

**MINUTES SILVER CREEK TOWNSHIP
ZONING BOARD OF APPEALS HEARING HELD ON JULY 18, 2018**

Chairman Jerry Donley reconvened the Zoning Board of Appeals Hearing at 7:44 p.m. after a brief recess from the previous Public Hearing.

MEMBERS PRESENT: Bruce Nevins, Jean Rowe, Jerry Donley, Mike Glynn, Adele Straub

OTHERS PRESENT: Building/Zoning Administrator Todd Herter, Supervisor Bill Saunders, Recording Secretary Lindsay Krohne, several members from the public.

ABSENT: None

PUBLIC HEARING

Jerry Donley read the Notice of Public Hearing, which explained the variance request:

The request of Paul Delano and Dewey Lake Cottages, LLC 120 W. Lexington Avenue, Elkhart Indiana regarding the property located at 32164 Huckleberry Lane (Parcel No. 14-130-008-022-00) for an approximately 23-foot variance from the required 30-foot front yard (lake side) setback in order to permit construction of stairs leading and two landings with 4ø handrails. The closest landing to the lake is 4øx4ø with steps and is located approximately 7ø from the waterø edge. The property is located in the WD Waterfront District Zoning Classification. Setback provisions are contained in Section 155.079.D. of the Township Zoning Ordinance. Standards of review for the Zoning Board of Appeals are contained in Section 155.253 of the Township Zoning Ordinance.

BUILDING/ZONING ADMINISTRATOR COMMENT

Building/Zoning Administrator Todd Herter stated the Waterfront District setback is 30-feet, and the variance is for 23-feet. Todd stated that he is breaking from his recent norm, which is that he is against any variance. He stated that with this particular situation, he believes it represents practical difficulty based on the property and the hill and that it is his opinion that a variance be granted.

PUBLIC COMMENT

Dan Morrison of Dewey Lake Cottages provided a handout, marked Exhibit A, showing the proposed steps going down to the lake.

Dan stated that the variance is to build steps with a hand rail down to the lake. He stated that the reason the variance is needed is because of the typography and steep slope. Dan stated that the steps are really the only safe way to provide access down to the lake. Dan referred to the first page of the handout, which shows engineered drawings of the steps so you can see where they would be placed. He referred to the second page showing the 4-foot stairs, which are consistent with stairs built around the lake. Dan stated that typography has dictated the need for the stairs.

Dan stated that he is requesting the Zoning Board of Appeals approve the proposed variance as submitted.

Dave Fehland questioned if they are building the steps into the hill or just straight down. Dan answered that they would be building straight down the hill and would not be excavating or moving dirt.

COMMUNICATIONS

There were no written comments received.

Jerry closed the floor for public comment at 7:50 p.m.

COMMISSION MEMBER DISCUSSION

Jean Rowe referred to the handout page with a picture and asked if it was a sample. Dan Morrison answered yes, that it shows what the rail would look like. Jean stated that it is very steep and she would not go down there.

Mike Glynn stated that the presentation shows there is a reasonable evidence of a practical difficulty.

Adele Straub stated that she wouldn't go too close, and that she agrees it is a very difficult situation.

Chairman Jerry Donley read the Five Standards of Review:

155.253 STANDARDS OF REVIEW.

(A) *Granting of non-use variances.* A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are addressed.

- (1) The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
- (2) The variance will not impair the intent and purpose of this chapter.
- (3) The immediate practical difficulty causing the need for the variance request was not created by any action of the applicant or predecessor.
- (4) The variance requested is the variance necessary to meet the purpose and intent of the chapter and to meet the other standards of review in this section.
- (5) Would a lesser relaxation than applied for give substantial relief to the owner of the property involved and be more consistent with justice to other property owners, and whether relief can be granted in such fashion that the spirit of the chapter will be observed and public safety and welfare secured.

MOTION TO APPROVE VARIANCE REQUEST

Jean Rowe motioned to approve the variance request. Jerry Donley seconded.

Roll call vote:

Yes (5): Bruce Nevins, Jean Rowe, Jerry Donley, Mike Glynn, Adele Straub

No (0):

Absent (0): None

Motion passed by roll call vote. Chairman Jerry Donley declared the variance request approved.

Chairman Jerry Donley stated that the applicant would receive a copy of the application before leaving.

ADJOURNMENT

The hearing adjourned at 7:54 p.m.

Respectfully submitted,

Lindsay Krohne
Recording Secretary

Adele Straub, Secretary

To be approved at the next Zoning Board of Appeals meeting