TORCH LAKE TOWNSHIP

ANTRIM COUNTY, MICHIGAN

Community Service Building

Zoning Board Meeting

Minutes 5-0 with changes

February ~~14~~15, 2023

**Present:**

Laura Andersen (Chair) Chad Impellizzeri, David Nussdorfer, Jeff Wynkoop (in for Kevin Woodward), Rita Service (in for Kristin Graves)

**Absent:** Kristin Graves, Kevin Woodward

**Audience:** 2

**Others:** Sara Kopriva

**Recording Secretary:** Jacqueline Petersen

**A. Call to Order Regular Meeting / Record Members Present:**

Meeting called to order at ~~7:00~~ 6:00pm pm by Andersen

Pledge of Allegiance was recited

Roll call was conducted by Andersen

**B. Approval of Agenda**

M/S to approve agenda; Andersen/Service vote: 5/0 motion passed

**C. Approval of December 7, 2022 Meeting Minutes**

1. Item C to read: Former ZA Deb Graber was told that a ground level patio was being built, there were no restrictions in regards to ground level patios, Blackmore Properties never informed her as ZA that it was to be used as a helicopter pad, and when asked questions they did not give her details.
2. David Holland comments add: Lives approximately 2000 feet from helicopter pad and objects to the use of helicopters in residential areas.
3. 4th from last line in same paragraph Add “by or according to standard established practice.” to definition
4. Bob Spencer’s public comment - change to “Mr. Spencer spoke regarding ZBA documentation and detail of meeting minutes.”

M/S to approve meeting minutes from December 7, 2022 with corrections Andersen / Impellizzeri; vote 5/0 motion carried

**D. Conflict of interest**

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

**E**. **Public Comment**

None

**F. Communications**

None

**G. Hearing of Case**

1. **ZBA 2023-01 Request by Ricky Ancel for a 20 fr rear yard setback variance at 3559 Michigan Trail, Kewadin. Parcel # 05-14-535-013-00**
2. **Open Public Hearing**

Andersen opened the public hearing 6:15pm

1. **Presentation by Staff**

Kopriva gave summary, history and specifics of request

1. **Communications Received**

No Communications Received

1. **Presentation by Applicant**

Ancel gave summary, history and specifics of his request

1. **Public Comment**

None

1. **Close Public Hearing**

Andersen Closed the public hearing at 6:52pm

1. **Deliberation and Possible Decision By ZBA**

 ZBA members deliberated the request and compiled the following findings of fact:

FINDING OF FACTS

1. The property is located in an R1 zoning district and has a residential dwelling unit that was built in 1975, prior to the zoning ordinance, without a garage.
2. Request is for a 20’ variance from the rear property line.
3. There are critical dunes located on the north side of the lot.
4. The critical dune restricts placement on the north side of the house.
5. The lot is located on a private road.
6. Lot size is 59% of the minimum requirement of 20,000 square feet.
7. Lot is 11,757 square feet.
8. Setbacks are measured to furthest protrusion.
9. Existing original structure is conforming on a non-conforming lot.
10. Critical dunes are common to properties in this area.
11. Other lots in this developments are non-conforming, as they do not meet the minimum square footage required in the zoning ordinance
12. The property is a non conforming lot, and has a 5030 sf building envelope which is sufficient to meet the zoning ordinance minimum requirements.
13. The critical dune is primarily in the rear yard setback and does not substantially reduce the building envelope of the property.
14. The applicant is requesting a variance that would accommodate a 28’ deep garage
15. Average length of a car is 14’ 7”
16. Torch Lake Township ~~z~~ Zoning ~~o~~ Ordinance does not provide special relief or exceptions for non-conforming lots or structures that were build prior to the zoning ordinance.
17. The ~~z~~ Zoning ~~o~~ Ordinance effective date was 1983
18. The properties immediately adjacent would be unaffected, as north and south setbacks comply.
19. Common is defined as; often, frequent, usual and ordinary
20. Approval or disapproval of this request by adjoining property owners, although a part of the ZBA’s consideration are not in and of themselves grounds for approval or disapproval.
21. The applicant signed Section 20.06 statement as part of the ZBA appeal application (page 18 of packet) that states “a non-conforming condition or conditions of neighboring lands may be considered but will not in and of itself or themselves be grounds for the issuance of a variance.”
22. The Leander variance was approved approximately 23 years ago in 2001 (see page 27) for the conversion of the existing garage into a family room ~~nd~~ and construction of addition of new attached garage (see page 28).
23. The Thorne variance was granted approximately 18 years ago on 8/12/2004 (see page 34) to construct a garage.
24. The Turek variance was granted in late 2021 for new construction on a vacant lot. The EGLE restrictions for Turek severely limited the building envelope and only gave approximately 4.6% of his entire lot for buildability.
25. In section 5B of the Notice of Appeals form, (page 13 of 16), the applicant stated the following for his reason for the variance; “to construct a garage in TLT, a function and necessary part of a year-round home.”
26. Per Google, the definition of “year-round home” is properly insulated and equipped to sustain occupancy throughout the year.
27. Section 20.06 - Dimensional Variances part of the form (pg. 17 of 36) item B regarding the deprivation of rights commonly enjoyed, the applicant stated “Having a garage is a necessary structure to living in northwest Michigan.”
28. Necessary is defined as ~~I~~ indispensable, essential or requisite.
29. The following homes on Michigan Trail, specifically in the applicant’s ~~are~~ area that do not have garages (either attached or detached) are: 3439, 3485, 3503,3579, 3599, 3781, 3827, 3837, 3925, & 3897.
30. Current side setbacks are in compliance
31. With garage construction, side setbacks would still be in accordance with the ordinance.
32. A garage is not a requirement to live on property.
33. The combination of the critical dune and the placement of the house on the lot are preventing the applicant from using a portion of the building envelope for the purpose of a garage.
34. The size of the lot, the shallowness and critical dunes are common to other properties in the area.

Andersen took a poll of the ZBA that all members were in agreement that the above Findings of Fact are accurate and true.

Andersen led the members into discussion of the four criteria outlined in Chapter 20 for hearing variances.

Andersen 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;

1. are not applicable to most other lands, structures or buildings in the same zoning district.

2. the property shows exceptional shallowness, narrowness, or the shape of a specific piece of property on the effective date of the ordinance.

3. exceptional topographic conditions exist.

4. extraordinary conditions of land, building or structure exist.

5. negatively affect development of the property immediately adjacent to the property in question.

6. the literal enforcement of the requirements of this ordinance would involve practical difficulties.

Conclusion of Criteria A:

Andersen conducted a vote of the ZBA

Impellizzeri - No

Nussdorfer - Yes

Service - Yes

Andersen -Yes

Wynkoop - Yes

Criteria is met 4/1

1. The literal interpretation of the zoning ordinance deprives the applicant of property rights commonly enjoyed by other properties in the same zoning district.

Conclusion of Criteria B:

Andersen conducted a vote of the ZBA

Impellizzeri - Yes

Nussdorfer - No

Service - No

Andersen -No

Wynkoop - No

Criteria is not met 4/1

1. The special conditions or circumstance are not the result of the applicant, landowner or predecessor in title.

Conclusion of Criteria C:

Andersen conducted a vote of the ZBA

Impellizzeri - No

Nussdorfer - No

Service - No

Andersen -No

Wynkoop - No

Criteria is not met 5/0

1. That the authorizing of the variance will be consistent with the spirit of this zoning ordinance, and not be a substantial detriment to the neighboring properties.

Conclusion of Criteria D:

Andersen conducted a vote of the ZBA

Impellizzeri -Yes

Nussdorfer - Yes

Service - Yes

Andersen -Yes

Wynkoop - Yes

Criteria is met 5/0

Upon concluding the discussion, The ZBA members agreed that all four criteria were not met.

Motion by Andersen ~~T~~ to deny the ZBA 2023-01; Ancel variance request, based on findings of fact, and Criteria B, and C were not met. Seconded by Impellizzeri. Andersen asked for further discussion and there was none. Andersen conducted a roll call vote:

Nussdorfer=Yes

Andersen=Yes

Impellizzeri=No

Wynkoop=Yes

Service=Yes

Motion to deny the variance passed 4/1

**H. Miscellaneous Business**

1. **Zoning Administrator’s Report -** presented in packet and summarized by Kopriva
2. **PC Representative to ZBA’s report -** Kopriva updated ZBA with the PC’s recent activities

**I. Public Comment**

Ancel addressed the ZBA and discussed what he felt his options are - Kopriva advised him to set a time to come into the office to discuss his actual options moving forward.

**J. Summary of Action items before next ZBA Meeting**

Next meeting 3.~~14~~15 .23 to hear a variance request

**K. Adjournment at 8:34pm**

M/S to adjourn ~~Andersen/ Nussdorfer~~ Nussdorfer/Andersen

Andersen asked for further discussion and vote:

5/0 motion carried.