

TOWN OF LONG BEACH  
ADVISORY BOARD OF ZONING APPEALS

Long Beach Town Hall

Meeting Minutes for September 10th, 2019

1. Call to Order

The Regular Meeting of the Town of Long Beach Advisory Board of Zoning Appeals was held in the Long Beach Town Hall on Tuesday, September 10, 2019. Chairman Mike Gorman called the meeting to order at 7:05 p.m.

2. Roll Call

Board members in attendance: Chairman Mike Gorman, Meg Kanyer, John Kocher, and John Wall.

Members absent: Rich Jercich

A quorum is present and the meeting shall proceed

Attorneys in attendance: Christopher Willoughby of Braje, Nelson & Janes, LLP

Also in attendance: Secretary Meg Collins

Building Commission representative was not in attendance

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

3. Pledge of Allegiance

4. Approval of Minutes: Upon motion by John Kocher, seconded by John Wall, the regular meeting minutes from April 9, 2019 were unanimously approved.

5. Old Business - None

6. New Business - None

7. Preliminary Hearings

**a. Thomas Cahill – 2823 Elbridge Way**

Developmental Standards Variance Petition requesting two separate variances from the requirements of:

1. Section 154.133 – Expansion of Nonconforming Building/Structures and Land Uses; and
2. Section 154.134 – Nonconforming Residential Dwelling Alteration Permitted.

Petitioner is proposing to decrease lot footprint below 35% and to increase building volume in connection with a proposed two room addition.

Preliminary hearing set to open September 10, 2019.

Mike Gorman asks the Petitioner to step forward.

Bradley Adamsky of Newby, Lewis, Kaminski & Jones, LLP, is here on behalf of the property owner. Tom Cahill is also present. Brad summarizes the petition, including explaining why the property is nonconforming and addressing lot coverage.

Brad Adamsky submitted to the Board for the record as part of the variance packet 1) 15 copies of a completed address list pulled from Beacon of neighbors within 300 feet of the property, 2) 15 copies of proposed Findings and Decisions, and 3) 15 copies of preliminary building plans as they were originally and fully submitted to the Building Commission.

Tom Cahill explains the only difference between the plans is that the architect created detail of how the driveway would be modified. The plans submitted at this meeting include dimensions of the driveway.

Brad Adamsky asks the Board to still allow the Petitioner to proceed to public hearing upon further review of the three corrected documents submitted at this meeting.

Tom Cahill explains the plans show the minimum amount of driveway to be removed in order to meet lot coverage requirements, the minimum driveway that would be turned from impervious to pervious. Petitioner had picked out impervious paver, reducing the size and shape of the driveway to correct 35% lot coverage. Asphalt would be replaced with grass and sand. Tom also explains existing grades and the garage structure that will replace current deck.

Mike Gorman confirms Board now has all materials submitted to Building Commission. Brad Adamsky confirms Board has everything.

The Board discusses both variances being requested, from section 154.133 and 154.134, concerning footprint and volume. The Petitioner filed what was written in e-mail from Building Commissioner. Brad Adamsky states footprint and volume are being requested. The Petitioner has not asked for variance with respect to lot coverage. The Petitioner needs to go back to Building Commission for building permit. Lot coverage will be addressed by the Building Commission. The Petitioner understands the issue of lot coverage and the risk involved. John Wall confirms the existing deck is slightly smaller than the new structure.

No Building Commission representative is present to add any input.

Mike Gorman explains that 154.133 applies to use of property and Mike believes this section does not apply to this property. Mike has discussed this with Counsel. Brad Adamsky is inclined to agree. The Petitioner would rather ask for more variance than leave something out.

John Kocher motions to set for public hearing at the next regularly scheduled October 8, 2019 BZA meeting, seconded by Meg Kanyer. All in favor, the motion carried.

The Petitioner needs to comply with notice to neighbors within 300 feet, posting of on site notice sign, and other requirements of BZA rules.

## 8. Public Hearings

### **a. Charles and Dana Jacobson – 1403 Lake Shore Drive**

A Petition for the Reconsideration and Clarification of the April 9, 2019 BZA decision granting a variance from the requirements of Section 154.134 – Nonconforming Residential Dwelling Alteration Permitted – with respect to an 87 square foot addition. Petitioner is requesting clarification that the variance includes a 436 square foot second floor addition and remodel.

Preliminary hearing opened February 12, 2019. Preliminary hearing was continued to March 12, 2019. Public hearing was opened April 9, 2019. Public hearing for Reconsideration and Clarification set to open September 10, 2019.

Chris Willoughby explains this is not a typical hearing the BZA would hold. In the interest of the Town and after discussions the Board is ultimately readdressing and clarifying that decision made April 9, 2019. The public hearing is being re-opened with the opportunity to clarify what was sought and what was granted. The Jacobson's have the ability to move forward or not.

The BZA Board can deny, continue, or grant the reconsideration and clarification.

This meeting was noticed to the public.

Mike Gorman opens the public hearing for reconsideration and clarification of the April 9, 2019 BZA decision.

All requirements to hold public hearing have been met.

Dana Jacobson explains 87 square foot bump out is being sought, and building out 436 square feet across the back of the house on the second floor. Dana requests the Board consider and clarify that the variance is also for second floor. Dana states the

plans have always been the same set of plans. Builder Joel Anderson briefly explains the blueprints.

Mike Gorman calls for any persons who wish to speak in support of the petition. No audience members are in support and no letters were received in support.

Mike Gorman calls for any persons who wish to speak in opposition of the petition. No audience members are in opposition and no letters were received in opposition.

Mike Gorman declares the public comment portion of the meeting closed.

No Building Commission representative is present to add any input.

Board discussion is now open.

John Wall explains it was not clear to him that the second floor addition over footprint of existing house was discussed originally. Mike Gorman agrees there was nothing showing a second story 436 foot addition being asked for. Decision on April 9, 2019 only dealt with 87 square feet. Joel Anderson states he verbally mentioned 436 square feet at prior meeting. Mike Gorman states the file and request made by Petitioner did not include 436 square foot addition. It was requested in minutes at meeting but not clearly in paperwork. The request should have been clearer. Mike sees what is being asked for now, it is clearer. Meg Kanyer agrees.

Mike Gorman understands what Petitioner is asking for and can see why it should have been there in the beginning. Mike thinks it was not there in the beginning. Mike is willing to consider variance to be expanded to include second story addition.

John Wall states the Findings did not talk about volume being of that size at all. When the Board granted the variance it did not discuss size of variance relative to volume. Mike Gorman mentions the Board should have been clearer in what was said in the Findings. The Board could have been clearer in its decision.

Chris Willoughby has prepared restated Findings and Decisions. The Petitioner is really asking for three things, size and volume of first floor and volume of second floor, converting bedroom into master. John Wall comments that variance includes new construction over existing. Second floor is strictly volume, the bump out is both.

Mike Gorman asked Chris Willoughby to put together Findings and Decisions that address more specificity of 87 square feet and volume.

Mike Gorman motions to restate the BZA Findings and Decisions from April 9, 2019, based on the following Findings and Decisions read out loud by Mike. The motion is seconded by Meg Kanyer.

Chris Willougby states that the record for this petition will include materials submitted tonight as well as all the materials submitted at prior meetings. Chris also confirms the request is for footprint and volume.

Vote is taken as a roll call. Meg Kanyer, John Kocher, John Wall, and Mike Gorman are in favor of the motion. None opposed. The motion carries four in favor. The Clarification and Reconsideration is granted. The Petitioner must still request a building permit from the Building Commission.

John Wall comments how important clarifications are when the Board makes decisions. The language submitted to the Board is critical. John mentioned the original description of 87 square foot and how the Petition went on to say as well as remodeling of 436 square feet. John would call this an addition, not a remodel.

9. Adjournment: Motion to adjourn by John Wall, seconded by John Kocher. The meeting unanimously adjourned at 8:07 p.m.

Agenda Attached.

Findings and Decision Attached – Charles and Dana Jacobson, 1403 Lake Shore Drive

Minutes Approved by:  
BZA Secretary Meg Collins

  
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**TOWN OF LONG BEACH  
ADVISORY BOARD OF ZONING APPEALS  
Regular Meeting  
Tuesday, September 10, 2019  
7:00 p.m.  
Long Beach Town Hall  
AGENDA**

- 1. Call to Order**
- 2. Roll Call**
- 3. Pledge of Allegiance**
- 4. Approval of Minutes**
  - a. April 9, 2019; Regular Meeting
- 5. Old Business – None**
- 6. New Business - None**
- 7. Preliminary Hearings**
  - a. **Thomas Cahill – 2823 Elbridge Way**

Developmental Standards Variance Petition requesting two separate variances from the requirements of:

    1. Section 154.133 – Expansion of Nonconforming Building/Structures and Land Uses; and
    2. Section 154.134 – Nonconforming Residential Dwelling Alteration Permitted.

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-Preliminary hearing set to open September 10, 2019.
- 8. Public Hearings**
  - a. **Charles and Dana Jacobson – 1403 Lake Shore Drive**

A Petition for the Reconsideration and Clarification of the April 9, 2019 BZA decision granting a variance from the requirements of Section 154.134 – Nonconforming Residential Dwelling Alteration Permitted – with respect to an 87 sq. ft. addition. Petitioner is requesting clarification that the variance includes a 436 sq. ft. second floor addition and remodel.

-Public hearing set to open September 10, 2019.
- 9. Adjournment**



**Long Beach Advisory Board of Zoning Appeals  
Restated Findings and Decisions  
Development Standard Variance(s)**

**Petition No.:** \_\_\_\_\_

**Petitioner(s)/Owner(s):** Charles Jacobsen.

**Common Address:** 1403 Lake Shore Drive.

**Legal Description:** *See attached Exhibit "A", which is incorporated into and made a part of these Restated Findings and Decisions by virtue of this reference.*

**Request:** Development Standard Variance(s) to allow for the alteration and improvement of a nonconforming residential dwelling or structure that results in: (1) an increase in the size and/or volume of the first floor due to the addition of eighty-seven (87) square feet to the first floor for the purpose of expanding the currently existing crawlspace and (2) an increase in the volume of the second floor due to the addition of four hundred thirty-six (436) square feet for purpose of converting of an existing bedroom into a master suite in the rear of the home, all of which is generally impermissible under the Section 154.134 of the Town's Zoning Code.

**Date Public Hearing(s) Held:** April 9, 2019/September 10, 2019.

The Long Beach Advisory Board of Zoning Appeals ("BZA"), after giving due consideration to the Petitioner's Petition for Standard Development Variance(s), Petition for Reconsideration and Clarification, and supporting documents, testimony and evidence presented during the public hearing(s) on the subject Petition(s), other materials presented to the BZA that are part of the public record, and the legal requirements set forth under the Indiana and Long Beach Codes, the BZA now makes the following findings and decision(s),

1. The approval of the requested Development Standard Variance(s) from the Town's general restriction against permitting the alteration of the Petitioner's nonconforming residential building or other accessory nonconforming structure that improves livability or usability but also increases the size of the first floor area and/or volume of the building will not be injurious to the public health, safety, morals and general welfare because the contemplated project will be constructed in a manner similar to other projects approved in and around the immediate vicinity of the subject property, and all construction will be in compliance with applicable provisions of the Town's Building Code.
2. The use and value of the area adjacent to the subject property included in the requested Development Standard Variance(s) will not be affected in a substantially adverse manner because the project involves updating and improving the property while maintaining current setbacks and lot coverage, will maintain and be compatible with the

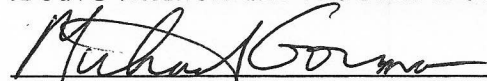
character of the immediate neighborhood, and is expected to have a positive impact on the values of surrounding properties.

3. The strict application of the Long Beach Zoning and Subdivision Ordinance(s) will result in practical difficulties in the use of the subject property for which the Development Standard Variance(s) is/are sought because the subject property, like many throughout the community, is a nonconforming lot. As a result of the nonconformance, the Petitioner would not otherwise be able to make the contemplated improvements or use and enjoy his property in the same manner as other property owners that are similarly situated without receiving approval for the requested Development Standard Variance(s).

**Based on the forgoing findings as well as due regard for the requirements of both state and local laws, it is the decision of the BZA to reconsider and clarify its decision of April 9, 2019, and approve and grant the requested Standard Development Variance(s) from the requirements of Section 154.134 of the Town's Zoning Code subject to the condition(s) that the Petitioner obtain required and applicable permits, including, but not limited to, a building permit prior to the commencement of any work.**

Dated this 10<sup>th</sup> day of September, 2019.

**LONG BEACH ADVISORY BOARD OF ZONING APPEALS**

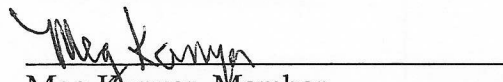


Michael Gorman, Chairman

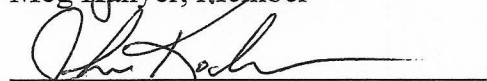


John Wall, Vice-Chairman

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Rich Jercich, Member



Meg Kanyer, Member



John Kocher, Member



### EXHIBIT A

LOT 21 IN LONG BEACH ADDITION IN THE TOWN OF LONG BEACH, LAPORTE COUNTY, INDIANA, AS RECORDED IN PLAT BOOK 5, PAGES 34 AND 35.

ALSO:

PART OF OUTLOT "A" IN LONG BEACH ADDITION IN THE TOWN OF LONG BEACH, LAPORTE COUNTY, INDIANA, AS RECORDED IN PLAT BOOK 5, PAGES 34 AND 35, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERLY CORNER OF LOT 21 IN LONG BEACH ADDITION; THENCE NORTHEASTERLY ALONG THE NORTHWESTERLY LINE OF SAID OUTLOT "A", (SAID LINE BEING THE SOUTHERLY RIGHT-OF-WAY LINE OF LAKE SHORE DRIVE), A DISTANCE OF 66 FEET; THENCE SOUTHEASTERLY AT RIGHT ANGLES TO THE AFOREDESCRIBED LINE, A DISTANCE OF 150 FEET; THENCE SOUTHWESTERLY AT RIGHT ANGLES TO THE AFOREDESCRIBED LINE, A DISTANCE OF 66 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 21; THENCE NORTHWESTERLY AT RIGHT ANGLES TO THE LAST ABOVE DESCRIBED LINE, AND ALSO ALONG THE NORTHEASTERLY LINE OF SAID LOT 21, A DISTANCE OF 150 FEET TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM THE FOLLOWING:

PART OF THE NORTH 150.00 FEET OF OUTLOT "A" IN LONG BEACH ADDITION, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID OUTLOT "A"; THENCE SOUTHWESTERLY ALONG THE NORTH LINE OF SAID OUTLOT "A", A DISTANCE OF 40.00 FEET; THENCE SOUTHEASTERLY AT AN ANGLE OF 90 DEGREES TO THE RIGHT OF THE LAST DESCRIBED LINE, A DISTANCE OF 20.00 FEET; THENCE WESTERLY AT AN ANGLE 90 DEGREES TO THE LEFT OF THE LAST DESCRIBED LINE, A DISTANCE OF 10.00 FEET; THENCE SOUTHEASTERLY AT AN ANGLE OF 90 DEGREES TO THE RIGHT OF THE LAST DESCRIBED LINE, A DISTANCE OF 110.00 FEET; THENCE WESTERLY AT AN ANGLE OF 90 DEGREES TO THE LEFT OF THE LAST DESCRIBED LINE, A DISTANCE OF 10.00 FEET; THENCE SOUTHEASTERLY AT AN ANGLE OF 90 DEGREES TO THE RIGHT OF THE LAST DESCRIBED LINE, A DISTANCE OF 20.00 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 150.00 FEET TO SAID OUTLOT "A"; THENCE NORTHEASTERLY ALONG SAID SOUTH LINE, A DISTANCE OF 60.00 FEET; THENCE NORTHWESTERLY ALONG THE EAST LINE OF SAID OUTLOT "A", A DISTANCE OF 150.00 FEET TO THE PLACE OF BEGINNING.

Common address: 1403 Lake Shore Drive

MTC File No.: 15-41982 (UD)