

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

Board of Zoning Appeals Chairman Ron Kummer opened the August 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
Erin Culler, Alternate
Roger Dammeier
Eric Tyler

Also present:

Amy Schweitzer, Zoning Administrator and Recorder of the minutes of the meeting

A quorum was present.

Mr. Kummer read the introductory comments about the Board of Zoning Appeals before asking who would be presenting the variance request. Mr. Gerald McArdle, 294 Prospect Street, stated he would be presenting the request for a for development standards variance.

McArdle introduced Penny Stoll as the managing partner of Spangler Properties, the owner of the lots. McArdle told the Board that Spangler Properties had purchased the property and own the property immediately to the south. They wanted this 299 East Clear Lake Drive property because it wasn't really the same quality as the rest of the neighborhood. They wanted to use it for some overflow living. One of the property's assets is that it can have a nice view of the forest and the wildlife that is to the east.

The existing layout really isn't conducive to looking out that way, and McArdle stated that Spangler Properties asked him to design a three-season room addition on that end of the house. To keep it simple, the design was to continue the house straight back. The current house is only 20.2 feet from the Prospect Street right-of-way. McArdle explained that they contemplated offsetting the three-season room addition to the now-required 30-foot setback, but the layout of the existing house and the access to the basement would not allow it. Spangler Properties is forced to make the three-season room addition on the back and within the required 30-foot setback, hence the request for a variance from the required 30-foot front yard setback.

Mr. McArdle told the Board that Prospect Street serves three houses, is 11-feet wide, and leads to a swamp. The proposed three-season room addition will still be 38-feet from the edge of the Prospect Street pavement. Prospect Street has a 60-foot right-of-way which is considerably more than other streets around the lake. Mr. McArdle concluded his presentation by welcoming questions.

Chairman Kummer asked the Board for questions. Ms. Brown asked about the open area underneath the three-season room and if it would be screened. McArdle stated there were no plans to screen in the bottom portion; it would be used for storage. Brown expressed concern about leaves and the area become untidy, and stated she would love to see some sort of screening or covering over the bottom portion.

There being no additional questions from the Board, Mr. Tyler made a motion to suspend the meeting. Mr. Dammeier seconded the motion. Motion carried with five votes in favor. Mr. Dammeier made a motion to open the public hearing for Case #2012-03, a variance from development standards request made by Spangler Properties for 299 East Clear Lake Drive. Mr. Tyler seconded the motion. Motion carried with all voting in favor.

Chairman Kummer opened the floor for comments for or against the proposed project. Mr. Bruce Spangler, 222 West Clear Lake Drive, stated he was no relation to the Spangler Properties group. Mr. Spangler stated that projects the Spangler Properties group have undertaken were well-done and a real asset to the lake. He stated that this property is not lake front property, and this variance request should be approved.

Mr. McArdle also provided letters from adjacent property owners, all in support of the project. Mrs. Schweitzer read the letters aloud to the Board and the public:

- Tom Reed – has no objections and “wishes to see this project completed”
- Donald and Katherine Sattison – “agrees that it is all right” with them for this addition
- Joan Hansbarger – does not object to the granting of this variance
- Jim Trudell – has no objections to this project and would look forward to the overall improvement of the property.

There being no additional public comment, Mr. Tyler made a motion to close the public hearing. Mr. Dammeier seconded the motion. Motion carried with all in favor.

After conducting a trial vote, Chairman Kummer proceeded with the findings of fact for case #2012-03, a variance from development standards request made by Spangler Properties for 299 East Clear Lake Drive. The request is for relief from Section 2.12, minimum front yard setback. Based on the trial vote, Chairman Kummer suggested the HAS finding and read it aloud:

Finding 1: *Legal notice of the application was provided to the Herald Republican Newspaper on August 6, 2012 and published August 8, 2012. Notice has been made to appropriate land owners as shown by the stamped receipts from the US Post Office, the return receipts (green cards) that are in the Town’s possession, and the list of interested property owners.*

All voted in favor of the finding as presented.

Chairman Kummer suggested the WILL NOT finding and read it aloud:

Finding 2: *The approval of the variance allowing the proposed addition to encroach into the Prospect Street front yard setback will not be injurious to the public health, safety, morals, and general welfare of the community because there is adequate distance between the proposed structure and the edge of pavement to ensure the safety of passers-*

by and the occupants of the home. Prospect Street is only two blocks long and is unlikely to be expanded in width or expanded to serve additional development.

All voted in favor of the finding as presented.

Chairman Kummer suggested the WILL NOT finding and read it aloud:

Finding 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 because the proposed addition will be for residential use. The proposed addition will not impact the residential use of adjacent properties, nor will any views of the lake will be impacted by this project. Additionally, the proposed addition will increase the size of the cottage, but still maintain an appropriate scale for the area and character consistent with residential lake development. These factors will increase the property value of the subject property, and improve the attractiveness of the neighborhood.*

All voted in favor of the finding as presented.

Chairman Kummer suggested the WILL finding and read it aloud:

Finding 4: *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the applicant's property because the original cottage was permitted to be constructed closer than 30-feet to the Prospect Street right-of-way. The front façade of the structure is along East Clear Lake Drive, rather than Prospect Street. The proposed addition is in the "functional" back of the cottage (even though this portion of the cottage is in a front yard) which is the most practical and logical location from an exterior perspective (architecturally) and interior perspective (flow from kitchen/dining/family spaces).*

All voted in favor of the finding as presented.

Ms. Brown suggested that a condition be placed on the approval of the variance, and the condition should be that they enclose the open space underneath the three-season room.

Kummer stated that it was a road-side view and leaving it open could invite theft. Mr. Tyler said the choice to enclose it or screen it should be left up to the property owner and not dictated by the Board. Mr. Dammeier and Mrs. Culler agreed that it would look nice if it were enclosed.

Mr. Tyler stated that it was not the Board's job to dictate design of a structure. Schweitzer told the Board of Zoning Appeals that there are standards in the Unified Development Ordinance that do specifically address design issues. However, she drew the Board's attention to Section 5.14 DS 01 E.2. which prohibits screening under elevated decks. Although the three-season room is not a deck, it is similar in its function, location on the house, and composition.

Discussion ensued about the logistics of a garage door being specially made for the project and access to the basement. With the Board divided on the proposed condition, Chairman Kummer took a roll call vote of the Board for approval of a variance from development standards request made by Spangler Properties for 299 East Clear Lake Drive allowing the construction of a three-season room to encroach into the front yard setback on the Prospect Street side.

- Mr. Dammeier voted to approve.
- Mr. Tyler voted to approve.
- Ms. Brown voted to approve.

- Mrs. Culler voted to approve.
- Chairman Kummer voted to approve.

Chairman Kummer stated the variance is granted without conditions.

In Old Business, Chairman Kummer asked for additions or corrections to the minutes of the April 16, 2012 meeting. Mr. Tyler made a motion to accept the minutes as presented; Mr. Dammeier seconded the motion. Motion carried with all voting in favor.

There being no additional business, Mr. Tyler made a motion to adjourn the meeting. Ms. Brown seconded the motion. Motion carried; meeting adjourned at 7:30 PM.

Eric Tyler, Secretary