

TOWN OF LONG BEACH
ADVISORY BOARD OF ZONING APPEALS

Long Beach Town Hall

Meeting Minutes for September 13th, 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 Jogmen, 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: Upon motion by John Wall, seconded by Rich Jercich, the meeting minutes from August 9th, 2106 were unanimously approved.

4. Old Business

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

Mike Gorman summarizes three issues which were raised at the September Town Council meeting with regards to the BZA.

First point concerns the Building Commission receiving notice of petitions filed and any other BZA documents. Secretary Meg Collins currently sends notice and documents to the five BZA members and four members of the Building Commission. The BZA would like Building Commission involvement and input.

Second point is the Building Commission receiving notice of decisions made by the BZA. Meg Collins has been instructed to advise the Building Commission of decisions and will send an e-mail.

Third point pertains to posting of signs on properties for which a petitioner is seeking a variance. Julie Paulson sent the Indianapolis notice procedure to the Board members to begin conversation on the topic. If a similar procedure works Julie can craft them into the BZA rules. The Board engages in discussion. Mike Gorman would like this information shared with the Building Commission in order to get their input. Mike Gorman lets Joe Jogmen know the signs would be generic, not specific to an individual property. Joe Jogmen tells the Board that the Building Commission will talk about the item and work on a blueprint for the sign.

Bob Lemay and Joe Jogmen discuss the process for a homeowner after a decision is made concerning a variance. Once a decision is made the petitioner needs to go back to the Building Commission. The Building Commission needs to review the previous building application, have discussion, and then move forward. The process is not over once a variance is decided upon. This is the understanding of the BZA Board and the Building Commission. Julie Paulson notes town code requires a building permit before beginning construction. Mike Gorman mentions the Board could put a sentence in variance findings that the petitioner needs to get a building permit from the Building Commission. This item remains open.

5. New Business – None.

6. Preliminary Hearings – None.

7. Public Hearings

a. Nicola K. Chalik 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

This public hearing is a continuation of the public hearing opened August 9, 2016. Board discussion is now open. Mike Gorman is willing to entertain a motion to grant, deny, or continue the petition.

John Kocher hands a prepared memo to the Board members and proceeds to read the comments out loud. John Kocher strongly supports the variance and asks Builder Tom McCormick how difficult it would be to connect the septic to a sewer line along Lake Shore Drive. Tom McCormick responds there is existing technology and it would not be difficult.

John Wall and John Kocher discuss the placement of the septic system as optimal compared to other potential points of placement.

Mike Gorman explains if the petitioner continues to live in the home as it stands she is not being denied use of property. John Wall and John Kocher have a differing opinion on use of the property. Mike Gorman states the petitioner could still occupy the current home if the variance were not granted. The property is usable as a single-family residence.

John Kocher motions to approve this variance request and moves to adopt findings as presented in sections 1, 2 and 3 of the petitioner's proposed findings. Julie Paulson notes that if the proposal is to adopt findings of fact as presented by the petitioner then John Kocher does not need to read the findings.

John Kocher adds that if a sewer became available in the area that the petitioner would connect to it within six months or less. John Wall would like clarification as to what the findings would be.

Mike Gorman responds the findings would be four pages that were submitted by the petitioner. The motion is to grant the variance and adopt every word in the four page document, with the condition that the petitioner must submit a building permit to the normal process and the petitioner would connect to any public sewer.

Rich Jercich seconds the motion.

Mike Gorman is not willing to adopt findings as presented by petitioner. Mike Gorman proceeds to read through the points of the petitioner's findings and makes amendments to the findings. Mike Gorman asks if John Kocher would be willing to amend the findings as Mike suggests.

John Kocher agrees with the changes and amends his motion to grant the petitioner's variance based on the amended findings as discussed at this meeting.

John Wall mentions that when the Board adopts findings we are agreeing with everything in the findings. Mike Gorman states the Board is agreeing with everything that has not been struck.

Mike Gorman is of the opinion that the strict application of the zoning code-in this case, the view protection ordinance-will not deny the petitioner use of the property as a single-family residence. However, since a septic system is defined as a structure under the code, the petitioner requires a variance to place the septic system beyond the view protection line. Mike is also of the opinion that there is no view impairment created by this septic system as explained by petitioner. Therefore, the view protection ordinance should not apply in this circumstance and the variance should be granted.

John Wall does not agree with some of the language in paragraph 3 and believes the Board does not have the power to discuss optimal septic placement. John Wall disagrees with including this language. Rich Jercich states this case does not set

precedence. Mike Gorman reminds the Board that the Laporte County Health Department told the petitioner the optimal location. John Wall does not want to be in position to agreeing with this language when the building permit application goes forward.

Julie Paulson summarizes that the variance allows the septic to go beyond the 106.6. The Board is not approving where to put the septic, rather is constraining the petitioner to be within 72 feet or closer to the view protection line. The petitioner could take the septic out only that far if the variance is granted.

Julie Paulson reads the two conditions to the amended findings. Condition one is the petitioner obtains a building permit. Condition two is the petitioner should connect to sewer in a reasonable time not to exceed six months.

The petitioner responds that the conditions are acceptable.

The motion made by John Kocher is to approve the variance, as amended. John Kocher, Rich Jercich, and Mike Gorman are in favor of the motion. John Wall and Meg Kanyer oppose the motion. The motion carries three in favor, two opposed.

The variance is granted to the petitioner.

8. Adjournment: Motion to adjourn by Rich Jercich, seconded by John Kocher. The meeting unanimously adjourned at 7:53 p.m.

Agenda Attached.

Minutes Approved by:
BZA Secretary Margaret Collins


