TORCH LAKE TOWNSHIP

ANTRIM COUNTY, MICHIGAN

Community Service Building

Zoning Board Meeting

APPROVED Minutes WITH CORRECTIONS 5-0

April 10, 2019

**Present:** Chairman: Dave Barr Members: Cole Shoemaker, Bob Cook, Mark Jakubiak

**Alternates:** Jim Meinke, Jim Gainey

**Absent:** Greg Sumerix

**Others:** Deb Graber - Zoning Administrator

**Recording Secretary:** Jacqueline Petersen

**Audience**: Paul Landry

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

Meeting called to order at 7:02 pm by Dave Barr

Roll call conducted by Barr

**3. Approval of Agenda;**

Motion by Jakubiak to approve the agenda; seconded by Barr, Barr called for further discussion and roll call vote; 5/0 motion carried

**4. Approval of last ZBA Draft Meeting Minutes (January 9, 2019)**

**Corrections:** Items #8 and #9; Guidelines - Appeal application and Notice of Appeal Form respectively will not and do not require PC approval and will not sent to the PC.

Motion by Jakubiak to approve the draft meeting minutes with corrections; seconded by Cook, Barr called for further discussion and roll call vote; 5/0 motion carried

**5. Conflict of interest to agenda items**

Barr polled all ZBA members asking if any conflict of interest and or recusal issues existed and there were none stated.

**6. Communications Received *not* regarding variance appeal #2019-1**

Barr asked Cook if any communications had been received and there were none

**7. Public Comment**

Barr called for public comment and none was given

**8. Discussion of Appeal #2019-1 at 2332 Birchview Drive seeking a setback variance to construct a 60’x2’x30” above ground retaining wall that would be in the setback on the south side of the property encroaching on the setback by 8’.**

Barr gave instructions and reviewed the rules of procedure for the variance request hearing. Graber read variance request #2019-1 and summarized the project scope and request.

Barr asked for any township officials’ comments and none were given

Barr called on Cook to read any correspondences received. Cook read two letters received.

\*Kathy Belden 2328 Birchview Drive (Immediate neighbor to the parcel in request.) letter dated 3-22-19 via email to the TLT Zoning Administrator in favor of granting the variance.

\*David and Frances Wosek, 2336 Birchview Drive (Immediate neighbor to the parcel in request.) letter dated 4-3-19 via email to the TLT Zoning Administrator in favor of granting the variance.

Barr called on the applicant Paul Landry to speak.

Landry explained the layout of the lot and the need for drainage and rainwater containment. He explained how the wall will prevent water from going to area where house will be constructed. He explained the wall system and French drain feature designed by an engineering firm in Traverse City. He stated good design, good materials and good workmanship will be used to achieve a successful plan and result. His application includes several site plans, elevation views and drawings which he referred to as he explained the wall would be 2” above ground and will look” natural and like other landscape and decorative features (ledgestone)” he plans to use in the building of his home. Barr asked the zba members to ask Landry any questions. Landry responded with the following answers

\* How far into the setback will the wall be?

Landry: 2’ from the property line makes the wall 8’ into the setback

\* Is the elevation the same as the house to the north?

No. The home floor will be 2’ above the existing driveway elevation. The driveway will be graded and some of the south side will be brought down

\* Where does the French drain daylight?

Landry: It daylights to a cliff and drains to the beach below; Soil erosion permits have been obtained from the county and the DEQ. He explained the “swale” as type of “gutter” system to catch water coming out of the hill. If no retaining wall is built and the house is built up to the floor level being acceptable to the civil engineers, then the water would go to the lot to the north, which has an existing home. The wall also acts for stability to the hill. If there was a way to build the house without the wall, he totally would. But he does not want to build a home and then deal with flooding if and when it happens.

Barr asked for any further ZBA member comments or questions and there were none

Barr asked for public comment in favor of granting the variance and there was none

Barr asked for public comment opposed to granting the variance and there was none

Barr asked Landry if there was anything further and Landry stated there was not

Barr asked for any comments or questions from anyone else and there were none

Meinke made a motion to close the public hearing and go to deliberation; Jakubiak seconded the motion, Barr asked for any further discussion and roll call vote 5/0 Motion carried.

Barr explained rules and procedure of the ZBA deliberation process and the deliberations ensued resulting in the following findings of fact.

1. This is a legal, non-conforming lot, which limits the houses’ location.

Motion by Barr to accept as a finding of fact; seconded by Shoemaker, Barr called for further discussion and roll call vote passing 5/0.

2. The retaining wall will help support the integrity and grade of the south side

Motion by Barr to accept as a finding of fact; seconded by Shoemaker, Barr called for further discussion and roll call vote passing 5/0.

3. Actions related to the digging and disturbing of existing ground foundation could create unknown consequences to the south neighbor.

Motion by Cook to accept as a finding of fact; seconded by Jakubiak, Barr called for further discussion and roll call vote passing 5/0.

4. The variance request is for a 60’ long retaining wall, 8’ into the setback on the south side, 42” in the center tapering to 30” on the ends and 2’ in width.

Motion by Barr to accept as a finding of fact; seconded by Shoemaker, Barr called for further discussion and roll call vote passing 5/0.

5. Drainage field requires a drainage pipe emptying over a sand bluff; requiring erosion protection to prevent damage to the bluff

Motion by Cook to accept as a finding of fact; seconded by Barr, Barr called for further discussion and roll call vote passing 4/1. (Barr: No)

6. This parcel is not located in a critical dune, wetland or high-risk erosion area. No critical dune, wetlands or high-risk erosion areas are located or assigned on this property.

Motion by Shoemaker to accept as a finding of fact; seconded by Meinke, Barr called for further discussion and roll call vote passing 5/0.

7. The property owner has obtained the necessary permits from Antrim County DEQ and Soil Erosion.

Motion by Cook to accept as a finding of fact; seconded by Barr, Barr called for further discussion and roll call vote passing 5/0.

Barr called for any further findings of fact and there were no more offered

Barr motioned to go out of deliberation and back to open public hearing; Jakubiak seconded the motion, Barr called for further discussion and roll call vote passing 5/0.

Barr asked Landry for further comment = Landry stated he has paid professionals to engineer this feature and has 100% confidence it will work and he has hired professionals.

Barr asked Cook to read the 4 criteria needed to grant a variation from article VII “Variances”

Cook Read #1A regarding existence of special conditions

Barr called for discussion, discussion ensued and a roll call vote was taken; passing 5/0

Cook Read #1B regarding denied property rights commonly enjoyed by others

Barr called for discussion. discussion ensued and a roll call vote was taken; passing 3/2 (Cook and Jakubiak = No) (Barr, Meinke and Shoemaker=Yes)

Cook Read #1C the special conditions were NOT created by the applicant (Yes vote meaning special conditions were NOT created by the applicant)

Barr called for discussion, discussion ensued and a roll call vote was taken; passing 3/2 (Cook and Jakubiak = No) (Barr, Meinke and Shoemaker=Yes)

Cook Read #1D regarding the authorizing of the variance will not be of substantial detriment to the zoning ordinance.

Barr called for discussion. Discussion ensued and a roll call vote was taken; passing 4/1 (Cook= No) (Barr, Meinke, Jakubiak and Shoemaker=Yes)

Motion by Barr that applicant has met items 1,2,3& 4 of the Variance Appeal #2019-01 and is approved was seconded by Meinke and passed 5-0 roll call vote. This will be followed up with a letter from the township.

**9. Report on Matters of Interest to the ZBA from the PC**

Shoemaker referred to letter of approval from Antrim County addressed to Graber dated IN ERROR (to be corrected) regarding the submission of changes to Chapter VI Agriculture Section 6.03 adding “Private Events” to Special Uses, adding Chapter X “VB” Village Business & “VR” Village Residential Zone Section 10.03 Special Uses - adding “P. Outdoor Events”, and adding Chapter XXIII Definitions “Outdoor Events” and revisions to Chapter 20 - This now goes to the TLT board for review.

**12. Report from Zoning Administrator**

Graber distributed an updated *Checklist for March 2019* and TLT 2019 Land Use Permits spreadsheet. No civil infractions in past 30 days issued, Blight issues are resolving. Approvals on all items sent to Antrim County have been received. (Chapter 20 ZBA, Chapter 6 AG Events, Village business and village residential outdoor events and a definition for outdoor events.) A letter from the county will be rewritten to this affect correcting clerical errors on the County’s first approval letter. Violations, complaints, on-going permit status, and current zoning applications were summarized. The Templin case will mediate again on 4-29-19

**13. Miscellaneous Administrative Matters**

Graber and Cook updated the group as to the status of the Templin matter. The Templin case will mediate again on 4-29-19 and will hopefully result in the matter being resolved.

MTA training is available on 5-16-19, from 4-8pm in Grayling. The program is called *Intro to Planning and Zoning.* Deadline for sign up is 5-2-19 to receive special pricing (other dates are available in other locations) See Barr if interested.

**14. Summary of Action Items to be taken on or before the next ZBA Meeting May 8, 2019**

No appeals or variances are on docket for May 8 meeting; however, the meeting will be held as scheduled. Recording secretary to be Deb Graber.

**15. Comments / Concerns of the public**

Barr called for, and none were offered

**16. Adjournment**

With nothing further, a motion was made by Cook to adjourn, the motion was seconded by Meinke, Barr called for further comment and vote; passing 5/0. The meeting was adjourned at 9:14pm