

# Town of Clear Lake-Board of Zoning Appeals

## Meeting Minutes-August 9, 2021

Board of Zoning Appeals Meeting Minutes-Monday, August 9, 2021

Call to order at 7:00 PM by Chairman Kit Tyler

Introduction of members and others in attendance:

Michael Hawk, attorney for the BZA  
Brenda Eby, Town Clerk  
Burton (Jim) McClain, 1226 Quiet Harbor Dr.  
Kit Tyler, Chairman of the BZA, 280 Penner Dr.  
Scott Lazur, 1108 South Clear Lake Dr.  
Mokie (Walter) Grabowski, 254 West Clear Lake Dr.  
Cecil Fleeman, 240 Penner Dr.  
Bonnie Brown, P.C. President, 40 Powhattan Ct.  
Chairman K. Tyler confirmed that we have a quorum.

Others in attendance: Ted/Bonnie Ferguson, Brian/Molly Weber, Bob Buescher, John Wilhelm, Laurie Sellers and Larry Lillmars.

Chairman K. Tyler read the introductory comments and Attorney Mike Hawk explained the proposed Findings of Facts.

There are three variances before the Board tonight.

### **Variance Hearing Case 2021-03: Ted and Bonnie Ferguson**

Request for variance from development standards for Ted and Bonnie Ferguson, 894 South Clear Lake Drive, Fremont, IN 46737. They request a 10.6' relief from *UDO 5.15 LR Deck Standards, Section 5.15 (G)(b) elevated deck in the lake yard*. The proposed project includes the construction of a new home with an elevated deck that encroaches into the lake yard elevated deck standards.

Bob Buescher, Buescher Homes, the builder of the new home for the Fergusons, appeared before the Board to petition the variance. Due to the neighbor's home to the west (right) of the Fergusons being very close to the road, the Ferguson's new home would have to be built back further than their current home sits, which makes it impossible to comply with the viewshed and the setbacks.

Chairman K. Tyler asked for questions from the BZA members. K. Tyler questioned the stakes on the property. Mr. Buescher explained the placement of the stakes.

Chairman K. Tyler entertained a motion to suspend the hearing and open for public comment.

**Motion by:** Scott Lazur

To suspend the Hearing and open the meeting for public comment

**2<sup>nd</sup> by:**

Cecil Fleeman

All in favor, motion carried.

John Wilhelm, 206 West Clear Lake Drive, voiced his support for the Ferguson project and asked for any comments/documents from neighboring properties.

Chairman K. Tyler read letters from:

Tim Presley, 896 South Clear Lake Drive, in support of the Fergusons

Amy Culler, 898 South Clear Lake Drive, in support of the Fergusons

Jim Griest for Griest Family LLC, 892 South Clear Lake Drive, in support of the Fergusons

With no further comments from the public, Chairman K. Tyler entertained a motion to close the public portion of the meeting and reopen the hearing.

**Motion by:**

Jim McClain to close the public portion of the meeting and reopen the hearing.

**2<sup>nd</sup> by:**

Scott Lazur

All in favor, motion passed.

After some discussion amongst the board members, Chairman K. Tyler moved on to the findings of facts.

Review of findings of facts #1:

Legal notice of the petition **has been** provided in accordance with Indiana Code and Notice has been made to appropriate landowners. YES

**Motion by:** Jim McClain

To accept findings of fact #1

**2<sup>nd</sup> by:** Cecil Fleeman

All in favor, motion carried.

Review of findings of facts #2:

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

**Motion by:** Cecil Fleeman

To accept findings of facts #2

**2<sup>nd</sup> by:** Scott Lazur

All in favor, motion carried.

Review of findings of facts #3:

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

**Motion by:** Jim McClain

To accept findings of facts #3

**2<sup>nd</sup> by:** Scott Lazur

All in favor, motion carried.

Review of findings of facts #4:

The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of property. YES

**Motion by:** Jim McClain

To accept findings of facts #4

**2<sup>nd</sup> by:** Cecil Fleeman

All in favor, motion carried.

Roll call vote for Decision of Variance #2021-03:

Vote: Kit Tyler (approve), Cecil Fleeman (approve), Scott Lazur (approve), Mokey Grabowski (approve) and Jim McClain (approve)

Case #2021-03: Approved by BZA

Certification of Decision shall be created and recorded with the Steuben County Recorder.

#### **Variance Hearing Case 2021-04: Ted and Bonnie Ferguson**

Request for variance from development standards for Ted and Bonnie Ferguson, 894 South Clear Lake Drive, Fremont, IN 46737. They request a 10.6' relief from *UDO 5.15 LR Deck Standards, Section 5.15 (G)(b) elevated deck in the lake yard*. The proposed project includes the construction of a new home with an elevated deck that encroaches into the lake yard elevated deck standards.

Bob Buescher of Buescher Homes stated that this variance request is due to the same situation as the previous case.

Chairman K. Tyler entertained a motion to suspend the Hearing and open for public comments.

**Motion by:** Cecil Fleeman

To suspend Hearing and open for public comment.

**2<sup>nd</sup> by:** Scott Lazur

All in favor, motion carried.

With no comment from the public, Chairman K. Tyler entertained a motion to close the public portion and return to the Hearing.

**Motion by:** Cecil Fleeman

To close the public comment and return to the Hearing.

**2<sup>nd</sup> by:**

Scott Lazur

All in favor, motion carried.

Review of findings of facts #1:

Legal notice of the petition **has been** provided in accordance with Indiana Code and Notice has been made to appropriate landowners. YES

**Motion by:** Scott Lazur

To accept findings of facts #1

**2<sup>nd</sup> by:** Cecil Fleeman

All in favor, motion carried.

Review of findings of facts #2:

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

**Motion by:** Scott Lazur

To accept findings of facts #2

**2<sup>nd</sup> by:** Cecil Fleeman

All in favor, motion carried.

Review of findings of facts #3:

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

**Motion by:** Cecil Fleeman

To accept findings of facts #3

**2<sup>nd</sup> by:** Scott Lazur

All in favor, motion carried.

Review of findings of facts #4:

The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of property. YES

**Motion by:** Mokey Grabowski  
To accept findings of facts #4  
**2<sup>nd</sup> by:** Scott Lazur  
All in favor, motion carried.

Roll Call Vote for Decision of Variance #2021-04:  
Vote: Kit Tyler (approve), Cecil Fleeman (approve), Scott Lazur (approve), Mokey Grabowski (approve) and Jim McClain (approve)  
Case 2021-04: Approved by BZA  
Certification of Decision shall be created and recorded with the Steuben County Recorder.

**Variance Hearing Case 2021-05: Ted and Bonnie Ferguson**

Request for variance from development standards for Ted and Bonnie Ferguson, 894 South Clear Lake Drive, Fremont, IN 46737. They request a 4.2' house relief and a 9.2' elevated deck relief from *UDO 2.14 LR District Standards, Section 5.65(C) Lake Residential Standards, Viewshed*. The proposed project includes the construction of a new home and elevated deck that encroaches into the lake yard horizontally protected viewshed.

Bob Buescher of Buescher Homes stated that this variance request is also due to the neighbor's home to the west being so close to the road.

Chairman K. Tyler entertained a motion to suspend the hearing and open for public comments.

**Motion by:** Scott Lazur  
To suspend Hearing and open for public comment.  
**2<sup>nd</sup> by:** Jim McClain  
All in favor, motion carried.

No public comments, Chairman K. Tyler entertained a motion to close the public comment and return to the Hearing.

**Motion by:** Scott Lazur  
To close the public comment session and reopen the Hearing  
**2<sup>nd</sup> by:** Cecil Fleeman  
All in favor, motion carried.

Review of Findings of Facts #1:

Legal notice of the petition **has been** provided in accordance with Indiana Code and Notice has been made to appropriate landowners. YES

**Motion by:** Scott Lazur  
To accept findings of fact #1  
**2<sup>nd</sup> by:** Mokey Grabowski  
All In favor, motion carried.

Review of findings of facts #2:

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

**Motion by:** Cecil Fleeman  
To accept findings of facts #2  
**2<sup>nd</sup> by:** Scott Lazur  
All in favor, motion carried.

Review of finding of facts #3:

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

**Motion by:** Mokey Grabowski  
To accept findings of facts #3  
**2<sup>nd</sup> by:** Scott Lazur  
All in favor, motion carried.

Review of findings of facts #4:

The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of property. YES

**Motion by:** Scott Lazur  
To accept findings of facts #4  
**2<sup>nd</sup> by:** Cecil Fleeman  
All in favor, motion carried.

Roll Call Vote for Decision of Variance #2021-05:

Vote: Kit Tyler (approve), Cecil Fleeman (approve), Scott Lazur (approve), Mokey Grabowski (approve) and Jim McClain (approve)

Case 2021-05: Approved by BZA

Certification of Decision shall be created and recorded with the Steuben County Recorder.

Chairman K. Tyler asked for any corrections or additions to the meeting minutes of February 8, 2021. With no changes, she entertained a motion to approve the minutes of the February 8, 2021 BZA minutes, as submitted.

**Motion by:** Scott Lazur

To approve the February 8, 2021 minutes, as submitted

**2<sup>nd</sup> by:** Cecil Fleeman

Vote: 4 in favor, 1 abstain, motion carried.

The next scheduled BZA meeting is Monday, October 11, 2021 at 7:00 pm, deadline for items requiring legal notices is September 13, 2021.

Chairman K. Tyler entertained a motion to adjourn the meeting.

**Motion by:** Jim McClain

To adjourn the meeting

**2<sup>nd</sup> by:** Scott Lazur

All in favor, meeting adjourned at 7:43 pm.

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Board of Zoning Appeals Chairman: Kit Tyler

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Attest: Brenda Eby, Town Clerk