

LONG BEACH ADVISORY BOARD OF ZONING APPEALS

FINDINGS AND DECISIONS

Petition No: 2016- ____
Amended for: _____

The application of: Long Beach Community Alliance, Inc.

Address: The Permitted Address is 2826 Lakeshore Drive, Long Beach, Indiana.

Date Public Hearing Opened: June 6, 2016

Date Public Hearing Closed: June 29, 2016

The Long Beach Board of Zoning Appeals now FINDS:

1. On December 30, 2015, then Building Commissioner, Aaron Tomscheck issued a building permit, Permit No. 15-12-1815 , for the construction of a seawall at property located at 2826 Lakeshore Drive, Long Beach, Indiana.
2. On January 25, 2016, the Long Beach Community Alliance, Inc. filed this administrative appeal alleging said building permit was not properly issued and did not comply with certain sections of the Long Beach Town Code.
3. To the extent that the Long Beach Community Alliance claims that the Building Commissioner did not have the power to issue the building permit at issue, the Long Beach BZA notes that Long Beach Town Code Section 154.146- Duties of the Building Commissioner sub-section (G)(2) lists one of the Building Commissioner’s duties as “[i]ssuance of all building permits. . .” Thus the Building Commissioner has the power pursuant to Long Beach Town Code Section 154.146(G)(2) to issue building permits.
4. Despite the Building Commissioner having the power to issue the building permit, the permit and the planned construction must comply with all Town of Long Beach codes

and ordinances, unless a variance was obtained from the Board of Zoning Appeals in relation to a particular ordinance.

5. The only variance obtained for this property was a developmental standards variance to Long Beach Town Code Section 154.060, allowing the seawall at issue to be placed more than 106.6 feet north of Lakeshore Drive.
6. The building permit and application for said building permit fail to comply with Chapter 155 of the Long Beach Town having to do with regulations for building within a flood plain.
7. The Long Beach Community Alliance presented sufficient evidence to demonstrate that the seawall at issue will be located within the AE zone, as classified by the Federal Emergency Management Agency (FEMA), which is considered to be a Special Flood Hazard Area pursuant to Section 155.05 of the Long Beach Town Code, which zone is required to comply with Chapter 155 of the Long Beach Town Code.
8. Accordingly, the permit and resulting construction of the seawall at issue fails to comply with Long Beach Town Code Section 154.091, approval of construction within a regulated floodway.
9. The Long Beach Community Alliance failed to present sufficient evidence that the building permit at issue did not comply with Chapter 156 of the Long Beach Town Code relating to Stormwater Management.
10. The building permit and application for said building permit fails to comply with Section 154.112 of the Long Beach Town Code- Permit Required for Earth Changes and to Alter Topography in that the applicant for said building permit failed to submit a topographic survey signed by an Indiana Registered Surveyor, showing the existing topography of the zoning lot and the proposed final topography of the zoning lot. The revised Location Survey submitted by the applicant on December 29, 2015 does not satisfy this requirement as it does not demonstrate both pre and post construction topographic changes. The photographs that have been submitted show significant excavation that has been done on the property, which necessarily resulted in topographic changes which would subject the property to Section 154.112.

THE FOLLOWING SECTION IS FOR BZA USE ONLY

THE BOARD NOW GRANTS REJECTS the above requested Administrative Decision Appeal and reverses the decision of Building Commissioner Aaron Tomscheck to issue Permit No. 15-12-1815 for the construction of a seawall located at 2826 Lakeshore Drive for the reasons listed above.

Dated: 6/29/16

LONG BEACH
BOARD OF ZONING APPEALS

Cynthia Connelly

Michael J. [Signature]

Gregory [Signature]
