TORCH LAKE TOWNSHIP

ANTRIM COUNTY, MICHIGAN

Community Service Building

Zoning Board Meeting

APPROVED Minutes WITH CHANGES 5-0

May 9, 2018

**Present:** Chairman: Dave Barr

Member: Mark Jakubiak

Member: Norton Bretz

Alt Members: Greg Sumerix & Bob Co

**Absent:** Secretary: Ralph Houghton

Vice-Chairman: Bob Spencer

**Others:** Kathy Windiate - Township Clerk

Deb Graber - Zoning Administrator

13 in audience

**Recording**

**secretary:** Jacqueline Petersen

**1 & 2 Call to Order Special Meeting / Record Members Present:**

Meeting called to order at 7:01 pm by Dave Barr

Roll call was conducted by Barr

Others were introduced by Barr (see above)

**3. Approval of Agenda;**

Motion by Cole to approve agenda

Motion seconded by Jakubiak

Roll call vote taken 5/0; passed

**4. Approval of April 11, 2018 ZBA Meeting Minutes**

**Modifications:**

**2.1 - remove “approval” and replace with “renewal”**

**Appeal #1 should have been numbered “2018-2”**

**on Page 4 comments by Deb Graber - add “December 2017” to first sentence**

Motion by Jakubiak to approve with changes

Motion seconded by Bretz

Roll call vote taken 5/0; passed

**5. Conflict of interest**

Barr asked if anyone had any conflict of interest and there were none.

**6. Kathy Windiate - Township Clerk presentation:**

Kathy addressed the PC regarding new email addresses for PC members, a list was distributed

Kathy distributed guidelines and discussed what is to be included in meeting minutes

Kathy also discussed how meeting minutes are approved with and without modification/correction

and the protocol therein.

Barr announced the three appeals on the agenda and explained the process and order to the audience and participants

**7. Discussion of the Bucklew/Petrillo appeal #ZBA 2018-5. Variance to reduce a deck to no more than 25 feet into the setback and not to exceed 400 square feet in total.**

Barr summarized criteria item by item to the board to determine if there were enough changes to warrant “rehearing” this appeal.

Facts:

1. Shed has been moved out of the setbacks
2. The proposed deck would be a maximum of 25 linear feet into the setback
3. The proposed deck will be less than or equal to 400 square feet in total
4. The proposed change is more conforming to the Zoning Ordinance than the denied proposal.
5. The re-submitted variance proposal is more aligned with the use and enjoyment, size and location of the subject property.
6. The re-submitted appeal shows a substantial attempt on the appellant’s part to meet the 4 criteria used by the ZBA to consider appeals
7. Changes resubmitted in the variance proposal are permanent and not easily returned to their original state and present additional cost to remove.

Motion by Bretz to accept these as findings of fact

Motion seconded by Cole

Roll call vote taken passed 5/0

Graber summarized this appeal and last meeting’s outcome

Barr distributed a letter dated May 9, 2018 from Bruce Laidlaw to the TLT ZBA. The group to reviewed it (9 pages) and its 3 pages of attachments - the letter was not in support of granting this variance.

Jeff Bucklew addressed the group and summarized his case and request.

Barr asked for supporting comments from the public

Barr asked for opposing comments from the public

Barr asked if there was any rebuttal on either side

Motion made by Jakubiak to go out of public comment to board deliberation

Motion seconded by Bretz

Roll call vote 5/0 Passed

ZBA Deliberated appeal and found:

1. Deck will not be attached to shed or in any way support the shed
2. Findings of fact as stated above

Motion by Cole to accept the above as findings of fact with the addition

Motion was seconded by Jakubiak

Roll Call vote 5/0 passed

Barr and the ZBA board reviewed the 4 criteria as outlined in section 4 of the zoning ordinance in granting a variance and found this appeal meet all four criteria

Roll call vote was taken after Barr read each point individually

#1. Roll Call vote YES 5/0 Passed

#2 Roll Call vote YES 5/0 Passed

#3 Roll Call vote YES 5/0 Passed

#4 Roll Call vote YES 5/0 Passed

Motion was made by Barr to approve variance 2018-05 as written with stipulation that the deck not be attached in any way to or provide support to the shed, be a maximum of 25 linear feet into the setback and be less than or equal to 400 square feet in total.

Motion was seconded by Cole

Roll Call vote YES 5/0 passed

Barr instructed applicant that he would receive a letter from the township stating the outcome

Motion by Cole to go out of deliberation session and return to agenda

Motion seconded by Bretz

Roll call vote YES 5/0 passed

Barr announced the next appeal

#2018-3 Templin 856 S Golden Beach Dr Kewadin

Graber summarized the case for the ZBA stating the project grew beyond the scope of the permit issued

Correspondences from the public were read:

Letter from Frederick Kraft, a neighbor was read NOT in support of the variance being granted

Letter from James Gallagher, a neighbor was read NOT in support of the variance being granted

Letter from Susan Chesney, a neighbor was read NOT in support of the variance being granted

Barr confirmed that all members had reviewed letters and pictures submitted

Templin addressed the ZBA with his case, concerns and proposal

Barr asked for public comment in support of the variance - there was none

Barr asked for public comment opposing the variance -

William Laakko, a neighbor spoke in opposition to the variance

Mrs. William Laakko, a neighbor spoke in opposition to the variance

Barr asked for other comments and there were none

Barr asked for rebuttal

Templin addressed the ZBA again restating his case

Motion by Sumerix to go into deliberation

Motion seconded by Jakubiak

Roll Call vote taken YES 5/0 passed

ZBA members discussed the case and asked questions of Templin and found:

#1 The structure as proposed was not entirely in the setback; and as it was built is only 5% in compliance. 95% of structure is inside the setback and non-conforming.

#2 Templin did not build the structure requested in approved permit.

#3 The structure has 110 power and no electrical permit was issued.

#4 The dune was diminished to accomplish the plans of the applicant

#5 The applicant continued construction after a cease and desist order was served to him

Motion by Cole to accept the aforementioned as findings of fact

Motion seconded by Bretz

Roll Call vote YES 5/0 Passed

Barr offered Templin another opportunity to speak

Templin stated he was unaware that his structure was illegal

Barr and the ZBA board reviewed the 4 criteria as outlined in section 4 of the zoning ordinance in granting a variance and found this appeal met none of the criteria

Roll call vote was taken after Barr read each point individually

#1 Roll Call vote NO 5/0 - failed

#2 Roll Call vote NO 5/0 - failed

#3 Roll Call vote NO 5/0 - failed

#4 Roll Call vote NO 5/0 - failed

Motion by Cook to reject variance 2018-03 and go out of deliberation

Motion seconded by Bretz

Roll call vote taken 5/0 passed in denying variance

Barr explained to Templin that a letter with tonight’s outcome will be sent.

Barr announced next appeal

Appeal $2018-04 Livingstone 1697 NWTL Drive - Kewadin

Graber summarized Livingstone’s request to allow a land division that would result in a non-conformity to zoning. The parcel to the north would be split off leaving a boathouse on the original split that would encroach the new setback by 10 feet.

Barr read a letter submitted to the township from David Livingstone in support of the variance

Livingstone presented his case to the ZBA; his intention being to sell 100’ of Torch Lake frontage, which when split would leave a non-conforming boathouse building on the original parcel that would encroach upon the new lot setbacks by 10 feet and does not wish to remove the boathouse

Barr asked for public comment in support

Don Fedrigon - Williamsburg resident; realtor to appellant spoke in support of the variance, noting that with current 50’ from water setbacks in the township, this boathouse would never sit next to another structure.

Barr asked for more public comment in support or opposition and there was none

Motion by Jakubiak to go into deliberation

Motion seconded by Bretz

Roll Call vote taken YES 5/0 Passed

ZBA discussed the appeal and asked questions of Livingston

ZBA deliberated and found:

#1 1697 NW TL Drive is parcel number #05-14-007-022-41 is owned by the Livingston family.

#2 The boathouse is a nonconforming structure and is in the setback of proposed property line.

#3 The boathouse is not a mobile structure

Motion by Cole to accept the aforementioned as findings of fact

Motion seconded by Bretz

Roll Call vote YES 5/0 Passed

Barr and the ZBA board reviewed the 4 criteria as outlined in section 4 of the zoning ordinance in granting a variance and found this appeal meet all four criteria

Roll call vote was taken after Barr read each point individually

#1. Roll Call vote YES 4/1 Passed (Jakubiak NO)

#2 Roll Call vote YES 4/1 Passed (Sumerix NO)

#3 Roll Call vote YES 5/0 Passed

#4 Roll Call vote YES 5/0 Passed

Motion by Cole to accept criteria and grant variance

Motion seconded by Barr

Roll Call vote YES 5/0 Passed

Barr instructed applicant of decision and letter to be mailed

Motion by Cole to go out of deliberation and continue on with agenda

Motion seconded by Barr

Roll Call vote YES 5/0 Passed

**10. Report from TWP supervisor**

None give

**11. Report from PC liaison Norton Bretz**

Master plan draft is complete, next step public hearings then PC approval

**12. Zoning Administrator’s Report - Deb Graber**

Graber distributed “land use permits” list and discussed permits to date

Graber distributed “checklist for May 2018” and discussed new permit applications, zoning violations, complaints, status of on-going projects, status of violations, pending appeals, heard appeals and upcoming appeals.

**13. MISC**

Steven Langworthy’s *ABC’s of ZBA* will be a training seminar held from 6-9pm on October 4, 2018 at TLT for all PC and ZBA members

**14 PUBLIC COMMENTS**

Barr asked for comments from the public

Tom Petersen 12232 Hjelte Road - Kewadin addressed the ZBA

He asked how much money the township spent in total on the Bucklew / Laidlaw issue - how much did it cost the township. As a taxpayer he is entitled to know. The ZBA did not know the amount and instructed Petersen to address the township supervisor or treasurer.

**15. Adjournment**

Motion by Cole to adjourn

Motion seconded by Bretz

Roll Call Vote taken YES 5/0 Passed