

**Town of Clear Lake - Board of Zoning Appeals
Meeting Minutes – June 16, 2014**

Chairman Bonnie Brown opened the June 16, 2014 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:

Bonnie Brown, Chairman
Roger Dammeier, Vice Chairman
Ron Walters
John Wilhelm
Ken Wertz

Also present:

Amy Schweitzer, Zoning Administrator and Recorder of the minutes of the meeting
Michael Hawk, Town Attorney

Chairman Brown determined a quorum was present. Ms. Brown read the Board's introduction that identifies membership requirements and primary duties of the Board of Zoning Appeals before announcing the Board would be hearing *Case #2014-01, an Application for Development Standards Variance filed by William and JoEllen Culbertson of 102 Lakeside Court.*

Chairman Brown asked BZA Staff Amy Schweitzer if proper notice of the hearing had been given. Schweitzer stated that proper notice of the hearing had been given and provided the original publisher's affidavit from the Herald Republican newspaper showing the legal notice had been published on May 30, 2014. Schweitzer also provided the original return receipts (green cards) from the mailings to adjacent property owners.

Mr. Culbertson of 102 Lakeside Court introduced himself and stated that they would like to construct a retaining wall at the lake continuing the shoreline created by the property to the south of them (Culler's) and ending at the northern boundary of their property that abuts the public beach. The purpose of the retaining wall is to curb the erosion and clean up the look of the shoreline.

Board member Mr. Walters asked if that the photo of the stone slab steps in the packet was a sample. Culbertson confirmed it was. Mr. Dammeier asked if field stone similar to the field stone used on the adjacent property was going to be used. Culbertson confirmed the stone would be similar to the stone used for the adjacent retaining wall. Mr. Culbertson added that the stairway down to the dock would give them a better slope to get down to the shore.

Chairman Brown asked about the existing stairway that seemed to go nowhere. Culbertson stated that the stairway is too heavy to move each winter so the steps are propped up to protect them from ice on the lake. The stairway is currently in the up position which is why it appears to be going nowhere.

Mr. Wilhelm asked if any soil would be removed at the top of the retaining wall. Jack Burley of Franz Nursery, 7220 County Road 4A, Hamilton, introduced himself as the landscaper for the project and stated that they would be moving a little soil to get the rock and boulders in place. The height will be similar to the existing grade and the purpose is to stop the erosion from the lake and make the property more manageable. Wilhelm asked what would happen above the rock. Mr. Burley stated that the area would be reseeded with grass and there would be one terrace for the boat lift/dock sections to be stored during the off season. The Board asked how the retaining wall would be tied in at the public beach property.

Burley stated that the wall would turn from the lake back into the property at the existing grade about where the chain link fence is.

Chairman Brown asked if there were any other questions from the Board. Hearing none, Chairman Brown opened the floor for public comment. She stated that she had spoken with Bruce Spangler, a Clear Lake resident who offered his support of this project. Staff Schweitzer reported that she had not received any questions or concerns about this project. Chairman Brown paused briefly for public comment, but with no public representatives present at the meeting, Brown proceeded by conducting a trial vote on the application.

After reviewing the results of the trial vote, Chairman Brown proceeded with the Findings of Fact for *Case # 2014-01, an Application for Development Standards Variance filed by William and JoEllen Culbertson of 102 Lakeside Court*. Brown stated that the Findings of Fact were required by law.

Finding 1: *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 May 30, 2014; and (b) 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.*

Mr. Dammeier made a motion to accept Finding 1 as presented. Mr. Walters seconded the motion. Motion carried with each of the five members of the Board voting in favor of the motion via a roll call vote.

Finding 2: *The approval of the variance will not be injurious to the public health, safety, morals and general welfare of the community because (a.) the proposed retaining wall will be made of natural materials, be a continuation of the existing retaining wall to the south, and follow the existing naturally-created bank; and (b.) the retaining wall will stop the erosion of the shoreline at this property, thus reducing the sedimentation into the lake and stabilizing the shoreline.*

Mr. Dammeier made a motion to accept Finding 2 as presented. Mr. Wertz seconded the motion. Motion carried with each of the five members of the Board voting in favor of the motion via a roll call vote.

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 (a.) the use of adjacent property as residential areas and the public beach will not change or be impacted as a result of this project; and (b.) the proposed retaining wall will be made of natural materials, be a continuation of the existing retaining wall to the south and will be installed by landscape professionals. It will be a dramatic improvement to the property.*

Mr. Dammeier made a motion to accept Finding 3 as presented. Mr. Wertz seconded the motion. Motion carried with each of the five members of the Board voting in favor of the motion via a roll call vote.

Finding 4: *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because the proposed retaining wall mirrors the bank that has been created naturally by the lake. Even though a portion of that bank falls within six feet of the water's edge, following the naturally-created bank is preferred to cutting away additional land along the lake.*

Mr. Dammeier made a motion to accept Finding 4 as presented. Mr. Walters seconded the motion. Motion carried with each of the five members of the Board voting in favor of the motion via a roll call vote.

Chairman Brown stated all of the findings of fact had been found in the affirmative and entertained a motion to approve the application for a variance. Mr. Dammeier made a motion to approve *Case #2014-*

01, Application for Development Standards Variance filed by William and JoEllen Culbertson of 102 Lakeside Court as presented. Mr. Wilhelm seconded the motion. Motion carried with each of the five members of the Board voting in favor of the motion via a roll call vote.

In Old Business, Chairman Brown asked the Board to review the minutes from the last Board of Zoning Appeals meeting on October 21, 2014. Mr. Wilhelm made a motion to accept the minutes as presented. Mr. Walters seconded the motion. Motion carried with all voting in favor.

Brown asked Vice-Chairman Roger Dammeier to preside over the Old Business dealing with the Pritchard Variance since she had recused herself from the original hearing. Dammeier asked Schweitzer to present the follow-up regarding *Case #2013-01, Application for Development Standards Variance filed by John Pritchard of 556 East Clear Lake Drive*. Schweitzer distributed a Variance Modification Report and briefed the Board on the case. The BZA's Condition for Approval provided three options for the building addition. After staking out the options, the owner and contractor decided a fourth option (which the BZA had presented, but the contractor had rejected) was the best option. Schweitzer polled the BZA via email about adding the fourth option to the Condition for Approval, but requested the BZA formally add the fourth option to the Condition for Approval.

Mr. Wilhelm made a motion to add a fourth option to the Condition of Approval for *Case #2013-01, Application for Development Standards Variance filed by John Pritchard of 556 East Clear Lake Drive*, that states, add a portion of the building addition to the front of the existing building and a portion of the building addition to the back of the existing building as long as the rear setback is met. Mr. Wertz seconded the motion. Motion carried with Dammeier, Walters, Wertz, and Wilhelm voting in favor of the motion. No one voted against the motion, and Brown did not participate in the vote or the discussion.

Chairman Brown resumed the meeting by announcing Board of Zoning Appeals meeting dates for 2014. The next meeting will be August 18, 2014 at 7 PM, and the filing date for that meeting is July 21. The Board will also meet on October 20, 2014 and December 15, 2014.

Chairman Brown stated that it was the first meeting of 2014 for the Board of Zoning Appeals, and the Board needed to elect a Chairman and Vice Chairman. Brown opened the nominations for Chairman. Mr. Dammeier made a motion to nominate Bonnie Brown to be Chairman of the Board of Zoning Appeals. Mr. Wilhelm seconded the nomination. Hearing no other nominations for Chairman, Mr. Wilhelm made a motion to close the nominations for Chairman. Mr. Dammeier seconded the motion. All voted in favor of closing the nominations. All voted in favor of Bonnie Brown continuing as Chairman of the Board of Zoning Appeals.

Chairman Brown opened the floor for nominations for Vice Chairman by nominating Roger Dammeier. Mr. Wertz seconded the nomination. Hearing no other nominations for Vice Chairman, Mr. Wilhelm made a motion to close the nominations. Mr. Dammeier seconded the motion. All voted in favor of closing the nominations. All voted in favor of Roger Dammeier continuing as Vice Chairman of the Board of Zoning Appeals.

Regarding the appointment of a Secretary for the Board of Zoning Appeals, Chairman Brown made a motion to appoint Amy Schweitzer, Zoning Administrator, to be the Secretary of the Board of Zoning Appeals. Mr. Walters seconded the motion. Motion carried with all voting in favor.

Chairman Brown asked for other business to be brought before the Board. Staff Schweitzer explained that each year she creates a "Certificate of Action Taken" for variances that have been approved and construction completed. These "Certificates" memorialize what the Board approved and what was built

and are recorded in the Office of the Steuben County Recorder. Schweitzer reported that in March of 2014 a Certificate of Action Taken was recorded for each of the following cases:

- Case #2012-02: Riedeman @ 126 Chapel Drive
- Case #2012-03: Stoll for Spangler Family Properties @ 299 East Clear Lake Drive
- Case #2011-05: Adams @ 276 Lakeview Drive

Chairman Brown asked for any other business. Hearing none, Mr. Dammeier made a motion to adjourn the meeting. Mr. Wertz seconded the motion. Motion carried with all voting in favor. Meeting adjourned at 7:25 PM.

Amy Schweitzer, Secretary