

**CLEARWATER TOWNSHIP ZONING BOARD OF APPEALS**  
**REGULAR MEETING AND PUBLIC HEARING**  
**OCTOBER 14, 2019**  
**Minutes Approved January 6, 2020**

Meeting called to order at 7:05 PM followed by the Pledge of Allegiance  
Present: ZBA members Fields, Snyder, Bergmann, Lawicki, Gerlach  
Floyd Brooks for variance appellant Thomas Klingler  
Tom Montgomery, Anne Montgomery, Lynne Buday, Gianine Casassa  
Absent: Zoning Administrator Adam Parzych

Agenda approved as presented.  
Each ZBA member declared no conflicts of interests.  
Minutes of September 13, 2019 were approved.  
There was no old business to consider.

The chair then opened the public hearing and summarized the variance appeal of Thomas Klingler, for property located at 7772 Hoiles Dr., Williamsburg, to build a second story on his existing garage, a non-conforming structure which is three feet from the adjoining property.

The floor was opened for the appeal. The appellant was not present. He was represented by Brooks, who described the locations of the present garage, drainfield, driveway, etc. and the plan to build a storage building adjacent to the garage (10 feet from the property line) and to construct a second floor atop the garage. A drawing showing gutters which would be "connected to existing drain tile" was submitted with the appeal paperwork. Brooks said that, in addition, a drainage field was planned to be constructed beneath the new storage building. Brooks, who is not a registered architect, then approached the board with what he said were plans for the proposed buildings. Gerlach said that the board could not accept such materials for consideration at the last minute. No other persons spoke in support.

Anne and Tom Montgomery spoke in opposition. Concerns included additional drainage problems for their property and possible damages to their property and vegetation during construction so close to their property (three feet). What will happen if the present garage structure cannot support a second floor re Clearwater Zoning Ordinance section 8.05? How close will an overhang come to their property? They were disappointed that a qualified drainage control person was not consulted, and they dispute Klingler's assertion that their garage sits two feet higher than the ground level on his lot. What about construction when the side porch of the Klingler house is just inches of the property line? A 70' property is not unique; neighboring lots are 70', including the ones Klingler cites, and they are conforming.

Public comment was closed at 7:38 PM, and ZBA deliberation ensued.

The chair read Standard A. Findings of fact included that many lots bordering our lakes are narrower than the present 100' standard; consequently, the mere fact that a lot is not 100' wide does not make it unique. The 70' Klingler lot has no unique aspects. ZBA voted 5-0 that the standard is not met.

The chair read Standard B. Findings noted that appellant checked the “no” response on the application form asking whether application of zoning ordinance restrictions would deny a substantial property right enjoyed by others in the zoning district. ZBA agreed that applicant was not restricted from substantial property rights. ZBA voted 5-0 that the standard is not met.

The chair read Standard C. Findings are that, as there is no practical difficulty to mitigate, the standard cannot be met. ZBA voted 5-0 that the standard is not met.

The chair read Standard D. Findings are that, as there is no practical difficulty created, the standard cannot be met. ZBA voted 5-0 that the standard is not met.

The chair read Standard E. Testimony from next-door property owners indicated a strong possibility that the requested variance would cause harm to their property. With no evidence to the contrary, the ZBA voted 5-0 that the standard is not met.

The variance is denied.

Lawicki reported that, following the original Klingler variance hearing and relating to the flooding issues therein discussed, he contacted the road commission. Road Commissioner Rogers told him that a great deal of the problem along Hoiles was due to residents throwing debris in the drainage ditch. Montgomery noted that several years ago the county cleaned out the ditch and that seemed to help. Lesson: pressure the county.

Gerlach reported that, regarding Klingler’s next-door neighbor not being notified by mail of the first variance hearing, she contacted the township deputy clerk and was told that, the clerk having notified the assessor of the problem, the issue would be resolved.

Fields reported that the Planning Commission met October 7 and the agenda included their continuation of consideration of a special use permit for the Tillman tower. The commission is required to complete the request for the special use, regardless of the decision of the ZBA to deny the variance request by Tillman. The township attorney preferred that the commission postpone a decision at that meeting; no representative from Tillman appeared.

The Planning Commission will hold a meeting to review the proposed master plan tomorrow evening, October 15, at 7:00 PM.

Next ZBA meeting: joint with Plan Commission, January 6, 2020.

Meeting closed at 8:09 PM.

Submitted by Lucy Gerlach, ZBA Secretary