

**Town of Clear Lake  
Board of Zoning Appeals  
Staff Report**

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**Variance Number:** #2022-05, 2022-06, & 2022-07

**Applicant/Owner:** Bob Buescher Homes / Joseph and Kathy Schenkel

**Location:** 72 West Clear Lake Drive

**Zoning:** LR (Lake Residential) and LA (Lake Accessory)

**Current Use:** Lake Home and Garage

**Variations Requested:** 2022-05

*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.

2022-06

*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 Establish Building Setback by 9.4 feet.

2022-07

*UDO Section 5.63 (A)(3) General Set Back standards, Minimum Rear Yard Setback.* The proposed project includes building a new garage that encroaches the Rear Yard Setback by 3.3 feet.

**Hearing Date:** August 9, 2022

- Required Notice:**
- Publication of legal notice was published in the *Herald Republican* on July 27, 2022.
  - Legal Notice was also posted by the Zoning Administrator outside the Town Hall.
  - Two (2) adjacent owners were sent Legal Notices with a certificate of mailing.
  - Eight (8) interested property owners were sent “courtesy notices” by regular US mail.

Notification Sent to Adjacent and Property Owners within 300 feet:



### Property Owners within 300 feet to 72 West Clear Lake Drive

Lake Address	Owner Mail Address	City	State	Zip Code	Name	Cert
74 West Clear Lake Dr	74 West Clear Lake Dr	Fremont	IN	46737	James & Karen Bushey	x
82 West Clear Lake Dr	82 West Clear Lake Dr	Fremont	IN	46737	Thomas, Calvin & Samantha Champion	
7265 E 675 N	111 Gecowets Dr	Fremont	IN	46737	Clear Lake Township Land Conservancy Inc	
70 West Clear Lake	1253 Ridgewood Dr	Troy	OH	45373	Cass Cullis	x
88 West Clear Lake	88 West Clear Lake	Fremont	IN	46737	Bradley Gay	
78 West Clear Lake	4186 Road 71	Payne	OH	45880	John & Marcia Laukhuf	
86 West Clear Lake	10826 Morning Mist Trail	Fort Wayne	IN	46804	Lindenberg Family	
68 West Clear Lake	6828 Sweetwood	Fort Wayne	IN	46814	Jerry & Joan Rippe	
West Clear Lake	121 S Main St. Suite 500	Akron	OH	44308	Strong Development Corp.	
80 West Clear Lake	1623 State Route 18	Hicksville	OH	43526	Dennis & Sheryl Vetter	
66 West Clear Lake	8111 Minnie Ha Ha Circle	Fort Wayne	IN	46818	Jack Wickland	
Owner						
72 West Clear Lake Dr	515 Fallen Timbers Trail	Fort Wayne	IN	46825	Joe & Kathy Schenkel	

Contextual Land Use and Zoning:



Home and Garage Elevation:



LAKE ELEVATION

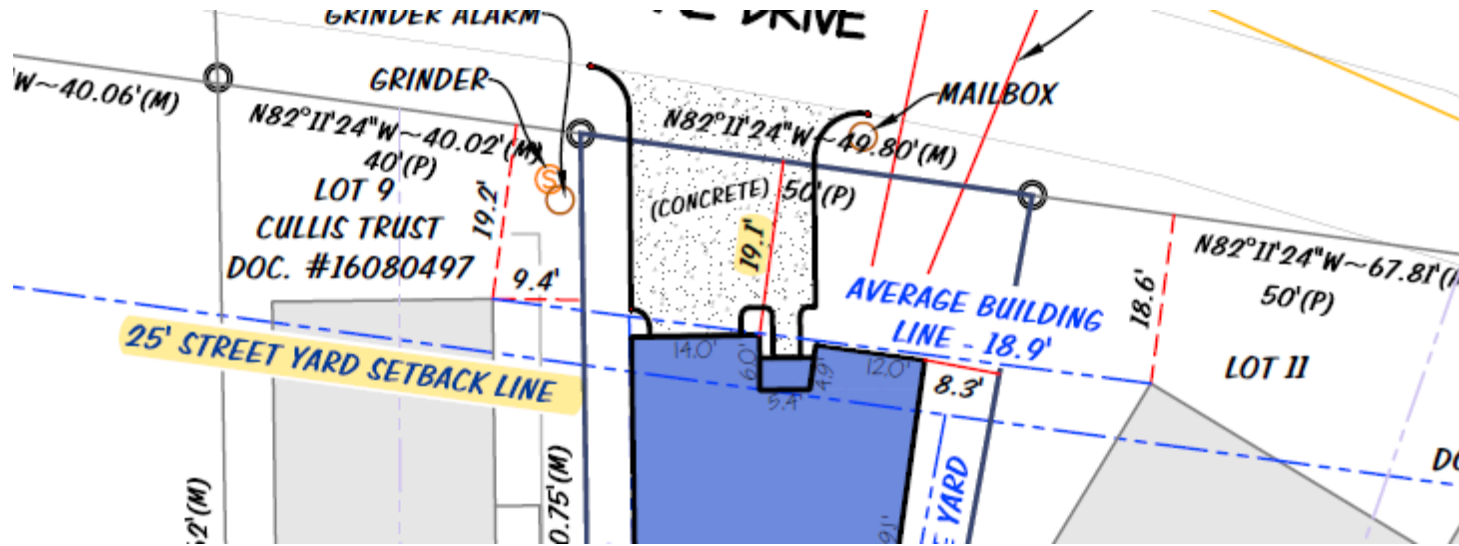
STREET ELEVATION



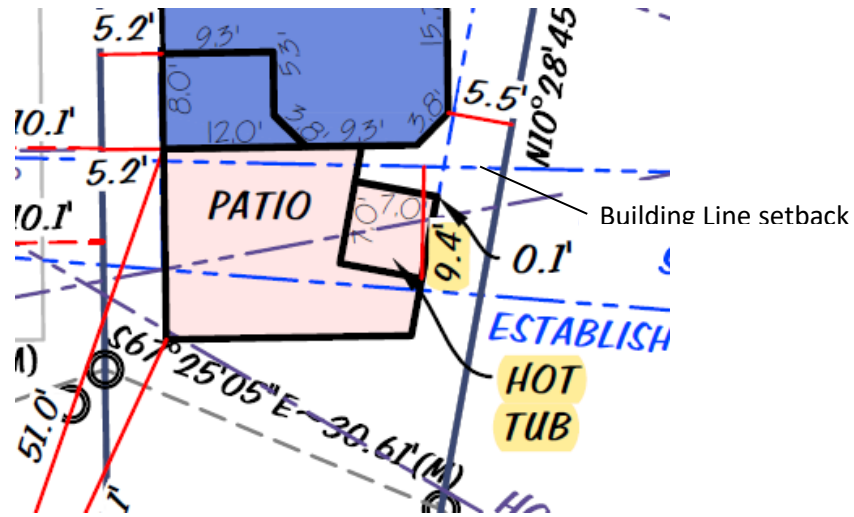
Current Site Plan with existing home and Garage



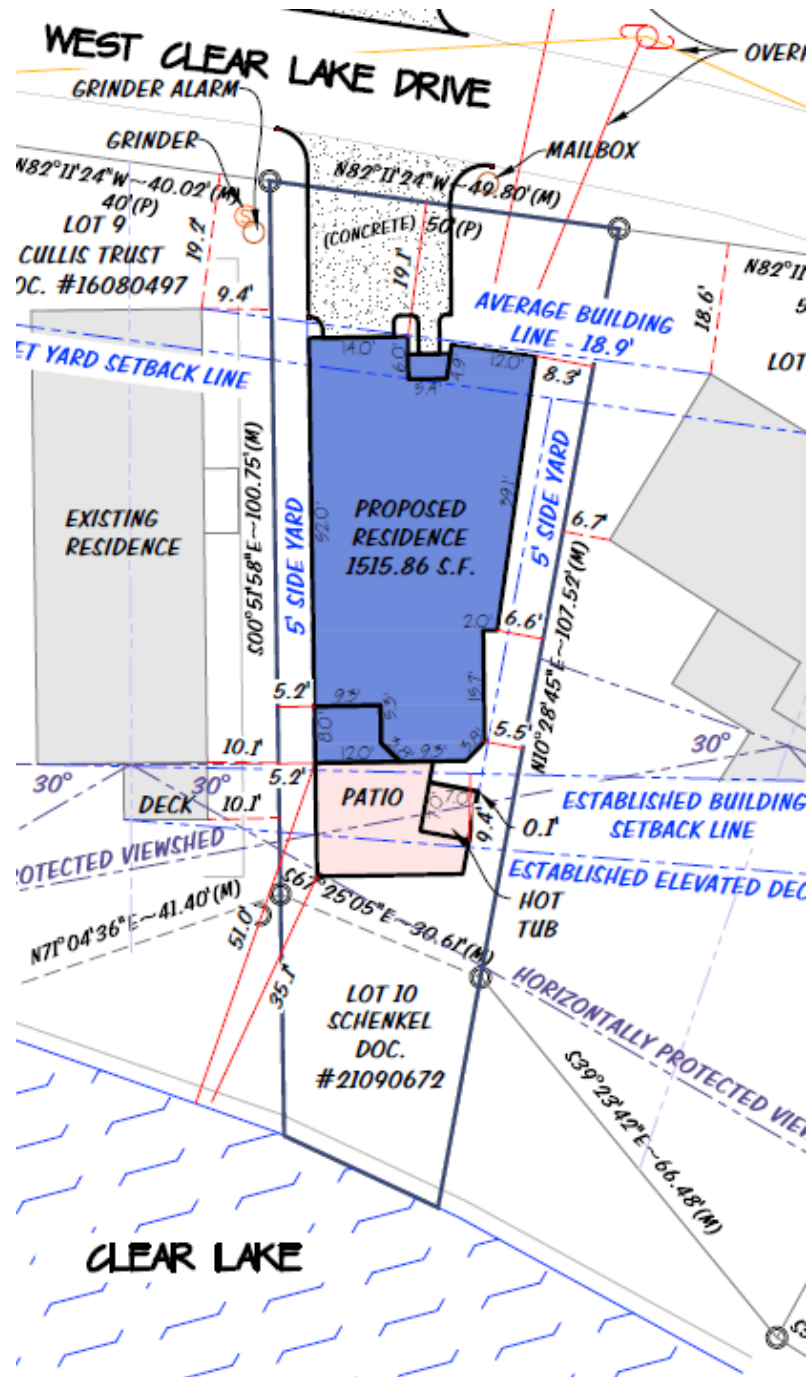
Proposed Home Site Plan:



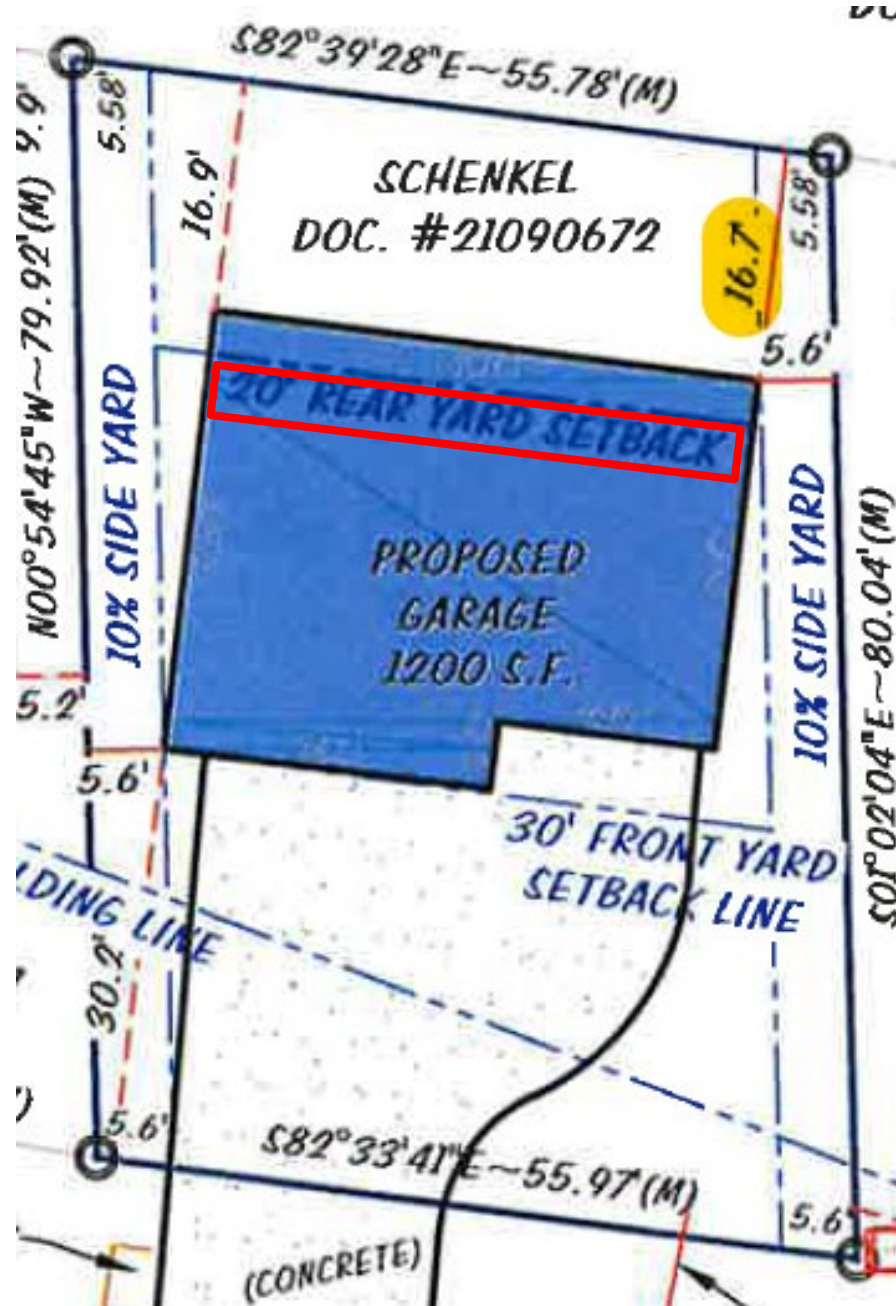
Proposed Hot Tub Site Plan:



Proposed Home Site Plan:



Proposed Garage Site Plan:





## Material List for home:

Vinyl Shakes

Vinyl Double 4 siding

Stone

Certainteed Landmark Shingles,

Boral Truexterior Composite trims, painted

Pella Clad windows and Sliding Glass Door

Thermatru fiberglass entry & service door

Pre-finished insulated metal garage doors w/ windows

## Material List for Garage:

Vinyl double 4 siding

Certainteed landmark shingles

Boral truexterior composite trim, paint

Pre-finished insulated metal garage doors.

Pella Window

## **Comprehensive Plan Excerpts (Town objectives to consider when reviewing variances)**

Policy 2.1: Balance the preservation of the lake environment with the needs of a growing year-round population.

Objective 2.1.1: Ensure development conforms to the Town's land use regulations recognizing that many lots around the lake possess unique and sometimes challenging features.

Objective 2.1.3: Encourage homeowners and builders to utilize professional architectural services and landscape design to develop and maintain appropriate aesthetics.

Policy 7.2: Ensure land use regulations have sufficient flexibility to allow property owners and the Town to propose measures to adapt development to unique and difficult site conditions, preserve open space and natural resources, and avoid negative impacts on surrounding properties.

Objective 7.2.2: Ensure that reconstruction and rehabilitation of properties in the Town of Clear Lake are consistent with a residential lake setting.

### **Zoning Administrator Recommendation:**

- **#2022-05 - Recommend approving the variance based on the home is no closer to the road than the neighbor's home and the location does not affect the adjacent neighbors.**
- **#2022-06 - Recommend approving the variance based on the location of the hot tub is appropriate and is forty feet back from the lake.**
- **#2022-07 - Recommend approving the variance based on the new location is more appropriate than the current garage location and the lot is backed up to the Land Conservancy.**

**Findings of Fact Worksheet**  
**#2022-05 Schenkel 72 West Clear Lake Drive**

**Variance:** *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.

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

**YES, because...**

- a. 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 1<sup>st</sup> class mail recipients that are in the Town's possession.

**NO, because...**

- a. legal notice of the petition has **NOT** been provided in accordance with applicable Indiana Code and Notice to appropriate landowners because...
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**Acceptance: YES, Finding or NO Finding**

- \_\_\_\_\_ Motion
- \_\_\_\_\_ Second
- \_\_\_\_\_ Vote

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

**YES, the approval of the variance will not be injurious because...**

- a. the proposed home is consistent with the residential use of adjacent properties and will not impact the drainage or traffic along West Clear Lake Drive.

**NO, the approval of the variance will be injurious because.....**

- a. the home location is too close to the road and is not appropriate for a lake residential lot.
- b. \_\_\_\_\_

**Acceptance: YES, Finding or NO Finding**

\_\_\_\_\_ Motion

\_\_\_\_\_ Second

\_\_\_\_\_ Vote

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, the use and value of the adjacent area will not be affected in a substantially adverse manner because...**

- a. 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.
- b. the proposed home will be constructed of high-quality materials and is appropriately sized for the lot.

**NO, the use and value of the adjacent area will be affected in a substantially adverse manner because...**

- a. the home location is too close to the road and is not appropriate for a lake residential lot.
- b. \_\_\_\_\_

**Acceptance: YES, Finding or NO Finding**

\_\_\_\_\_ Motion

\_\_\_\_\_ Second

\_\_\_\_\_ Vote

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

**YES, because...**

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

**NO, the strict application of the terms of the zoning ordinance will not result in practical difficulties in the use of the property because...**

- a. The size of the proposed home can be reduced to fall within the current UDO setbacks.
- b. \_\_\_\_\_

**Acceptance: YES, Finding or NO Finding**

\_\_\_\_\_ Motion

\_\_\_\_\_ Second

\_\_\_\_\_ Vote

**Variance:** *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.

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**Approved / Approved with Conditions / Denied**

<b>Vote of the Board</b>	<b>Approve</b>	<b>Deny</b>	<b>Abstain</b>
Kit Tyler			
Cecil Fleeman			
Scott Lazur			
Walter Mokey Grabowski			
Jim McClain			

**Conditions:**

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If granted, a certification of the decision shall be created and recorded at the office of the Steuben County Recorder.

**Findings of Fact Worksheet**  
**#2022-06 Schenkel 72 West Clear Lake Drive**

Variance: *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 Establish Building Setback by 9.4 feet.

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

**YES, because...**

- a. 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 1<sup>st</sup> class mail recipients that are in the Town's possession.

**NO, because...**

- a. Legal notice of the petition has **NOT** been provided in accordance with applicable Indiana Code and Notice to appropriate landowners because...
- 

**Acceptance: YES, Finding or NO Finding**

- \_\_\_\_\_ Motion
- \_\_\_\_\_ Second
- \_\_\_\_\_ Vote



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

**YES, the approval of the variance will not be injurious because...**

- a. 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.

**NO, the approval of the variance will be injurious because.....**

- a. the hot tub location is not appropriate for a lake side area.
- b. \_\_\_\_\_

**Acceptance: YES, Finding or NO Finding**

\_\_\_\_\_ Motion

\_\_\_\_\_ Second

\_\_\_\_\_ Vote

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, the use and value of the adjacent area will not be affected in a substantially adverse manner because...**

- a. 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.

**NO, the use and value of the adjacent area will be affected in a substantially adverse manner because...**

- a. the hot tub location is not appropriate for a lake side area.
- b. \_\_\_\_\_

**Acceptance: YES, Finding or NO Finding**

\_\_\_\_\_ Motion

\_\_\_\_\_ Second

\_\_\_\_\_ Vote

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

**YES, because...**

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

**NO, the strict application of the terms of the zoning ordinance will not result in practical difficulties in the use of the property because...**

- a. the proposed hot tub is not essential to the use of the property for residential purposes.

b. \_\_\_\_\_

**Acceptance: YES, Finding or NO Finding**

\_\_\_\_\_ Motion

\_\_\_\_\_ Second

\_\_\_\_\_ Vote

**Variance:** *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 Establish Building Setback by 9.4 feet.

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**Approved / Approved with Conditions / Denied**

<b>Vote of the Board</b>	<b>Approve</b>	<b>Deny</b>	<b>Abstain</b>
Kit Tyler			
Cecil Fleeman			
Scott Lazur			
Walter Mokey Grabowski			
Jim McClain			

**Conditions:**

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If granted, a certification of the decision shall be created and recorded at the office of the Steuben County Recorder.

**Variance:** *UDO Section 5.63 (A)(3) General Set Back standards, Minimum Rear Yard Setback.* The proposed project includes building a new garage that encroaches the Rear Yard Setback by 3.3 feet.

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

**YES, because...**

- a. 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 1<sup>st</sup> class mail recipients that are in the Town's possession.

**NO, because...**

- b. Legal notice of the petition has **NOT** been provided in accordance with applicable Indiana Code and Notice to appropriate landowners because...
- 

**Acceptance: YES, Finding or NO Finding**

- \_\_\_\_\_ Motion
- \_\_\_\_\_ Second
- \_\_\_\_\_ Vote

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

**YES, the approval of the variance will not be injurious because...**

- a. the proposed garage is consistent with the residential use of adjacent properties and will not impact the drainage or traffic along West Clear Lake Drive.

**NO, the approval of the variance will be injurious because.....**

- a. the proposed garage location is not appropriate for a lake accessory lot.
- b. \_\_\_\_\_

**Acceptance: YES, Finding or NO Finding**

\_\_\_\_\_ Motion

\_\_\_\_\_ Second

\_\_\_\_\_ Vote

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, the use and value of the adjacent area will not be affected in a substantially adverse manner because...**

- a. 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.
- b. the proposed garage will be constructed of high-quality materials and is appropriately sized for the lot.

**NO, the use and value of the adjacent area will be affected in a substantially adverse manner because...**

- a. the proposed location of the garage is not appropriate for a lake accessory lot.
- b. \_\_\_\_\_

**Acceptance: YES, Finding or NO Finding**

\_\_\_\_\_ Motion

\_\_\_\_\_ Second

\_\_\_\_\_ Vote

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

a. the setbacks consume 50 feet of the depth of the 80-foot lot, and thereby greatly reducing the building envelop.

**NO, the strict application of the terms of the zoning ordinance will not result in practical difficulties in the use of the property because...**

a. the proposed garage size is not essential to the use of the property for residential purposes.

b. \_\_\_\_\_

**Acceptance: YES, Finding or NO Finding**

\_\_\_\_\_ Motion

\_\_\_\_\_ Second

\_\_\_\_\_ Vote



**Decision for Case #2022-07  
#2022-07 Schenkel 72 West Clear Lake Drive**

**Variance:** *UDO Section 5.63 (A)(3) General Set Back standards, Minimum Rear Yard Setback.* The proposed project includes building a new garage that encroaches the Rear Yard Setback by 3.3 feet.

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**Approved / Approved with Conditions / Denied**

<b>Vote of the Board</b>	<b>Approve</b>	<b>Deny</b>	<b>Abstain</b>
Kit Tyler			
Cecil Fleeman			
Scott Lazur			
Walter Mokey Grabowski			
Jim McClain			

**Conditions:**

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If granted, a certification of the decision shall be created and recorded at the office of the Steuben County Recorder.

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