

Town of Clear Lake - Board of Zoning Appeals
Meeting Minutes – February 19, 2018

Chairwoman Howarth opened the February 19, 2018 Regular 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:

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

Also present:

Michael Hawk, Attorney for the Board of Zoning Appeals
Mike Long, Zoning Administrator

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

Mr. Hawk explained the process of filing for an ILP and a variance if necessary.

Variance 2018-01 Schlosser @ 95 Penner Drive

Chairwoman Howarth stated the Board would hear Case #2018-01, a Variance from Section 2.14, Minimum Street Yard Setback, filed by Brett and Vanessa Schlosser at 95 Penner Drive.

Mr. Schlosser appeared before the board to petition his variance. He gave a timeline from applying for his ILP through constructing their new home. He stated that a "Stop Work Order" dated December 21, 2017 was discovered by his construction crew on December 29, 2017. The foundation and shell of the house was already completed. Therefore, his only option was to apply for a variance. He is asking for relief from setbacks standards to accommodate the garage portion of his house.

Mr. Luepke asked about who discovered the error and were they aware of the mistake. Mr. Schlosser stated the first time he was aware of the violation was after the "Stop Work Order" was discovered and he talked to someone at the Town office. On January 2, 2018, he received a letter from Mr. Hawk explaining the violation. When Bob Hull went to the property to site the grinder pump, he felt that the house was too close to the road and brought it to Mr. Hughes' attention.

The UDO states that structure must be at least 25 feet from the edge of the road or the property line, whichever is greater. In this case, the property line is further back than the edge of the road.

Mr. Luepke moved to close the meeting and open the public hearing. The motion was seconded by Mr. Fleeman. The motion carried.

Public Hearing

Chairwoman Howarth asked for public comment.

There were 10 people who spoke in support of Mr. Schlosser and asked the BZA to grant the variance. There were several questions asked from the audience. The room was overflowing with people in support of the Schlosser. There were approximately 20 emails sent in support of the Schlossers.

Since there was no one to speak in opposition, Mr. Luepke moved to close the public hearing and move back into the regular meeting. Mr. Fleeman seconded. The motion carried.

A discuss persuade about why the violation was not discovered earlier and how to rectify the problem. It was determined that there would be no problem with traffic visibility if the variance was granted. Also, there is no Lake Accessory lot with this parcel with which to build an extra garage. It is not responsible of the BZA for the problems that occurred in this situation, but what can be done to help the home owner.

Mr. Luepke moved to move onto the findings. Mr. Fleeman seconded. The motion carried.

Mr. Long presented the Certificates of Mailing and Legal Notice provided in *The Herald Republican*.

Mr. Luepke moved to approve the **first finding**:

Legal notice of the petition has been provided in accordance with Indiana Code and Notice has been made to appropriate land owners because

- a. *Legal notice of the application was published in the Herald Republican Newspaper on February 7, 2018.*
- b. *Notice has been made to appropriate land owners as shown by the stamped certificates of mailing.*

Mr. Fleeman seconded the motion. The motion carried with all members in support, none opposing.

Mr. Luepke moved to approve the **second finding**:

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

- a. *The property line for this parcel is a significant distance from Penner Drive. As such, despite the fact that the proposed residence is not more than 25' from the street side property line, it is more than 30' from the edge of pavement on Penner Drive. Accordingly, there will be no visual impairment for those in the road right-of-way.*

Mr. Fleeman seconded the motion. The motion carried with all members in support, none opposing.

Mr. Fleeman moved to approve the **third finding**:

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

- a. The structure as proposed will not affect the development or use of neighboring properties.*
- b. The use of the property is consistent with the type and intensity of neighboring properties.*

Mr. Luepke seconded the motion. The motion carried with all members in support, none opposing.

Mr. Luepke moved to approve the **fourth finding**:

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

- a. The unusual layout of the property lines and the location of the road right-of-way make the application of the zoning ordinance unnecessarily restrictive and would prevent the owners from locating their home on the portion of their lot that has soil most suitable for development.*

Mr. Fleeman seconded the motion. The motion carried with all members in support, none opposing.

Mr. Luepke moved to approve Variance 2018-01. Mr. Fleeman seconded the motion. The motion carried with all members voting in favor, none opposed.

Old Business

Chairwoman Howarth then asked the board if they had reviewed the minutes from the August 21, 2017 Regular meeting. Mr. Luepke made a motion to accept the minutes as presented. Mr. Fleeman seconded the motion. Motion carried with all members in favor.

New Business

Set 2018 Meeting Dates and Filing Deadlines

Meeting Dates

Feb. 19, 2018; Apr. 16, 2018; June 18, 2018; Aug. 20, 2018; Oct. 22, 2018; Dec. 17, 2018 and Feb. 18, 2019.

Filing Deadlines

Jan. 22, 2018; Mar. 19, 2018; May 21, 2018; July 23, 2018; Sept. 17, 2018; Nov. 19, 2018 and Jan. 21, 2019

Election of Officers

Mr. Luepke nominated Ms. Howarth as Chairwoman, Mr. Fleeman seconded the nomination. All approved.

Mr. Fleeman nominated Mr. Luepke as Vice-Chair, Ms. Howarth seconded the nomination. All approved.

Mr. Luepke nominated the Zoning Administrator as Secretary, Mr. Fleeman seconded the nomination. All approved.

Hearing no other business, Chairwoman Howarth adjourned the meeting. Meeting adjourned at approximately 7:33 PM.

Respectfully Submitted:

Mike Long, Plan Commission President