

MINUTES
LONG LAKE TOWNSHIP ZONING BOARD OF APPEALS
LONG LAKE TOWNSHIP HALL
8870 NORTH LONG LAKE ROAD
TRAVERSE CITY, MI 49684
TUESDAY, JUNE 7, 2011

1. CALL TO ORDER – 7:01 P.M.

2. ROLL CALL – Board members in attendance were Bott, Humitz, Geerlings, Linnerson, Kaupas, and Johnson (Johnson was alternate for Geerlings at April 5 meeting regarding case ZBA04-11-03). Also in attendance were the Zoning Administrator, the Recording Secretary and 13 guests.

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

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

5. APPROVAL OF MINUTES: MAY 3, 2011 (REGULAR MEETING) – Moved by Kaupas supported by Linnerson to approve the minutes with the following changes:

Page 3 Findings of Fact – delete “has not”
Page 6 Number 3, should be “b” instead of “d”
Page 7 under Decision add “Motion carried” after the motion.

Motion carried.

6. PUBLIC COMMENTS (any person may speak for up to 3 minutes.) – John Linnerson announced that the Township’s Memorial Day service is viewable on the website and stated that it is very moving.

7. POSTPONED BUSINESS:

At this time Chairman Geerlings excused himself and board member Humitz took over as Chairperson to continue the following case from the April 5 meeting.

A) ZBA 04-11-03 Ted and Marcia Roehrich continue public hearing below

8. PUBLIC HEARING(S)

A) ZBA 04-11-03 Ted and Marcia Roehrich (owner), 323 W 9th St, Traverse City, MI 49684, requests a variance at Property Id. No. 28-08-021-051-00, Sec. 9, T27N R12W, Long Lake Township, Grand Traverse County, commonly addressed as 2755 Crescent Shores Dr, Traverse City, MI 49685. PURPOSE: To request (1) a 26-foot waterside variance from the required 50-foot waterside setback per ARTICLE 12-LAKE RESIDENTIAL, Sec. 12.2.2, District Regulations to allow for the construction of an addition to the existing single family dwelling; (2) a 5-foot front yard variance from the required 50-foot front yard setback per ARTICLE 12-LAKE RESIDENTIAL, Sec. 12.2.2, District Regulations, to allow for the construction of a 30 foot by 26 foot attached major accessory building; and (3) a 7-foot side yard variance from the required 15-foot side yard setback per ARTICLE 12-LAKE RESIDENTIAL, Sec. 12.2.2, District Regulations to allow for the construction of an addition to the existing single family dwelling. This property is located in a LR-Lake Residential Zoning District.

This is a continued public hearing from April 5, 2011. Public hearing was postponed for a corrected survey.

- 1) **OPEN THE PUBLIC HEARING : Public Hearing opened April 5, 2011 at 7:05 PM. Continued at 7:07 pm at the June 7 meeting.**
- 2) CONFLICT OF INTEREST STATEMENT – None stated
- 3) PRESENTATION OF REQUEST, AS RECEIVED BY STAFF – Kopriva stated that the Roehrich's have had a new survey done and the Public Hearing notice was republished to include the front, side and waterside setbacks.
- 4) COMMENTS AND EXPLANATIONS BY APPLICANT – The applicant stated that he believes he will meet all 6 of the criteria needed for the variance and that he has a letter from the DNR stating that there are wetlands on the property which limits the building envelope considerably.
- 5) OPEN PUBLIC HEARING TO PUBLIC COMMENT–

Sarah Pfeil, 2952 Crescent Shores spoke in support of the variance stating that the addition to the home will fit into to the charm of the Crescent Shores area.

Mary Shuhart, stated that she previously owned this property and that she and her husband and the rest of the neighbors are in support of the variance. She stated that this is a modest home and the addition will increase the property values in the neighborhood.

- 6) **CLOSE THE PUBLIC HEARING TO PUBLIC COMMENT – 7:15 pm**
- 7) QUESTION/DISCUSSION BY THE ZBA – There was discussion regarding the layout of the addition and why it was put in the direction that it was.
- 8) DELIBERATION BY ZBA – There was discussion regarding Section 5.3 dealing with non-conformity and increasing a non-conformity, the percentage of square footage that the addition is of the existing home, the waterside setback and that the new survey uses the extended vegetation line to measure the high water mark.

Kopriva asked that the letters in support of the variance be added as Exhibit Q and the handout from the Roehrich's be added as Exhibit R.

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

GENERAL FINDINGS OF FACT

1. The Board finds that the property is currently zoned LR – Lake Residential – and single family dwelling units are a use by right in this district. (Exhibit H)
2. The Board finds that there is an existing single family dwelling unit, detached major accessory structure located on the property. (Exhibit C)
3. The Board finds that the estimated construction date of the structures is 1925 according to the Assessor's Record Card. (Exhibit A)

4. The Board finds that the first Long Lake Township Zoning Ordinance was adopted May 9, 1979 after the construction of the structures. (Exhibit J)
5. The Board finds that the existing single family dwelling unit is located in the 50 foot lakefront setback and 15 foot side yard setback. (Exhibit C)
6. The Board finds that the residential structure is structurally non-conforming since it is located in the required setbacks. (Exhibit H)

Moved by Bott supported by Kaupas to accept the General Findings of Fact.
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 shape, topography and regulated wetlands creates the need for the variance (Exhibit C and N).
 - b. The Board finds that the need is due to the existing location of the home of the major accessory building (boathouse) (Exhibit N).
 - c. The Board finds that this standard has been met. 5 yes -0 no
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 existing home was built prior to the Zoning Ordinance (Exhibit A and J).
 - b. The Board finds that this standard has been met. 5 yes – 0 no
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 proposed addition will bring the structure more into compliance with the square footage requirement in the current ordinance (Exhibit D and H).
 - b. The Board finds that depending on the boundary, this would be less of an encroachment than other options (Exhibit C and N).
 - c. The Board finds that this standard has been met. 5 yes – 0 no
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 the applicant is not enlarging the largest part of the non-conformity (Exhibit N).
 - b. The Board finds that the variance is consistent to what has been granted in other cases.
 - c. The Board finds that this standard has been met. 5 yes -0 no.
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 based on the neighborhood support there will be no adverse impacts (Exhibit K, Q, and public comment).
 - b. The Board finds 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 standard is not applicable. 5 yes – 0 no

DECISION

Moved by Bott supported by Linnerson to approve ZBA#04-11-03 based on the above finding of fact. Motion carried.

B) ZBA 06-11-05 James Schroeder (owner), 6610 Huellmantel, Traverse City, MI 49685, requests a variance at Property Id. No. 28-08-024-006-00, Sec. 24, T27N R12W, Long Lake Township, Grand Traverse County, commonly addressed as 6610 Huellmantel, Traverse City, MI 49685. PURPOSE: To request (1) a 2 foot side yard setback variance from the required 15-foot side yard setback per ARTICLE 10-LOW DENSITY RESIDENTIAL, Sec. 10.2.2, District Regulations; (2) a 21-foot front yard variance from the required 50-foot front yard setback per ARTICLE 10-LOW DENSITY RESIDENTIAL, Sec. 10.2.2, District

Regulations, to allow for the construction of a 24 foot by 24 foot attached major accessory building. This property is located in a LDR-Low Density Residential Zoning District.

- 1) **OPEN THE PUBLIC HEARING- 7:51 pm**
- 2) CONFLICT OF INTEREST STATEMENT – None stated
- 3) PRESENTATION OF REQUEST, AS RECEIVED BY STAFF – Kopriva reported that the home currently sits in the 50 ft. front yard setback and there was no variance granted when the home was built. The home is non-conforming by today's standards.
- 4) COMMENTS AND EXPLANATIONS BY APPLICANT - The applicant presented his request to add a 24 x 24 attached garage and stated that the parcel is pie shaped.
- 5) OPEN PUBLIC HEARING TO PUBLIC COMMENT (Any person may speak for up to 3 minutes.) – Moved by Linnerson supported by Humitz to add the letter from the Ankersons as Exhibit M. Motion carried. Kopriva stated that there were 4 other letters received in support of the variance which are Exhibit L. There was no other public comment.
- 6) **CLOSE THE PUBLIC HEARING TO PUBLIC COMMENT – 8:01 pm**
- 7) QUESTION/DISCUSSION BY THE ZBA – There was discussion regarding whether the applicant planned for this at the time the home was built. Kopriva stated that the home was built in 1983 not 2083.
- 8) DELIBERATION BY ZBA - There was discussion regarding the location of the road, whether the rest of the lot is buildable, and whether this is self created.
- 9) DISPOSITION BY THE ZBA; APPROVE, APPROVE WITH CONDITIONS AND/OR RECOMMENDATION, POSTPONE, DENY. ALL STATED WITH FINDINGS OF FACT, CONDITIONS AND RECOMMENDATIONS.

GENERAL FINDINGS OF FACT

1. The Board finds that the property is currently zoned LDR – Low Density Residential – and single family dwelling units and accessory buildings are uses by right in this district. (Exhibit H)
2. The Board finds that there is an existing single family dwelling unit, located on the property. (Exhibit C)
3. The Board finds that the estimated construction date of the structures is 1983 according to land use permit 584, issued March 23, 2083. (Exhibit G)
4. The Board finds that the first Long Lake Township Zoning Ordinance was adopted May 9, 1979 after the construction of the structures. (Exhibit J)
5. The Board finds that the existing single family dwelling unit is located in the 50 foot front yard setback. (Exhibit C)
6. The Board finds that the residential structure is structurally non-conforming since it is located in the required setbacks. (Exhibit H)

Moved by Linnerson supported by Humitz to accept the General Findings of Fact.
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 variance is due to the severe slope of the property and the location of the existing structure (Exhibit C and K).
 - b. The Board finds that this standard has been met. 5 yes – 0 no
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 original drawing showed that the home met all of the setback requirements at the time (Exhibit G).
 - b. The Board finds that this standard has been met. 3 yes – 2 no
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 a new drive and significant rebuilding of the land would be unreasonably burdensome (Exhibit C).
 - b. The Board finds that this standard has been met. 5 yes – 0 no
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 24 x 24 is a minimum size for a garage and that there is no way to move it to have less of it in the setback.
 - b. The Board finds that a less relaxation of the ordinance is possible but not consistent.

- c. The Board finds that this standard has been met. 5 yes – 0 no
- 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 any adverse affect (Exhibit L).
 - b. The Board finds that this standard has been met. 5 yes – 0 no
- 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 standard is not applicable.

DECISION

Moved by Kaupas, supported by Linnerson to approve ZBA#04-11-03 based on the above findings of facts. Motion carried.

C) ZBA 06-11-06 Richard and Dorothy Starr (owners), 6234 Forestwood Drive East, Lakeland, FL 33811, requests a variance at Property Id. No. 28-08-023-005-02, Sec. 23, T27N R12W, Long Lake Township, Grand Traverse County, commonly addressed as 2996 East Long Lake Road, Traverse City, MI 49685. PURPOSE: To request a 23 foot front yard setback variance from the required 50-foot front yard setback per ARTICLE 12-LAKE RESIDENTIAL, Sec. 12.2.2, District Regulations, to allow for the construction of a 12 foot by 24 foot detached major accessory building. This property is located in a LR-Lake Residential Zoning District.

- 1) **OPEN THE PUBLIC HEARING – 8:35 pm**
- 2) CONFLICT OF INTEREST STATEMENT – None stated
- 3) PRESENTATION OF REQUEST, AS RECEIVED BY STAFF – Kopriva stated that the applicant is seeking to construct a detached accessory building. The home received a variance from the front yard set back requirements. This parcel was a legal land division.
- 4) COMMENTS AND EXPLANATIONS BY APPLICANT – The applicant stated that this sliver of land is very narrow and the 98' of setback required, it leaves no room for a storage building. The applicant also stated that the 800 square foot cottage has no storage area and that quite a few of the items that are currently stored on the front porch could go into the proposed storage building.
- 5) OPEN PUBLIC HEARING TO PUBLIC COMMENT-There was no public comment
- 6) **CLOSE THE PUBLIC HEARING TO PUBLIC COMMENT – 8:40 pm.**
- 7) QUESTION/DISCUSSION BY THE ZBA – There was discussion regarding why the applicant requested a 23 foot variance instead of a 15 foot variance.
- 8) DELIBERATION BY ZBA – There was discussion regarding the survey, and how this was a legal split.

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

GENERAL FINDINGS OF FACT

1. The Board finds that the property is currently zoned LR – Lake Residential – and single family dwelling units and accessory buildings are uses by right in this district. (Exhibit H)
2. The Board finds that there is an existing single family dwelling unit, located on the property. (Exhibit C)
3. The Board finds that the estimated construction date of the structures is 2000 according to land use permit 4678, issued June 21, 2000. (Exhibit G)
4. The Board finds that the first Long Lake Township Zoning Ordinance was adopted May 9, 1979 after the construction of the structures. (Exhibit J)
5. The Board finds that the existing single family dwelling unit is located in the 50 foot front yard setback. (Exhibit C)
6. The Board finds that the residential structure is received a 15 foot front yard variance, Case#06-00-12. (Exhibit D)

Item #4 should read “before” the construction, instead of “after”.

Moved by Kaupas supported by Bott to accept the General Findings of Fact. 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 (Exhibit C).
 - a. The Board finds that due to the narrowness of the property, there is a non-existent building envelope (Exhibit C).
 - b. The Board finds that this standard has been met. 5 yes – 0 no
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 has been created by the township by allowing the land division (Exhibit A and C).
 - b. The Board finds that this standard has been met. 5 yes – 0 no
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 would mean there is no buildable area (Exhibit C).
 - b. The Board finds this standard has been met. 5 yes – 0 no
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 the variance is consistent with justice to other property owners in the district.
 - b. The Board finds that a lesser relaxation of the ordinance does not give justice to the property owner.
 - c. The Board finds that this standard has been met. 3 yes – 2 no
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 affect because the property sits lower than the surrounding properties (Site Visits).
 - b. The Board finds 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 standard is not applicable

DECISION

Moved by Kaupas supported by Bott to approve/ ZBA#04-11-03 based on the above findings of facts. Motion carried.

9. PENDING BUSINESS: NONE

10. NEW BUSINESS: NONE

11. PUBLIC COMMENT (Any person may speak for up to 3 minutes.) There was none.

12. REPORTS

A. PLANNING COMMISSION REPRESENTATIVE – Humitz reported that the Planning Commission is continuing to work on lot coverage rates.

B. ZONING ADMINISTRATOR – Kopriva reported that Wilhelm Landscaping has ordered the supplies to move their sign and that there will be a meeting next month.

C. TOWNSHIP BOARD REPRESENTATIVE – Linnerson had nothing to report.

13. CORRESPONDENCE - NONE

14. ADJOURNMENT – Moved by Kaupas supported by Linnerson to adjourn at 9:33 pm. Motion carried.

MAX BOTT, SECRETARY
LONG LAKE TOWNSHIP ZONING BOARD OF APPEALS

LYNETTE WOLFGANG, RECORDING SECRETARY
LONG LAKE TOWNSHIP ZONING BOARD OF APPEALS

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