TORCH LAKE TOWNSHIP

ANTRIM COUNTY, MICHIGAN

Draft Minutes Zoning Board of Appeals Meeting

July 10, 2013

Community Service Building

Torch Lake Township

Present: Bretz, Keelan, Houghton, Jakubiak, Sumerix, Spencer (delayed arrival, did not participate in variance deliberations)

Absent: Barr

Recording

Secretary: Olsen

Audience: Martel, Roger Gribi

1. Meeting was called to order at 7:07 p.m.
2. **Consideration of the Gill Appeal:**

Roger Gribi, contractor for Gill residence at 11784 Easy St., Kewadin, represented Don Gill. Applicant is seeking zoning variance of Section 7.03. Construction will encroach into the 50 foot setback from Torch Lake by approximately seven feet on northeast corner of the lot. Reasons stated for variance were that the steep hill on the west side of property prevents construction of addition from being pushed any further away from the lake. Proposed addition will not protrude beyond the existing structure.

Houghton presented findings of fact:

1. Existing building is a legal non-conforming structure.
2. Property zoned R-1.
3. Two other structures on property were in existence before zoning.
4. Additions to south and west do not require variance.
5. Property addition is for two levels of living space – upper level is garage and office, lower level is three bedrooms.
6. Addition will encroach 63 square feet into 50 square foot set back area.
7. Without encroachment, 160 square feet will not protrude into set back.
8. Extensive excavation needed for garage and parking court.
9. Proposed deck will not encroach into set back.
10. Addition will make structure more non-conforming.
11. No evidence of addition depressing value of adjacent properties.
12. Addition does not protrude beyond existing structure.
13. Continuing excavation to west seven feet would have no impediments.

Gribi said that architect may have a design problem. Sumerix questioned if seven feet would interfere with driveway. Gribi said that if variance was not granted, room would be chopped off.

1. Moving wall seven feet back interferes with driveway.
2. Strict compliance deprives applicant of reasonable enjoyment of property.
3. Addition area is three stories. Of that, 63 square feet is non-conforming on each level. Third level also has protruding deck.

Criteria from Zoning Ordinance:

* 1. *That special condition or circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zone.*

ZBA voted does not meet criteria

* 1. *That literal interpretation of the provisions of this Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zone under the terms of this Ordinance.*

ZBA voted does not meet criteria

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

ZBA voted does not meet criteria. Keelan commented that addition can be moved back.

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

ZBA voted that this would not be a detriment to adjacent properties.

Motion by Keelan to deny variance because applicant doesn’t meet three of the four criteria. Seconded by Houghton. Roll call vote:

Keelan No Bretz No

Houghton No Jakubiak No

Sumerix No

3. **Approval of Minutes, December 12, 2012:**

Minutes approved by Keelan, seconded by Jakubiak, passed 5-0.

4. **Report from Norton Bretz regarding Planning Commission meetings and pending matters of interest to the ZBA:**

Bretz reported rezoning of village zone to village business area and village shoreline to R-1.

5. **Miscellaneous Administrative matters:**

None.

6. **Comments/Concerns of the Public:**

Spencer said that application was incomplete and required location of septic drainfields and buildings. It was also noted that application did not include elevations and created confusion in understanding the presence of three stories in the addition.

Keelan suggested contacting Brian Graham for presentation on ZBA issues and planning at the August meeting, currently slated for August 14.

Spencer suggested creating checklist for ZBA variance applicants.

7. With no further business, meeting was adjourned by Keelan at 8:38, seconded by Jakubiak.