

CRYSTAL LAKE TOWNSHIP BOARD OF ZONING APPEALS  
PUBLIC HEARING FOR REQUESTED VARIANCE  
JANUARY 10, 2024 – TOWNSHIP HALL – 6 PM  
MINUTES

1. CALL TO ORDER

The meeting was called to order at 6:16 pm by Chairman Alan Marble who then stated the purpose of the meeting, as below.

2. PURPOSE OF MEETING is to hear a REQUEST FOR VARIANCE from ARTICLE 24.4.A.1 – Setbacks - that states: “All principal buildings and permitted uses shall be set back at least one hundred (100) feet from the ordinary high-water mark (OHWM) of Crystal Lake.”

3. ROLL CALL: Recording Secretary Jeannette Feeheley called the roll.

Answering present were the full Zoning Board of Appeals, that is - members Alan Marble, Dean Michael, and Greg Wright.

Staff members present:

Zoning Administrator Tom Kucera;

Recording Secretary Jeannette Feeheley.

Present in the audience were:

The Applicant Scott Burke;

His Architect Mark Bischak;

Steve Stephens, an observer who said he has no interest in this case and was simply interested in learning how various zoning boards of appeals conduct their meetings as he sits on a different Zoning Board of Appeals.

4. CALL FOR CONFLICT OF INTEREST: No member had a conflict of interest.

5. APPROVAL OF AGENDA

Wright moved approval of the draft Agenda. Michael seconded. All ayes; motion passed; agenda approved.

6. RULES OF ORDER FOR SPEAKERS: Marble read the Rules of Order for Speakers.

7. ADMINISTRATION OF SPEAKER’S OATH:

Architect Mark Bischak and Applicant Scott Burke and Zoning Administrator stood to be sworn in before giving testimony. Marble administered the required Oath and they all so swore.

8. OPEN THE PUBLIC PORTION OF THE MEETING: Marble opened the public portion of the meeting.

a) Applicant – Time Limit – 8 minutes with one extension of 3 minutes at discretion of Chair.

Speaking on behalf of the Applicant, Architect Mark Bischak began by saying the question before them goes deeper than just this site. He proceeded to give great detail on research he had done on 100 foot setbacks and setbacks in general and how other jurisdictions had treated that subject. He also spoke about the conclusions he had reached by his research into the history of the Crystal Lake Township setback Ordinance. He said he could find nothing demonstrating that there is a scientific basis for a 100 foot setback Ordinance, and that he believes it is required that there be a scientific basis. He also spoke about the house and porch he has designed for the Applicant and the amount of setback his plans entail, which do not meet the 100-foot setback Ordinance. He said he did not agree with the Ordinance. He asked the Board for a variance to allow him to build his client’s home according to his design.

The Applicant, Mr. Scott Burke, was invited to speak. He talked about his long tenure at the Lake, and that he had bought this property from Lisa Jones when she split her property. He said most of the houses there are not large and neither is his desire to build anything large. He said none of his neighbors are upset with his plans. The lot is pinned back against a hill, making development difficult. Most of the houses nearby, he said, are closer to the water than his property. He feels he and his architect are complying as much as they can. He has permission to have a septic tank, not a septic field. He's been coming to the Lake since 1980 or so and is just as concerned as anyone to keep the Lake pristine. He is concerned that the 100 foot setback is not scientifically based. He asked for the Board's approval of the variance he desires.

b) Staff report – Time Limit – 8 minutes with one extension of 3 minutes at discretion of Chair.

Zoning Administrator Tom Kucera spoke briefly as he had already distributed his Staff Report to all concerned. He said the reasoning why the authors of the Ordinance years ago made the determination of a 100-foot setback is not the subject of this proceeding, and that, as Zoning Administrator, it is his duty to enforce the Ordinances that exist. He talked about the rear setback, gave some calculations indicating that, even if he applied the rear setback to the 100-foot requirement, it would still not be enough to meet the 72-foot setback from the Lake that the Applicant desires. Reading from his Staff Report, he said if the proposed front porch is not built onto the house, the house could be built per the setback Ordinance. He said the Applicant has met all but one of the twelve requirements and that one is the porch itself. In regard to the basis of the 100-foot setback or any setbacks varies from community to community, so that could possibly be a justification for the Zoning Board of Appeals to approve the variance, if they so choose. He also said, that being the case, there is no hard standard that the Board could use as a reason to give relief in this instance. The whole point of a Zoning Board of Appeals, he said, is that an Ordinance cannot cover every situation. He said all concerned need to recognize that any relief that might be given would go with the property whenever it changes hands and that future owners would have the relief but also be constrained by it. He said Notices were sent to all adjacent property owners, and that neither he nor the Township Clerk received anything from them in either support or opposition of the Applicant's request for a variance.

c) Supporters • Each person wishing to speak in support of the variance will be given 3 minutes with one extension of 2 minutes at the discretion of the Chair.

There were no supporters present.

d) Opposition • Each person wishing to speak in opposition to the variance will be given 3 minutes with one extension of 2 minutes at the discretion of the Chair.

There was no one in opposition present.

e) Applicant Rebuttal – Time Limit – 3 minutes

Architect Bischak said he had asked Kucera for the scientific reason for a 100 foot setback and did not receive such. He reiterated much of what he had already said.

f) Staff Rebuttal – Time Limit – 3 minutes

Zoning Administrator Kucera reiterated we are not here to debate why a 100-foot setback was put into the Ordinance. He said the fact that other houses are closer to the water is not a basis for deciding whether the Applicant has met the variance requirement that there be a practical difficulty making a house unbuildable without a variance.

g) Supporter Rebuttal – Time Limit – 3 minutes

There were no supporters present.

h) Opposition Rebuttal – Time Limit – 3 minutes

There was no one in opposition present.

i) Additional discussion of this issue is at the discretion of the Chair.

There was none.

2. CLOSE THE PUBLIC PORTION OF THE MEETING

Chairman Marble closed the Public Portion of the meeting at 7:07 pm.

3. BOARD DISCUSSION / DELIBERATIONS

a) The Board may ask questions of the staff or any speaker.

All three Board members asked the Applicant many questions about the property, which they had all visited prior to the meeting. They received answers from the Applicant and they engaged in much deliberation among themselves

b) Accept motions from the Board for action.

- The Board may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct issuance of a permit.
- The Board may postpone their action to another public meeting, the date and time of which can be set at this meeting or publicized at a later date.

**Zoning Board of Appeals Member Greg Wright moved to deny the request for this variance.**

**Zoning Board of Appeals Chairman Alan Marble seconded Wright's motion.**

It was expressed that the Applicant had options that would allow him to comply with the ordinances. The Applicant was encouraged to explore those other solutions.

**Roll call vote was taken by the Recording Secretary:**

**Marble no to the motion; Wright yes to the motion; Michael yes to the motion.**

**The motion to deny passed 2 to 1; the request for a variance was denied.**

4. ADJOURNMENT

Chairman Marble adjourned the meeting at 7:22 pm.

Respectfully,

Jeannette Feeheley  
Recording Secretary

Attachments:

- Staff Review and Report of Jan. 2, 2024
- Zoning Administrator's attachment titled "Setback Standards for Crystal Lake – CSWOD ordinance
- Jan. 29, 2024 email & mailed letter to Applicant from Kucera with Decision & Order.

NOTE: There were numerous emails from Architect Mark Bischak to the Zoning Board of Appeals and responses by Zoning Administrator Tom Kucera, all of which have been preserved in the case file.