TORCH LAKE TOWNSHIP

ANTRIM COUNTY, MICHIGAN

Community Service Building

Zoning Board Meeting

APPROVED Minutes WITH CORRECTIONS 5-0

September 11, 2019

**Present:** Chairman: Dave Barr Members: Cole Shoemaker, Bob Cook, Mark Jakubiak, Jim Meinke (alternate for Sumerix)

**Alternates:**  Jim Gainey

**Absent:** Greg Sumerix

**Others:** Deb Graber - Zoning Administrator

**Recording Secretary:** Jacqueline Petersen

**Audience**: 3

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

Meeting called to order at 7:00 pm by Dave Barr

Roll call conducted by Barr

**3. Approval of Agenda;**

Barr stated item 11 is cancelled.

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

**4. Approval of last ZBA Draft Meeting Minutes (July 10, 2019)**

Corrections:

#3 vote was 5/0 not 6/0

#4 vote was 5/0 not 6/0

Motion by Barr to approve the draft meeting minutes from July 19, 2019 with corrections; seconded by Jakubiak, Barr called for further discussion and 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**

Barr stated none was received

**7. Public Comment**

Barr called for public comment and none was given

**8. Discussion of Appeal #2019-3 at Pineridge Trail, Kewadin Parcel #05-14-324-053-50**

Applicant is seeking a rear yard set back variance from 35’ to 13’5”

Barr explained the rules and procedure to the applicants and the group

Graber summarized the Rapin’s (applicant’s) request and proposed site plan for the ZBA.

Barr asked for township officials comments and any correspondences received at the township and there were none.

Patrick and Donna Rapin 12304 Pineridge Trail. P. Rapin summarized the history of their occupancy on the parcel and the scope of the project and request.

ZBA members asked questions of the Rapins

Cook asked the applicants if the area proposed was buildable - yes. Cook stated that it IS buildable but the garage proposed is bigger than the area allows. Rapins stated they knew they could build a garage but did not realize there was a 35’ setback. Shoemaker asked what the size of the allowed building area is currently. Garage would only be 15’ deep, but could be built longer. Barr called for any further questions for the Rapins from the ZBA and there was none. Barr called for any public comment in support of granting the variance. Geraldine Knoechel spoke in favor of granting the variance. Barr called for any public comment opposing the granting of the variance and there were none. Barr asked Rapins for further comment. Cook made a motion to go into closed session, motion was seconded by Jakubiak, Barr called for further discussion and vote; passing 5/0.

The ZBA members asked questions of the Zoning Administrator and Rapins. The ZBA deliberated the facts resulting in the following findings of fact:

1. Electrical and road easements restrict the size of the building to 15’X53’ without the granting of the variance. Barr made a motion to accept #1 as a finding of fact, Cook seconded the motion, Barr called for further discussion and conducted roll call vote; passing 5/0
2. Rapins were unaware of the 35’ setback from the rear property line at the time of purchasing the property. Cook made a motion to accept #2 as a finding of fact, Barr seconded the motion, Barr called for further discussion and conducted roll call vote; passing 5/0
3. Building of the garage will not interfere with the view of the house to the northwest. Cook made a motion to accept #3 as a finding of fact, Barr seconded the motion, Barr called for further discussion and conducted roll call vote; passing 5/0
4. There were no objections to this project by the neighbors. Motion by Cook to accept #4 as a finding of fact, motion seconded by Barr, Barr called for further discussion and conducted a roll call vote; passing 5/0.

Cook made a motion to go back into open session. Motion was seconded by Barr who called for further discussion and conducted a roll call vote; passing 5/0.

Barr asked Rapins for further comment

Barr read the four criteria and called for discussion.

The members of the ZBA discussed the application as it applies to Section 20.06 of the zoning ordinance.

1. That special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to most other lands, structures of buildings in the same zoning district.

Barr called for discussion. Cook asked to identify the peculiar condition or circumstance. Barr stated the easement for the road and the electrical is the peculiar circumstance for this property. (66 foot easement). Barr made a motion that the criteria for A. has been met; motion was seconded by Shoemaker. Barr called for further discussion and conducted roll call vote: Shoemaker NO, Meinke Yes, Barr Yes, Cook No, Jakubiak No; FAILED 2/3

1. That literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zoning district.

Cook moved to accept B as not met; seconded by Barr. Barr called for discussion and roll call vote. Shoemaker NO, Meinke Yes, Barr Yes, Cook No, Jakubiak No; FAILED 2/3

1. That the special conditions or circumstances do not result from the actions of the applicant.

Barr moved to accept C as met; seconded by Meinke. Barr called for discussion and roll call vote. Shoemaker-yes Meinke-yes, Barr - yes, Cook-yes, Jakubiak-yes; PASSED 5/0

1. That the authorizing of the variance will not be of substantial detriment to the neighboring property and will not be contrary to the spirit and purpose of this Zoning Ordinance.

Cook moved to accept D as met; seconded by Meinke. Barr called for discussion and a roll call vote. Shoemaker-Yes, Meinke - Yes, Barr-Yes, Cook-Yes, Jakubiak-Yes; PASSED 5/0

Barr summarized the results of the discussion

Items A & B Failed ⅔

Items C & D Passed 5/0

Cook made a motion **to deny** the variance, Barr seconded the motion and called for further discussion and conducted a roll call vote. Shoemaker YES, Cook YES, Jakubiak YES, Meinke NO, Barr NO Motion Carried 3/2 to DENY the Variance.

Barr instructed the applicants that the decision was made to deny the variance and a letter would be sent from the township in the mail.

The applicants expressed their disappointment and thanked the ZBA for their time.

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

Shoemaker summarized current happenings of the Planning Commission

**10. Report from Zoning Administrator**

Graber distributed an updated *Checklist for August 2019* and TLT 2019 Land Use Permits spreadsheet through Permit #2019-45, Land Division App # IDA2019-3 and ZBA Appeals ZBA 2019-4. Violations, civil infractions, enforcement, court cases, pending court cases, complaints, on-going permit status, and current zoning applications were summarized.

**10. Miscellaneous Administrative Matters**

Barr reviewed the financial revenue and expenditure report with the ZBA.

Barr distributed next month’s agenda and pending appeal copies to all members.

Next meeting is October 9, 2019

**11. Summary of Action items to be taken on or before the next ZBA meeting**

Barr stated ZBA members should review the appeal information he distributed as well as visit the site.

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

Barr called for comments from the public and there were none.

**13. Adjournment**

With nothing further, a motion was made by Barr to adjourn, the motion was seconded by Jakubiak, Barr called for further comment and vote; passing 5/0. The meeting was adjourned at 9:10 pm