

Town of Clear Lake - Board of Zoning Appeals
Meeting Minutes – December 16, 2019

Chairwoman Howarth opened the December 16, 2019, Regular Meeting of the Clear Lake Board of Zoning Appeals at 7:10 PM.

Introductions were made, and the following members of the Board were present:

Jackie Howarth, Chairwoman
Don Luepke, Vice-Chair
Erick Strasser
Kit Tyler
Cecil Fleeman

Also, present:

Michael Hawk, Attorney for the Board of Zoning Appeals
Bonnie Brown, Acting ZA, PC President
Jim Lonabarger, New Zoning Administrator
Applicants, Dan and Christine Rippe
Attorney for Danna Breeden
Sixteen property owners

Chairwoman Howarth determined a quorum was present and read aloud the Board of Zoning Appeals Duties and Procedures.

ZA Report: Jim Lonabarger introduced himself to everyone. This was his first day on the job and was looking forward to making progress for the Town of Clear Lake as the new Zoning Administrator.

Chairwoman Howard read the Guidelines of Procedures for discussion of the Variances

Variance 2019-09:

Request for variance from the development standards for Daniel and Christine Rippe, 104 Clear Lake Cove, Fremont, IN 46737. They request relief from *UDO 2.14 LR District Standards, Section 5.65 (A) b Lake Residential Standards, Viewshed*. The proposed project includes the construction of a new home that encroaches into the lake yard horizontally protected viewshed.

Variance 2019-10:

Request for variance from the development standards for Daniel and Christine Rippe, 104 Clear Lake Cove, Fremont, IN 46737. They request relief from *UDO 2.14 LR District Standards, Section 5.65 (A) b Lake Residential Standards, Setback*. The proposed project includes the construction of a new home that encroaches into the lake yard setback.

Applicants: Dan and Christine Rippe, 5314 Arborfield Ct, Fort Wayne, In 46835. They are working with Star Builders on a home design on this vacant lot and which would not meet the

UDO standards. The horizontal protected viewshed would require a 65-foot setback from the adjacent shoreline (instead of the normal 30 foot) which then causes difficulty in the use of the lot.

Mr. Rippe presented the situation and explained all the difficulties associated with the unique situation and the reasons for the requested variance. They claim hardship due to the severe limitations imposed by the horizontally protected viewshed line from an adjacent lot where the home is set back a significant distance from the shoreline. Originally this lot was a portion of one large parcel and was now divided into three lots. In addition, a new and separate grinder would have to be placed on this site.

The Board was then given time to ask questions of the applicant and those were answered.

The motion was then made by Don Luepke, seconded by Eric Strasser, and passed to open the discussion for public hearing.

There were no members of the public speaking in support of the variance.

The attorney for Danna Breeden 106 Clear Lake Cove, Jim McEntarffer, presented the case for opposition to the proposed variance. He provided drawings and explanation as to the objections for the requested departure from the UDO. Questions were raised from the Board about the location of the viewshed line from his presentation. In his drawings he showed it coming from the corner of the house and the UDO states that it must originate where the center line of the Breeden property meets the house. Questions and comments to the presenter were then addressed by the members of the BZA.

Following this, additional people expressed their views in opposition to the proposed variance with comments centered on the viewshed concern and the expression that this was not a hardship situation. These included: Stanley Dziaba, Danna Breeden, Rob McMaster, Brent Schlosser, following this, letters were read from Evelyn Schlosser, Claire Timmer, Jim and Cat Nevin sharing their viewshed comments.

At this time, the applicant was given time for rebuttal and explained again the unique situation because of the angle of the lot and the significant setback of the adjacent lot.

A motion was made Don Luepke, seconded by Cecil Fleeman, and passed to close the public hearing and open it for BZA discussion.

There was a lengthy discussion about the uniqueness of this situation and an attempt to address some of the issues raised. If the variance were granted there would certainly be a significant effect on the viewshed of the adjacent property to the north. Many ideas and possible suggestions were raised as to how to accommodate all parties involved. These mainly centered around the possibility of asking the applicant to work with the builder to come up with an altered plan that would lessen the viewshed concern. There was then discussion about continuing the hearing until a later date and ask for a revised drawing. The idea was also considered about adding conditions to the variance request. The problem was that there was a time-line deadline

regarding the purchase of the property which was dependent on the approval of this variance by the BZA.

Thereupon it was decided to proceed with the Findings of Fact.

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 in affirmative made by Don Luepke, seconded by Eric Strasser, and approved.

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

Motion in negative made by Eric Strasser, seconded by Don Luepke and approved.

Since one of the findings of fact was voted in the negative legal counsel advised to dispense with Findings of Fact 3 and 4 and to proceed with final vote on the on the variance.

Motion to DENY was made, seconded and confirmed by a unanimous vote of the Board:

Jaelyn Howarth – Deny
Don Luepke – Deny
Cecil Freeman – Deny
Erick Strasser – Deny
Kit Tyler - Deny

Since one of the findings of fact was found to be NOT approved, the overall variance request is denied.

Having this variance denied, the applicant withdrew the second variance request.

New Business:

At the present time there are no new variance requests for the next regular BZA meeting on February 10, 2020, but applicants have until January 13 to do so.

It was announced that John Wilhelm will serve as an alternate to the BZA.

Jim Lonabarger made some final comments about working closely with the residents to assist in making the Clear Lake community a grand place to live.

Meeting adjourned at 8:30 PM.

Respectfully Submitted:

Attest: Don Luepke

Bonnie Brown, Plan Commission President, acting Zoning Administrator