

TOWN OF LONG BEACH
ADVISORY BOARD OF ZONING APPEALS
SPECIAL MEETING

Long Beach Town Hall

Meeting Minutes for June 21st, 2016

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

1. Roll Call

Board members in attendance: Chairman Rich Jercich

Alternate Board members in attendance: Mary Clohessy, Genevieve Kohler, Erin Connelley

Members absent: None

A quorum is present and the meeting shall proceed

Attorneys in attendance: Julie Paulson of Harris Welch & Lukmann

Also in attendance: Secretary Margaret Collins

Also in attendance: Building Commission Representatives: Dr. Robert Lemay, Joe Jogman

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

2. Pledge of Allegiance

3. Alternate Board – Public Hearings

a. Long Beach Community Alliance, Administrative Appeal of the issuance of a building permit for the construction of a seawall at 2900 Lakeshore Drive (Lyons).

b. Long Beach Community Alliance, Administrative Appeal of the issuance of a building permit for the construction of a seawall at 2822 Lakeshore Drive (Osborne Trust).

c. Long Beach Community Alliance, Administrative Appeal of the issuance of a building permit for the construction of a seawall at 2826 Lakeshore Drive (Voortman).

Rich Jercich states the three Appeals before the Alternate BZA Board. The Board received motions and information submitted today and has not had sufficient time for review of the items.

Rich Jercich makes a motion for a continuance of the public hearing, the motion is seconded by Mary Clohessey.

Mary Clohessey makes a motion to continue the public hearing to a special meeting of the Alternate BZA Board on Wednesday, June 29th at 7:00 p.m.

Attorney Patricia Sharkey of Environmental Law Counsel, P.C. on behalf of LBCA explains some of LBCA's concerns after the last meeting and apologizes for the lateness of getting the information in front of the Board. A motion for continuance is in front of the Board. Among those concerns are some pertaining to administrative record. Additional concerns of the LBCA have been given to the Board based on some comments made by the plaintiffs in the last meeting. At least some of the documents have not been seen in the record. LBCA has had conversations with the BZA Secretary and Town Counsel and are working on compiling a list of the entire record so a determination can be made. The Fire Marshal's Letter was referenced in the last meeting and LBCA believes this to be an important piece of information that the appeals are based on. LBCA is looking to obtain a copy of the letter since they have not yet seen it.

A motion to allow LBCA to conform pleadings to evidence submitted to the Board is also being submitted into the record. This item was raised by Julie Paulson at the last meeting concerning LBCA's claim that permits do not meet six foot setback requirement was not properly put in front of the Board. The Board now has the record. LBCA would like the Board to have time to review and the Permittees time to respond.

LBCA is also asking to supplement the record pertaining to grounds two of LBCA Appeal. One Board member raised topography that was originally raised by the LBCA. Lastly LBCA has submitted a motion asking the Board to reconsider the findings made in the last meeting in relation to finding number six, which LBCA believes was a secondary finding different from findings 1-5, and which based on vote and conversation immediately before the vote, LBCA has some concerns that the findings do not conform to the vote taken. The finding is critical to the appeals as well. LBCA suggests going somewhat beyond next week to allow response from Permittees.

Rich Jercich asks if the motions can be split from the underlying appeals and Julie Paulson responds that the Board could only address the motions on June 29th, but everything is more one in the same and could be handled together.

Mary Clohessey asks Pat Sharkey if the LBCA needs more time. Pat Sharkey asks for seven days leave to supplement the record and allow Permittees time to weigh in.

Attorney Shawn Doorhy of Faegre, Baker, and Daniels, LLP objects that the Permittees have an obligation to the motions before the Board. The Permittees do

not think the motions are appropriate. The public hearing closed last meeting. Pat Sharkey can file something with court. Pat Sharkey did not serve Shawn Doorhy any exhibits or motions from last meeting or this meeting. That the Permittees have to respond is objectionable and unfair. There is municipal code that deals with this. Record shows every objection the Permittees have with these proceedings. Shawn Doorhy would remind the Board that this matter is still before Judge Stalbrink. Shawn Doorhy is happy to answer any questions.

Julie Paulson mentions no one has indicated that property owners have any duty or obligation to respond, but everyone can recognize they have an interest. LBCA cannot make the homeowners respond.

Shawn Doorhy notes he does not have anything to respond to. Julie Paulson responds anyone within 300 feet of property is interested party. The respondent is the Town's Building Commissioner. Shawn Doorhy states the court exists to administer due process. Shawn Doorhy represents the parties being attacked by Ms. Sharkey and her group.

Pat Sharkey makes it clear that Shawn Doorhy stating the Permittees do not have the ability to look at these motions is wrong as a matter of record. There have still been no orders coming out of court on this issue. Judge Stalbrink has been asked repeatedly by Shawn Doorhy and not issued anything. The proceeding is legal. These motions are timely made, decisions have not been made in regard to permanent appeals that have been made. LBCA considers an error to be present and would like the Permittees to correct it. LBCA expects Judge Stalbrink to support them.

Genevieve Kohler confirms the Board would consider what is on the table already and what has been given.

Erin Connelley seconds the original motion to continue the public hearing to a special meeting of the Alternate BZA Board on Wednesday, June 29th at 7:00 p.m.

The Board takes a vote on the motion. All are in favor, the motion carries.

4. Adjournment: Motion to adjourn by Rich Jercich, seconded by Mary Clohessey, the meeting unanimously adjourned at 7:18 p.m.

Agenda Attached.

Long Beach Community Alliance Four Motions Submitted Into Record Attached.

Minutes Approved by:
BZA Secretary Margaret Collins

A handwritten signature in cursive script, appearing to read "Margaret Collins", is positioned above a solid horizontal line.
