

TOWN OF LONG BEACH  
ADVISORY BOARD OF ZONING APPEALS

Long Beach Gymnasium  
Zoom Video Conference Call

Meeting Minutes for June 16th, 2020

1. Call to Order

The Regular Meeting of the Town of Long Beach Advisory Board of Zoning Appeals was held in the Long Beach Gymnasium and by Zoom Conference Call on Tuesday, June 16, 2020. Chairman Mike Gorman called the meeting to order at 7:03 p.m.

2. Roll Call

Board members in attendance: Chairman Mike Gorman, Meg Kanyer, and Doug Wickstrom

Board members attending via Zoom Conference Call: Barb Morgan

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: Bob Lemay

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

3. Pledge of Allegiance

4. Approval of Minutes: Upon motion by Meg Kanyer, seconded by Barb Morgan, the regular meeting minutes from February 4, 2020 were unanimously approved.

5. Old Business - None

6. New Business - None

7. Preliminary Hearings

**a. Thomas King – 2301 Florimond Drive**

Four separate Administrative Decision Appeal Petitions appealing the decision of the Building Commission's January 15, 2020 issuance of a Building Permit for the construction of a seawall, at the following properties:

1) Barrett and Susan Callaghan – 2234 Lake Shore Drive

- 2) David and Michelle Benoit – 2230 Lake Shore Drive
  - 3) Scott Upp – 2116 Lake Shore Drive
  - 4) Michael Magee – 2120 Lake Shore Drive
- The preliminary hearing is set to open at the June 16, 2020 BZA meeting.

Tom King is present through Zoom. Two attorneys, Patricia Sharkey and Tom Leeth, will also be speaking.

For the record, Mike Gorman recuses himself. Mike explains the reasoning for this decision. Meg Kanyer also recuses herself.

For lack of quorum the Board will not proceed with the Appeals.

Chris Willoughby recuses himself.

Meg Collins will notify the Town Council that two of the four BZA Board members present at the meeting recused themselves from hearing these four appeals. The Town Council will decide if replacement Board members should be named or if a special BZA Board should be formed.

Pat Sharkey who is representing Tom King discusses the filings and explains that she has not been retained by the LBCA. The LBCA is not party to this proceeding. Pat Sharkey will assist in filing modified appearances and motions.

Mike Gorman responds that Ms. Sharkey can get direction from the Town Council. The Town Council may say the Petitioner can resubmit. Mike directs Ms. Sharkey to the Town Council.

**b. Scott and Brandi Upp – 2116 Lake Shore Drive**

Development Standard Variance Petition requesting two variances from the requirements of:

- 1) Section 154.203(3) – Permissible Shoreline Preservation Structures and Specifications concerning the installation of a side seawall, and
  - 2) Section 154.057 – Schedule of District Regulations, concerning side setback
- Petitioner is requesting to install a side seawall that extends into the side setback by more than three feet.

-The preliminary hearing is set to open at the June 16, 2020 BZA meeting.

Mike Gorman states the fact that both of these Petitioners filed the same word for word Petitions and both are represented by the same Attorney.

Rich Trainor, Attorney representing both the Upp and Magee Petitioners, summarizes the two Petitions.

Mike Gorman explains how it appears the Petitioners do not need variance from 154.057. 154.203(3) is the controlling Ordinance and the only Ordinance needed with respect to setback.

Rich Trainor understands.

Mike Gorman states that when the Petition moves forward the Petitioner withdraw the 154.057 variance request.

Bob Lemay explains the emergency seawall repairs and the Petitioner's needing to go before the BZA.

Mike Gorman briefly explains the two properties, Upp on the west side, Magee on the east side. Magee sits next to stop 22. Seawall on the Upp property is the only extension beyond the prior seawall.

The Board discusses the seawall extension and setbacks. Mike Gorman asks how long the extension is. Moving into public hearing the Board needs to be able to document the extension.

Rich Trainor says the extension would be 3 feet, but total length of return wall. Mike Gorman responds that the Board is not talking about return wall. The vast majority of wall was repair.

Rich Trainor explains one of the reasons for the variation on the second part, 154.057, is because the three feet extension is on the property line.

Chris Willoughby confirms for Mike Gorman that the deed submitted for the Upp Petition is sufficient.

The Board and Bob Lemay discuss the property lines and if the three feet extension sits on land that is within the Town of Long Beach. Bob Lemay discusses Ordinary High Water Mark. Mike Gorman discusses the existing seawall that predates 1973. In order for the BZA to issue variance, the extension has to be done on property that is within the Town. Ordinary High Water Mark, building permit application file, and Shoreline Protection Ordinance are discussed.

The BZA Board requests copies of the whole building commission file for both properties. Rich Trainor will also receive a copy of the building commission file. Bob Lemay explains the circumstances surrounding the emergency situation.

Rich Trainor confirms for Mike Gorman that the Magee property is requesting the same variance of a three feet extension that will run along the property line.

The Board will be receiving items from Rich Trainor and the building commission files for both properties no later than two weeks prior to the July 14, 2020 BZA



meeting, by July 1, 2020. Rich Trainor will also be receiving a copy of the building commission files.

Meg Kanyer motions, seconded by Doug Wickstrom, to set both the Upp and Magee Petitions for public hearing at the regularly scheduled July 14, 2020 BZA meeting. Requested items will be submitted no later than two weeks prior to the meeting. The two properties were discussed together at this meeting. The public hearing for each property will be conducted separately. Mike Gorman states the other requirements that need to be met in order to hold a public hearing. All in favor, the motion carried.

**c. Michael Magee- 2120 Lake Shore Drive**

Development Standard Variance Petition requesting two variances from the requirements of:

- 1) Section 154.203(3) - Permissible Shoreline Preservation Structures and Specifications concerning the installation of a side seawall, and
  - 2) Section 154.057 - Schedule of District Regulations, concerning side setback
- Petitioner is requesting to install a side seawall that extends into the side setback by more than three feet.

-Preliminary hearing is set to open at the June 16, 2020 BZA meeting.

See motion above. Petition was discussed simultaneously with the Upp Petition.

**d. Patrick and Rebecca McCusker - 2208 Chastleton Drive**

Development Standard Variance Petition requesting two variances from the requirements of:

- 1) Section 154.051(B) - Permitted Accessory Uses and Structures, and
- 2) Section 154.30 - Nonconforming Buildings and Structures.

Petitioner is requesting to construct a shed as an accessory structure.

-Preliminary hearing is set to open at the June 16, 2020 BZA meeting.

Mike Gorman opens the preliminary hearing.

Attorney Rich Trainor summarizes the Petition.

Bob Lemay confirms for Mike Gorman that no building permit was ever requested.

Mike Gorman reads what the code allows under section 154.051(b) concerning the size of square footage of accessory structures. Pat McCusker, Rich Trainor, and the Board discuss the terminology "standard size shed", the planned uses for the shed, and the reasoning for why the size of the shed is being requested.

Bob Lemay can pursue whether a building permit application was filed with the Building Commission and speak about it.

The Board discusses the second variance and which code the Petitioner meant to use. The current requested code of 154.30 does not exist in the code. The Board will allow an amended petition to be submitted by two weeks prior to the July meeting, July 1, 2020.

Lot coverage is discussed. Lot coverage is included on BZA 1, page 2, section E of the Petition. Any ruling will not address lot coverage. Petitioner can leave lot coverage or remove it.

The Petitioner submitted a survey, the Board did not receive site plans. Side and rear setbacks are discussed. The Petitioner would like the opportunity to file an amended Petition that would clarify the second variance and consider whether a setback variance is needed.

Meg Kanyer motions, seconded by Barb Morgan, to set the Petition for public hearing at the regularly scheduled July 14, 2020 BZA meeting, based on an amended Petition being submitted by July 1, 2020. Mike Gorman states the other requirements that need to be met in order to hold a public hearing. All in favor, the motion carried.

#### 8. Public Hearings

##### **a. Kevin and Jocelyn Kruis – 2027 Oriole Trail**

Developmental Standards Variance Petition requesting variances from the requirements of:

1. Section 154.057 – Schedule of District Regulations, concerning setbacks, and
2. Section 154.134 – Nonconforming Residential Dwelling Alteration Permitted.

Petitioner is requesting to construct three-season room and replacement deck.

- Preliminary hearing opened October 8, 2019 and was continued to November 12, 2019 BZA meeting, which meeting was cancelled. Preliminary hearing resumed at the December 10, 2019 BZA meeting and was continued to the January 14, 2020 regularly scheduled BZA meeting. At Petitioner's request the preliminary hearing has been continued to the February 4, 2020 BZA meeting. The public hearing is set to open at the June 16, 2020 BZA meeting.

Mike Gorman explains that the Petitioner did not comply with the BZA rules to proceed with a public hearing. The Board cannot consider the Petition at all tonight.

Mike Gorman motions, seconded by Meg Kanyer, to continue this agenda item to the regularly scheduled July 14, 2020 BZA meeting under the public hearing section. All in favor, the motion carried.

Mike Gorman confirms for Doug Wickstrom that the setback variance was withdrawn at the February meeting. Setbacks are briefly discussed.

Bob Lemay states the Petitioner had wanted to add a four seasons room and deck and that lot coverage calculations were not provided. Bob mentions the possibility that the Petitioner may need a lot coverage variance.

**b. Woodland Holm – 2521 Lake Shore Drive**

Administrative Decision Appeal Petition appealing the decision of the Building Commission that Section 154.058 – On Site Parking Requirements – applies to the Petitioner's project. Petitioner's project includes a renovation of the home with the potential to alter the front parking arrangement.

-The preliminary hearing opened February 4, 2020. The public hearing is set to open at the June 16, 2020 BZA meeting.

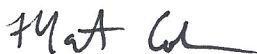
Mike Gorman states that the Petition has been withdrawn so there is no public hearing before the Board today.

Mike Gorman motions, seconded by Meg Kanyer, to dismiss the Holm Administrative Decision Appeal Petition, 2520 Lake Shore Drive. All in favor, the motion carried.

9. Adjournment: Motion to adjourn by Doug Wickstrom, seconded by Meg Kanyer. The meeting unanimously adjourned at 8:23 p.m.

Agenda Attached.

Minutes Approved by:  
BZA Secretary Meg Collins

  
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**TOWN OF LONG BEACH  
ADVISORY BOARD OF ZONING APPEALS  
Regular Meeting**

**Tuesday, June 16, 2020**

**7:00 p.m.**

**Long Beach Community Center Gymnasium  
Zoom Video Conference Information On Town Webpage  
AGENDA**

- 1. Call to Order**
- 2. Roll Call**
- 3. Pledge of Allegiance**
- 4. Approval of Minutes**
  - a. February 4, 2020; Regular Meeting**
- 5. Old Business - None**
- 6. New Business - None**
- 7. Preliminary Hearings**
  - a. Thomas King – 2301 Florimond Drive**

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**c. Michael Magee – 2120 Lake Shore Drive**

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Petitioner is requesting to construct a shed as an accessory structure.

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1. Section 154.057 – Schedule of District Regulations, concerning setbacks, and
2. Section 154.134 – Nonconforming Residential Dwelling Alteration Permitted.

Petitioner is requesting to construct an addition and replacement deck.

-Preliminary hearing opened October 8, 2019 and was continued to November 12, 2019 BZA meeting, which meeting was cancelled. Preliminary hearing resumed at the December 10, 2019 BZA meeting and was continued to the January 14, 2020 regularly scheduled BZA meeting. At Petitioner's request the preliminary hearing was continued to the February 4, 2020 BZA meeting. The public hearing is set to open at the June 16, 2020 BZA meeting.

**b. Woodland Holm – 2521 Lake Shore Drive**

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Petitioner's project includes a renovation of the home with the potential to alter the front parking arrangement.

-The preliminary hearing opened February 4, 2020. Public hearing is set to open at the June 16, 2020 BZA meeting.

**9. Adjournment**