

TOWN OF LONG BEACH
ADVISORY BOARD OF ZONING APPEALS

Long Beach Town Hall

Meeting Minutes for August 9th, 2016

The meeting was called to order at 7:00 p.m.

1. Roll Call

Board members in attendance: Chairman Mike Gorman, Rich Jercich, John Kocher, John Wall, Meg Kanyer

Members absent: None

A quorum is present and the meeting shall proceed

Attorneys in attendance: Julie Paulson and Connor Nolan of Harris Welch & Lukmann

Also in attendance: Secretary Margaret Collins

Also in attendance: Building Commission Representatives: Joe Jogman, Bob Lemay

Also in attendance: Court Reporter Rebecca Lempa and Videographer Marilyn Jones, hired by a private individual

2. Pledge of Allegiance

3. Approval of Minutes

Four sets of minutes are presented for approval. Two sets of catch up minutes, one from a special meeting held January 9, 2016, the other from a regular meeting held January 12, 2016.

John Kocher motions to approve the two sets of January minutes, seconded by John Wall. Mike Gorman acknowledges that Rich Jercich was not a Board member at the time of the minutes. Mike Gorman, John Kocher, John Wall, and Meg Kanyer are in favor of the motion, Rich Jercich abstains from the motion. The motion carries four in favor, one abstained. The minutes are approved.

The third and fourth sets of minutes are executive session minutes from June 14, 2016 and regular meeting minutes from July 12, 2016. Rich Jercich motions to approve the two sets of minutes, seconded by Meg Kanyer. All in favor, the motion carries unanimously and the minutes are approved.

4. Old Business

a. Amendment to BZA Rules to require notice of variance be posted on the subject property

Julie Paulson explains that at the last meeting the BZA Board had asked for information from the Building Commission. The Building Commission has not held a meeting since the last BZA meeting in order to discuss this issue. Building Commission representative Joe Jogman notes the Building Commission will bring the issue up at the Friday Building Commission meeting.

5. New Business – None.

6. Preliminary Hearings – None.

7. Public Hearings

a. Michael Palumbo – 2968 LakeShore Drive

Administrative Appeal of the denial of a building permit based on the position that the construction of a seawall would violate the side and rear setback lines

The petitioner has notified the Board that he is withdrawing his petition, so the matter is no longer before the Board.

b. Patrick Clifford, Manager for Longwood Partners, LLC – 2216 LakeShore Drive

Administrative Appeal of the Long Beach Building Commissioner's March 24th, 2016 stop work order on the seawall portion of the building permit

This is continuation of the public hearing opened on June 14th and continued on July 12th, 2016.

Mike Gorman re-opens public hearing for Board discussion.

John Kocher inquires if the petitioner were to file for a Developmental Standards Variance would they have to re-notify neighbors and would the information be the same as the documents already filed. Julie Paulson responds if the petitioner were to re-file they would need to re-notice because the original was an Administrative Appeal as opposed to a Developmental Standards Variance.

John Wall motions to deny Administrative Appeal based on the fact that it is an appeal of the Building Commissioner's decision in narrow confines of the zoning code.

Michael Knight asks if the Board has met outside of open door act. Julie Paulson notes the Board is not required to respond. Mike Gorman responds that the Board members have not spoken prior to this meeting. Michael Knight questions whether

the Board is admitting to a serial meeting and asks how there are findings drafted before this meeting. Michael Knight would like his objection noted.

John Wall reads the proposed findings.

Mike Gorman states a motion was made by John Wall to deny the Administrative Appeal, and seconded by Meg Kanyer. Mike Gorman asks for any discussion.

John Kocher asks why submission number 9 is not included in the proposed findings that were originally submitted. Julie Paulson responds that it can be included. John Kocher notes he would prefer decisions to be made in public so everyone knows how Board members feel. Mike Gorman summarizes the Board is here to decide if the Building Commissioner acted correctly. It is the Board's responsibility to provide findings.

Voice vote on the motion to deny the appeal is taken by Secretary Meg Collins. Michael Gorman, Rich Jercich, Meg Kanyer, and John Wall are in favor of the motion. John Kocher opposes the motion. The motion carries four in favor, one opposed. The stop work order shall remain in force.

c. Nicola K. Chalk Trust by Nicola K. Chalik, Trustee - 1412 LakeShore Drive
Developmental Standards Variance request to install a septic system 72 feet behind the 106.6 view protection line

Mike Gorman states the opening of the public hearing was continued to August 9th at the request of the petitioner. At the last meeting the Board established the petitioner met both requirements necessary to proceed with a public hearing.

Attorney Wojcik proceeds to examine exhibits 1-8. Testimony of Thomas P. McCormick of 2205 Shorewood Drive is included. Tom McCormick of Duneland Development, LLC is a builder of single-family homes.

John Wojcik moves for the introduction of exhibits 1-8 into the record and asks that the Board grant the request for Developmental Standards Variance.

Mike Gorman asks for any Building Commission comments. Representative Bob Lemay asks for the difference between elevation of the ordinary high water mark and the elevation of the bottom of the septic system. Tom McCormick responds.

Mike Gorman opens public comment and calls for any person in support of the petition.

Meg Collins reads aloud a letter in favor of the petition from Edward J. Sylvester.

Mike Gorman calls for any person in opposition of the petition.

James Neulieb of 2201 Florimond discusses the location of the septic and explains it is not being placed on the petitioner's property. Jim cautions the Board to grant variance on lots the petitioner does not own.

Jane Neulieb of 2201 Florimond describes that in the recently completed Town survey as part of the Comprehensive Plan Update the majority of residents do not want variances for septic systems, especially along the Lake. To issue variance the petition has to show it will not be detrimental to residents. The survey information is on the Town website.

Meg Collins reads two letters opposing the petition, one from Carla Fargo and one from Jeff Bartlett.

Mike Gorman closes public comment.

John Wojcik responds to public comment and asks the Board to grant the Developmental Standards Variance.

Board discussion is now open. The size of the new home is discussed. Meg Kanyer also met with Amanda Lahners at the Health Department. Amanda's suggestions were building a smaller home or backing the home up so it would be within the line. Meg Kanyer states the concern is not that the septic would block anyone's view but about what happens underground and how it may impact the Lake.

Mike Gorman notes that the Board needs to decide based on the petitioner's presentation whether the 3 statutory standards are met in order for the variance to be granted. Mike raises a series of questions to be considered by the Board.

John Wojcik responds to the questions raised by Mike Gorman.

John Wall inquires about the building permit and site development plans.

Mike Gorman motions to continue the public hearing to September 13th. Meg Kanyer seconds the motion.

Meg Kanyer is concerned about the ownership of the entire lot and needs some questions answered.

John Kocher opposes the motion to continue and would adopt the petitioner's findings. Michael Gorman, Rich Jercich, Meg Kanyer, and John Wall are in favor of the motion. The motion carries four in favor, one opposed. The public hearing is continued to September 13, 2016.

8. Adjournment: Motion to adjourn by John Kocher, seconded by Rich Jercich. The meeting unanimously adjourned at 9:18 p.m.

Agenda Attached.

Minutes Approved by:
BZA Secretary Margaret Collins

Margaret Collins
