TORCH LAKE TOWNSHIP

ANTRIM COUNTY, MICHIGAN

Community Service Building

Zoning Board Meeting

APPROVED Minutes WITH CORRECTIONS 5-0

February 12, 2020

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

**Alternates:**  Jim Meinke, Jim Gainey

**Absent:**

**Others:** Deb Graber - Zoning Administrator

**Recording Secretary:** Jacqueline Petersen

**Audience**: 2

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

Meeting called to order at 7:01 pm by Dave Barr

Roll call conducted by Barr

**3. Approval of Agenda;**

Motion by Cook 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 (December 11, 2019)**

Motion by Barr to approve draft meeting minutes from the December 11, 2019 ZBA meeting; 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 of interest existed and there were none.

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

Barr stated none had been received.

**7. Public Comment not pertaining to current variance request)**

Barr called for public comment and none was given

**8. Discussion of Appeal #2020-1 at 1209 Bay View Drive, Kewadin, MI 49648 Parcel 305-**

**14-326-011-11 appealing for a zoning order variance.**

Barr read the rules and procedures for hearing variances aloud to the group.

Graber read the appeal received. non-conforming structure (minimum sq. footage not met, bldg in setback). Request for #1 correction to non-conforming issue of minimum square footage. By adding square footage. Graber cited from the zoning ordinance the rules regarding non-conforming structures. Barr read chapter IV; section D regarding the expanding of a legal non-conforming structure. Atty Doug Leahy spoke to the ZBA Members regarding the issues of non-conformity and the addition of square footage would bring the structure to conforming. He stated the practical difficulty of the request is the dimensional variance. He stated the request is within the spirit of the ordinance, there are no neighbor complaints. They are seeking one variance to put on the addition. Barr polled the members for questions, members asked questions for clarification. Barr called for any public comment. Barr asked the homeowner to speak. Andy Graves spoke to the board referring them to ask questions of his atty or himself and thanked them for their time. Cook made a motion to close the public hearing and go into closed deliberation; motion was seconded by Jakubiak, Barr called for further discussion and vote 5/0 motion carried. Cook distributed proposed “Findings of Fact”.

1. Existing property is non-conforming in both size; less than 960sq feet and encroachment of 50’ setback from water mark. Motion by Barr to accept as finding of fact, seconded by Shoemaker, Barr called for discussion and roll call vote 5/0 motion carried.
2. Existing building was built sometime in the 1960’s prior to the zoning ordinance. Motion by Barr to accept as finding of fact, seconded by Jakubiak, Barr called for discussion and roll call vote 5/0 motion carried.
3. Owners have refurbished existing structure updating plumbing, electrical, windows, roof and kitchen. Motion by Cook to accept as finding of fact, seconded by Barr, Barr called for discussion and roll call vote 5/0 motion carried.
4. Owners wish to add on to the existing structure 1867 sq. feet of living and garage space. Motion by Cook to accept as finding of fact, seconded by Barr. Barr called for discussion and roll call vote 5/0 motion carried.
5. Additional space will not occur in any of the setbacks and there are no structural changes to the property currently in the setback area. Motion by Cook to accept as finding of fact, seconded by Jakubiak, Barr called discussion and roll call vote 5/0 motion carried.
6. Approval of construction will eliminate one of the non-conforming issues related to the 960sq foot minimum. Motion by Cook to accept as finding of fact, seconded by Barr, Barr called for discussion and roll call vote 5/0 motion carried.
7. Owners have obtained appropriate approval from Antrim County Soil Erosion Program for shoreline stabilization, drain field prep work for new septic and new well and foundation for the addition. Motion by Cook to accept as finding of fact, seconded by Shoemaker, Barr called for discussion and roll call vote 5/0 motion carried.
8. Owners have received permission from the Michigan Department of Environment, Great Lakes and Energy Water Resources Division to place additional rock along shoreline for soil stabilization. Motion by Cook to accept as finding of fact, seconded by Jakubiak, Barr called for discussion and roll call vote 5/0 motion carried.
9. Owners will make the existing residence with the attachment their permanent residence upon completion of construction of the addition. Motion by Cook to accept as finding of fact, seconded by Jakubiak, Barr called for discussion and roll call vote 5/0 motion carried.

Barr called for any further findings of fact. There were none. Barr made a motion to close deliberations and return to the public hearing, motion seconded by Shoemaker. Barr called for discussion and vote 5/0 motion carried.

Barr referred to Zoning Ordinance Chapter IV, Section 4.02 Nonconforming Structures Section D.

1. Not granting an expansion would present a practical difficulty or unnecessary hardship to the property owner. Barr motioned to accept the statement as true, motion seconded by Jakubiak. Barr called for further discussion and roll call vote 5/0; motion carried.
2. The expansion would not be contrary to the public health, safety or to the spirit of this ordinance. Barr motioned to accept the statement as true, motion seconded by Shoemaker. Barr called for further discussion and roll call vote 5/0; motion carried.
3. The structure as expanded would not be likely to depress the value of nearby properties. Barr motioned to accept the statement as true, motion seconded by Cook. Barr called for further discussion and roll call vote 5/0; motion carried.

Barr referred to Zoning Ordinance; Chapter XX; Section 20.06 - Dimensional Variances

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 or buildings in the same zoning district.

Motion by Cook to accept A as criteria being met; motion seconded by Sumerix; Barr called for further discussion and roll call vote; 5/0; motion carried.

1. 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.

Motion by Cook to accept B as criteria being met; motion seconded by Jakubiak; Barr called for further discussion and roll call vote; 5/0; motion carried.

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

Motion by Cook to accept C as criteria being met; motion seconded by Jakubiak; Barr called for further discussion and roll call vote; 5/0; motion carried.

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.

Motion by Cook to accept D as criteria being met; motion seconded by Jakubiak; Barr called for further discussion and roll call vote; 5/0; motion carried.

Barr made a motion to approve/accept the variance request of ZBA 2020-1; motion was seconded by Cook. Barr called for further discussion and roll call vote 5/0; motion carried. Barr informed the applicant that a letter would be mailed with the approval and welcomed him to the township.

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

Shoemaker summarized the events of the Planning Commission meeting on February 11, 2020. Public hearing next month to add a lighting ordinance and an outdoor events in commercial zones ordinance.

**9. Report from the Zoning Administrator**

Graber distributed an updated *Checklist for January 2020* and TLT 2020 Land Use Permits spreadsheet through Permit #2020-03, Land Division App # (none) and ZBA Appeal ZBA 2020-1. Violations, civil infractions, enforcement, court cases, pending court cases, complaints, on-going permit status, and current zoning applications were summarized. Graber informed the group that the township atty Millar has left Swogger BRUCE and MILLAR joined LAW firm OF PARKER HARVEY in Traverse City.

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

Next meeting is March 11, 2020

**14. 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 Jakubiak to adjourn, the motion was seconded by Barr, Barr called for further comment and vote; passing 5/0. The meeting was adjourned at 8:04 pm