

TOWN OF LONG BEACH
ADVISORY BOARD OF ZONING APPEALS

Long Beach Community Center Gymnasium

Meeting Minutes for July 13th, 2021

1. Call to Order

The Regular Meeting of the Town of Long Beach Advisory Board of Zoning Appeals was held at the Long Beach Community Center Gymnasium on Tuesday, July 13, 2021. Chairman Mike Gorman called the meeting to order at 7:00 p.m.

2. Roll Call

Board members attending in person: Chairman Mike Gorman, Meg Kanyer, Barb Morgan, and Doug Wickstrom

Members attending by Zoom: None

Members absent: Rich Jercich

A quorum is present and the meeting shall proceed

Attorneys in attendance: Chris 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: Barb Morgan motioned, seconded by Doug Wickstrom, to approve the regular meeting minutes from June 8, 2021. All in favor, the motion carried. The regular meeting minutes from June 8, 2021 are approved.

5. Old Business - None

6. New Business

a. Resolution to allow a BZA member's participation at a BZA meeting by electronic means of communication.

Mike Gorman explains the nature of the resolution.

Doug Wickstrom motions, seconded by Meg Kanyer, to adopt limited electronic participation by BZA Board members at future meetings. All in favor, the motion carried.

7. Preliminary Hearings - None

8. Public Hearings

a. Andrew and Maria Smith – 2616 Lake Shore Drive

Developmental Standards Variance Petition requesting variance from the requirements of Sections:

1. 154.048 – Maximum Height of Buildings, variance to allow a structure with an overall height of 37' 2 ¼", which is 4' 2 ¼" taller than the general height limit of 33' for all structures;

2.154.052(C) – Construction and Location Standards for Accessory Uses and Structures, variance to allow the construction of an accessory structure (garage) that exceeds the general height limit of 18' by approximately 19' 2 ¼";

3.154.052(A) – Construction and Location Standards for Accessory Uses and Structures, variance to allow the placement of the accessory structure in the side yard, which is generally prohibited; and

4.154.051(B) – Permitted Accessory Uses and Structures, variance to allow a storage structure that covers 3.22% of the property, which exceeds the general limit of 1% coverage for such structures.

Petitioner is seeking to construct an accessory structure (garage) that is 37' 2 ¼" from lowest pre-construction grade elevation.

-Preliminary hearing opened at the regularly scheduled June 8, 2021 BZA meeting. Public hearing is set to open at the regularly scheduled July 13, 2021 BZA meeting.

All requirements to hold a public hearing have been met. The Petitioners had substantial but not complete compliance with the sign posting requirement of 21 days prior to the public hearing. Chris Willoughby and the Board discuss the sign being posted 18 days prior to the public hearing. Brad Adamsky acknowledges the sign was placed 18 days rather than 21 days. First class mailing notices were sent to local and mailing addresses.

Meg Kanyer motions, seconded by Barb Morgan, to wave the 21 day sign posting requirement and accept 18 days in this particular case. All in favor, the motion carried.

Mike Gorman declares the public hearing open.

Attorney Brad Adamsky, Petitioners Andrew and Maria Smith, and architect Heidi Hornaday are present. Brad Adamsky explains the four items the Petitioners are seeking variances on and gives a brief summary of the petition.

Mike Gorman calls for any persons who wish to speak in support of the petition.
No letters in support were received.
Dorothy Schaefer of 2608 Lake Shore Drive spoke in support.

Mike Gorman calls for any persons who wish to speak in opposition of the petition.
No letters in opposition were received.
The following individuals spoke in opposition:
John Wall, Fire Chief of the LBVFD
Ed Gausselin of 2939 Lake Shore Drive

Brad Adamsky responded about setbacks and height.

Mike Gorman declares the public comment portion of the meeting closed.
Building Commission representative Bob Lemay states that the Building Commission has not reviewed these plans. If the Petitioners receive a variance the Building Commission will be looking at the plans.

The BZA Board discussed the use of the storage underneath the garage, fire protection, Height Ordinance, and location of the accessory structure in the side yard. Lot coverage was briefly mentioned.

The Petitioners need a decision on each of the requested variances.

Meg Kanyer motions to approve the variance request to allow the construction of an accessory structure (garage) that exceeds the general limit of 18' up to but not exceeding a total height of 33'; to approve the variance request to allow the placement of the contemplated accessory structure in the side yard on the West side of the property; and to deny the variance request concerning height under Section 154.048. The variance request under Section 154051(B) is not applicable to Petitioner's project. The motion is seconded by Doug Wickstrom. Meg Kanyer reads the findings aloud.

Mike Gorman states the Petitioners must present to the Building Commission recorded documents, deeds, showing the lots have been combined. Any use of garage/storage other than garage/storage is prohibited. All decisions are subject to what has been submitted to the BZA. Mike explains the elevation number in the drawings is inaccurate and that lot coverage is determined by the NOHWM. The Board did not discuss lot coverage. Mike is calling this to Petitioners attention in order to correct this and make sure laws are abided by.

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 variance requests are approved and denied with accordance of the findings and decisions.

9. Adjournment: Motion to adjourn by Meg Kanyer, seconded by Mike Gorman. The meeting unanimously adjourned at 7:52 p.m.

Agenda Attached.

Findings and Decision Attached: Andrew and Maria Smith, 2610 and 2616 Lake Shore Drive

Minutes Approved by:
BZA Secretary Meg Collins



**TOWN OF LONG BEACH
ADVISORY BOARD OF ZONING APPEALS
Regular Meeting
Tuesday, July 13, 2021
7:00 p.m.
Long Beach Community Center Gymnasium
AGENDA**

- 1. Call to Order**
- 2. Roll Call**
- 3. Pledge of Allegiance**
- 4. Approval of Minutes**
 - a. June 8, 2021; Regular Meeting
- 5. Old Business - None**
- 6. New Business**
 - a. Resolution to allow a BZA member's participation at a BZA meeting by electronic means of communication.
- 7. Preliminary Hearings - None**
- 8. Public Hearings**
 - a. **Andrew and Maria Smith – 2610 and 2616 Lake Shore Drive**

Developmental Standards Variance Petition requesting variance from the requirements of Sections:

 - 1) 154.048 – Maximum Height of Buildings, variance to allow a structure with an overall height of 37' 2 ¼", which is 4' 2 ¼" taller than the general height limit of 33' for all structures;
 - 2) 154.052(C) – Construction and Location Standards for Accessory Uses and Structures, variance to allow the construction of an accessory structure (garage) that exceeds the general height limit of 18' by approximately 19' 2 ¼";
 - 3) 154.052(A) – Construction and Location Standards for Accessory Uses and Structures, variance to allow the placement of the accessory structure in the side yard, which is generally prohibited; and
 - 4) 154.051(B) – Permitted Accessory Uses and Structures, variance to allow a storage structure that covers 3.22% of the property, which exceeds the general limit of 1% coverage for such structures.

Petitioner is seeking to construct an accessory structure (garage) that is 37' 2 ¼" from lowest pre-construction grade elevation.

-Preliminary hearing opened at the regularly scheduled June 8, 2021 BZA meeting.

Public hearing is set to open at the regularly scheduled July 13, 2021 BZA meeting.
- 9. Adjournment**

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

Petition No.: _____

Petitioner(s)/Owner(s): Andrew and Maria Smith.

Common Address: 2610 and 2616 Lakeshore Drive.

Request: Petitioners request the following Development Standard Variances from the requirements of the following Code Sections to build an accessory structure (garage) that would otherwise be prohibited under the Zoning Code:

1. **Section 154.048** - Variance to allow a structure with an overall height of 37' 2 1/4", which is 4' 2 1/4" taller than the general limit of 33' for all structures;
2. **Section 154.052(C)** - Variance to allow the construction of an accessory structure (garage) that exceeds the general limit of 18' by approximately 19' 2 1/4";
3. **Section 154.052(A)** - Variance to allow the placement of the contemplated accessory structure in the side yard, which is generally prohibited; and
4. **Section 154.051(B)** - Variance to allow a storage structure that covers 3.22% of the property, which exceeds the general limit of 1% coverage for such structures.

Date Public Hearing Held: July 13, 2021.

The Long Beach Advisory Board of Zoning Appeals ("BZA"), after giving due consideration to the Petitioners' Petition for Standard Development Variances, 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 Variances from the Town's general requirements of the Zoning Code to allow the construction of an accessory structure (garage) that exceeds the 18' limit under Section 154.052(C) to a height of but not exceeding 33' in the side yard on the West side of the subject property in accordance with the provisions of Sections 154.052(A)(D) 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 and improvements that exist or that have otherwise been allowed in and around the immediate vicinity of the subject property while taking into account the unique topography and slope of the 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 Variances to allow the construction of an accessory structure

(garage) that exceeds the 18' limit under Section 154.052(C) up to a height of but not exceeding 33' in the side yard on the West side of the subject property in accordance with the provisions of Sections 154.052(A)(D) will not be affected in a substantially adverse manner because the project involves updating and improving the property while maintaining its general compatibility with the character of the existing home and 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 requested Development Standard Variances are sought to allow the construction of an accessory structure (garage) that exceeds the 18' limit under Section 154.052(C) up to a height of but not exceeding 33' in the side yard on the West side of the subject property in accordance with the provisions of Sections 154.052(A)(D) because the contemplated project, like many throughout the community, will be built on a property with unique characteristics. Due to the uniqueness of the property, the 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 above-delineated Development Standard Variances.

4. Regarding the Standard Development Variance sought under Section 154.048 of the Zoning Code, Petitioners failed to meet their burden of establishing that the project will not be injurious to the public health, safety, morals, and general welfare and further failed to establish that the strict application of the Zoning Code will result in practical difficulties in the use of the subject property.

5. Section 154.051(B) is not applicable to Petitioners' project.

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:

1. **Approve and grant** the requested Standard Development Variance under Section 154.052(C) to allow the construction of an accessory structure (garage) that exceeds the general limit of 18' up to but not exceeding a total height of 33';
2. **Approve and grant** the requested Standard Development Variance under Sections 154.052(A)(D) to allow the placement of the contemplated accessory structure in the side yard on the West side of the property; and
3. **Deny** the requested Standard Development Variance under Section 154.048 because Petitioners failed to meet their burden of establishing that the project will not be injurious to the public health, safety, morals, and general welfare and further failed to establish that the strict application of the Zoning Code will result in practical difficulties in the use of the subject property,

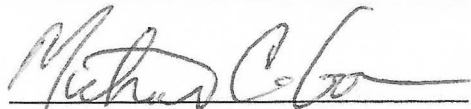
subject to the following further determinations and/or conditions:

1. Relief under Section 154.051(B) is deemed unnecessary;
2. 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 such relief was requested of or otherwise properly before the BZA for consideration as part of the subject Petition, except as otherwise addressed above;
3. The accessory structure (garage) should only be used as permissible under the Zoning Code and in accordance with the plans submitted to the BZA; and any use other than for parking and related, incidental storage shall result in immediate revocation of all Standard Development Variances granted for the subject Petition;
4. Petitioners must cause the proper documentation to be filed with County of LaPorte County, Indiana, including, but not limited to, deeds, to combine all five (5) lots that make up the properties at 2610 and 2616 Lakeshore Drive into one (1) zoning lot and present copies of all such documents to the Building Commission with any application for a permit; and
5. 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.

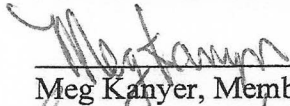
Dated this 13th day of July, 2021

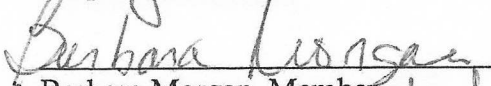
LONG BEACH ADVISORY BOARD OF ZONING APPEALS

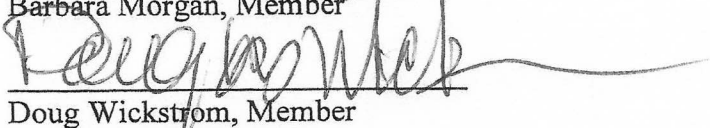
By:


Michael Gorman, Chairman

Rich Jercich, Vice-Chairman


Meg Kanyer, Member


Barbara Morgan, Member


Doug Wickstrom, Member