

# CLEVELAND TOWNSHIP ZONING BOARD OF APPEALS

## DECISION AND ORDER

### ZBA CASE #22-02

*Parcel #45-003-024-020-10*

### THE REQUEST

*Tax ID 45-003-024-020-10; Owner, Anthony and Kelley Zywicki have submitted a request for several variances to this residential parcel from Zoning Ordinance Article V, Section 5.08 Setback Restrictions and Section 5.09 Building Lot Width and Area specifically, "No building or structure shall be built closer than forty (40) feet to the nearest right-of-way line of any public street or thoroughfare, no closer than ten (10) feet for side yards, no closer than ten (10) feet for rear yards, and no closer than seventy-five (75) feet to the water's edge". And "The yard area free of all buildings and structures shall constitute at least seventy-five (75) percent of the lot".*

*The applicant seeks the following: 33 ft. variance from the water's edge; 8 ft. variance from the side lot on north property line; 5 ft. variance from the side lot on south property line; 7 sq. ft. variance on the yard area used for structures. The property is located at 5650 S Lime Lake Rd.*

### SUBMITTALS

- 1) ZBA Petition Application.*
- 2) Letter of support, Morton.*
- 3) Letter of support, Deaton.*
- 4) Letter of support, Brandenburg.*
- 5) Letter in support of variance for sides and back of lot, against variance for waterfront, Van Poole.*
- 6) Letter of concern, Bolmer.*
- 7) Letter of support, Sturgeon.*
- 8) Letter of support, Nisch.*

### FINDINGS OF FACT

- 1) The Zoning Ordinance requires a 75' setback from the water's edge and a 10' setback for side yards.*
- 2) The Zoning Ordinance requires "the yard area free of all buildings and structures shall constitute at least seventy-five (75) percent of the lot."*
- 3) Applicant home was built in compliance with original land use permit in 2016.*
- 4) Deck and side overhang were added later without a new permit, putting the property out of compliance.*

*Findings of fact relative to the criteria for ordinance interpretation:*

- 1) Applicant has not shown excessive hardship.*
- 2) The variances herein are not granted and are not in line with other variances granted.*
- 3) The variances herein are not in the spirit of the Zoning Ordinance.*

**THE MOTION ADOPTING FINDINGS OF FACT AND DECISION AND ORDER**

Based on the consideration of the application received and all of the evidence and comments received in this matter, and based on the findings of fact specified above; **Motion** by Manikas /2<sup>nd</sup> Denton to deny all requested variances per Section 14.09 as submitted by Anthony and Kelley Zywicki for the following: 33 ft. variance from the water's edge, an 8 ft. variance from the side lot on north property line, an 5 ft. variance from the side lot on south property line, and an 7 sq. ft. variance on the yard area used for structures at the property located at 5650 S Lime Lake Rd.:

**Reasons for approval:**

1. This variance will cause no undue hardship for the owner. Owner had approved, compliant, land use permit which allowed use of the property.
2. Variance could have future negative impact on neighbor's property.
3. Variance could have negative environmental impact on lake water quality caused by water run-off due to excessive impervious surfaces on the lot.
4. Variance would impact all riparians as stated in #3.

Those voting in favor: Dechow, Denton, Fisher, Manikas, Nowak

Those voting against: None

The motion was approved, and it is so ordered.

Date: November 1, 2022

  
*Joseph Dechow, Chairperson*