

CLEAR LAKE BOARD OF ZONING APPEALS  
Minutes of the Special May 9, 2006 Meeting

Present: Christopher Folland, President  
Ron Kummer, Vice President  
Bonnie Brown  
Jon Fitzenrider  
Mike Long, Alternate

The meeting of the Clear Lake BZA was called to order at 7:00 P.M. by Christopher Folland, President. The President introduced the Board members. The Board received a letter of resignation from Bruce Snyder asking to be relieved of his duties as the Board's Secretary. The resignation received and accepted. Because Board member Jerry McArdle was one of the applicants being heard during the meeting, J. McArdle recused himself from the meeting. Alternate Mike Long substituted for J. McArdle.

Business meeting:

President Folland opened the business meeting of the Board of Zoning appeals. Minutes of the April 17, 2006 meeting were read by V.P. R. Kummer. On Motion by B. Brown, seconded by J. Fitzenrider, the minutes were approved as amended and corrected.

The President reviewed the duties of the Board, the requirements needed to be met for granting of a variance, and procedures to be followed at the meeting.

Old Business:

- The BZA Practices Review Group met April 27, 2006.

Minor changes were recommended made to BZA Rules regarding Appeals of Zoning Inspector's Decisions and changing the approving body name for approval of sanitary waste connections. On Motion by B. Brown, seconded by J. Fitzenrider, the changes were adopted as presented.

A proposed "Findings of Fact & Board Action" form was presented. On Motion by R. Kummer, seconded by B. Brown, the form was adopted.

- B. Brown requested the board consider holding special meeting to consider an additional variance request for Jerry & Janis Crawford. Erik Weber confirmed that a special meeting could be held. Bruce Snyder questioned if Crawford property was properly annexed into Town of Clear Lake. E. Weber to research Crawford's parcel.

New Business:

- A Motion was made by R. Kummer, seconded by B. Brown to withdraw Developmental Variance #2006-2b granted to Jerry and Diane McArdle in preparation for their hearing. Motion carried.

On Motion by J. Fitzenrider, seconded by B. Brown, business meeting closed.

Hearing:

Erik Weber, Town Attorney, advised the Board of general laws regarding platted streets, platted rights-of-way, and riparian rights.

2006-5 Diane & Jerry McArdle, 294 Lake Drive.

Request for relief from Ordinance # 154.048(A) and Ordinance #150.40(A)(1) as amended by Ordinance 287 so that new home can be built encroaching on yard along Prospect Street. Jerry McArdle applicant made the presentation. There were no letters received from residents for or against the variance. Several residents spoke against the variance application. Board member B. Brown had questions of the applicant. Board member J. Fitzenrider had questions of the applicant. R. Kummer had a question of the applicant. Board member C. Folland had questions of the applicant. Zoning Inspector Bruce Snyder made comments. Mark Hansbarger came back up to say no objection to variance at this time. On motion duly made and seconded the public hearing was closed.

President Folland asked for a filling of the findings of fact.

Injurious to community: finding that it would not be injurious to the Community: 4 votes yes - 1 vote no.

Use or value not adversely affected: Finding that it would not affect the use or value. 4 voted yes - 1 vote no.

Strict application results in adverse use of property: 2 voted that it adversely affect the use of the property; 3 voted that it would not adversely affect the use of the property.

On motion by J. Fitzenrider, seconded by M. Long , it was moved that the variance be granted. By a vote of 3 to 2 the variance was granted.

On motion by C. Folland, and seconded by R. Kummer, it was moved that the Findings of Fact with Conditions be recorded at the Steuben County Recorders Office. Motion passed.

There being no further business to come before the Board, on motion duly made and seconded, the meeting was adjourned.

The next regular BZA meeting will be June 19<sup>th</sup>, 2006.

Respectfully submitted:

Debra Arnett

Attachments: McArdle Finding of Fact  
Board Rules  
Finding of Fact & Board Action form

Town of Clear Lake, Indiana  
Board of Zoning Appeals  
Finding of Fact & Board Action – Developmental Standards Variance

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Petitioner: **Diane & Jerry McArdle**  
Case #: **2006-5**  
Address of Subject Appeal: **294 Lake Drive**

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Findings

The approval **WILL NOT / WILL** be injurious to the public health, safety, morals and general welfare of the community? **Vote** Will Not   ✓   Will   

**Finding:** Neighboring property owners will not be adversely affected by granting of variance.

The use and value of the area adjacent to the property included in the variance **WILL NOT / WILL** be affected in a substantially adverse manner? **Vote** Will Not   ✓   Will   

**Finding:** The proposed location of home and granting of variance will be beneficial to adjacent property owners.

The strict application of the terms of the Clear Lake Zoning Regulations **WILL / WILL NOT** result in practical difficulties in your use of your property? **Vote** Will   ✓   Will Not   

**Finding:** Because Prospect Street is unapproved the applicant will have difficulty in placing his home on the lot without placing it up the property line. Strict enforcement of the ordinance will adversely affect neighbors on South side.

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**Conditions:** No permanent structures shall encroach either in the air or on ground onto the 60 foot platted road right-of-way.

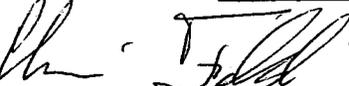
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Vote of the Board

Bonnie Brown (2006)	Approve	<u>Deny</u>	Abstain
Christopher Folland (2008)	<u>Approve</u>	Deny	Abstain
<i>Mike Long</i> <i>Alternate</i> <del>Jerry McArdle (Plan Commission App.)</del>	<u>Approve</u>	Deny	Abstain
Jon Fitzenrider (2009)	<u>Approve</u>	Deny	Abstain
Ron Kummer (2007)	Approve	<u>Deny</u>	Abstain

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Approved    Denied    Approved with Conditions

  
\_\_\_\_\_  
Christopher D. Folland, President

Vote Tally:   3   Approve   2   Deny    Abstain

Date:   May 9  , 2006

# Board Rules

## Town of Clear Lake Indiana – Board of Zoning Appeals (BZA)

1. The board shall hear all matters as mandated by Indiana Code 36-7-4-918.1, 36-7-4-918.2 and 36-7-4-918.3.
2. The board shall operate as mandated under Indiana Code 36-7-4-918 and Clear Lake Code 154.100.
3. Deadlines:
  - Developmental Standard Variances, Use Variances, and Special Exceptions: All applications must be submitted no later than 21 days prior to a scheduled BZA meeting. All application requirements must be met by deadline.
  - Issues To Be Heard Not Requiring Public Notice: All applications and agenda requests must be submitted 7 days prior to a scheduled BZA meeting.
  - Appeals Of Zoning Inspector's Decisions: Notice of appeal must be submitted to and received by the Clear Lake Clerk/Treasurer no more than 90 days after the Zoning Inspector's decision. The appeal request must state the specific grounds for appeal and must be made in writing. A hearing date for the appeal will be scheduled by the President of the BZA based on the board's schedule.
  - Special Exceptions, Developmental Standard Variances, And Use Variances: The granting of any special exception, use variance, or developmental standard variances expires at the end of one year from the date of granting by the Board of Zoning Appeals unless construction is commenced within the one year period.

All variances, special exceptions, developmental standard variances, and/or use variances are based upon the plans submitted at the time of the public hearing. Any changes in the plans require additional approval by the Board of Zoning Appeals prior to the construction.
4. Variance Application Requirements:
  - Drawings to scale of proposed project including all elevations and exterior materials list.
  - Site plan to scale showing property lines, existing improvements and proposed improvements. A certified boundary survey.
  - A copy of property's deed (deeds).
  - If requesting a new sanitary waste connection, a letter of acceptance from the Clear Lake Sewer Board to connect to the Clear Lake sewer system.
  - On your proposed building site, stakes showing your building locations and your property lines.

**Application requirements must be completed before variance hearings will be scheduled.**

Adopted: May 9, 2006

Town of Clear Lake, Indiana  
Board of Zoning Appeals  
Finding of Fact & Board Action – Developmental Standards Variance

Petitioner:  
Case #:  
Address of Subject Appeal:

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Findings

- A. The approval **WILL NOT / WILL** be injurious to the public health, safety, morals and general welfare of the community? **Vote** Will Not \_\_\_\_ Will \_\_\_\_

**Finding:** \_\_\_\_\_  
\_\_\_\_\_

- B. The use and value of the area adjacent to the property included in the variance **WILL NOT / WILL** be affected in a substantially adverse manner? **Vote** Will Not \_\_\_\_ Will \_\_\_\_

**Finding:** \_\_\_\_\_  
\_\_\_\_\_

- C. The strict application of the terms of the Clear Lake Zoning Regulations **WILL / WILL NOT** result in practical difficulties in your use of your property? **Vote** Will \_\_\_\_ Will Not \_\_\_\_

**Finding:** \_\_\_\_\_  
\_\_\_\_\_

Conditions:

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Vote of the Board

Bonnie Brown (2006)	Approve	Deny	Abstain
Christopher Folland (2008)	Approve	Deny	Abstain
Jerry McArdle (Plan Commission App.)	Approve	Deny	Abstain
Jon Fitzenrider (2009)	Approve	Deny	Abstain
Ron Kummer (2007)	Approve	Deny	Abstain

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Approved    Denied    Approved with Conditions

Vote Tally:    \_\_\_\_ Approve    \_\_\_\_ Deny    \_\_\_\_ Abstain

\_\_\_\_\_  
Christopher D. Folland, President

Date \_\_\_\_\_