

TOWN OF LONG BEACH
ADVISORY BOARD OF ZONING APPEALS

Long Beach Gymnasium
Zoom Video Conference Call

Meeting Minutes for October 13th, 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, October 13, 2020. Chairman Mike Gorman called the meeting to order at 7:02 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 Doug Wickstrom, the regular meeting minutes from September 8, 2020 were unanimously approved.

5. Old Business - None

Board members have received an updated zoning book. Mike Gorman explains the Shoreline Protection 2018 Ordinance and two amendments are not included in the 154.200 series. When the Town Clerk rectifies the matter the Board will receive a correct code book including the Ordinance.

Board members should bring anything they notice that needs to be resolved to Mike Gorman's attention.

6. New Business - None

7. Preliminary Hearings

a. Brian and Danielle Hoener – 2002 Somerset Road

Development Standard Variance Petition requesting variance from the requirements of 154.127 – Residential Single Nonconforming Lot of Record in Any District

Petitioner is seeking to remodel and make permanent a pre-existing three-season room on the front of the residence.

- The preliminary hearing was set to open at the regularly scheduled August 11, 2020 BZA meeting which was cancelled. The preliminary hearing opened at the regularly scheduled September 8, 2020 BZA meeting. The preliminary hearing was continued to the regularly scheduled October 13, 2020 BZA meeting.

Brian Hoener explains the project, to remodel a three-season room and make part of the permanent front of the home, allowing year round use as opposed to seasonal and increasing the function and livability of the home. Brian explains the Board received additional items submitted including a change to the variance request to 154.134, footprint of the project, and setbacks that were already located on site plan.

Mike Gorman explains for Barb Morgan that the project includes an increase to the front of the house, additional room is being bumped out, small closet on east side, increase in size. Overall volume is stated. The Petitioner has not stated the overall footprint increase for the home. The variance should include volume and footprint numbers.

Brian Hoener calculates and states the footprint increase.

Doug Wickstrom motions, seconded by Meg Kanyer, to set the petition for public hearing at the regularly scheduled November 10, 2020 BZA meeting. The variance being sought should include the volume and footprint. All in favor, the motion carried.

The petition is set for public hearing. Mike Gorman directs the Petitioner to the preliminary checklist for public hearing, Form BZA 12.

b. Bill and Karen Loftus – 2600 Hermoine Trail

Development Standard Variance Petition requesting variances from the requirements of:

1. Section 154.057 – Schedule of District Regulations, concerning side and rear setbacks, and
2. Section 154.046(A) – Permitted Uses and Structures, one single-family dwelling on a zoning lot.

Petitioner is requesting to demolish and reconstruct an accessory structure with a second story addition.

- The preliminary hearing was set to open at the regularly scheduled August 11, 2020 BZA meeting which was cancelled. The preliminary hearing opened at the regularly scheduled September 8, 2020 BZA meeting. The preliminary hearing was continued to the regularly scheduled October 13, 2020 BZA meeting.

Bill Loftus explains the updated survey to correctly depict side and rear setbacks. Exhibits regarding side and rear yard setbacks were submitted. Some changes were submitted to architectural prints to bring project into compliance with definition of dwelling unit.

Mike Gorman states the amended, or second petition no longer requests variance from 154.046 (A). The Building Commission has not reviewed this new plan. Mike asks the Petitioner if they are still asking for variance from 154.056 (A).

Bill Loftus states he does not believe so and he should probably resubmit the revised plan through the Building Commission to get that formal rejection.

Bob Lemay is here representing the Building Commission to listen to any discussion.

The Board discusses whether this second structure is a residence. Meg Kanyer states there is an Ordinance prohibiting secondary structure for business use.

The size of building and setbacks are discussed. The new structure is slid further to the rear and side yard from the existing structure. Doug Wickstrom explains building plans to Mike Gorman. Location and positioning of accessory structure are discussed. Location would dictate whether setback encroachments are grandfathered. If the structure is moved the request would require setback variance. Proposal to leave structure in exact same spot would be grandfathered. Petitioner should present exactly what they want and are requesting.

Bill Loftus explains the foundation deteriorating, the retaining wall, carport, and garage.

Mike Gorman explains if the Petitioner's garage were rebuilt on exact foundation a variance would not be needed. To move the building in different directions and no longer in the same spot would require variance.

Mike Gorman asks Bob Lemay if Petitioner wanted to use existing foundation but it is no longer buildable, and it would need to be re-poured or re-footed.

Bob Lemay explains that once you tear the structure down completely you are rebuilding and anything you build has to confirm to Ordinances. If one wall is left up you could follow existing foundation.

Bill Loftus confirms Mike Gorman's understanding of Exhibit B. The side and rear setbacks are all that is currently before the Board. Mike Gorman summarizes the options for the Bill Loftus and the Board. Bill Loftus confirms he could calculate the volume. Volume and footprint are discussed.

Bill Loftus can contact Building Commissioner Larry Wall concerning volume calculations.

Bill Loftus states the property has green ribbon and limits have been spray painted. Bill gives the Board permission to walk around the property.

Mike Gorman summarizes that Petitioner is seeking side and rear setback. Variance for 154.134 for volume and footprint increase for this accessory structure is being added.

Barb Morgan motions, seconded by Mike Gorman, to set this petition for public hearing at the regularly scheduled November 10, 2020 BZA meeting, with the understanding that the deadline for filing additional items is by October 27, 2020.

Bill Loftus clarifies for Meg Kanyer the design of the garage doors, that the existing carport will have a door. The final design shows three garage doors.

Mike Gorman explains there is a motion and second, on the understanding that the Petitioner will file by October 27, 2020 documentation clarifying setbacks and stating the volume and footprint increases of the accessory structure.

All in favor, the motion carried.

The petition is set for public hearing. Mike Gorman directs the Petitioner to the preliminary checklist for public hearing, Form BZA 12.

c. Keith and Victoria Schander – 2814 Lyndale Way

Development Standard Variance Petition requesting variances from the requirements of Section 154.057 – Schedule of District Regulations, concerning setbacks and lot coverage.

Petitioner is seeking to construct a room addition.

- The preliminary hearing is set to open at the regularly scheduled October 13, 2020 BZA meeting.

Vicky Schander explains the garage and current setbacks. The Petitioner is appealing to the BZA for side and rear setbacks and lot coverage relief to build a sunroom addition.

Mike Gorman explains the items missing from the Petition, including completed Form BZA 1, a deed for the property, a survey of the property, mailing addresses for

the homeowners within 300 feet, findings and decisions form, and corrected drawings.

Vicky Schander appreciates the clarification and will get the additional items to the Board.

Mike Gorman explains that the sunroom addition is increasing footprint as well as volume. The petition should add a third variance for 154.134.

Vicky Schander responds to Doug Wickstrom that a building permit was submitted and that Vicky asked for a denial letter but never received one. The Petitioner received an e-mail but nothing on letter head.

Mike Gorman and Vicky Schander discuss the drawings submitted by the Petitioner. Vicky explains the drawings show an outdoor kitchen. A second story is also discussed. The Petitioner is to submit corrected drawings for the project she is looking to have approved.

The garage and shed setbacks are discussed. The setback variance request for side and rear setbacks seems unnecessary. The Petitioner is to determine whether a setback variance from side and rear is necessary. If a variance is necessary the Petitioner should request the exact amount of variance.

Mike Gorman motions, seconded by Meg Kanyer, to continue the preliminary hearing to the regularly scheduled November 10, 2020 BZA meeting. Petitioner is to submit additional information to the Clerk's Office, and whether or not a third variance for side and rear setback is needed, by October 27, 2020.

Bob Lemay states the Building Commission never received lot coverage calculations. Mike Gorman points out calculations from the Petition. Vicky Schander is aware that the Building Commission requires the calculations and has not seen them yet.

All in favor, the motion carried. The preliminary hearing is continued to November 10, 2020 and items are to be submitted to the Clerk's Office by October 27, 2020.

8. Public Hearings

Tom and Eileen Rubey – 2003 Idlewood Trail

Development Standard Variance Petition requesting variance from the requirements of Section 154.134 – Nonconforming Residential Dwelling Alteration Permitted.

Petitioner is seeking a home renovation that includes a volume increase.

- The preliminary hearing was set to open at the regularly scheduled August 11, 2020 BZA meeting which was cancelled. The preliminary hearing opened at the regularly scheduled September 8, 2020 BZA meeting. The public hearing is set to open at the regularly scheduled October 13, 2020 BZA meeting.

Meg Collins explains the paperwork submitted by the Petitioner to the Clerk's Office for the green return receipt cards.

Eileen Rubey explains the certified letters did not have signatures. Mike Gorman responds. Chris Willoughby states the checklist does say certified return receipt. Notice was served. The documentation is not standard but the Board has what it needs to move forward.

Mike Gorman declares the public hearing open.

Eileen Rubey explains the remodel, including replacing a dilapidated garage with a new garage and screened in porch on top. The attic will be replaced and made into open space. Volume will be increased. There is no change to footprint or lot coverage.

Mike Gorman calls for any persons who wish to speak in support of the petition. No individuals speak in support. A letter was submitted by Pat Cannon of 2005 Nethercliffe Way.

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

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

Building Commission representative Bob Lemay has no comments.

Barb Morgan comments that the remodel would fit in line with the lot size and neighborhood, look nice, and add character.

Doug Wickstrom motions, seconded by Meg Kanyer, to approve the variance request. Mike Gorman states approval or denial requires vote by majority which is three Board members. Four Board members are present today.

Doug Wickstrom reads Findings and Decisions aloud.

Vote is taken as a roll call. Meg Kanyer, Barb Morgan, Doug Wickstrom, and Mike Gorman are in favor of the motion. None oppose the motion. Four in favor, none opposed, the motion carries.

Eileen Rubey asks about the square footage of the sunroom stated in the Findings and Decisions. 126 square feet should read 165 square feet.

Doug Wickstrom motions, seconded by Meg Kanyer, to amend the previous motion granting approval of the variance to correct the approximate square footage to read 165 square feet.

Vote is taken as a roll call. Meg Kanyer, Barb Morgan, Doug Wickstrom, and Mike Gorman are in favor of the motion. None oppose the motion. Four in favor, none opposed, the motion carries.

The Findings and Decisions Form will be amended to reflect the square footage change.

9. Adjournment: Motion to adjourn by Meg Kanyer, seconded by Mike Gorman. The meeting unanimously adjourned at 8:58 p.m.

Agenda Attached.

Findings and Decision Attached: Tom and Eileen Rubey, 2003 Idlewood Trail

Minutes Approved by:
BZA Secretary Meg Collins

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

Tuesday, October 13, 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. September 8, 2020; Regular Meeting
- 5. Old Business - None**
- 6. New Business - None**
- 7. Preliminary Hearings**
 - a. **Brian and Danielle Hoener – 2002 Somerset Road**

Development Standard Variance Petition requesting variance from the requirements of 154.134 – Nonconforming Residential Dwelling Alteration Permitted.
Petitioner is seeking to remodel and make permanent a pre-existing three-season room on the front of the residence.
- The preliminary hearing opened at the regularly scheduled September 8, 2020 BZA meeting and was continued to the regularly scheduled October 13, 2020 BZA meeting.
 - b. **Bill and Karen Loftus – 2600 Hermoine Trail**

Development Standard Variance Petition requesting variance from the requirements of Section 154.057 – Schedule of District Regulations, concerning side and rear setbacks.
Petitioner is requesting to demolish and reconstruct an accessory structure with a second story addition.
- The preliminary hearing opened at the regularly scheduled September 8, 2020 BZA meeting and was continued to the regularly scheduled October 13, 2020 BZA meeting.
 - c. **Keith and Victoria Schander – 2814 Lyndale Way**

Development Standard Variance Petition requesting variance from the requirements of Section 154.057 – Schedule of District Regulations, concerning setbacks and lot coverage.
Petitioner is seeking to construct a room addition.
- The preliminary hearing is set to open at the regularly scheduled October 13, 2020 BZA meeting.

8. Public Hearings

a. Tom and Eileen Rubey – 2003 Idlewood Trail

Development Standard Variance Petition requesting variance from the requirements of Section 154.134 – Nonconforming Residential Dwelling Alteration Permitted.

Petitioner is seeking a home renovation that includes a volume increase.

- The preliminary hearing opened at the regularly scheduled September 8, 2020 BZA meeting. The public hearing is set to open at the October 13, 2020 regularly scheduled BZA meeting.

9. Adjournment

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

Petition No.: _____

Petitioner(s)/Owner(s): Tom & Ellen Rubey.

Common Address: 2003 Idlewood Trail.

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: Petitioners request a Development Standard Variance for the purpose of constructing an approximately 165 sq. ft. enclosed porch over an existing deck and to add approximately 500 sq. ft. of finished attic space. The addition will result in the alteration and improvement of a nonconforming residential dwelling or structure that results in an increase in volume of 9,686 cubic feet, all of which is generally impermissible under the Section 154.134 of the Town's Zoning Code.

Date Public Hearing(s) Held: October 13, 2020.

The Long Beach Advisory Board of Zoning Appeals ("BZA"), after giving due consideration to the Petitioners' Petition for Standard Development Variance, supporting documents, testimony, and evidence presented during the public hearing on the subject Petition, 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,

1. The approval of the requested Development Standard Variance from the Town's general restriction against permitting the alteration of the Petitioners' nonconforming residential building or other accessory nonconforming structure that improves livability or usability but also increases the 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 property subject to the requested Development Standard Variance will not be affected in a substantially adverse manner because

the project involves updating and improving the property while maintaining and be compatible with the character of the immediate neighborhood.

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

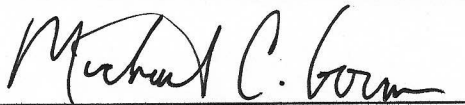
4. All relief granted by the BZA for the subject Petition should be only under Section 154.134 of the Zoning Code as no other relief from any other Sections, is properly before the BZA for consideration.

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 approve and grant the requested Standard Development Variance to allow Petitioners to construct an approximately 165 sq. ft. enclosed porch over an existing deck and to add approximately 500 sq. ft. of finished attic space, which will allow for the alteration and improvement of a nonconforming residential dwelling or structure resulting in an increase in volume of 9,686 cubic feet, subject to the following determinations and/or conditions:

- 1. The Standard Development Variance is granted as relief only from Section 154.134 of the Zoning Code, and no part of these Findings and Decisions shall be deemed to include any consideration or determination regarding any other Section of the Zoning Code, as no relief under any other Section was requested of or otherwise properly before the BZA for consideration as part of the subject Petition; and**
- 2. Petitioners must obtain all required and applicable permits, including, but not limited to, a building permit, prior to the commencement of any work, all of which shall be based on and subject to the drawings and plans submitted to the BZA for consideration under the Petition.**


Dated this 13th day October, 2020.

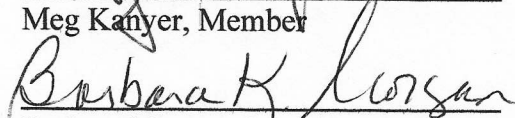
LONG BEACH ADVISORY BOARD OF ZONING APPEALS

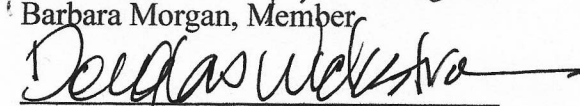


Michael Gorman, Chairman

Rich Jercich, Vice-Chairman


Meg Kanyer, Member


Barbara Morgan, Member


Doug Wickstrom, Member