

TOWNSHIP OF LINCOLN
CLARE COUNTY P.O. BOX 239
LAKE GEORGE, MI. 48633

Supervisor Ringley
Clerk Majewski
Treasurer West
Trustee Branam
Trustee Galloway

**Lincoln Township Zoning Board of Appeals
Public Open Meeting
July 28, 2008**

The meeting was called to order by Chair Kim Smith at 7:00.

Roll Call: Chair Smith, Secretary Chapman, Zoning Administrator Lambert, Recording Secretary House

Absent: Vice-Chair Reinke

Public: 8

Purpose: To consider the request of Robert and Suezett Bourdon of 1718 Forest, Lake George, Michigan for an addition to an existing deck on a non-conforming structure presently within seven (7) feet of the lake.

Correspondence:

1. A recommendation of denial with conditions was read from the Lincoln Township Planning Commission to the Zoning Board of Appeals.
2. A recommendation of denial with conditions was read from the Zoning Administrator Al Lambert to the Zoning Board of Appeals.
3. Chair Smith explained that the ZBA had posted this variance request and had no correspondence from neighbors.

Findings of Fact:

The Bourdon's explained that they didn't know about the need for the permits. An audience member asked if they could rebuild a non-conforming structure if they had a fire? Chair Smith stated that if that happened they would have to apply for a variance. The Bourdons asked how long the 50' set back has been in effect? Lambert stated that it went into effect in 1978. Suezett stated that they had built after 1978. Robert stated that the deck is not attached to the house so they thought it was ok. Chair Smith explained that since they already had a deck, they had every right to repair it. Suezett stated that they had built the deck onto their father's home with the intentions of making it safer. Further, Menards had sent too much lumber and they kept it and decided to use it. They do not feel that there is any runoff from the new structure. They didn't know about the restrictions but they apologize for their mistake. The Bourdons explained that they were also trying to reduce the amount of work that they had to do on the property. Suezett stated that it would take them time to change the decking because of medical problems.

She just wanted the ZBA to be aware of their situation. Robert explained that the deck is not attached to the house at all and he didn't dig any holes for concrete but used a cement pad for support. Chair Smith asked what was there originally? Robert explained that he hadn't changed the upper deck.

Public Comment:

1. Your deck is beautiful. I think the Planning Commission's recommendation is lenient in allowing the deck to be lowered to grade. But it's already close to grade. It isn't cost effective to make them do this.
2. Our community has to take a reality check and see that on our lake a lot of the properties are non-conforming and we don't need to penalize people for doing such nice improvements.
3. We have places around here that are not very nice and they are adding structures without being in compliance and these changes aren't nearly as nice as what these people did. I vote to let them keep it. Neighbors on the other side don't have any problem with it.
4. What is the purpose of the buffer area?
Chair Smith explained that it is to keep silt or dirt out of the lake and anything within 500' of the water should have a permit and perhaps a soil erosion permit as well.
5. Lewis - Lowering isn't going to change runoff so I'm not sure why I made that recommendation as a member of the Planning Commission.
6. My way of thinking is that it is made of treated lumber and lowering it would actually increase the pollution of the lake.

Roll Call Vote/Reasons:

See Final Decision Form

Final Decision:

It was moved by Chair Smith and seconded by Chapman that the 4' extension on the front of the deck should be removed and the 10' x8' extension on the side of the deck should be dropped to 8" above grade or be removed. Further, this area is never to be enclosed. Motion Passed.

Chair Smith advised the Bourdon's of their right to appeal the decision of this hearing within 30 days of receiving the final decision form. The Boudons refused to wait for the paper work to be copied and asked for it to be mailed. Chair Smith closed the hearing.

Old Business:

It was moved by Chapman and seconded by Chair Smith to accept the June 2, 2008 minutes as presented. Motion Passed.

Motion to adjourn by Chair Smith seconded by Chapman at 8:10. Motion Passed.

Secretary
Ron Chapman
Ron Chapman

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**Lincoln Township Zoning Board of Appeals
Interpretation Meeting
July 29, 2008**

Chair Smith opened the meeting at 6:08.

Present: Chair Smith, Secretary Chapman, Vice-Chair Reinke, Zoning Administrator Lambert, Building Inspector Mantei, Recording Secretary House

Absent: 0

Public: 11

Purpose: To review the Township Zoning Ordinance concerning when is a building permit required. A discrepancy may exist between the building inspector's and zoning administrator's determination of square footage.

Smith read the ordinance of interest for the public and explained that the Zoning Board of Appeals is not here to change anything but interpret the ordinance. The ZBA has the enforcement power to interpret the ordinance and make a recommendation to the Township Board on how to solve the problem.

Zoning Administrator's Comments: My interpretation of our ordinance is that the useable area should be measured to determine square footage not the overhangs or porches. Lambert referred to page 19 for clarification. None of these sheds are permanently attached to the site and I used that fact as part of my decision. In these incidents in question, all set backs were met from existing structures, lot lines and the lake.

Building Inspector's Comments: According to Michigan code all of the covered space is included in the square footage. Any building is movable and therefore it doesn't apply to this issue. I had three phone complaints about one of the structures and so I went to see the buildings and determined that they were over 120 square feet. The State only requires a permit if it is over 200' square feet but since we changed our ordinance to 120 square feet we must stand by it.

Public Comments:

1. Do these sheds have a wood or cement floor?
Smith stated that they are wood.
2. How is the square footage determined?
Smith explained that they are measured from the exterior of the walls but includes the covered porches. This ordinance pertains to buildings that are at the lakeside. More of the ordinance was explained. Mantei stated that decks are counted separately for square footage.
3. If there is no anchor to a building is there no limitation on square footage?
Lambert explained that there are still rules that apply.
4. The change to the rules of 1977 was a mistake because now you could build a pavilion at the lakeside.

Chair Smith closed the public hearing.

Findings of Fact:

Reinke – It’s confusing.

Chapman - There are issues that need to be addressed. As far as the porch is concerned there could be some clarification to prevent the building of pavilions. I think it could be a quick fix.

Smith- What about the square foot issue?

Chapman - When the Planning Commission went through this, we thought that 200 square feet was too much but the old ordinance said that almost nothing could be built next to the lake. We went through the process and held hearings and it all passed.

Reinke- That was just for a storage building not a pavilion.

Chapman - The Planning Commission did look at a height restriction and then it became an ordinance. But there are discrepancies that could be fixed. The ZBA just makes recommendations.

Smith - My opinion is that I don’t see a problem with 120 square feet but there is a problem with what we are going to allow. A way to stay consistent with our codes is to allow 120 square foot structures in order to keep them small by the lake.

Reinke - But now there are decks and walkways which wasn’t the intent.

Smith - If Mantei is right about the change we made to the ordinance that differs from the State then we have to stay with the 120 square feet. Couldn’t we leave the limit at 120 square feet but not require a permit if it isn’t over 200 square feet. It’s our job to look at what is in the best interest of the Township and its residents.

Reinke - Decks and porches are a real nasty issue.

Smith - When do you need a building permit is the big issue. What is the limit?

Reinke - A lot of Townships require a permit over 100 square feet.

Mantei - All new structures require a zoning permit.

Smith - If anything, such as a deck or porch is attached to the building does it need to be added to the square footage? This is part of the issue we need to address.

Chapman - When do you determine the square footage of a walkway or deck in the square footage of a small storage shed?.

Lambert - If they put a roof over it, then I’d have to take a second look at it. I don’t consider the unenclosed porch as part of the square footage.

Chapman - Instead of trying to rewrite this ordinance, could we just have you use your discretion in determining when a building permit is needed.

Lambert - Walkways can't have an elevation over 8" above grade then there isn't any limit on how much you have or its square footage.

Mantei - The whole floor including the porch is one piece and at ground level on the structure in question.

Smith - If that's the case, then we are back to determining what is the square footage of this structure.

Mantei - The issue is that the roof over the porch can't support itself and therefore is held up with posts.

Smith - Status quo isn't going to work and we need to clarify the issue for the Building Inspector and the Zoning Administrator so they are clear on what to do. Smith asked the them to sit down and work together and when they don't agree go to the Township Board to solve the issue. The whole thing is, not to have the public confused.

Suggested recommendation: Smith stated that he doesn't think the ordinance needs to change in relationship to the 120 square foot limit for buildings on the lake. The Township Board should be told that the building stays at 120 square feet but the decks and walkways must stay under 200 square feet.

Chapman - I don't think the Township residents would want us to go back to the time when we didn't allow anything near the lake. We can't leave the issue of a porch unaddressed.

Mantei - We just need to say how large these overhangs could be to prevent this pavilion idea. I don't see anything wrong with these buildings but they must fit into the zoning ordinances.

Chapman - People need to understand the decisions we make.

Public Comment:

1. These buildings aren't going to be torn down are they?

Lambert - No, I have already approved them.

2. Maybe we could survey what is on the lake and then make sure nothing is any bigger.

Chapman - That is generally what the Planning Commission does. We also look at other Townships and see what they do.

3. If you can keep the 120 square feet, you might use a percentage for the porch rule and make sure you state that it can never be enclosed.

Smith - If you make the language for the size any smaller than the ones already built then you open yourself up for future problems.

4. The Township supervisor stated that legal non-conforming structures is the title for buildings that have zoning permits and are approved prior to an interpretation of the ordinance.

Motion: Moved by Smith and seconded by Chapman that all accessory storage buildings must be 120 square feet or less when placed adjacent to the lakes according to Paragraph 52 of the Lincoln Township Zoning ordinance. All porches or attached decks including the accessory buildings must be less than 200 square feet and none of these porches, decks, or overhangs can ever be enclosed. Yes (3) No (0) Motion Passed

Motion: Chair Smith moved and Reinke seconded that if the Building Inspector or Zoning Administrator disagree on the interpretation of the codes, they should sit down together and discuss it and if they can't agree, the issue should go before the Township Board for a decision. Once the decision is made by the Township Board on the direction to be taken, the Zoning Administrator and the Building Inspector may proceed with any disciplinary action needed to correct the violation. Motion Passed.

Moved by Chapman and seconded by Reinke to close the meeting at 7:15. Motion Passed.

Secretary,
Ron Chapman
Ron Chapman