

**CLEARWATER TOWNSHIP ZONING BOARD OF APPEALS**  
**SPECIAL MEETING**

August 10, 2020 – As Approved January 21, 2021

**Call to Order:**

Acting as chair, Bob Bergmann announced the subject and called the special meeting to order at 7:03pm. There is a variance request before the ZBA of a 5' side setback from the west property line at 6541 Crystal Beach rd.

**The Pledge of Allegiance** was made.

**Roll Call of Members and Recognition of Visitors:**

ZBA members present: G. Snyder, D. Lawicki, B. Bergmann, G. Casassa

ZBA member present via phone: L Gerlach

Zoning Administrator: A. Parzych

Public: M. Malott (applicant), J. Woodle

**Approval of Agenda:**

**MOTION** by Casassa, second by Snyder, to accept the minutes of January 6, 2020, as is. Motion carried.

**Call for Disclosure of Conflicts of Interests:**

Members Lawicki, Bergmann, Snyder, Gerlach declared no conflict of interests.

ZBA member Casassa declared that she must recuse herself because her residence falls within the notification radius for the current variance. After some discussion between ZA and the board, it was decided the Clearwater Township Zoning Board of Appeals by-Laws require this recusal.

**Approval Minutes:**

**Motion** by Snyder, second by Bergmann, to accept the minutes of January 6, 2020 as presented. Motion carried.

**Scheduled Variance Hearing: a variance from the 10' setback requirement is requested by Malott to build on the west side of his property at 6541 Crystal Beach Rd., a 26' second-story addition and a 6' first story addition, all to be 5' from the property line.**

Chair Bergmann summarizes procedures for hearing. The sequence is 1) the applicant presents his case; 2) the Zoning Administrator presents his report; 3) those in support of the project speak; 4) those in opposition to the project speak. Bergmann stated that comments are to be addressed to the Chair.

**Public Comment:**

There was no comment from the public. Chair Bergmann presented the six written responses from neighbors within the notification radius. Five had no preference and one was in favor of granting the variance.

**Applicant presents his case:**

Mike Malott brought photographs of his current property and a drawing of proposed construction to share with the board. He is requesting a variance from the required 10' side setback on the west side of his property at 6541 Crystal Beach Rd. to construct a 26' second-story addition and a 6' first story addition, all 5' from the west property line. He then used his time to review the documents submitted to the board June 19, 2020.

**Zoning Administrator Report:**

ZA Parzych had two remarks to add. He stated the original building of 1947 was already at the 5' set back on the west side and that the ZBA had granted 5' setback on east and west side of property in 2011. He therefore felt this variance request should also be granted.

**Standards and Findings of Fact**

- #1. The property is subject to exceptional or extraordinary circumstances or conditions that do not apply generally to other properties in the same zoning district thus presenting the possibility of a practical difficulty for this particular property.

Bergmann, Lawicki, and Snyder feel the 50' width of the property creates a practical difficulty and that the original structure of 1947 makes it "OK" to continue with a 5' setback. Gerlach does not see exceptional or extraordinary conditions. She states there are many 50' wide lots in the area so it is not a unique piece of land.

- Gerlach - no
- Bergmann - yes
- Lawicki - yes
- Snyder – yes

**The board finds that standard #1 is met**

- #2. The requested variance is necessary to alleviate a situation which qualifies as a practical difficulty; i.e., without the variance the owner is deprived of a minimum of practical legal use of his/her property as is possessed by residents of other properties in the same zoning district.

Bergmann, Lawicki, and Snyder feel the 50' width of the property create a practical difficulty. Gerlach states a garage and residence are on the property so no substantial right is being denied.

- Gerlach - no
- Bergmann - yes
- Lawicki - yes
- Snyder – yes

**The board finds that standard #2 is met.**

- #3. The requested variance is the minimum variance necessary to reasonably mitigate the practical difficulty.

Snyder pointed out that this is the third variance the applicant has requested. The nature of the variance being the minimal necessary, Snyder asks the applicant if this will be the last variance request for this property. M. Malott responds it will be the last. Gerlach states there is no practical difficulty.

Gerlach - no  
Bergmann - yes  
Lawicki - yes  
Snyder – yes

**The board finds that standard #3 is met.**

\$4. The practical difficulty resulting in the need for the requested variance was not created by any action of the current property owner.

Is this standard met.

Gerlach – yes  
Bergmann - yes  
Lawicki – yes  
Snyder – yes

**The board finds that standard #4 is met.**

#5. The requested variance will not be detrimental to adjacent property and the surrounding neighborhood.

Bergmann, Lawicki, and Snyder feel the proposed setback would not be detrimental to the neighborhood and sighted responses of the six immediate neighbors who had no objections. Gerlach felt water runoff from the addition is a possible problem. Snyder asked about the roof overhang and suggested the applicant be aware of 2015 Michigan Residential Code, section 302.1 and the specific fire rating requirements for exterior projections 2' to 5' from the lot line.

Gerlach - no  
Bergmann – yes  
Lawicki - yes  
Snyder – yes

**The board finds that standard #5 is met.**

**By majority vote each standard has been met. The variance request is granted.**

Chair to complete ZBA form within 30 days.

Motion made by Snyder to adjourn the meeting at 7:45 pm.

The next scheduled meeting of the ZBA is October 12, 2020, 7pm.

Respectfully submitted,  
Gianine A Casassa