



111 Gecowets Drive Fremont IN 46737
(260) 495-9158 / (260) 495-5902 fax
www.townofclearlake.org

**Board of Zoning Appeals
Special Session**

Tuesday, June 13, 2023 @ 7 PM

Conference number 1-646-931-3860
Meeting ID: 647 970 5713
Passcode: Clear
Passcode by Phone: 121380

Join Zoom Meeting: <https://us06web.zoom.us/j/6479705713?pwd=bGoxRjllTXNXeWRhQlcrVzljaHUwdz09>

Agenda

- A. Call to Order
- B. Introductions and Roll Call Quorum
- C. Approval of Meeting Agenda
- D. Approve minutes.
 - April 11, 2023
- E. Budget items - None
- F. Applications, Petitions, and/or Hearings – None
- E. Old Business
 - Tabled - Rules of Procedure changes to 9.4, Final Disposition of Cases/Recording with Steuben County
 - Tabled - Rules of Procedure changes to 10.4, Budget.
- E. New Business
- I. Discussion
- J. Adjournment

The next regularly scheduled meeting of the Clear Lake Board of Zoning Appeals will be Tuesday, August 8, 2023, at 7:00 PM. The deadline for items requiring legal notices is 28 days before the regularly scheduled meeting.

Please note: Agenda items listed are those reasonably anticipated and may be discussed at the meeting. Not all items listed may necessarily be discussed and there may be other items not listed that may be brought up for discussion.

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: Jennifer Smith-Sattison, Clerk

*There is no zoom recording for this meeting.



**Board of Zoning Appeals
Development Standards Variance – 9.19.7(a)
Member Voting Form**

111 Gecowets Drive Fremont IN 46737
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Section One: Property Information			
Petition Number:		Zoning:	
Ordinance Section:		Parcel ID:	

Applicant Information		Property Owner Information	
Name:		Name:	
Address:		Address:	

Section Two: Development Standards Variance Review		
Are ALL the following criteria met?		
<p>9.19.E.7(a) - Development Standards Variance Findings of Fact: The Board of Zoning Appeals shall make the following findings of fact for Development Standards Variances. Approval of the findings may be in the form of a general statement. Disapproval of findings shall specify the reason for non-compliance.</p>		
Legal notice of the petition has been provided in accordance with applicable Indiana Code and notice has been made to appropriate landowners.	YES	NO
The approval will not be injurious to the public health, safety, morals, and general welfare of the community.	YES	NO
The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.	YES	NO
The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property as documented below:	YES	NO
<hr/> <hr/> <hr/>		

Section Three: Decision			
Date of Hearing:		Fee Amount:	
		Date Paid:	
<input type="checkbox"/> Approve		<input type="checkbox"/> Table Until: _____	
<input type="checkbox"/> Approved with Conditions (<i>state reasons</i>):		<input type="checkbox"/> Denied (<i>state reasons</i>):	
<hr/> <hr/> <hr/>		<hr/> <hr/> <hr/>	
<i>I attest the above findings of fact were established and confirmed.</i>			
BZA Name (print):			
BZA Signature:			Date

Final Action: If a majority of the Board of Zoning Appeals finds all of the findings of fact in the affirmative, it **shall approve or approve with conditions and/or commitments** the Application for a Variance. If the Board of Zoning Appeals does not find all of the findings of fact in the affirmative, it **shall deny** the Application for a Variance.

Commitments and Conditions:
Commitments: The Board of Zoning Appeals may require the owner to make a written commitment. Commitments shall be recorded in the Office of the Steuben County Recorder. Recorded commitment(s) is binding on the owner of the land, any subsequent owner of the land, and any person who acquires interest in the land.
Conditions: The Board of Zoning Appeals may require certain conditions for approval.

Duration: A development standards variance granted by the Board of Zoning Appeals shall run with the land until such time as the property conforms with this Unified Development Ordinance.



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Section One: Property Information			
Petition Number:		Zoning:	
Ordinance Section:		Parcel ID:	

Applicant Information	Property Owner Information
Name:	Name:
Address:	Address:

Section Two: Use Standards Variance Review		
Are ALL the following criteria met?		
<p>9.19.E.7(b) - Use Standards Variance Findings of Fact: The Board of Zoning Appeals shall make the following findings of fact for Use Variances. Approval of the findings may be in the form of a general statement. Disapproval of findings shall specify the reason for non-compliance.</p>		
Legal notice of the petition has been provided in accordance with applicable Indiana Code and notice has been made to appropriate landowners.	YES	NO
The approval will not be injurious to the public health, safety, morals, and general welfare of the community.	YES	NO
The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.	YES	NO
That the need for the use variance arises from some condition peculiar to the property involved.	YES	NO
The strict application of the terms of the ordinance will constitute an unnecessary hardship if applied to the property for which the use variance is sought.	YES	NO
The approval does not interfere substantially with the Town of Clear Lake Comprehensive Plan.	YES	NO
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Section Three: Decision			
Date of Hearing:		Fee Amount:	
		Date Paid:	
<input type="checkbox"/> Approve	<input type="checkbox"/> Table Until: _____		
<input type="checkbox"/> Approved with Conditions (<i>state reasons</i>):	<input type="checkbox"/> Denied (<i>state reasons</i>):		
<hr/> <hr/> <hr/>		<hr/> <hr/> <hr/>	
<i>I attest the above findings of fact were established and confirmed.</i>			
BZA Name (print):			Date
BZA Signature:			

Final Action: If a majority of the Board of Zoning Appeals finds all of the findings of fact in the affirmative, it **shall approve or approve with conditions and/or commitments** the Application for a Variance. If the Board of Zoning Appeals does not find all of the findings of fact in the affirmative, it **shall deny** the Application for a Variance.

Commitments and Conditions:
Commitments: The Board of Zoning Appeals may require the owner to make a written commitment. Commitments shall be recorded in the Office of the Steuben County Recorder. Recorded commitment(s) is binding on the owner of the land, any subsequent owner of the land, and any person who acquires interest in the land.
Conditions: The Board of Zoning Appeals may require certain conditions for approval.

Duration: A development standards variance granted by the Board of Zoning Appeals shall run with the land until such time as the property conforms with this Unified Development Ordinance.