

Town of Clear Lake - Board of Zoning Appeals Meeting Minutes – October 21, 2013

Chairman Bonnie Brown opened the October 21, 2013 meeting of the Clear Lake Board of Zoning Appeals at 7:00 PM. Introductions were made, and the following members of the Board were present:

Bonnie Brown, Chairman
Erin Culler
Roger Dammeier, Vice Chairman
Ron Walters
John Wilhelm
Ken Wertz, Alternate

Also present:

Amy Schweitzer, Zoning Administrator and Recorder of the minutes of the meeting
Michael Hawk, Town Attorney

Chairman Brown determined a quorum was present. Ms. Brown announced that under Old Business, the Board had been working on developing a new format for the Findings of Fact for variances. Given that the Board would be hearing a variance at the meeting, Brown asked BZA Staff Amy Schweitzer to review the new format of the findings before the variance. Schweitzer read aloud sample findings of fact emphasizing that a “Yes” vote for a finding was also a “Yes” vote for the variance to be approved. A “No” vote on any finding meant that one should vote “No” or against the approval of the variance. After the Findings of Fact, a fifth vote would be taken on the approval or denial of the variance.

Ms. Brown read the Board’s introduction that identifies membership requirements and primary duties of the Board of Zoning Appeals before announcing the Board would be hearing *Variance Application #2013-01, filed by John Pritchard, 556 East Clear Lake Drive*. Chairman Bonnie Brown stated that she would be recusing herself from the hearing as she has a business relationship with Dr. and Mrs. Pritchard.

Vice Chairman Roger Dammeier took over for Chairman Bonnie Brown. Mr. Dammeier stated that the Variance 2013-01, filed by Dr. Pritchard, was from *Section 5.09 AS-06 C.2.a. Maximum Size of an Accessory Structure in a Lake Accessory District*. Dammeier told the Board that the existing structure was about 830 square feet in area and the proposal was to double the area. Vice Chairman Dammeier asked Mr. Seth Gleave if he was going to be making the presentation.

Mr. Seth Gleave introduced himself and stated that he would be representing Pritchard. Gleave began by explaining the proposal was to expand the existing garage/pole barn on that property. Dr. Pritchard owns sixty acres on that side of the street and he wants to be able to store all of his equipment inside and in that location so it is consolidated and convenient for him.

Mr. Dammeier asked if any of the Board members had questions. Board member John Wilhelm asked what equipment Pritchard expected to store in the expanded structure. Mr. Gleave listed off a few items – rotary mowers, one small grader, one fork lift, one stone lift, a small Kaboda tractor, other equipment as well as all the attachments. Mr. Gleave stated that he did not know what all equipment Pritchard had stored in other locations. Wilhelm asked if there was any flexibility to the size of this expanded structure, and what was stored inside the existing structure. Gleave stated there were handle tools such as chain saws and gas cans and things of that nature that would also need stored, but that he was not sure what all equipment was stored inside the existing building. Gleave had only seen inside the existing building once.

Vice Chairman Dammeier stated that adding 32-feet onto the back of the buildings results in a 14-foot rear yard setback, which does not meet the Town's 20-foot rear setback requirement. Dr. Pritchard does own the property that abuts the rear property line. Mr. Gleave stated that Pritchard intends to eventually retire at that location and has no intention of selling either property.

Board member Wilhelm asked if he could put the proposed addition on the front side of the existing building. Mr. Gleave stated that Pritchard wants the addition back far enough so it's not really visible from the street. Wilhelm asked about the addition being off to an angle so it maintains the 20-foot rear setback. Gleave stated that Pritchard and he really wanted to maintain the existing roofline.

There was discussion about the number of doors and ease of hooking attachments on to the equipment. Mr. Gleave stated that they intend to have one overhead door in the front (that exists) and one overhead door in the back, with one man door on the side. This would allow them to drive in one end, hook up the right attachment, and then back the equipment out.

Wilhelm asked if any consideration was given to building the structure on the lot behind the subject lot, which is zoned Agriculture. Mr. Gleave stated that because there is no existing building in the AG area, it would mean half the equipment stored in the existing building and the other half the equipment stored in the AG area. The existing building is a nice distance from his house, and adding on to the existing building allows him to keep everything together.

Mrs. Culler suggested the option of shortening up the building by six feet to meet the rear setback. Mr. Gleave stated that he didn't know if Pritchard would be okay with a smaller building or not - reiterating that it was Pritchard's intention to retire to this place. Gleave stated he did not foresee the rear setback being this big of an issue since Pritchard owns the property behind this lot.

There being no additional comments or questions from the Board, Mr. Dammeier entertained a motion to suspend the regular meeting and open the Public Hearing. Mr. Wilhelm made a motion to suspend the regular meeting and open the Public Hearing. Mrs. Culler seconded the motion. Motion carried with all in favor.

BZA Staff Amy Schweitzer reported that she had spoken with multiple individuals about this case:

- F. Sears Harris, owner of 542 East Clear Lake Drive, sent a letter, a copy of which is included in each Staff Report. Schweitzer read the letter aloud to the Board. Harris objects to any project that is on the side of Lake Drive opposite the Lake that is or could eventually be converted into living quarters.
- Chris Parke, 532 East Clear Lake Drive, had called asking exactly what the project entailed. He said that he had been in contact with several other interested property owners and wanted to be sure they understood what was proposed. After explaining the project, Mr. Parke stated he did not have any objections, and he would forward the information to those with which he had been in contact.
- Bill Thomas, 560 East Clear Lake Drive, had called and after asking some questions about the project stated that he did not have any objection to the project.
- Robert Newcomb, the trustee of an adjacent piece of property, called to get more information on the project. After several questions and lengthy discussion, he said there was nothing about the project to which he objected.

Mr. Curt Wilkenson of 526 East Clear Lake Drive introduced himself. He told the Board that the property lines had been set up back in the 1920's. Wilkenson said objecting to the lack of a 20-foot setback does not make sense if Pritchard already owns both properties. He told the Board that even if Pritchard wanted to sell the property behind it, he wouldn't have to sell it to the existing property line.

There was discussion on selling part of a parcel of land. There was discussion on the zoning of the subject parcel being LA (Lake Accessory) and the back parcel being AG (Agriculture).

Mr. Mike Millikan, 522 East Clear Lake Drive, introduced himself. He asked about the property being rezoned and the possibility that Pritchard could sell it.

Mr. Bruce Spangler of 222 West Clear Lake Drive introduced himself, stating that the Pritchard's had really enhanced the beauty of that whole side of the lake. Spangler commented that adding to the back of the existing building would be more aesthetically pleasing as the building would not jump out of the trees like an existing building up the road does. Adding to the back of this building does nothing but improve that whole end of the lake.

Hearing no additional public comments, Mr. Dammeier made a motion to close the Public Hearing and reconvene the regular meeting. Mr. Walters made a motion to close the Public Hearing and resume the regular meeting. Mrs. Culler seconded the motion. Motion carried with all in favor.

Vice Chairman Dammeier asked for additional comments or questions from the Board. Mrs. Culler asked that the record show that the proposed addition is actually 26-feet by 32-feet, not 30-feet by 30-feet as the floor plan shows.

Mr. Wilhelm told the Board that he was able to see inside the existing accessory building. The day Wilhelm visited the site some trees behind the building were being taken down. The existing barn was full with nearly a quarter of it being occupied by a sunfish and three large kayaks. Wilhelm listed several other items in the barn including four wheel ATV, skid steer, and miscellaneous other equipment. With so much of the barn being used to store boats and kayaks, Wilhelm commented that the use of the existing building was not really optimal for storing equipment. Wilhelm stated that with better use of space, maybe the applicant could get by with less area than is proposed concluding that shortening the proposed addition by six feet in order to meet the 20-foot rear setback was doable. A structure could also be built on the lot located directly behind this lot, zoned Agriculture (AG). Another option would be an Administrative Subdivision to combine parcels. Wilhelm commented that the BZA is charged with preserving trees and nature, and trees were already being cut down for this project. Wilhelm also commented that the metal siding on the existing building, while probably being too old to match, had some wood graining effect that seemed natural and fit in with the surroundings. Mr. Gleave responded that that metal siding would be replaced so that the entire building looked the same and to meet the Town's standards of no metal-sided accessory buildings.

The Board discussed conditions for the application:

- 1) Decrease the proposed addition to up to 26-feet in length so as to maintain the required 20-foot rear setback; or
- 2) Move the existing lot line back 6-feet using the "adjusting a lot line" scenario spelled out in the Administrative Subdivision section to maintain the 20-foot rear setback; or
- 3) Add the proposed 32-foot addition to the front of the building.

There was also discussion about splitting the proposed addition – adding some to the front of the existing structure and the rest to the rear of the existing structure. Gleave stated that was not preferred because it would cost more because it involved removing two existing walls rather than just one.

Mrs. Culler asked what it would take to add the 6-feet to the property. Mrs. Schweitzer stated the Administrative Subdivision process involved new legal descriptions being developed as well as a new deed transferring the property. An Administrative Subdivision adds time and money to the process. It can take as little as 10 days or as long as a year, but that mostly depends on the applicant. Because the

lots are zoned differently, LA (Lake Accessory) and (AG) Agriculture, and Administrative Subdivisions are not permitted in the AG District, there could be some issues with an Administrative Subdivision in this case. Mr. Wilhelm commented that he wished the Pritchard's were present at the meeting.

Mr. Gleave told the Board that Dr. Pritchard was on a hunting trip and in a location without cell phone reception, but they were eager to get started on the project. They would like to get the concrete in the ground before the cold weather. Mr. Gleave also added that there is an existing exterior water spigot on the outside of the building, and there is no intention of adding any additional water service to the existing or proposed structure.

Vice Chairman Dammeier conducted a trial vote. There was discussion about voting on the conditions before voting on the findings and vice-versa. Mr. Wilhelm stated that his vote would be different if the conditions that the Board had discussed were not attached to the application.

Vice Chairman Dammeier entertained a motion to attach the aforementioned conditions to the findings of fact. Mrs. Schweitzer read the conditions to the Board:

- 1) Decrease the proposed addition to up to 26-feet in length so as to maintain the required 20-foot rear setback; or
- 2) Move the existing lot line back 6-feet using the "adjusting a lot line" scenario spelled out in the Administrative Subdivision section to maintain the 20-foot rear setback; or
- 3) Add the proposed 32-foot addition to the front of the building.

Mr. Walters made a motion to attach the conditions, as read by Mrs. Schweitzer, to the Pritchard Variance Application. Mr. Wilhelm seconded the motion. Motion carried with all in favor, and zero against.

Dammeier proceeded with the findings of fact for *Variance #2013-01, filed by John Pritchard, from Section 5.09 AS-06 C.2.a. Maximum Size of an Accessory Structure in a Lake Accessory District.*

Finding 1: *Legal notice of the petition has been provided in accordance with Indiana Code and Notice has been made to appropriate land owners because legal notice of the application was published in the Herald Republican Newspaper on October 9, 2013; and notice has been made to appropriate land owners as shown by the stamped receipts from the US Post Office and the return receipts (green cards) that are in the Town's possession. Mr. Wilhelm made a motion to accept Finding 1 as presented. Mrs. Culler seconded the motion. Motion carried with five votes in favor and zero votes against.*

Finding 2: *The approval of the variance will not be injurious to the public health, safety, morals and general welfare of the community because the expansion of the storage building will have no impact on traffic; and any increase in runoff from the building expansion will be absorbed in surrounding natural areas, as the lot and structure coverage of the property will be less than 3%; and the expansion of the storage building will allow all equipment to be stored and secured inside eliminating the possibility of trespassers becoming injured on the equipment; and the expansion of the storage building will allow the owner to store equipment to maintain the adjacent natural areas helping to preserve the natural setting and environmental integrity of the area. Mr. Walters made a motion to accept Finding 2 as presented. Mrs. Culler seconded the motion. Motion carried with five votes in favor of the motion and zero votes against.*

Finding 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 because the use of adjacent property as undeveloped wooded areas and natural lands will not change as a result of this project; and all equipment will be able to be stored inside the building, thus reducing exterior visual clutter for adjacent properties. Mr. Wertz made a motion to accept Finding 3 as presented. Mrs. Culler seconded the motion. Motion carried with five votes in favor of the motion and zero votes against.*

Finding 4: *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because the maximum size for a storage-based accessory structure in the Lake Accessory District [1,200 square feet] is established for lots that are around 5,000 square feet in area - a fraction of the size of Dr. Pritchard's 1.38 acre lot; and the expansion of the storage building will allow the owner to store equipment to maintain the adjacent natural areas helping to preserve the natural setting and environmental integrity of the 60+ acres owned by Pritchard. Mr. Walters made a motion to accept finding 4 as presented. Mrs. Culler seconded the motion. Motion carried with five votes in favor of the motion and zero votes against.*

Vice Chairman Dammeier announced the Board had made all the necessary findings of fact to approve the variance and entertained a motion to approve the variance with conditions. Schweitzer re-read the conditions to the Board: the applicant shall meet the rear yard setback by either decreasing the length of the expansion to 26 feet or less; moving the existing lot line back 6-feet via an Administrative Subdivision; or adding the 32-foot addition to the front of the existing building. Mr. Wilhelm made a motion to approve the variance with the conditions presented. Mr. Wertz seconded the motion. Dammeier ask for any further discussion. There being none, the final vote was taken. Five voted in favor of the motion and zero voted against. Variance #2013-01, filed by John Pritchard, from Section 5.09 AS-06 C.2.a. Maximum Size of an Accessory Structure in a Lake Accessory District, is approved

Chairman Bonnie Brown continued the meeting by presenting the meeting minutes from the April 15, 2013 as Old Business. Mr. Dammeier made a motion to approve the minutes of the April 15, 2013 meeting as presented. Mr. Walters seconded the motion. Motion carried with all in favor.

There being no other business to come before the Board of Zoning Appeals, Mr. Wilhelm made a motion to adjourn the meeting. Mr. Dammeier seconded the motion. Motion carried; meeting adjourned at 7:56 PM.

Amy Schweitzer, Secretary