

Town of Clear Lake - Board of Zoning Appeals Meeting Minutes – February 20, 2012

Board of Zoning Appeals Chairman Ron Kummer opened the February 20, 2012 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:

Ron Kummer, Chairman
Bonnie Brown
Christopher D. Folland
Dave Harris

Also present:

Erin Culler, BZA Alternate
Roger Dammeier, BZA Alternate
Neal Blythe, Clear Lake Board of Zoning Appeals Attorney
Amy Schweitzer, Zoning Administrator and Recorder of the minutes of the meeting

Mr. Kummer read the introductory comments about the Board of Zoning Appeals before announcing that three (3) of the Board of Zoning Appeals members were also members of the Clear Lake Yacht Club. Board member, Eric Tyler, who was not present, had told Chairman Kummer that he would reclude himself from the case involving the Yacht Club. The other Board of Zoning Appeals members that were also Yacht Club members concluded that they could be fair and impartial. Kummer asked for any objections from the Yacht Club representatives and the audience. Hearing none, Kummer asked Mrs. Erin Culler, 634 Lake Drive, to sit with the Board in place of Mr. Eric Tyler.

Chairman Kummer told the Board that the Clear Lake Yacht Club had filed Case #2012-01, a variance from development standards and asked Yacht Club representatives to present their case. Derold Covell introduced himself and said that at the Yacht Club's annual meeting, it had been decided that the existing Yacht Club building should be kept and maintained, as opposed to building something new. The Yacht Club had removed an existing composite deck to repair aging and decay on the lake side of the Yacht Club building, but they discovered more damage and water under the building than expected. In order to do the project correctly, the existing concrete patio had to also be removed so that drainage tile could be installed across the entire lake side of the building. Last year, the Yacht Club began selling personalized brick pavers to replace the composite deck and the same personalized brick pavers would replace the concrete patio that was removed. Mr. Covell called the Board's attention to a drawing that illustrates a 13' x 80' patio that mirrors the same curves as the patio that existed.

Mr. Covell led Board members through the impervious surface square footage calculations and concluded that only 237 additional square feet of impervious surface would be added. Covell stated that the project corrects a problem that should have been corrected twenty-five (25) years ago.

Chairman Kummer asked for questions from the Board. Board member Mr. Chris Folland asked about the grade of the old patio and the new one. Mr. Covell stated there would be some type of steps from the building to the grade-level patio, and added that Chris Baker of Baker's Acres would be installing the patio pavers with a limestone base.

Mr. Folland made a motion to suspend the regular Board of Zoning Appeals meeting and open the public hearing. Mr. Harris seconded the motion. Motion carried with all votes in favor. Chairman Kummer asked the audience if there were comments for or against the application before the Board of Zoning Appeals. Mr. Jerry McArdle of 318 Lake Drive introduced himself and stated that the Clear Lake Unified Development Ordinance is written in such a way that the Neighborhood Commercial (NC) district is fairly strict. The Yacht Club is the essence of Clear Lake and should be allowed to do what they need to do to keep the facility in good shape. Mr. McArdle stated the Board should grant this variance allowing them to complete the project. Mr. Kummer stated that if the Yacht Club were zoned Lake Residential (LR) they would not need a variance for this project. Mr. John Wilhelm of 206 Lake Drive introduced himself and stated that he supported the project commenting that the Yacht Club is the heart of the community.

There being no additional public comments, Mr. Folland made a motion to close the public hearing and reopen the business portion of the Board of Zoning Appeals meeting. Ms. Brown seconded the motion. Motion carried with all voting in favor.

Kummer asked for questions from the Board. Board member Bonnie Brown commented that the design was wonderful, but the southeast corner of the patio is only about eleven (11) feet from the sea wall cap. Brown expressed concern about the safety of children playing on the patio. Folland asked if that's where the Adirondack chairs sit. Mr. Covell stated that the distance would be the same as existing, but it would be safer because it is at ground level.

Chairman Kummer asked for other comments or questions from the Board. Hearing none, he took a preliminary vote before proceeding with the findings of fact for Case #2012-01, a variance from development standards request by the Clear Lake Yacht Club. Granting the variance would allow the Yacht Club to install a paver patio in the lake yard with lot coverage exceeding the maximum allowed. Regarding Variance A, relief from Section 2:22 maximum lot coverage, the Board made the following findings of fact:

Finding A1: Legal notice of the application was published in the Herald Republican Newspaper on February 8, 2012. Notice has been made to appropriate land owners as shown by the stamped receipts from the US Post Office and the return receipts (green cards) that are in the Town's possession. All five (5) members voted in favor of the finding.

Finding A2: The approval of the variance allowing the applicant to add patio space that exceeds the maximum lot coverage will not be injurious to the public health, safety, morals, and general welfare of the community because the Yacht Club's patio expansion has no impact on public health, safety, morals, and community welfare. The minimal increase in runoff will be slowed and filtered by the significant grassy areas around the proposed patio. All five (5) members voted in favor of the finding.

Finding A3: 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 the surrounding uses will be

able to be maintained as they are today. The proposed patio and patio addition create a more cohesive, attractive, and accessible exterior space. The patio will be constructed of high quality materials that will maintain or improve existing property values. All five (5) members voted in favor of the finding.

Finding A4: The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the applicant's property because while the Neighborhood Commercial district is the best fit for the Yacht Club, it is not perfect. The Yacht Club is a unique use with needs that vary from those permitted by the Neighborhood Commercial district regulations. All five (5) members voted in favor of the finding.

After making the necessary findings of fact, Chairman Kummer took a roll call vote for the lot coverage variance (Variance A) for Case #2012-01. Ms. Brown voted to approve. Mr. Folland voted to approve. Mr. Harris voted to approve. Mrs. Culler voted to approve. Mr. Kummer also voted to approve.

Regarding Variance B, relief from Section 5.12 AS-09E Location of an Accessory Structure, the Board made the following findings of fact.

Finding B1: Legal notice of the application was published in the Herald Republican Newspaper on February 8, 2012. Notice has been made to appropriate land owners as shown by the stamped receipts from the US Post Office and the return receipts (green cards) that are in the Town's possession. All five (5) members voted in favor of the finding.

Finding B2: The approval of the variance allowing the applicant to add patio space in the lake yard will not be injurious to the public health, safety, morals, and general welfare of the community because having exterior patio space in the lake yard is consistent with many of the other uses around Clear Lake. All five (5) members voted in favor of the finding.

Finding B3: 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 the surrounding uses will be able to be maintained as they are today. The proposed patio and patio addition in the lake yard create a more cohesive, attractive, and accessible version of what already exists. Additionally, the patio will be constructed of high quality materials that will maintain or improve adjacent values. All five (5) members voted in favor of the finding.

Finding B4: The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the applicant's property because while the Neighborhood Commercial district is the best fit for the Yacht Club, it is not perfect. The Yacht Club is a unique use with needs that vary from those permitted by the Neighborhood Commercial district regulations. All five (5) members voted in favor of the finding.

After making the necessary findings of fact, Chairman Kummer took a roll call vote for the location of an accessory structure variance (Variance B) for Case #2012-01. Ms. Brown voted to approve. Mr. Folland voted to approve. Mr. Harris voted to approve. Mrs. Culler voted to approve. Mr. Kummer also voted to approve.

In Old Business, Chairman Kummer asked the Board to review the minutes from the October 24, 2011 and November 21, 2011 meetings. Ms. Brown made a motion to accept the minutes of the October 24, 2011 meeting as presented. Mr. Harris seconded the motion. Motion carried with

all in favor. Ms. Brown made a motion to accept the minutes of the November 21, 2011 meeting as presented. Mr. Harris seconded the motion. Motion carried with all in favor.

Kummer asked about “notice by yard sign” item on the agenda. Mrs. Schweitzer stated that the Board had discussed this at the last regularly scheduled meeting, but wanted to wait until a new budget year. Ms. Brown stated she didn’t object to the yard signs announcing a public hearing. There was discussion about allowing public comment on this. Mr. Folland made a motion to suspend the meeting and accept public comment on the notice by yard sign concept. Ms. Brown seconded the motion. Kummer asked for audience comment, and Mr. Jerry McArdle stated adding yard signs as a notice requirement is a good idea. Even if it notifies one additional person that there is a hearing scheduled for a particular property, the yard sign has served its purpose. He stated that the things that are available to us just are not getting the job done. The yard sign is visible, and it is in the BZA’s best interest to do this. Mr. Bruce Spangler, 222 Lake Drive, agreed with Mr. McArdle’s comments stating he does not get the local paper.

Ms. Brown asked about budgetary concerns and the signs being moved around. The Board requested some proposed rules regarding the signs be developed. Mr. Folland made a motion to re-open the regular meeting of the Board of Zoning Appeals. Mr. Kummer seconded the motion and re-opened the meeting.

Under New Business, Mr. Kummer announced the upcoming meetings for 2012 and February 2013. Those meeting dates are April 16, 2012; June 18, 2012; August 20, 2012; October 15, 2012; December 17, 2012; and February 18, 2013. The filing deadlines were also noted.

Kummer told the Board that new Rules of Procedure had been developed and expressed concern that they were lengthy with many provisions being the same as the 900 Series of Indiana Code. There was discussion about the current application forms being re-vamped and made less lengthy. The Board had brief discussion about the proposed Rules and the possibility of new application forms. The Board unanimously agreed that a Rules Committee should review and discuss these items. Kummer stated the Mr. Harris and Mr. Folland would join him as the Rules Committee. Mr. Blythe, attorney for the Board, reminded them that notice of meetings of the committee would need to be posted.

Moving on, Chairman Kummer told the Board it was time to elect officers for the year. Mr. Folland made a motion to retain the current slate of officers: Ron Kummer as Chairman, Dave Harris as Vice Chairman, and Chris Folland as Secretary. Ms. Brown seconded the motion. Motion carried with all in favor.

There being no other business, Chairman Kummer entertained a motion to adjourn. Mr. Folland made a motion to adjourn the February 20 meeting of the Board of Zoning Appeals. Ms. Brown seconded the motion. Motion carried; meeting adjourned at 8:00 PM.

Christopher D. Folland, Secretary