

Clearwater Township
Zoning Board of Appeals
Regular Meeting of April 9, 2018

Call to Order, Pledge of Allegiance:

Chair Lawicki called the meeting to order at 7:00p.m., and opened with the Pledge of Allegiance.

Roll Call of Members and Recognition of Visitors:

ZBA members present: Bergmann, Fields, Lawicki, Snyder.

ZBA members absent: Gerlach

Public: Gianine Cassasa

Approval of Agenda:

MOTION by Bergmann, second by Snyder, to accept the agenda as presented. Motion carried.

Call for Disclosure of Conflicts of Interests:

Chair calls for disclosure of any real or potential conflicts of interests. There were none.

Approval of Minutes:

MOTION by Bergmann, second by Lawicki, to accept the minutes of the meeting of October 2017 as presented.
Motion carried.

MOTION by Lawicki, second by Fields, to accept the minutes of the meeting of January 2018 as presented.
Motion carried.

Public Comment for Matters Not on the Agenda:

Bergmann – asked about the proper procedure for issuing notices of zoning violations. He reported that there was a disturbance at the March 2018, Township Board meeting, in which a citizen objected to having received a formal notice of a zoning violation rather than a phone call. During discussion, it was noted that the proper procedure requires a formal, written notice, because that establishes the record and starts the clock. A phone call will not hold up as evidence if the case ever has to go to court.

Bergmann also reported that the unhappy citizen claimed that the form offered no way to get in touch with the Zoning Administrator. Fields commented that the current Zoning Administrator uses a sequence of forms on Township letterhead that give notice of the violation and follow up at 30 and 60 days, with a final notice at 90 days, before the matter goes to court. Bergmann requested a copy of the official form currently in use; Fields agreed to send it to him.

Old Business:

Snyder – asked about the Umlor Torch Lake property. Lawicki related that Umlor has a long dock with a solid party roof at the end of it. The dock has been removed from the lake for the season, and is stored temporarily on the lawn between the house and the lakeshore. The party roof extends above the privacy fence, and is visible from the street.

Fields – reported that Amendment 8 to Ordinance 22 – the Zoning Ordinance, modifying the waterfront protection language in Sections 4.03 and 9.02, was finally finished. It had gone to public hearing on March 5, been enacted by the Township Board on March 21, been published in the Elk Rapids News on April 5, and would become effective on April 13.

She reported on an interesting Email thread forwarded to her by Robert Kngon of ESLA. The thread was initiated apparently by Mike Kroll, a citizen who thought this amendment work had been done stealthily over the winter, and was unaware of the two years' worth of work, from the time the ZBA originally sent the request to the Planning Commission to revise the language in the waterfront setback protection language of the Zoning Ordinance. The request was triggered by actions of one individual on the Torch Lake shore, who was found to be in violation of the Ordinance, and whose case went to court.

During the court proceedings, this individual's defense had two points: 1) he claimed his concrete patio was not a structure because it was at grade, and 2) he claimed that there was no waterfront protection for the lake because the ordinance language specified "river" and "stream," and did not mention "lake." The court found for the township, but asked the township to review and modify its definition of structure so that it would not be misconstrued in the future.

With the definition of "structure" settled, the Planning Commission moved ahead with the ZBA request to consider including "lake" within the protective language of the ordinance.

New Business

Chair Lawicki – welcomed new member Greg Snyder. Greg comes to us from Illinois, works part-time remotely for his employer in Illinois. He holds a BS in General Engineering. His wife is a native of Boyne City. He specializes in construction, home-building, and land-surveying.

Snyder inquired about the foundations of older buildings that one does see here and there in the landscape, and wondered whether the property owners have to remove those foundations. We acknowledged that we do not know the answer to that question.

Further discussion emphasized the need for new township officials to get the requisite training to do the job they've undertaken for the community, and for already serving officials to continue with their education so as to keep up-to-date with the laws. Bergmann and Fields reminded the board of the admonition received at a seminar on the basics of ZBA, to never cite official rules from memory, but always to look up the law and cite it correctly. Examples of past mistakes in that regard were shared. The ZBA members will watch for upcoming training opportunities.

Closing Public Comment:

There was none.

Adjournment:

MOTION by Fields, second by Bergmann, to adjourn. Adjournment at 7:45 p.m..

Assignments:

- Fields to send zoning violation notice form to Bergmann.

Next Meeting: July 16, 2018 at 7:00 p.m.

Respectfully submitted,



Tina Norris Fields
Secretary pro tempore