

Town of Clear Lake – Board of Zoning Appeals

Meeting Minutes – April 11, 2023*

Chairman Jim McClain called meeting to order at 7:00pm.

Roll Call:

Walter (Mokey) Grabowski, 254 West Clear Lake Drive

Jim McClain, 1226 Quiet Harbor Drive

Kit Tyler, 280 Penner Drive

Matt Rippe, 68 West Clear Lake Drive

Jessica Swander, 7382 E State Road 120

Mike Hawk, Attorney to the BZA

Robert Hawley, Zoning Administrator

Jennifer Sattison, Billing Clerk

There were 32 residents in attendance and 17 via Zoom.

J. McClain entertained a motion to move the approval of minutes to the end of the agenda.

Motion by: J. Swander

To approve the approval of minutes to the end of the agenda.

2nd by: W. Grabowski

All in favor, say aye. Vote was unanimous. Motion carried; moving the approval of minute to the end of the agenda.

No Budget Items.

Zoning Administrator R. Hawley went through the staff report for Dennis & Jackie Keiser's Variance 2023-01 (a).

Variance 2023-01 (a): Request for variance from development standards in *UDO Section 5.04 (H)*, utilities sewer or water service shall not be provided into an accessory building. *UDO Section 2.16 Sewer and Water*, sanitary sewers are not permitted, and water utilities permitted for outdoor hydrants or spigots. The proposed project includes a full bathroom.

Variance Applicant, Dennis Keiser, discussed his project and that he needed the bathroom due to his business in fire insurance and wants to mitigate the contamination brought into his home. In addition, he wanted extra height for head room in the attic space for walking around without obstruction.

The BZA members asked questions regarding the applicant's request.

J. McClain entertained a motion to open for public comment.

Motion by: J. Swander

To open for public comment.

2nd by: K. Tyler

All in favor, say aye. Vote was unanimous. Motion carried; open for public comment.
Residents George Schenkel, 144 West Clear Lake Drive; Kathy Schenkel, 144 West Clear Lake Drive; Tim Reith, 674 South Clear Lake Drive; Don Luepke, 1057 South Clear Lake Drive; and Bob & Vicki Hill (via Zoom), 936 South Clear Lake Drive, spoke about their concerns if the variance was approved and asked that the BZA consider denying the requests as the standards could not be met.

Variance Applicant, Dennis Keiser, was given a chance for rebuttal and explained his reasons again that he stated in his opening statement.

J. McClain entertained a motion to close public comment.

Motion by: J. Swander

To close public comment.

2nd by: K. Tyler

All in favor, say aye. Vote was unanimous. Motion carried; closed for public comment.

Board of Zoning members discussed.

J. McClain entertained a motion to close the hearing and move onto the findings of fact.

Motion by: K. Tyler

To close the hearing and move onto the findings of fact.

2nd by: M. Rippe

All in favor, say aye. Vote was unanimous. Motion carried; closed hearing and moved onto findings of fact.

Findings of Fact #1: Legal notice of the petition has been provided in accordance with the Indiana Code and Notice has been made to appropriate landowners.

W. Grabowski: Yes, because legal notice of the application was published in the Herald Republican Newspaper on March 31, 2023. Notice has been made to appropriate landowners as shown by the US Post Office return receipts (green cards) and a list of 1st class mail recipients that are in the Town's possession.

2nd by: J. Swander

All in favor, say aye. Motion carried; findings of fact #1 approved.

Findings of Fact #2: The approval of the variance will not/will be injurious to the public health, safety, morals, and general welfare of the community.

K. Tyler: The approval of the variance will not be injurious to the public health, safety, morals, and general welfare of the community.

2nd by: J. Swander

All in favor, say aye. Motion carried; findings of fact #2 approved.

Findings of Fact #3: The use and value of the area adjacent to the property included in the variance will not/will be affected in a substantially adverse manner.

J. McClain: The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

2nd by: J. Swander

All in favor, say aye. Motion carried; findings of fact #3 approved.

Findings of Fact #4: The strict application of the terms of the zoning ordinance will/will not result in practical difficulties in the use of the property.

W. Grabowski: The strict application of the terms of the zoning ordinance will not result in practical difficulties in the use of the property because an accessory building may be established without the request for a variance, and there are no evident practical difficulties with the property.

2nd by: K. Tyler

All in favor. Vote was 3 to 2; findings of fact #4 denied.

As a result, variance 2023-01 (a) did not meet all the requirements for approval and the variance was denied.

Zoning Administrator R. Hawley went through the staff report for Dennis & Jackie Keiser's Variance 2023-01 (b).

Variance 2023-01 (b): Request for variance from development standards in *UDO Section 2.16 Maximum Structure Height*, 18 feet for accessory structures and *UDO Section 5.04 (D) (1) Maximum Accessory Structure Height*. The proposed project establishes the accessory building at 24 feet and 7 inches, 6 feet and 7 inches over the required 18 feet.

J. McClain entertained a motion to open for public comment.

Motion by: J. Swander

To open for public comment.

2nd by: K. Tyler

All in favor, say aye. Vote was unanimous. Motion carried; open for public comment.

J. McClain entertained a motion to close public comment.

Motion by: J. Swander

To close public comment.

2nd by: K. Tyler

All in favor, say aye. Vote was unanimous. Motion carried; closed for public comment.

Board of Zoning members discussed.

J. McClain entertained a motion to close the hearing and move onto the findings of fact.

Motion by: K. Tyler

To close the hearing and move onto the findings of fact.

2nd by: M. Rippe

All in favor, say aye. Vote was unanimous. Motion carried; closed hearing and moved onto findings of fact.

Findings of Fact #1: Legal notice of the petition has been provided in accordance with the Indiana Code and Notice has been made to appropriate landowners.

J. Swander: Yes, because legal notice of the application was published in the Herald Republican Newspaper on March 31, 2023. Notice has been made to appropriate landowners as shown by the US Post Office return receipts (green cards) and a list of 1st class mail recipients that are in the Town's possession.

2nd by: M. Rippe

All in favor, say aye. Motion carried; findings of fact #1 approved.

Findings of Fact #2: The approval of the variance will not/will be injurious to the public health, safety, morals, and general welfare of the community.

K. Tyler: The approval of the variance will not be injurious to the public health, safety, morals, and general welfare of the community.

2nd by: M. Rippe

All in favor, say aye. Motion carried; findings of fact #2 approved.

Findings of Fact #3: The use and value of the area adjacent to the property included in the variance will not/will be affected in a substantially adverse manner.

M. Rippe: The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

2nd by: K. Tyler

All in favor, say aye. Motion carried; findings of fact #3 approved.

Findings of Fact #4: The strict application of the terms of the zoning ordinance will/will not result in practical difficulties in the use of the property.

W. Grabowski: The strict application of the terms of the zoning ordinance will not result in practical difficulties in the use of the property because an accessory building may be established without the request for a variance, and there are no evident practical difficulties with the property.

2nd by: J. Swander

All in favor, say aye. Motion carried; findings of fact #4 denied.

Roll Call Vote:

W. Grabowski – Deny

J. Swander – Deny

M. Rippe – Deny

K. Tyler – Deny

J. McClain – Deny

As a result, variance 2023-01 (b) did not meet all the requirements for approval and the variance was denied.

Zoning Administrator R. Hawley went through the staff report for John Lundy's Variance 2023-02.

Variance 2023-02: Request for variance from required front yard setback for John Lundy, 734 South Clear Lake Drive, Fremont, IN 46737. They request a front yard setback as specified in *UDO Sections 2.16 & 5.63 A (6)* on the west side of the property from 30 feet to 13.5 feet. The proposed project is requesting an allowed setback

from the road edge of 13.5 feet along Buck Point Drive, where a setback of 30-feet is required to install an accessory building.

Variance Applicant, John Lundy, explained that his lot is in a unique condition. It has two front yards and under strict application of the UDO, has made it impossible to establish a reasonable accessory use constant with the neighboring area.

The BZA members asked questions regarding the applicant's request.

J. McClain entertained a motion to open for public comment.

Motion by: J. Swander

To open for public comment.

2nd by: M. Rippe

All in favor, say aye. Vote was unanimous. Motion carried; open for public comment.

Bob & Vicki Hill (via Zoom), 936 South Clear Lake Drive, was in favor and felt that the applicants met the conditions required for a variance.

J. McClain entertained a motion to close public comment.

Motion by: M. Rippe

To close public comment.

2nd by: J. Swander

All in favor, say aye. Vote was unanimous. Motion carried; closed for public comment.

Zoning Administrator R. Hawley went through a summary of the feedback forms.

Board of Zoning members discussed.

J. McClain entertained a motion to close the hearing and move onto the findings of fact.

Motion by: M. Rippe

To close the hearing and move onto the findings of fact.

2nd by: W. Grabowski

All in favor, say aye. Vote was unanimous. Motion carried; closed hearing and moved onto findings of fact.

Findings of Fact #1: Legal notice of the petition has been provided in accordance with the Indiana Code and Notice has been made to appropriate landowners.

J. McClain: Yes, because legal notice of the application was published in the Herald Republican Newspaper on March 31, 2023. Notice has been made to appropriate landowners as shown by the US Post Office return receipts (green cards) and a list of 1st class mail recipients that are in the Town's possession.

2nd by: K. Tyler

All in favor, say aye. Motion carried; Findings of Fact #1 approved.

Findings of Fact #2: The approval of the variance will not/will be injurious to the public health, safety, morals, and general welfare of the community.

K. Tyler: The approval of the variance will not be injurious to the public health, safety, morals, and general welfare of the community.

2nd by: M. Rippe

All in favor, say aye. Motion carried; Findings of Fact #2 approved.

Findings of Fact #3: The use and value of the area adjacent to the property included in the variance will not/will be affected in a substantially adverse manner.

W. Grabowski: The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

2nd by: K. Tyler

All in favor, say aye. Motion carried; Findings of Fact #3 approved.

Findings of Fact #4: The strict application of the terms of the zoning ordinance will/will not result in practical difficulties in the use of the property.

J. McClain: The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

2nd by: K. Tyler

All in favor, say aye. Motion carried; Findings of Fact #4 approved.

As a result, variance 2023-02 met all the requirements for approval and the variance was approved.

Old Business.

BZA members discussed rules of changes to 9.4 (Final Disposition of Cases/Recording with Steuben County) and Rules of Procedure Changes 10.4 (Budget)

New Business.

K. Tyler volunteered for the Rule Committee.

J. McClain made a motion to appoint J. Swander to the Plan Commission.

2nd by: W. Grabowski

J. Swander was appointed to the Plan Commission.

J. McClain entertained a motion to approve August 9, 2022, Board of Zoning minutes, February 14, 2023, Board of Zoning minutes and April 5, 2023, Board of Zoning minutes.

Motion by: J. Swander

To approve August 9, 2022, Board of Zoning minutes, February 14, 2023, Board of Zoning minutes and April 5, 2023, Board of Zoning minutes.

2nd by: W. Grabowski

All in favor, say aye, Motion carried; August 9, 2022, Board of Zoning minutes, February 14, 2023, Board of Zoning minutes and April 5, 2023, Board of Zoning minutes approved.

J. McClain entertained a motion to adjourn meeting.

Motion by: K. Tyler

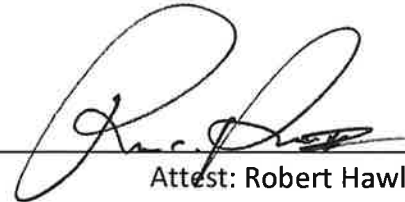
To adjourn meeting.

2nd by: J. Swander

All in favor, say aye. Vote was unanimous. Motion carried; Meeting adjourned.



Board of Zoning Appeals Chairman: Jim McClain



Attest: Robert Hawley, Zoning Administrator

*There is no zoom recording for this meeting.