity (making the dwelling a nonconforming structure). (Exhibit 4)

- d. The Board finds that the property is approximately 25,400 square feet in area (13,800 +11,600), which equates to approximately .58 acres. The Board further finds that the property does not comply with the minimum net lot area requirement of one (1) acre as specified in Section 9.4.1 of the Zoning Ordinance and is therefore considered a nonconforming lot of record. (Exhibits 1 and 3)
 - e. The Board finds that under Section 5.2, 5.3 and 5.5, the Applicants are entitled to continue the use of the nonconforming lot and the nonconforming structure. (Exhibit 1)
 - f. The Board, therefore, finds that strict compliance with the Zoning Ordinance requirements will not prevent the applicants from using the property for the permitted single-family dwelling purpose.
 - g. The Board further finds that the substandard parcels on Long Lake in the area of the applicant's property are nonconforming lots of record and therefore cannot legally serve as the basis for granting the requested variances. (Exhibits 8, 11, 12, 13, 14, and 15)
 - j. The Board finds that this standard has not been met.
4. The Board finds 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 the applicants are proposing to divide the property into two (2) parcels with approximately the same area and widths. (Exhibits 2, 3, and 4)
 - b. The Board finds that the requested variances would allow the applicants to divide the property as requested, provided the other requirements of the Township Land Division Ordinance are met. (Exhibit 8)
 - c. The Board finds that because the proposed land division would result in parcels of approximately equal area and width, a lesser variance is not possible.
 - d. The Board finds that the variance request would do an injustice to other property owners in the district. Other neighboring properties have been denied similar dimensional variance requests in the past. The variances requested would create two smaller parcels that will not meet the lot area or lot width requirements of the Zoning Ordinance. The parcel, as is, currently meets the lot width requirements and more closely conforms with the Zoning Ordinance.

- e. The Board finds 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 there are a significant number of lots on Long Lake that have widths less than 76 feet on the water, with many have widths of 50 feet. (Exhibits 3 and 6)
 - b. The Board finds that the historic use of these substandard parcels has not had an adverse impact on the surrounding property, property values, or the use and enjoyment in the area. (Exhibit 3)
 - c. The Board finds that we have received two emails and three public comments, all opposed the requested variance. (Exhibits 16 and 17)
 - d. The Board finds that the variance request could cause adverse impacts on surrounding property by creating the basis for another structure and curb cut to be placed in an already congested area.
 - e. The Board finds that this standard has not 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 the requested variances are dimensional variances and not use variances. (Exhibits 1, 2, and 3)
 - b. The Board finds that this standard has been met.

Having complete their review and Findings of Fact, it was moved by Lautner, seconded by Linnerson, to deny the variances based on the General Findings of Fact and the specific Findings of Fact. Carried.

The applicant requested a copy of the exhibits and the Findings of Fact when they become available.

8. PUBLIC COMMENT: There was none.

9. REPORTS

A. PLANNING COMMISSION REPRESENTATIVE

Humitz stated that the Planning Commission held a public hearing for the draft Zoning Ordinance in early December. Most of the comments received were regarding the down-zoning in the northeast and northwest sections of the Township. The core living area was changes back to the 20 ft x 20 ft requirement that is in the current Zoning Ordinance.

B. ZONING ADMINISTRATOR

Mesch stated that permits were down for the year and a full written report will be available for the February meeting.

10. CORRESPONDENCE: None.

11. ADJOURNMENT: There being no further business, Motion by Kaupas, seconded by Lautner to adjourn the regular meeting at 8:37 pm. 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.