TORCH LAKE TOWNSHIP

ANTRIM COUNTY, MICHIGAN

Community Service Building

Zoning Board Meeting

Draft Minutes

November 11, 2020

**Present:** Chairman: Dave Barr; Members: Cole Shoemaker, Jim Gainey, Jim Meinke

**Alternates:** Laura Andersen in for Jakubiak

**Absent:** Marsha Petersen, Mark Jakubiak

**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.

Barr welcomed new members, thanked Sumerix and Cook for service and stated Meinke and Gainey are now members and Petersen and Andersen are alternates.

**3. Approval of Agenda**

Parcel number was corrected by Graber adding “14” after 05 and changing section 7.03 to section 8.03. Motion by Barr to approve the agenda with changes; seconded by Gainey, Barr called for further discussion and vote 5/0 motion carried

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

Barr polled ZBA members asking if any conflicts of interest existed and there were none.

**5. Summarization of the procedure and rules**

Barr summarized the rules and procedures of the appeal for variance

**6. Open Public Hearing for Appeal ZBA2020-5 Booth**

1. **Variance appeal of section 8.03 Height, area and lot line setback restrictions of platted and unplatted lots. Appeal #2020-5 located at 4175 Neoma Trail, Kewadin, Michigan, Parcel #05-14-515-049-60 appealing for a Zoning Ordinance Variance to add a 6x16 enclosed entry on the east side of the house. The variance is required because the addition will encroach on the rear setback.**
2. Barr read aloud correspondences received

Gott, 4267 Michigan Trail wrote in support of granting variance

Graber summarized the variance request

Vermeer of Lake Living Services (for the applicant Booth) spoke to the board. He stated a setback variance was needed to extend 6’ closer to Neoma Trail. His proposed addition would measure 26’ from the edge of the current house to the edge of Neoma. He stated he wishes to replace the current structure with a covered porch and steps that would not encroach any further than it currently is. Barr clarified that with the width of the overhang that the proposed addition would indeed extend 7’, not 6’ (from the drip line) and Vermeer concurred that from the house itself the overhang would extend 7’ into the setback. Barr stated the drawing shows 2’ to the lot line and at his visit he measured from the center of Neoma (20’ to the edge where the stakes are. Vermeer stated that the house currently sits directly on the set back. Barr stated that a granted variance is an exact number of feet not to be exceeded. Barr measured from the SE counter at 36’ and questioned that at 20’ Vermeer was encroaching 15’ - he asked Vermeer again to affirm that the number of feet in request was 7’. Vermeer asked if the board knew who placed the stakes and it did not. Graber stated it should have been staked by the applicant for this meeting and she had gone off the measurements on the drawing. Meinke stated he felt the stakes were surveyor stakes and had gotten the same measurements as Barr. Barr stated the stakes appeared to be survey stakes. Graber stated the stakes were there on 10/12/20 and Vermeer stated they were there at the time the drawing was made. Barr asked Vermeer if the landowner had conducted a survey and Vermeer did not know. Who placed the stakes and when was not resolved. Vermeer stated there was 20’ from the center of Neoma to the edge. Meinke stated that the road meanders and to be sure, a survey was needed. Barr stated it was not accurate to measure from the center of the road and we as a board need to know exactly how far into the setback he is requesting. Barr stated he guessed the home was built right on the set back. Andersen stated a survey was needed. Graber stated there was no remedy to the house being built on the set back. Vermeer asked if the board was able to proceed with a decision. Graber stated that three of four corners were staked and she was ok with that. Barr stated he was certain the stakes were survey stakes. Vermeer stated he was unsure exactly where the septic is but it is on the north side. Barr stated that even though the mailing address is Michigan Trail, the driveway is off Neoma. Barr asked again to clarify the variance was for 7’ into the setback. Vermeer stated 7’ was plenty. Barr stated he cannot exceed 7’ if approved and for future reference he needed to have guidelines of appeal and the site plan completely filled out. Barr asked Vermeer when the home was built and he stated 2002. Vermeer stated he had nothing further.

1. **Public Comment**

Barr asked if there were any further comments for or against and there were none.

**7. Close Public Hearing**

Meinke made a motion to go to closed session deliberations, motion seconded by Gainey, Barr called for further discussion and roll call vote passing 5/0.

**8. Discussion of Variance Appeal 2020-5 Booth**

The board reviewed and deliberated the variance request.

Finding of Facts:

1. Due to limitations of critical dune areas, the home was set at the furthest point from the dune which made it be placed directly on the rear setback.

Meinke made a motion to accept the above as a finding of fact, motion seconded by Barr. Barr called for further discussion and roll call vote passing 5/0.

1. The variance request is for an extension into the east set back to reduce to 28’

Barr made a motion to accept the above as a finding of fact, motion seconded by Meinke. Barr called for further discussion and roll call vote passing 5/0.

1. Section 8.03 of the TLT Zoning ordinance puts rear yard setbacks at 35’

Barr made a motion to accept the above as a finding of fact, motion seconded by Andersen. Barr called for further discussion and roll call vote passing 5/0.

1. The zoning permit for the house was issued in 2002, the house finished in 2004, which was after zoning went into effect.

Barr made a motion to accept the above as a finding of fact, motion seconded by Meinke. Barr called for further discussion and roll call vote passing 5/0.

1. At the time the build of the home was completed it was within the parameters of the TLT zoning ordinance.

Meinke made a motion to accept the above as a finding of fact, motion seconded by Barr. Barr called for further discussion and roll call vote passing 5/0.

1. The proposed structure will replace the existing deck and stairs at the east end, which is already in the setback, to allow exit and entrance to the house.

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

1. The north side entrance cannot be modified due to the septic and utilities coming into that side of the house.

Meinke made a motion to accept the above as a finding of fact, motion seconded by Gainey. Barr called for further discussion and roll call vote passing 5/0.

1. The proposed addition is only across part of the rear of the house, not across the entire house.

Graber made a motion to accept the above as a finding of fact, motion seconded by Meinke. Barr called for further discussion and roll call vote passing 5/0.

1. The east side of the home is closest to driveway

Gainey made a motion to accept the above as a finding of fact, motion seconded by Meinke. Barr called for further discussion and roll call vote passing 5/0.

Barr called for further findings of fact and there were none.

Barr called for further comments/questions from the board and there were none.

Barr made a motion to go out of closed session deliberations, Meinke seconded, Barr called for further discussion and roll call vote passing 5/0.

1. Barr read from Section 20.06 Article 7; A-D
2. 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. The members discussed. Meinke made a motion to accept criteria of Article 7 1A as being met due to critical dunes. Motion seconded by Shoemaker; a roll call vote was conducted by Barr passing 4/1 (Andersen=NO)
3. 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. The members discussed. Motion by Andersen that the criteria are not met (does not deprive). Motion seconded by Shoemaker; Barr called for roll call vote 5/0
4. That the special conditions or circumstances do not result from the actions of the applicant. The members discussed a motion was made by Shoemaker to accept 1C - special conditions or circumstances are not the result from actions of the applicant, motion seconded by Gainey. Roll call vote was conducted by Barr, Fails 3/2 Meinke, Andersen, Barr NO Shoemaker, Gainey=Yes
5. 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. The members discussed. Barr made a motion the criteria was not met, motion seconded by Andersen. Barr called for a roll call vote; 4/1 Meinke NO

Barr made a motion to deny variance request ZBA 2020-5 as it failed the 4 criteria; motion was seconded by Meinke. Barr called for final comments and roll call vote; 5/0.

Barr thanked Vermeer for his time and asked for further comments. He informed them they would receive a letter from the township with the results of the hearing. Vermeer asked if covering the existing steps would be allowed. Graber suggested considering coming off the north side and verify where the septic tank is and reexamine the request.

**9. Approval of last ZBA Draft Minutes (October 14, 2020)**

Corrections: Spelling of Creswell throughout the document. Bottom of first page correct camper spelling. Change page 2 item C - votes were 4 no 1 yes. Item 9, capitalize Barr. Correct spelling of drain field throughout document. Change spelling of licensed on page 3. On page 4, capitalize Gainey and correct spelling of Templin

Motion by Barr to approve draft meeting minutes from the October 14, 2020 ZBA with changes, motion seconded by Gainey. Barr called for further discussion and vote; 5/0 motion carried.

**10. Communications Received (not pertaining to current variance request)**

Barr read Sumerix’s resignation letter from the ZBA board.

**11. Public Comment (not pertaining to current variance request)**

Barr called for public comment and none was given

**12. Establish scheduled dates for regular ZBA meetings of 2021**

Motion by Barr to approve proposed meeting schedule for 2021; seconded by Meinke, Barr called for further discussion and vote 5/0

**13.** **Election of Officers for 2021 (chair, vice chair and secretary)**

Meinke nominated Barr for Chairperson, seconded by Shoemaker, vote 5/0 passed

Barr nominated Meinke for Vice Chair, seconded by Gainey, vote 5/0 passed

Barr nominated Marsha Petersen for secretary, seconded by Meinke, vote 5/0 passed

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

Shoemaker summarized the events of the Planning Commission meeting on November 10, 2020 highlighting a public comment that ZBA should refund last month’s variance requestor’s fees. He also summarized Randy Bishop’s statement that he will be recording future meetings for posting on YouTube.

**15. Zoning Administrator’s Report**

Graber distributed an updated *Checklist for October* and TLT 2020 Land Use Permits spreadsheet through Permit #2020-56, and ZBA Appeals ZBA 2020-5, on-going permit status, and current zoning applications were summarized as well. Steve Langworthy will be here to speak to the PC and ZBA March 25. If there are any particular areas of concern you wish him to focus on, please let Graber know. No appeals scheduled and no meeting in December. Next meeting is scheduled for January 13. Shoemaker would like Langworthy to help with the wording of the 4 criteria of approving a zoning variance. Barr stated January’s meeting will be to meet and review rules of procedure and variance format and to prepare for Langworthy.

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

Next meeting is January 13, 2021-

Update on Spencer lawsuit from Graber that our atty has prepared a response to Howard and will then go on to the judge to review and proceed from there.

Meinke asked Shoemaker to ask the PC if an ordinance can be written requiring that anyone purchasing property in TLT be given a copy of the ordinance.

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

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

**16. Adjournment**

With nothing further, a motion was made by Barr to adjourn, the motion was seconded by Andersen, Barr called for further comment and vote; passing 5/0. The meeting was adjourned at 9:19 pm