

**MINUTES
VILLAGE OF CENTRAL LAKE
ZONING BOARD OF APPEALS**

**MINUTES OF THE PUBLIC HEARING
Wednesday, April 11, 2018 at 6:00 p.m.**

1. CALL TO ORDER

The meeting was called to order by the Chairperson at 6:00 p.m.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited by all present.

3. ROLL CALL

PRESENT: Chapman, Clark, Eckhardt, Loveless, Patton, Tyler, Zelenak
ALSO PRESENT: Bryan Graham, Village Attorney

4. WELCOME TO THE PUBLIC

The Chairperson welcomed all to the meeting.

5. OPENING OF PUBLIC HEARING

The purpose of this Public Hearing is to consider a request by Charles and Ruth Lark for a 10 foot variance from the 20 feet front yard setback on their property located at 2521 Lake Street to allow them to construct a single family dwelling on the property.

6. DETERMINATION OF A TIME LIMIT FOR ADDRESSING THE ZONING BOARD

No time limit was decided.

7. VILLAGE ATTORNEY PRESENTATION

Attorney, Bryan Graham, advised the purpose and manner in which the Public Hearing would proceed. He further went on to advise that the hearing is to gather evidence for a dimensional variance. Then, look at the information that is presented, both written and oral, and if the evidence supports the variance standards then the board is required by law to grant the variance by law.

8. PRESENTATION BY APPLICANT, APPLICANT'S ATTORNEY OR OTHER AGENTS

Applicant, Charles Lark, was present to explain the request for the variance request. He advised that when he and his wife purchased the property they were aware that the majority of the back portion of the property was wet and marshy. He went on to explain that when they purchased the property they intended to build a new structure in the same location as they were unaware of the zoning requirements.

9. CORRESPONDENCE AND/OR PERSONS SPEAKING IN FAVOR OF THE APPLICATION

Randy Lark, owner of the property right next to the property owner asking for the variance. He is in favor of the variance.

Mary Douglas, owner of the property on the other side to the property owner asking for the variance. She is in favor of the variance.

There was a letter received in favor of the application:

"To Whom it May Concern,
Upon reviewing the above Notice of Public hearing of the Zoning Board of Appeals, I would like to express my view with the above case's request. Haggard's Plumbing & Heating is not at all opposed to the change of the property and/or the request to the Zoning Board. If a property owner is fortunate enough to have the ability and the resources in this time of economical struggles to either build and/or improve their existing property, we would like to see their request granted. It would prove positive for the local, county, state and county to do all we can to improve and promote growth in any way possible.

Sincerely,
/s/ John Haggard"

10. CORRESPONDENCE AND/OR PERSONS SPEAKING IN OPPOSITION TO THE APPLICATION

There was a letter received in opposition of the application:

"Dear Zoning Board,
I am concerned about the request for a variance to allow building at 2521 Lake Street. What effect will this have on the water problems we experience? The back corner of my property at 7758 Maple is very wet and the ground is saturated under the house next door at 7770 Maple. There are also drainage problems behind the cottages north of me.

Several years ago the ditch which runs just west along the access road for those 3 cottages provided a channel for drainage. That however has become overgrown and clogged up.

What can be done?

Sincerely,
/s/ Janice Hoekstra
7758 Maple"

No one in attendance was in opposition of the application.

11. REBUTTAL BY THE APPLICANT, APPLICANT'S ATTORNEY OR OTHER AGENTS

There wasn't a rebuttal.

12. CLOSING THE PUBLIC HEARING

The Chairperson declared the Public Hearing closed at 6:08 p.m.

13. DELIBERATIONS

Attorney Graham stated that he prepared a list of General Findings of Fact that the board can agree to, modify or disagree to. These are proposed findings that are there for review.

General Finding of Fact was presented as follows:

1. The Board finds that the Applicants are the owners of the Property to a warranty dated October 6, 2017. (Exhibit 3)
2. The Board finds that the property is currently zoned Residential (R-1) under the zoning ordinance. (Exhibit 1 and Exhibit 2)
3. The Board finds that the property is located at the corner of Lake St. and North St. The property has frontage of 100 feet on Lake Street and 200 feet on North St. (Exhibit 4 and Exhibit 5)
4. Board finds that pursuant to the definition of Front Lot Line in the zoning ordinance that portion of the Property that abuts Lake St. is the front lot line. (Exhibit 1)
5. The Board finds that pursuant to the Schedule of Regulations in Section 5.05 of the zoning ordinance the front setback requirement in the R-1 district is 20 feet. (Exhibit 1)
6. The Board finds that the majority of the back portion of the Property is wet and marshy from the rear lot line to the existing home on the Property. (Exhibit 6)
7. The Board finds that the previous property owner had a continual water problem in the basement of the home. (Exhibit 6)
8. The Board finds that the Applicants purchased the Property with the intention of building a new dwelling in the same location as the existing home. (Exhibit 6)
9. The Board finds that the Applicants are seeking a 10 feet variance from the front setback requirement to allow construction of a single-family dwelling in the same location as the existing dwelling. (Exhibit 2, Exhibit 3, and Exhibit 6)

FINDING OF FACT UNDER SECTION 9.05 A OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 9.05 A. of the zoning ordinance for each of the following standards listed in that section:

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties in the surrounding area, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
 - a. The Board finds that the majority of the back portion of the Property is wet and marshy from the lot line to the existing home on the Property. (Exhibit 6)
 - b. The Board finds that the previous owner had a continual water problem in the basement of the home. (Exhibit 6)
 - c. The Board finds that compliance with the 20 feet front setback requirement would place the single-family dwelling in the wet and marshy portion of the Property. (Exhibit 6)

The Board, therefore, finds that this standard has been met.

2. The need for the requested variance is not the result of action of the property owner or previous property owners (self-created).
 - a. The Board finds that the Property is composed of platted lots created long before village zoning was enacted. (Exhibit 5)
 - b. The Board finds that the Applicants were not involved in the creation of the plat. (Exhibit 5)
 - c. The Board finds that the previous property owner had a continual water problem in the basement of the home. (Exhibit 6)
 - d. The Board finds that the back portion of the Property, which is wet and marshy from the rear lot to the existing home on the Property, is a natural feature of the property and was not created by the Applicants.

The Board, therefore, finds that this standard has been met.

3. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
 - a. The Board finds that a single-family dwelling is a permitted use in the R-1 zoning district pursuant to Section 5.02.2.1 of the zoning ordinance. (Exhibit 1)

- b. The Board finds that compliance with the 20 feet front setback requirement would place the single-family dwelling in the wet and marshy portion of the Property. (Exhibit 6)
- c. The Board, therefore, finds that strict compliance with the required setback would prevent the Applicants from using the property for this permitted use.

The Board, therefore, finds that this standard has been met.

- 4. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give a substantial relief to the property owner and be more consistent with justice to other property owners.
 - a. The Board finds that a single-family dwelling is a permitted use in the R-1 zoning district pursuant to Section 5.02.2.1 of the zoning ordinance. (Exhibit 1)
 - b. The Board finds that compliance with the 20 feet front setback requirement would place the single-family dwelling in the wet and marshy portion of the Property. (Exhibit 6)
 - c. The Board, therefore, finds that no lesser variance could be granted to allow construction of the Permitted single-family dwelling.

The Board, therefore, finds that this standard has been met.

- 5. That the requested variance will not cause an adverse impact on the surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.
 - a. The Board finds that a single-family dwelling is a permitted use in the R-1 zoning district pursuant to Section 5.02.2.1 of the zoning ordinance. (Exhibit 1)
 - b. The Board finds that other existing homes in the area are located approximately 10 feet from the street (Exhibit 2) and that no evidence has been presented indicating that the location of these homes has caused any adverse impact on the surrounding property, property values, or the use and enjoyment of the property in the neighborhood.
 - c. The Board, therefore, finds that the mere existence of the proposed single-family dwelling will not cause an adverse impact on the surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

The Board, therefore, finds that this standard has been met.

14. MOTION FOR A DECISION

Upon motion by Zelenak, seconded by Clark, and passed, the Board RULED that the Applicants' 10 feet front setback variance request be GRANTED.

Roll call vote. All vote AYE. Motion carries.

15. CLOSING AND/OR OPEN PUBLIC COMMENT

No other public comment.

16. ADJOURNMENT

Motion by Patton, supported by Chapman to adjourn the meeting at 6:21 p.m.

Voice vote. All vote AYE. Motion carries.

Respectfully submitted,

Racheal Antaya
Village Clerk