

## **CLEARWATER TOWNSHIP ZONING BOARD OF APPEALS**

Special Meeting, May 4, 2021

Proposed Minutes- Approved July 12, 2021

### **Call to Order:**

Chair Lucy Gerlach called the meeting to order at 7:13 p.m. and announced the special meeting was to hear the Non-use (dimensional) variance request of Thomas Klingler for 7772 Hoiles DR., NW, Williamsburg.

**The Pledge of Allegiance** was made.

Equipment failure then interrupted the meeting. Time was spent reconnecting to Zoom.

### **Roll Call of Members, Public Present:**

ZBA members present: Greg Snyder, Danial Packer, Kurt Cox, Gianine Casassa

ZBA members via Zoom: Michael Seefried (alternate), Kalkaska, Lucy Gerlach, Albemarle County, Virginia

Zoning Administrator: Jordan Acker

Public Present: John Boucher, Jim Stanton, Stan Zenas, Tom Montgomery, Barb Klimek, Anne Montgomery, Thomas Klingler

**Agenda was approved as written.**

### **Call for disclosure of any conflicts:**

All members declared no conflict of interest.

### **Approval of Minutes:**

Only three of the current ZBA members were part of the January 18, 2021, joint meeting of the Zoning Board of Appeals and the Planning Commission. G. Snyder moved the minutes be approved, seconded by G. Casassa. G. Snyder asked that two corrections be made. The minutes were approved with corrections; however, no corrections will be made because both items were accurate at the time the proposed minutes were posted.

### **Scheduled Variance Hearing:**

A Non-Use (Dimensional) Variance from the 10' set back requirement is requested by Thomas Klingler on the east side of his property at 7772 Hoiles Drive, NW, Williamsburg, for an elevator to be built 5' into the 10' set back.

Chair Gerlach summarized the procedure of the hearing.

The Public inquired if all mail had been received and read by the ZBA members. Members have received and read four letters but a fifth letter and photos sent by Barb Klimek was not received. She then shared with members a copy of her letter and photos on her phone.

### **Applicant presents his request:**

Thomas Klingler has shared with the ZBA several detailed drawings of his home and yard that illustrate the relation of the proposed elevator to the 10' setback. A professional diagram of the elevator layout and a graph of minimum and maximum

dimensions was included. Mr. Klingler's Orthopedic Physician and Physical Therapist both submitted letters to confirm his physical challenges. He spoke of earlier plans for his residence and how they developed into the structure that is currently being completed. Although there were other possibilities examined and evaluated, Mr. Klingler believes this is the only solution for him to be mobile in his home.

**Zoning Administrator Report:**

The new Zoning Administrator, Jordan Acker, apologized for not having the opportunity to visit the property in question. He acknowledged the concern residents have about standing water and drainage. Mr. Acker will visit the properties and try to help resolve problems that fall within his official control as Zoning Administrator.

**Public comment in favor of granting variance:**

No one present spoke in favor of the variance.

**Public comment against granting of variance:**

Jim Stanton spoke of high water levels and lack of drainage which historically ran along the east side of the Klingler property. He believed granting a variance would impede restoration of the natural drainage system for the area.

John Boucher was concerned with the high water level and lack of drainage in the neighborhood that caused standing water in his garage and basement. He insisted that those issues be addressed rather than approving more construction that would block potential drainage

Stan Zenas described the high water level and clay base of the neighborhood and explained that the natural low point of land has been along the Klingler east lot line where before the drainage culvert was blocked, a free flowing ditch ran with water to the lake. He believes that needs to be restored and no structure should be allowed to block that natural path.

Barb Klimek was familiar with the natural drainage that generations ago ran the length of the Klingler/Montgomery property. She gave a personal history, explained that there was a constant flow of draining water that flowed to the lake and shared pictures of the current lack of drainage to illustrate how an elevator and cement landing will continue to block the natural flow.

Anne Montgomery states the elevator should have been included in the major two story garage and living quarters project which she feels may recreate water flow problems and the flooding of her garage.

Tom Montgomery reminded the board that all five standards must be met and he suggests that none of them have been met. Specifically, Mr. Montgomery feels the need for a variance was created by Mr. Klingler by not including an elevator in the architectural plans of his new two story garage and apartment that attaches to his home.

Chair Gerlach closed the public hearing at 8:47p.m. and began the review of standards.

## **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 (e.g., unique dimensional, topographical, and/or structural conditions) thus presenting the possibility of a practical difficulty for this particular property.

G. Snyder felt local properties had very similar topographical and dimensional qualities. He pointed out that, like many of his neighbors, Mr. Klingler's lot is 70' wide. When considering the property itself, G. Casassa, D. Packer and C. Kox saw no exceptional or extraordinary conditions present. Gerlach added there is nothing unique to the property to warrant a variance and there is "plenty of buildable space."

Casassa - No  
Snyder - Yes  
Packer - No  
Cox - No  
Gerlach – No

### **The Board finds that standard #1 is not 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 practical legal use of his/her property such as is possessed by residents of other properties in the same zoning district.

L. Gerlach said looking at this property there is a big house, big garage and the space to include any practical legal use of his property. It was generally agreed that the property does not deprive Mr. Klingler of a minimum practical legal use of his property.

Casassa -no  
Snyder - no  
Packer - no  
Cox - no  
Gerlach – no

### **The Board finds that standard #2 is not met.**

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

L. Gerlach and others felt there was no practical difficulty with the property so the standard cannot be met.

Casassa - no  
Snyder - yes  
Packer - no  
Cox - no  
Gerlach – no

### **The board finds that standard #3 is not met.**

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

This was difficult to decide because it was generally understood that there was no practical difficulty. Ultimately, it was felt that the owner did not create a need for the request.

Casassa - yes  
Snyder - yes  
Packer - yes  
Cox - yes  
Gerlach – yes

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

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

G. Casassa felt it would be detrimental because of the precedence it sets by weakening current ordinances and making them meaningless. G. Snyder pointed out that the original, “grandfathered in”, one story garage stood within the 10' set back and Mr. Klingler removed it to build a new two story structure connected to his existing home that now stands along the 10' set back.

Casassa - no  
Snyder - yes  
Packer - no  
Cox - no  
Gerlach – no

**The board finds that standard #5 is not met.**

By majority vote, the variance request is denied..

The Chair will complete the ZBA decision form and make a copy available to the Township Office and Mr. Klingler.

The next regular meeting of the ZBA will be July 12, 2021. All meetings are at 7:00 p.m., in the Clearwater Township Community Center (aka the Little Red School House).

Chair Gerlach adjourned the meeting at 9:02 p.m.

Respectfully submitted,  
Gianine A Casassa