TORCH LAKE TOWNSHIP

ANTRIM COUNTY, MICHIGAN

Community Service Building

Zoning Board Meeting

APPROVED Minutes 6-0 WITH CORRECTIONS

June 12, 2019

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

**Alternates:** Jim Meinke, Jim Gainey

**Absent:**

**Others:** Deb Graber - Zoning Administrator

**Recording Secretary:** Jacqueline Petersen

**Audience**: 6

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

**4. Approval of last ZBA Draft Meeting Minutes (May 8, 2019)**

Motion by Cook to approve the draft meeting minutes from May 8, 2019; seconded by Cole Shoemaker , 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**

Barr called for communications received and there were none

**7. Public Comment**

Barr called for public comment and none was given

**8. Discussion of Appeal #2019-2 at Lots 1 to 4 Block 3 Bay View Beach Subdivision, San Marino Trail - seeking a rear yard setback variance from 35’ to 16’**

Graber summarized the variance request. Barr explained the rules and procedures for variance requests. Barr called for comments in favor of the request. Ryan Hill DLH Builders - builder for applicant spoke. He stated the project is located in a critical dune and wetland area resulting in an additional 50’ push back of the setback derived from Bayview Drive. Bayview Drive traverses this property and is an abandoned, not vacated road from which the setbacks are derived/established. DEQ permit is pending - DEQ wants land use permit but is holding off due to variance request. He sees no issues from DEQ in obtaining the permit. He has obtained the Soil erosion permit. Septic approval is ready to go, they are not drilling under a road; all pipe and trench. Hill explained the difference between abandoned and vacated as it relates to Bayview Drive. Abandoned means the road is no longer used but still shows as a road on the county roster. Vacated means the formal process has occurred to remove the road existence both physically (by abandonment agreement with all affected landowners) and from the books as a county owned road. Hill explained that during the purchase of the land in 2018 the prospective buyers (and now current land owners) were informed by their real estate agent that the critical dunes and wetlands would not affect setbacks. This turned out not to be true and the landowner was unaware this information was false until after purchasing the land and beginning this project. Barr called for questions from the zba. Members asked questions regarding critical dune, wetlands and DEQ. - All answers were part of the above information. Barr asked for any comments from the public. Charlene Handelman 1701 San Marino Trail (neighbor of applicant) spoke of concerns regarding drainage toward her property. She is concerned with the applicant being aware of the challenges to building on his property, drainage and location of construction equipment. Barr asked for rebuttal and or comments from the applicant. Hill stated that drainage is a huge concern for the landowner, as is good solid access in and out. He reviewed the drainage plan and showed Handelman where the drain tile will be placed and where water will be diverted. He also stated that this will be overseen by Antrim County Soil Erosion and guarantees it to be a huge improvement for both properties from where it is now. Upon project completion Hill said the road and access will be restored. Barr called for any further comments from ZBA members or public and nothing further was offered. Motion made by Barr to close the public hearing and go into deliberation; motion seconded by Cook; Barr called for any further discussion and conducted a roll call vote; passing 5/0

Barr began deliberations by asking members for their comments. The members deliberated and discussed the project and assembled the following findings of fact.

Sumerix made a motion to add the following as a “finding of fact”; motion was seconded by Barr. Barr called for further discussion and roll call vote; passing 5/0

* The critical dune and high-risk erosion restrict the home’s location

Cook made a motion to add the following as a “finding of fact”; motion was seconded by Barr. Barr called for further discussion and roll call vote; passing 5/0

* Purchase of property was completed in October 2018 with all conditions existing for the property at the time of purchase as exist today

Barr made a motion to add the following as a “finding of fact”; motion was seconded by Sumerix. Barr called for further discussion and roll call vote; passing 5/0

* The easement for the road through the property is not in use.

Barr made a motion to add the following as a “finding of fact”; motion was seconded by Sumerix. Barr called for further discussion and roll call vote; passing 5/0

* No attempts to vacate the road have been made since purchased

Jakubiak made a motion to add the following as a “finding of fact”; motion was seconded by Barr. Barr called for further discussion and roll call vote; passing 5/0

* Proposed home (variance requested) will encroach on the rear setback area in multiple locations outlined in drawing provided

Cook made a motion to add the following as a “finding of fact”; motion was seconded by Barr. Barr called for further discussion and roll call vote; passing 5/0

* A concern was expressed by neighboring landowner to the north regarding risk of adverse drainage to their property resulting from the construction of the house.

Barr made a motion to add the following as a “finding of fact”; motion was seconded by Cook. Barr called for further discussion and roll call vote; passing 5/0

* MI DEQ permit at this time is pending

Barr called for any further findings of fact and or comments from the ZBA and there were none.

Barr made a motion to go out of deliberations; motion was seconded by Jakubiak; Barr called for final comments and a vote 5/0 motion carried.

Barr instructed the ZBA to go through the four criteria to consider a variance as outlined in Chapter 20; section 6 items A-D of the zoning ordinance.

Barr read item A

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 or buildings in the same zoning district.

Barr called for discussion, members discussed, Barr called for and conducted a roll call vote. All members voted YES; passing 5/0

Barr read item B

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

Barr called for discussion, members discussed, Barr called for and conducted a roll call vote; passing 3/2(Jakubiak and Cook NO)

Barr read item C

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

Barr called for discussion, members discussed, Barr called for and conducted a roll call vote; passing 4/1 (Cook No)

Barr read item D

That the authorizing of the variance will not be of a substantial detriment to the neighboring property and will not be contrary to the spirit and purpose of this zoning ordinance.

Barr called for discussion, members discussed, Barr called for and conducted a roll call vote; passing 4/1 (Cook No)

Motion by Barr to approve the variance; seconded by Jakubiak; Roll call vote conducted by Barr; passing 5/0

Barr announced that the variance had been approved and applicants would receive written notification in the mail.

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

Shoemaker reported that the planning commission has voted to ask the board to end the moratorium on short term rentals and has decided to leave the process of special use permitting as is to hear requests on an individual case by case method. Shoemaker updated zba of the special use permit approval for outdoor events at 31 Scoops and of the site plan review that occurred regarding the John E Greene Company Plumbing and mechanical contractor’s showroom, offices and storage facility on US 31N.

**10 Report from Zoning Administrator**

Graber distributed an updated *Checklist for May 2019* and TLT 2019 Land Use Permits spreadsheet. A civil infraction was served on Hjelte road in the two dwelling / one lot situation, the homeowner has failed to respond or correct and the matter is now in the court’s hands. A Civil Infraction has also been served on Arrowhead Court for the dismantled RV’s, chickens etc. Court date 6/26/19 at 1pm. A Civil Infraction was served for short term rental violation on NW TL Drive resulting in signed order of intent to cease activity. Other violations, complaints, on-going permit status, and current zoning applications were summarized. Graber also stated that fees collected to date for land divisions, permits and appeals is more than the entire year last year. Graber also reported that the Michigan DEQ has changed names and is now “EGLE” Environment, Great Lakes and Energy

**11. Miscellaneous Administrative Matters**

Bob Cook wishes to step down as ZBA Secretary - maintaining his position on the board, however relinquishing his responsibilities as secretary to the ZBA. Barr and Cook discussed possible replacement / re allocation of duties. Barr stated that the bylaws of the ZBA may need revision to accommodate the re allocation and will be addressed at the next ZBA meeting; but the request of Cook would be granted.

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

Graber reported no appeals or variance requests were received and there will be none to discuss at next month’s meeting July 10, 2019.

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

Barr called for, and none were offered

**14. Adjournment**

With nothing further, a motion was made by Barr to adjourn, the motion was seconded by Sumerix, Barr called for further comment and vote; passing 5/0. The meeting was adjourned at 10:00 pm