

Town of Clear Lake - Board of Zoning Appeals
Meeting Minutes – June 20, 2016

Chairman Bonnie Brown opened the June 20, 2016 Regular 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
Don Luepke
Jaclyn Howarth
Bruce Moody, Alternate for Ron Walters
Tom Schmidt, Vice-Chairman

Also present:

Michael Hawk, Attorney for the Board of Zoning Appeals

Chairman Brown determined a quorum was present and read aloud the Board of Zoning Appeals' Duties and Procedures.

Chairman Brown stated the Board would hear Case #2016-05, a Variance from Development Standards filed by Joan Rippe at 68 West Clear Lake Drive. Mrs. Rippe would like to install a generator in her side yard setback near her air conditioning condenser unit.

Mrs. Joan Rippe presented her case for the development standards variance. Mrs. Rippe indicated there are issues with power outages affecting the freezing of their home and possible backup of the sewer system. Mrs. Rippe indicated that in order to solve these problems, she would like to install a generator next to the air conditioner unit which is in the five-foot sideyard setback on the west side of the house. She indicated that the air conditioner unit was installed in compliance with town standards at the time it was installed. She indicated benefits to the property owner and the neighboring property owner because said generator would power the grinder pump for both properties. She then asked for questions about her proposed project.

Mr. Luepke asked when the home was built. Mrs. Rippe indicated that it was built in 1997. She also indicated that the air conditioner unit was installed at that time.

Mr. Moody discussed the ramifications of connecting the generator to the grinder pump. Mrs. Rippe's installer indicated that a switch would be included to allow the generator to power the grinder pump.

Chairman Brown asked about the wooden boards seen in pictures provided. The applicant indicated that is for a game that is known as "washer toss", similar to cornhole.

Chairman Brown asked what goes under the generator unit. Mrs. Rippe's son, Matt Rippe, indicated that there is a pad that goes underneath the generator. He also indicated it is made of plastic or fiberglass.

Chairman Brown also asked about the leveling of the unit. Mr. M Rippe installer said that a timber might have to be installed under the pad.

Mr. Schmidt asked if the water flow would be affected by any timber. It was indicated that it would not affect water flow and that it would be of the same width of the pad.

Mr. Moody moved to close the meeting and open the public hearing. The motion was seconded by Mr. Luepke. The motion carried.

Chairman Brown asked for public comment.

Mr. Wickland, owner of 66 West Clear Lake Drive, spoke. He stated that he did not understand why the variance was necessary since the air conditioner was already in the side yard setback. He then objected to the placement of the generator because of the noise it would generate. He also indicated that the existing air conditioner is noisy, especially when it starts. He then discussed matters not germane to this hearing. He would like the generator moved to a different location on the property.

Mrs. Rippe then was asked to respond to the concerns. She stated that there are other alternatives but the installer indicated the proposed location was the best place for the generator. She stated a generator in the street yard would be in the driveway and a generator in the lake yard would be both unsightly and very close to the lake because of the existence of a deck.

Mr. Luepke moved to close the public hearing and move back into the regular meeting. Mr. Schmidt seconded. The motion carried.

Chairman Brown asked if there was any correspondence received on the matter. Acting Zoning Administrator Chris Folland indicated there was none.

Mr. Moody asked Mrs. Rippe if she would consider a different location for the generator. Mrs. Rippe indicated that they wanted to go with the advice of the installer.

Chairman Brown indicated that a generator was possible to be placed in the street yard so long as it is screened.

Mr. Schmidt indicated that a generator is typically only run once a month for an hour for testing and in emergency situations, which he said are relatively infrequent.

Mr. Luepke discussed the location of the air conditioning unit.

Mr. Moody discussed the appearance of the neighboring lot.

Chairman Brown discussed the necessity of an emergency access path to the lake from the street. She said there was none without entering a neighboring owner's property.

Discussion happened among board members about possible options for the generator location including the options with vegetation.

Mr. Schmidt asked the applicant if they would be willing to make improvements to dampen the sound. Mrs. Rippe said that she always wants to work with her neighbor but there is not another feasible solution. It was also brought up that anything to dampen the sound of the air conditioner would certainly encroach into the neighbor's property.

Mr. Luepke moved to move onto the findings of fact for Case #2016-09. Mr. Schmidt seconded. The motion carried.

Mr. Schmidt moved to approve the **first finding**:

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 June 6, 2016.*
- 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. Luepke seconded the motion. The motion carried with all members in support, none opposing.

Mr. Luepke moved to approve the **second finding**:

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 generator will be located with all of the existing exterior mechanical equipment along the house with access to the lake via the other side of the house.*
- b. The proposed generator is residential-grade and consistent with generators typically installed at residences.*
- c. The proposed generator will not impact drainage, views, or accessibility in this area.*

Mr. Schmidt seconded the motion. The motion carried with all members in support, none opposing.

Mr. Moody moved to approve the **third finding**:

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 will not change or be impacted as a result of this project.*
- b. The proposed generator will be installed by professionals and is residential-grade equipment.*
- c. The value of the adjacent properties will be unaffected by the proposed project.*

Mr. Luepke seconded the motion. The motion carried with all members in support, none opposing.

Mr. Luepke moved to approve the **fourth finding**:

The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because

- a. *The existing residence was constructed on the five-foot setback line with the mechanical equipment encroaching into the five-foot setback in accordance with the Town's laws at that time. There is no place on the property to install the generator and meet the required building setback lines.*

Mr. Schmidt seconded the motion. The motion carried with four members in support, one, Mr. Moody, opposing.

Mr. Luepke moved to add a condition that Mrs. Rippe give consideration to noise abatement for the generator. There was discussion that the motion needs to have some measurable outcome. Mr. Luepke then withdrew his motion.

Mr. Luepke moved to approve the variance application 2016-05. The motion was seconded by Mr. Schmidt. The motion was approved by all members.

Variance 2016-05 for Mrs. Joan Rippe is hereby approved.

Chairman Brown asked the Board if they had reviewed the minutes from the April 18, 2016 Special Meeting of the Board of Zoning Appeals. Mr. Luepke moved to approve the minutes of the meeting as presented. Mr. Moody seconded the motion. Motion carried with all in favor, none opposed.

Chairman Brown asked the Board if they had reviewed the minutes from the April 18, 2016 Regular Meeting of the Board of Zoning Appeals. Mr. Luepke made a motion to approve the minutes of the April 18 Regular Meeting as presented. Mr. Schmidt seconded the motion. Motion carried with all in favor, none opposed.

Chairman Brown asked Mr. Hawk if he had contacted the Public Access Counselor. He indicated that group site visits are okay per Indiana Code so long as the Board does not reach a final decision. He indicated that discussion with property owner should be limited to factual information.

Chairman Brown discussed the Rules of Procedure amendment. It pertained to changing Certified Mailing requirement to Certificate of Mailing. Mr. Luepke moved to approve the changes to using Certificates of Mailing. Mr. Moody seconded the motion. The motion carried with all in favor, none opposed.

Chairman Bonnie Brown announced the next Board of Zoning Appeals meeting will be August 15, 2016 at 7 PM. The deadline for applications is July 18. Acting Administrator Folland told the Board that no variances had been filed and he did not know of any coming.

Mr. Moody brought up a matter concerning the Andres residence. He indicated that some of the conditions have not been completed. He indicated the roof has not been made to look like the

existing structure, the siding has not been completed, and the out buildings have not been removed. There was discussion on the length of validity on an Improvement Location Permit.

Hearing no other business, Mr. Schmidt made a motion to adjourn. Mr. Luepke seconded the motion. Motion carried; meeting adjourned at approximately 8:00 PM.

Respectfully Submitted:

Kenneth J. Hughes, Secretary