TORCH LAKE TOWNSHIP

ANTRIM COUNTY, MICHIGAN

Community Service Building

Zoning Board Meeting

APPROVED Minutes 5-0 WITH CORRECTIONS

July 8, 2020

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

**Alternates:**  Jim Meinke, Jim Gainey

**Absent:** Greg Sumerix

**Others:** Deb Graber - Zoning Administrator, Todd Millar - Township Atty

**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;**

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

**4. Approval of last ZBA Draft Meeting Minutes (June 10, 2020)**

5 Changes; 1) item 5 change “Shoemaker also stated his position” to “Cook stated Shoemaker’s position”

2) Item 5 change “the commissioners” to “members”. 3) add “public” to Barr called for further comment. 4) 9 lines up from bottom of pg. 2 Cook asked how many structures he had, add “King stated” he had 4 in TLT etc. 5) add Petersen to item 11 to draft letter to the board.

Motion by Barr to approve draft meeting minutes from the June 10, 2020 ZBA meeting with 5 changes; motion seconded by Shoemaker. 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 conflicts existed and none were given.

**6. Communications Received not pertaining to current interpretation request**

Barr called for communications received not pertaining to current variance request and none was given.

**7. Public Comment not pertaining to current interpretation request**

Barr called for public comment and none was given

**8. Discussion of #2020-3 for Zoning Ordinance Interpretations of the following:**

Barr outlined the procedure for ZBA interpretation proceedings at 7:24pm and began the public comment portion of the interpretation. Barr stated THAT MR. SPENCER DELIVERED MORE INFORMATION FOR HIS INTERPRETATION REQUEST ON 7-7-20. THIS DOES NOT MEET THE 30 DAY IN ADVANCE REQUIREMENT OF THE ZBA SO THAT MEMBERS HAVE TIME TO REVIEW. Jakubiak made a motion not to add the document submitted 7-7-20; motion seconded by Meinke. Barr called for comment and conducted a roll call vote 5/0 motion carried. Barr called for interpretation requestor, Bob Spencer to speak. Spencer spoke to the board. Spencer distributed his thoughts on paper to the board and are included in the meeting minutes. Spencer read his document. His main goal is that he believes the ZBA has the zoning ordinance currently in effect that will allow its members to find that the Township has jurisdiction over construction in and on the bottomlands of lake beds. He requested the ZBA interpret the definition of “structure” from Chapter 23 as it pertains to rock walls, as he feels these are “structures” and should be held to the same zoning requirements and standards.

Scott Howard, atty for Spencer spoke to the group. He outlined 2 cornerstone pieces. 1 is the interpretation of structure - does it apply to rock walls and all sections therein? Howard stated this Township does have the right to regulate things on the bottom of the lake. 2. Does Township have jurisdiction over shorelines and bottom of the lake. He states it is clear the rock walls are structures and the Township has jurisdiction over them.

Barr called for public comments and none were given.

Barr asked Millar for comment. Millar stated ZBA responsibility and cautioned not to DO the job of the Planning Commission and to stick to the interpretive task at hand. He stated IF a rock wall is NOT a structure, there is no prohibition. If it is a structure and not exempted, it is not allowed.

Barr called for final comments before ZBA deliberation. Howard spoke regarding structures and read the Zoning Ordinance regarding walkways and fences being structures by definition, due to their attachment to the ground, and argued rock walls are structures as EGLE and Soil Erosion defines them as such, WHETHER or not they are exempt is not for today. Graber stated she felt rock walls are not secured with cement or glue, they are just boulders placed to protect. They are stacked stones and not a structure. To determine, she looks for footers, rebar, cement or any other man-made connective materials. Spencer commented that term “sea wall” is used in permits with Antrim Soil Conservation. Jakubiak clarified that the definitions for “structure” Spencer and Howard were those of other sources and not that of the TLT Zoning Ordinance and not part of this meeting’s request for interpretation. More discussion followed from Spencer, Graber, Howard and Barr regarding past ZBA proceedings, terms like rip rap, sea wall, attachment and mobility. Spencer stated the conversation was not intended to be anti-sea wall, rather Pro township regulation residents to seek variance. Barr called for further comment and read letters received. Letter from B. Laidlaw (township resident). Laidlaw wrote in support of considering sea walls as structures and their subsequent subjectivity to lake setbacks and be allowed by variance only. Jakubiak read letter from Alan Martel. Martel’s wrote in support of a sea wall construction without the need of a township zoning permit/variance. He states rock walls should NOT be considered structures and should not be subject to setback guidelines as long as they are not cemented or footed into the ground.

Barr called for further comment and there was none. Barr made a motion to close the public portion of the meeting, seconded by Jakubiak, Barr called for final comment and vote 5/0 motion carried. 8:18pm

Barr began ZBA member deliberations. Members deliberated landscape, stones placed for erosion and shoreline protection, sea walls, break walls and structures and how these terms were used. The members agreed that EGLE and Antrim County Soil Erosion r handle the permitting of such things, also how the township has supported this over the years, and to require a variance might be redundant. Members discussed the issue of TLT’s zoning ordinance Chapter 23 Definition - Structure, and arguments were presented on both sides of this issue. Members also discussed if there was a need for the issue to go to the Planning Commission to amend the ordinance. Barr asked Millar for comment. Millar stated for the ZBA to go back to the interpretation request procedure. He posed does sea wall/rip rap mean structure? ZBA’s job is to discern, determine, employ and enforce those provisions through interpretation guidance, and to stick to the task at hand.

Barr asked for member comment

Cook made a motion that the ZBA directs the Zoning Administrator to require a variance for any shoreline activity request where significant equipment/activity to build be put in place. Barr called for a second to the motion and there was none. Barr asked ZBA members to determine if rocks for shoreline stabilization and landscaping were a structure or not.

Barr made a motion; Unencumbered rocks, boulders or any kind of rip rap placed for shoreline stabilization or landscape (without the use of rebar, cement or any other substance that secures rocks from moving) is NOT a structure in accordance with TLT Zoning ordinance chapter 23; definition of a structure. Motion was seconded by Meinke. Barr called for further comment and roll call vote. Barr: Yes Jakubiak: Yes Meinke: Yes Cook; No Shoemaker: No. Motion carried 3/2. Barr called for 10-minute recess

Barr reconvened meeting 10 minutes later.

Howard spoke and stated based on the late hour and the determination of rock walls NOT being structures, he and Spencer felt further interpretations were not necessary. Barr stated a letter would be drafted to Spencer summarizing the night’s proceedings.

**9. Report from Planning Commission - Cole Shoemaker**

Shoemaker reported no Planning Commission meetings have taken place since the last update.

**10. Report from the Zoning Administrator**

Graber distributed an updated *Checklist for June 2020* and TLT 2020 Land Use Permits spreadsheet through Permit #2020-29, and ZBA Appeals ZBA 2020-3. on-going permit status, and current zoning applications were summarized as well. Petersen 31 has new owner; Airport has new owners.

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

Barr informed members of the proposed changes to the zoning ordinance with regards to Agricultural Land and Worker Housing and distributed a draft of the changes proposed. Cook stated the next step is to take to the TLT board but Petersen could bring to the next PC meeting as a preemptive look.

Next Meeting August 12, 2020

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

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

**15. 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 9:44pm