

MINUTES
LONG LAKE TOWNSHIP ZONING BOARD OF APPEALS
LONG LAKE TOWNSHIP HALL
8870 NORTH LONG LAKE ROAD
TRAVERSE CITY, MI 49684
TUESDAY, MAY 3, 2011

1. CALL TO ORDER – 7:00 P.M.
2. ROLL CALL - Board members in attendance were Bott, Geerlings, Humitz, Linnerson and Kaupas. Township staff present were the Zoning Administrator and the Recording Secretary.
3. APPROVAL OF AGENDA – The Chairman stated that case ZBA04-11-03 will be postponed until the June 7 meeting. Moved by Linnerson supported by Kaupas to approve the agenda as amended. Motion carried.
4. CONFLICT OF INTEREST STATEMENT (Declare and cite agenda item) – None stated
5. APPROVAL OF MINUTES: APRIL 5, 2011 (REGULAR MEETING) – Moved by Bott supported by Humitz to approve the minutes of the April 5, 2011 regular meeting. Motion carried.
6. PUBLIC COMMENTS (any person may speak for up to 3 minutes.) – There was no public comment.
7. POSTPONED BUSINESS: There was none.
8. PUBLIC HEARING(S)

A) ZBA 04-11-03 Ted and Marcia Roehrich (owner), 323 W 9th St, Traverse City, MI 49684, 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 7-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 approximate 8 foot by 10 foot plus addition in the setback area; and (2) 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 approximate 10 foot by 25 foot addition. 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.

This item was postponed at the request of the applicant.

B) ZBA 04-11-02, June Martin, J.T. Holding LLC (owner), 5280 Cedar Run Road, Traverse City, MI 49684, and Wilhelm Landscapes (applicant) of 6010 M-72, Traverse City, MI 49684, requests a variance at Property Id. No. 28-08-002-003-22, Sec. 2, T27N R12W, Long Lake Township, Grand Traverse County, commonly addressed as

6010 M-72, Traverse City, MI 49684. PURPOSE: To request a 44 foot variance from the required 50 foot sign setback from M-72 per ARTICLE 21-SIGNS, Sec. 21.9.1.b, General Business District Sign Regulations, General Setbacks, to permit construction of an approximate 8 foot by 4 foot, approx. 8 foot tall monument sign in the setback area. This is an after the fact variance request. This property is located in a GB General Business zoning district.

- 1) **OPEN THE PUBLIC HEARING : 7:04 pm.**
- 2) CONFLICT OF INTEREST STATEMENT – None stated
- 3) PRESENTATION OF REQUEST, AS RECEIVED BY STAFF –The Zoning Administrator stated that the Zoning Ordinance requires all signs along M-72 be 50 feet back from the road right of way. This sign is 6 feet back. She stated that this is an after the fact variance request as the sign was put up prior to approval of the Open Air business in December. A condition of the approval was that the applicant request a variance from the ZBA or remove the sign.
- 4) COMMENTS AND EXPLANATIONS BY APPLICANT - Robert Wilhelm stated his business has a location in Acme Township and that their ordinance requires a 75 foot setback. He stated that the reason the sign was placed where it was, was because of sight issues due to trees and topography. There was discussion as to whether the applicant had a permit for the sign when it was put up and if the applicant measured the setback from the road right of way or from the centerline.
- 5) OPEN PUBLIC HEARING TO PUBLIC COMMENT (Any person may speak for up to 3 minutes.). – There was no public comment.
- 6) **CLOSE THE PUBLIC HEARING TO PUBLIC COMMENT – 7:16 pm.**
- 7) QUESTION/DISCUSSION BY THE ZBA - There was discussion regarding other signs in the area, topography and the fact that the applicant did not have a permit when the sign was erected.
- 8) DELIBERATION BY ZBA -

GENERAL FINDINGS OF FACT

1. The Board finds that the property is currently zoned GB-General Business District with two commercial structures. (Exhibit H and A)
2. The Board finds that a special land use permit was approved by the Planning Commission on December 27, 2010 and a condition of approval is to remove the illegal monument sign or obtain a variance. (Exhibit K)
3. The Board finds that the sign requested was installed without a permit. (Exhibit M)
4. The Board finds that the sign, as of today, is located within the 50 foot setback and therefore does not meet the requirements of the Zoning Ordinance. (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 there are topographical issues due to berms located on the east and west sides of the property.(Exhibit C)
 - b. The Board finds that this standard has been met. 4 yes, 1 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 is because the applicant installed the sign without proper permit and is in this situation because of it. (Exhibit M)
 - b. The Board finds that this standard has not 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 moving or raising the sign would not be unreasonably burdensome. (Exhibit H)
 - b. The Board finds that this standard has been met. 4 yes, 1 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 raising the sign would give substantial relief to the applicant and do justice to other property owners. (Exhibit B and C)
 - b. The Board finds that this standard has/has not 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 would not have an adverse impact on neighboring properties because the sign is substantially in line with the other signs in the area. (Site Visit)
 - d. 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, seconded by Linnerson to deny ZBA#04-11-02 based on the above findings of facts. Motion carried.

B) ZBA 05-11-04 Robert and Julie McKay (owner) of 30966 Fortune Tr., Milford, MI 48381 requests a variance at Property Id. No. 28-08-255-071-00, Sec. 26, T27N R12W, Long Lake Township, Grand Traverse County, commonly addressed as 7827 Hillside Dr., Traverse City, MI 49685. PURPOSE: To request a 6 foot variance from the required 50 foot front yard setback from Hillside Dr. per ARTICLE 12-LAKE RESIDENTIAL DISTRICT, Sec. 12.2.2, District Regulations, to permit the construction of a 16 feet by 16 feet residential addition to the existing single family dwelling. This property is located in a LR-Lake Residential zoning district.

- 1) **OPEN THE PUBLIC HEARING** (State the Time) **7:48 pm.**
- 2) **CONFLICT OF INTEREST STATEMENT** – There was none.
- 3) **PRESENTATION OF REQUEST, AS RECEIVED BY STAFF** - The Zoning Administrator stated that this case is for a front yard setback variance. The applicant would like to construct a 16' x 16' addition on the road side of their house. The applicant received a land use permit and while on site for the setback inspection, it was determined that the addition would not meet the required setbacks. The applicant was told that they would either need to provide a letter from a surveyor that the setbacks were met or obtain a variance.
- 4) **COMMENTS AND EXPLANATIONS BY APPLICANT** – The applicant stated that the footings have not been yet been poured and that the survey shows that the setback is only 44 feet, so he is requesting a 6 foot variance. He also stated that the addition cannot go elsewhere because of the septic field and wetlands.
- 5) **OPEN PUBLIC HEARING TO PUBLIC COMMENT** (Any person may

speak for up to 3 minutes.) – Ray Cilva, 7835 Hillside Dr. spoke in favor of the variance. The Zoning Administrator stated that she received one e-mail in favor of the variance.

6) **CLOSE THE PUBLIC HEARING TO PUBLIC COMMENT - 7:57 pm.**

7) QUESTION/DISCUSSION BY THE ZBA – There was discussion regarding other locations for the addition.

8) DELIBERATION BY ZBA -

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 1935 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 outside of the required setbacks and is therefore a conforming structure. (Exhibit C and H)
6. The Board finds that the two major detached accessory structures are located within a required setback, and there are more detached accessory buildings than allowed by the Zoning Ordinance. (Exhibit C and 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 need for the variance is due to a narrow lot, wetlands, unique topography, a high water table and the slope of the property. (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 is not self created. (Exhibit 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 the existing structure is approximately 700 square feet, and the addition would bring it up to the 960 square feet required by the ordinance. (Exhibit C and H)
 - d. 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 variance would make this home more similar to others in the neighborhood. (Exhibit D)
 - b. 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 the variance would have no adverse impacts and would increase property values in the neighborhood. (Exhibit D and K)
 - 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 Bott, seconded by Humitz to approve ZBA#05-11-04 based on the above findings of facts.

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 – Report submitted. Humitz reported on the joint meeting with the Planning Commission and the Township Board and the moratorium on medical marihuana that was passed. He stated that the Planning Commission is trying to draft regulations to control medical marihuana. He also stated that the Planning Commission has eliminated lot coverage rates from the Ordinance.

B. ZONING ADMINISTRATOR - Report submitted. Nothing further to add.

C. TOWNSHIP BOARD REPRESENTATIVE - Report submitted. Linnerson also reported on the joint meeting between the Planning Commission and the Township Board.

13. CORRESPONDENCE - Letter from Ted and Marcia Roehrich requesting postponement of their case until the June 7 meeting.

14. ADJOURNMENT - Moved by Kaupas supported by Humitz to adjourn at 8:32 pm. Motion carried.

MAX BOTT, SECRETARY
LONG LAKE TOWNSHIP ZONING BOARD OF APPEALS

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

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