

Town of Clear Lake-Board of Zoning Appeals

Meeting Minute-December 13, 2021

Board of Zoning Appeals Meeting Minutes – December 13, 2021

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

Roll Call:

Jenn Sattison, Town Clerk

Brenda Eby, Town Clerk

Larry Lillmars, Zoning Administrator

Burton (Jim) McClain, 1226 Quiet Harbor

Kit Tyler, 280 Penner Drive

Cecil Fleeman, 240 Penner Drive

Walter (Mokey) Grabowski, 254 West Clear Lake Drive

Michael Hawk, Attorney for the BZA

Scott Lazur, 1108 South Clear Lake Drive, joined by telephone

There were 16 audience attendees. (See attached sign in sheet) Five residents signed up to speak. (See attached forms)

Chairman Tyler announced that we have a quorum and she read the BZA introductory comments.

There are two variance requests before the Board tonight, Case 2021-08 and 2021-09, John/Jane Winch, 428 Point Park, represented by Andrea Duvendack, Property Manager for the Winches.

Variance Hearing Case 2021-08 is a request for relief from UDO Article 5.15 (G)(2)(c) *Lake Residential Deck Standards/Setback Exceptions/Elevated Deck/Lake Yard Setback Limitation*. The proposed project includes installing a deck in the lake yard that is four (4) feet into the lake yard setback.

Ms. Duvendack explained the Winches request for the variance. They would like to build a deck on top of the existing pump house. All materials used on the deck will match the existing pump house.

Ms. Duvendack added that the neighbors on both sides have no objections to the project and no one's view will be affected. She stated that she has ongoing emails with the neighbor, Tim Wagner and verbal acceptance of the project from neighbor, Jennifer Rockhold.

Board member, J. McClain stated that he would very much like to have written acceptance from the neighbors on both sides anytime there is a proposed project like this one. Chairman Tyler asked the ZA if he had received any correspondence concerning this project, to which he answered, no. Board member

C. Fleeman questioned if the pump house would be enlarged and would there be anything stored inside. Ms. Duvendack explained that they would not be changing the size, they would only be enclosing the pumphouse to conceal the beams from the deck and that storage would be minimal. Board member, W. Grabowski, clarified with Ms. Duvendack that the size of the pump house will not change.

With no further questions from the Board, Chairman K. Tyler entertained a motion to suspend the Hearing and open for public comment.

Motion by: Jim McClain

To suspend the Hearing and open for public comment.

2nd by: Cecil Fleeman

All in favor, motion carried.

Resident John Wilhelm, 206 WCLD, spoke against the variance request because it is a nonconforming structure. He stated that an administrative subdivision is needed. It has already been done; the GIS has not been updated to show this yet. This was verified by the Zoning Administrator, Larry Lillmars. Larry also clarified that the deck is proposed to go into the lake setback by 4 feet.

Resident Jim Skinner, 416 Point Park, spoke in support of the variance request as it is not going to affect anyone's view or property value and will enhance one of the most premier lots on the lake.

Resident Todd Rumsey, 432 Point Park, spoke in support of the variance request. He has spoken with John Winch and is comfortable with the Winch's plan, which is not going to impose on anyone else and will accentuate the value and utilization of the property.

With no further public comment, Chairman K. Tyler entertained a motion to close the public segment and re-open the Hearing.

Motion by: C. Fleeman

To close the public segment of the meeting and re-open the Hearing.

2nd by: W. Grabowski

All in favor, motion carried.

ZA L. Lillmars went over the staff report, stating that no letters or emails were received pertaining to this case. He then explained all the proposed changes to the pump house which were detailed in everyone's packet. He stated that certified letters were sent to adjacent neighbors and first-class letters to all neighbors within 300' of the Winchs.

K. Tyler requested clarification that this variance is to consider a "deck" on top of the existing pumphouse. A second variance will pertain to enclosing the deck which requires a variance because a portion of it is outside of the building envelope. K. Tyler asked what happens to the second variance request if the first is not approved. L. Lillmars explained that the variance for the deck could be approved but the variance to enclose it could not be denied, in which case, the Winches could go forward with their deck but would not be able to enclose it.

Jim McClain questioned why the pump house is being improved when it is a legal, non-conforming structure. Ms. Duvendack explained that the homeowners want to keep the pumphouse, which is grandfathered in, and would like to make it more aesthetically appealing. When completed, it will match the main home.

With no further questions/comments, Chairman K. Tyler entertained a motion to close the hearing and move on to the Findings of Facts.

Motion by: C. Fleeman

To close the hearing and move on to the Findings of Facts.

2nd by: W. Grabowski

All in favor, motion carried.

With no further questions or comments, we will move on 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. YES

Motion by: C. Fleeman

To accept Findings of Fact #1

2nd by: K. Tyler

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. YES

Motion by: K. Tyler

To accept Findings of Fact #2

2nd by: C. Fleeman

All in favor, motion carried.

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. YES

Motion by: W. Grabowski

To accept Findings of Fact #3

2nd by: C. Fleeman

All in favor, motion carried.

Findings of Fact #4:

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

Motion by: C. Fleeman

To accept Findings of Fact #4

2nd by: W. Grabowski

3 Ayes, 2 Nays, motion carried.

Roll call vote for decision of Variance #2021-08, Winch, 428 Point Park Drive:

Vote: K. Tyler (Approve), C. Fleeman (Approve), S. Lazur (Approve), W. Grabowski (Approve), J. McClain (Deny)

Case #2021-08: Approved by BZA with no conditions

Variance Hearing Case 2021-09 is a request for variance from development for John and Jane Winch, 428 Point Park Drive, Fremont, IN 46737. They request relief from *UDO Article 5.15(E)(2) Lake Residential Deck Standards, Screening and Enclosure, Elevated Deck*. The proposed project is the construction of a deck and enclosing the area under the deck that is not allowed to be enclosed if the deck is outside the building envelope.

Chairman K. Tyler asked Ms. Duvendack if she had anything to add concerning this variance. Ms. Duvendack stated that the request for this variance is so they can build walls to enclose the existing pumphouse to conceal the framing materials from the added deck. She stated that the current pumphouse sits on a slab but there is no foundation, and no concrete will be added. This is to make the existing pumphouse more aesthetically pleasing as it will match the home. There would be some storage in the pumphouse, but it would be minimal.

Member S. Lazur asked about pouring a slab, Ms. Duvendack answered that there will be no concrete added. They are only wanting to enclose the structure (framing) of the deck and in so doing, they will enhance the appearance of the existing pumphouse. There is concern of pavers being used to line the entire floor which is basically the same as putting in a concrete floor. Zoning Administrator L. Lillmars suggested that if pavers are a problem, there could be a condition added to the variance.

With no further discussion by the Board at this time, Chairman K. Tyler entertained a motion to suspend the Hearing and open for public comment.

Motion by: C. Fleeman

To suspend the Hearing and open for public comment.

2nd by: W. Grabowski

All in favor, motion carried.

Resident J. Wilhelm, 206 WCLD, vigorously urged the BZA to vote against this variance request.

Resident D. Luepke, 1057 SCLD, what is the square footage of the area that this is being built. J. McClain said 34 x 14. His concern is allowing storage in there because there is a lot of room for storage and could be a problem area. A condition could be no storage is allowed.

J. Skinner, 416 Point Park Drive, wants to know what the BZA is going to do with the only working boat house, that he owns, when he comes in with a negative 26-foot front yard setback, comes into his front yard and his house. We are rebuilding unless we get approval on all our structures, we will not build.

T. Rumsey, 432 Point Park Drive, two doors down from Winches. Question to L. Lillmars, according to the UDO, if the doors are placed 4 feet behind the deck are they allowed by variance? L. Lillmars, yes.

T. Rumsey, the definition of a building includes a roof that precludes water from entering the space. This is an open deck, so water throws through it. If it's covered from the sun, managing erosion, without gravel or some sort of deterrent, is not the best for the property. It is enclosed for ascetics, the surface of the ground should allow for some sort of erosion control, whether it be pavers or pea stones, it will not be seen, only for function. In support of an enclosure of the front face.

J. McClain, Are the existing rear walls of the pump house going to remain?

A. Duvendack, yes.

J. McClain, the deck is 18' deep, 34' wide. The pump house is 7 x 8 feet. The rear wall is 7' give or take from the proposed facia.

A. Duvendack, yes.

J. McClain, if that deck would be cantilevered over the facia, the whole storage is only 3 or 4' deep, so the storage issue goes away. Talked about cutting into the hill 14' for the deck.

L. Lillmars stated that they are not proposing to cut into the hill.

A. Duvendack stated they are not planning on cutting into the hill, but if they must, then they will.

J. McClain, if you are going to get 18' you are going to be into the hill.

L. Lillmars, the deck is going back 18', but the wall will be a lot shorter because of the slope of the hill.

J. McClain, the storage space that is being or not being created, at best will only be 7' deep.

Chairman K. Tyler entertained a motion to close the public portion.

Motion by: C. Fleeman

To close the public portion.

2nd by: W. Grabowski

All in favor, motion carried.

No staff report included in first round.

With no further questions/comments, Chairman K. Tyler entertained a motion to move on to the Findings of Facts.

Motion by: W. Grabowski

To move on to the Findings of Facts.

2nd by: C. Fleeman

All in favor, motion carried.

Findings of Fact for 2021-09, Winch, 428 Point Park Drive, variance UDO Article 5.15 (E)(2) Lake Residential Deck Standards, Screening and Enclosure, Elevated Deck.

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. YES

Motion by: W. Grabowski

To accept Findings of Fact #1

2nd by: C. Fleeman

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. YES

Motion by: J. McClain

To accept Findings of Fact #2

2nd by: C. Fleeman

All in favor, motion carried.

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. YES

Motion by: J. McClain

To accept Findings of Fact #3

2nd by: W. Grabowski

All in favor, motion carried.

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.
NO

BZA member - What is the BZA going to do about Burk's fence? L. Lillmars sent certified letter to remove or shorten it to 4' because the variance was denied.

New Business

Motion to approve October 11, 2021, minutes.

C. Fleeman entertained a motion to approve the October 11, 2021, minutes.

Motion by: C. Fleeman

To approve October 11, 2021, minutes.

2nd by: W. Grabowski

All in favor, motion carried.

No new business.

Chairman K. Tyler entertained a motion to adjourn meeting.

Motion by: J. McClain

To adjourn the meeting.

2nd by: C. Fleeman

All in favor, motion carried.

Meeting adjourned.

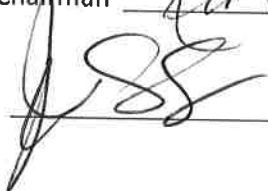
Board of Zoning Appeals: Kit Tyler Chairman



Date:

2/8/22

Asset by: Jenn Sattison Town Clerk



Date:

2/8/22