

Town of Clear Lake – Board of Zoning Appeals

Meeting Minutes – August 9, 2022

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

Roll Call:

Jennifer Sattison, Billing Clerk

Larry Lillmars, Zoning Administrator

Mike Hawk, Attorney to the Board of Zoning Appeals

Cecil Fleeman, 240 Penner Drive

Jim McClain, 1226 Quiet Harbor Drive

Walter (Mokey) Grabowski, 254 West Clear Lake Drive

Scott Lazur, 1108 South Clear Lake Drive

Don Luepke, Alternate

There were 19 residents in attendance and 6 via Zoom.

Zoning Administrator L. Lillmars went through the staff report for Tim and Lori Wagner's Variance 2022-03.

Variance 2022-03: Request for variance from development standards for Tim and Lori Wagner, 426 Point Park Drive, Fremont, IN 46737. They request a 51-foot relief from *UDO Section 5.63 (A)(4)(b) General Set Back Standards, Minimum Lake Yard Setback*. The proposed project includes building an Accessory Structure that encroaches the Establish Building Setback by fifty-one (51) feet.

Tim and Lori Wagner talked about the reasonings behind their variance. They talked about storing various items to keep them out of the elements, to help keep rodents out and from having to carry numerous heavy items up and down the steep stairs to and from the house to the lake front. Over 50 percent of the storage structure would be buried in the hill and no additional runoff from the building or property affecting the water. All runoffs will be properly contained and drained and have support from their immediate neighbors.

The Board of Zoning asked Tim Wagner questions about his structure.

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

Motion by: D. Luepke

To open for public comment.

2nd by: S. Lazur

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

Resident Kay Kummer asked if the structure was going to be heated.

Tim Wagner said it can be.

Resident Jack Horrell discussed his reasons of why he is against the variance. The environment should be protected. The structure is to encroach 51 feet to the lake. He believes that there is no hardship, yes going up

and down the stairs are difficult, but not a hardship, because there are many residents who also are living on hills and/or have steps.

J. McClain entertained a motion to close public comment.

Motion by: D. Luepke

To close public comment.

2nd by: S. Lazur

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

Zoning Administrator L. Lillmars went through a summary of the feedback forms.

Board of Zoning discussed.

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

Motion by: D. Luepke

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.

C. Fleeman: Yes, because legal notice of the application was published in the Herald Republican Newspaper on January 27, 2022. 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: W. Grabowski

All in favor, motion carried.

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

D. Luepke: No, the approval of the variance will be injurious because the proposed storage structure is not appropriate for a lakeside area.

2nd by: C. Fleeman

All in favor. Vote is 4 to 1 for no to findings of the fact #2.

J. McClain entertained a motion for roll call to deny variance.

Motion by: C. Fleeman

To roll call to deny variance.

2nd by: D. Luepke

All in favor, say aye. Vote was unanimous. Motion carried; roll call to deny variance.

Roll Call Vote:

D. Luepke – Deny

C. Fleeman – Deny

S. Lazur – Deny
W. Grabowski – Deny
J. McClain – Approve
Variance denied 4 to 1.

Tim and Lori Wagner withdrew their second variance 2022-04.

Zoning Administrator L. Lillmars went through the staff report for Joseph and Kathy Schenkel’s variance 2022-05.

Variance 2022-05: Request for variance from development standards for Joseph and Kathy Schenkel, 72 West Clear Lake Drive, Fremont, IN 46737. They request a 5.9-foot relief from *UDO Section 5.63 (A)(5) General Set Back Standards, Minimum Street Yard Setback*. The proposed project includes building a new home that encroaches the Street Yard Setback by 5.9 feet.

Contractor Bob Buescher stated that they are asking for a roadside release because the site is small, and both houses next to them are set so close to the lakeside line. They are trying to build a house that is livable year-round with a one car garage and all bedrooms upstairs because the lot is small.

The Board of Zoning asked questions to residents Joseph & Kathy Schenkel and their contractor Bob Buescher.

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

Motion by: S. Lazur

To open for public comment

2nd by: D. Luepke

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

Resident Brent Schlosser asked for clarification about rebuilding after a fire. Attorney Dave Hawk was going to look into it and find out for the next meeting.

J. McClain entertained a motion to close public comment.

Motion by: D. Luepke

To close public comment.

2nd by: C. Fleeman

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

Zoning Administrator L. Lillmars summarized the feedback forms that he received.

No Board of Zoning discussion.

J. McClain entertained a motion to proceed to findings of facts.

Motion by: S. Lazur

To proceed to findings of facts.

2nd by: C. Fleeman

All in favor, say aye. Vote was unanimous. Motion carried; proceeded to findings of facts.

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

Motion by: W. Grabowski

Yes, because legal notice of the application as published in the Herald Republican Newspaper on July 27, 2022. 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: D. Luepke

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

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

Motion by: D. Luepke

Yes, the approval of the variance will not be injurious because the proposed home is consistent with the residential use of the adjacent properties and will not impact the drainage or traffic along West Clear Lake Drive.

2nd by: S. Lazur

All in favor, say aye. Vote was unanimous. 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 be affected in a substantially adverse manner.

Motion by: S. Lazur

Yes, the use and value of the adjacent area will not be affected in a substantially adverse manner because the use of the subject property is consistent with the use of adjacent properties which are lake residential zoned and there will be no change in use as a result of this project.

2nd by: W. Grabowski

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

Findings of Fact #4: The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the properties.

Motion by: C. Fleeman

Yes, because the adjacent homes are located towards the road causing the building line setback to be greater which greatly reduces the build area available.

2nd by: D. Luepke

All in favor, say aye. Vote was unanimous. Motion carried; findings of fact #4 approved.

J. McClain entertained a motion to approve variance 2022-05.

Roll Call Vote:

D. Luepke – Approve

C. Fleeman – Approve

S. Lazur – Approve

W. Grabowski – Approve

J. McClain – Approve

Motion to approve variance 2022-05 approved 5-0.

Zoning Administrator L. Lillmars went through the staff report for Joseph and Kathy Schenkel's variance 2022-06.

Variance 2022-06: Request for variance from development standards for Joseph and Kathy Schenkel, 72 West Clear Lake Drive, Fremont, IN 46737. They request a 9.4-foot relief from *UDO Section 5.63 (A)(4)(b) General Set Back Standards, Minimum Lake Yard Setback*. The proposed project includes installing a hot tub (Accessory Structure) that encroaches the Established Building Setback by 9.4 feet.

Contractor Bob Buescher stated that both houses on each side are significantly higher. The expectation is to set the house as low as possible pending proper drainage. They would get the hot tub setting as low as possible on the patio so it would not obstruct the Schenkel's or the neighbors' views.

The Board of Zoning asked questions to residents Joseph & Kathy Schenkel and their contractor Bob Buescher.

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

Motion by: W. Grabowski

To open for public comment

2nd by: C. Fleeman

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

No public comments.

J. McClain entertained a motion to close public comment.

Motion by: S. Lazur

To close public comment.

2nd by: W. Grabowski

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

Zoning Administrator L. Lillmars summarized the feedback forms that he received.

J. McClain entertained a motion to proceed to findings of facts.

Motion by: D. Luepke

To proceed to findings of facts.

2nd by: S. Lazur

All in favor, say aye. Vote was unanimous. Motion carried; proceeded to findings of facts.

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

Motion by: S. Lazur

Yes, because legal notice of the application was published in the Herald Republican Newspaper on July 27, 2022. 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: D. Luepke

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

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

Motion by: W. Grabowski

Yes, the approval of the variance will not be injurious because the hot tub location is consistent with the residential use of adjacent properties and will not affect the public health, safety, morals, and general welfare of the community.

2nd by: S. Lazur

All in favor, say aye. Vote was unanimous. 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 be affected in a substantially adverse manner.

Motion by: C. Fleeman

Yes, the use and value of the adjacent area will not be affected in a substantially adverse manner because the use of the hot tub is consistent with the use of adjacent properties which is lake residential zoned and there will be no change in use as a result of this project.

2nd by: S. Lazur

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

Findings of Fact #4: The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Motion by: D. Luepke

Yes, because the adjacent homes are located towards the road causing the building line setback to be greater which greatly reduces the build area available.

2nd by: W. Grabowski

All in favor, say aye. Vote was unanimous. Motion carried; findings of fact #4 approved.

J. McClain entertained a motion to approve variance 2022-06.

Roll Call Vote:

D. Luepke – Approve

C. Fleeman – Approve

S. Lazur – Approve

W. Grabowski – Approve

J. McClain – Approve

Motion to approve variance 2022-06 approved 5-0.

Zoning Administrator L. Lillmars went through the staff report for Joseph and Kathy Schenkel's variance 2022-07.

Contractor Bob Buescher stated that they are trying to build a garage big enough to house a boat. By adding the setback onto the rear of the garage, it gave them more parking space. They are also trying to find a remedy for the drainage between the garage and the house to the right and getting it drained down to the lake.

The Board of Zoning asked questions to residents Joseph & Kathy Schenkel and their contractor Bob Buescher.

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

Motion by: D. Luepke

To open for public comment

2nd by: S. Lazur

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

No public comments.

J. McClain entertained a motion to close public comment.

Motion by: D. Luepke

To close public comment.

2nd by: S. Lazur

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

Zoning Administrator L. Lillmars summarized the feedback forms that he received.

J. McClain entertained a motion to proceed to findings of facts.

Motion by: D. Luepke

To proceed to findings of facts.

2nd by: C. Fleeman

All in favor, say aye. Vote was unanimous. Motion carried; proceeded to findings of facts.

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

Motion by: W. Grabowski

Yes, because legal notice of the application was published in the Herald Republican Newspaper on July 27, 2022. 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: S. Lazur

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

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

Motion by: S. Lazur

Yes, the approval of the variance will not be injurious because the proposed garage is consistent with the residential use of adjacent properties and will not impact the drainage or traffic along the West Clear Lake Drive.

2nd by: W. Grabowski

All in favor, say aye. Vote was unanimous. 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 be affected in a substantially adverse manner.

Motion by: D. Luepke

Yes, the use and value of the adjacent area will not be affected in a substantially adverse manner because the use of the subject property is consistent with the use of adjacent properties which is lake accessory zoned and there will be no change in use as a result of this project.

2nd by: S. Lazur

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

Findings of Fact #4: The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Motion by: C. Fleeman

Yes, because the setbacks consume 50 feet of the depth of the 80-foot lot, and thereby greatly reducing the building envelope.

2nd by: S. Lazur

All in favor, say aye. Vote was unanimous. Motion carried; findings of fact #4 approved.

J. McClain entertained a motion to approve variance 2022-07.

Roll Call Vote:

D. Luepke – Approve

C. Fleeman – Approve

S. Lazur – Approve

W. Grabowski – Approve

J. McClain – Approve

Motion to approve variance 2022-07 approved 5-0.

J. McClain entertained a motion to approve the April 12, 2022, Board of Zoning minutes.

Motion by: S. Lazur

To approve the April 12, 2022, Board of Zoning minutes.

2nd by: C. Fleeman

All in favor, say aye. D. Luepke abstained. Motion carried; April 12, 2022, Board of Zoning minutes approved.

J. McClain entertained a motion to approve adjourn meeting.

Motion by: S. Lazur

To adjourn meeting.

2nd by: W. Grabowski

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

Meeting adjourned at 8:15pm.



Board of Zoning Appeals Chairman: Jim McClain



Zoning Administrator: Robert Hawley