



**BOARD OF ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
FEBRUARY 24, 2015**

The hearing was called to order at 7:30 P.M. by Acting Chairman Swisher

PRESENT: Board Members Scott Fatzinger, Robert Swisher, Bryan Baesel, Jeff Neverman
ABSENT: Matthew Jones
ALSO PRESENT: Assistant Law Director Sean Kelleher and Clerk of Commissions Nicolette Sackman

SELECTED CORRESPONDENCE

None

DOCKETS

Docket 2015-03

Applicant: Bigadza

Premises: 28672 Touchstone, P.P. #216-19-084

Requesting to construct a deck approximately 20' into the rear yard setback at variance with 1211.09 which requires a minimum 30' rear yard setback; a 17' setback variance because 1211.22 permits an entrance feature to encroach 3' into a rear yard setback.

Mrs. and Mr. Bigadza were sworn in by Mr. Kelleher. Mrs. Bigadza explained they are seeking a variance for a deck off the rear of their house. The house is constructed at the rear yard setback, the lot is an odd shape almost like the number "4", there are six adjoining properties and the rear yard is very shallow. In addition to the odd shape the elevation of the rear yard slopes by almost 4.5' so it is a difficult rear yard to use. She estimated the slope is about a 45° angle. She presented photos to the commission and explained they would like a deck that is 16' deep by 20' wide off the rear of the house so the rear door of the house can be used. A deck is a safer situation than stairs downward onto the steep slope of the yard. The deck they are proposing is not very large but will give room for a grille and room to move around. The stairs off the deck will be located at the corner of the deck and will be angled toward the odd shape leg of the rear yard.

Members of the board questioned the setback of the house and the placement of the house on the lot. Mrs. Bigadza thought the house was setback 20' to 30' off the rear lot line as it was 20' off the rear lot line on the one corner. Members of the board questioned how the house was placed so that it was 20' off the rear lot line as a 30' setback is required. Clerk Sackman noted that many of the lots in this subdivision are odd shaped lots where what looks like a rear yard is a side yard, some have setbacks shown on the plat and the subdivision was part of litigation

settlement, which may possibly explain the setback of the house. Discussion ensued that the neighbor's shed appears very close to the lot line and the building department, who does not have a representative present at the meeting, should verify if the shed is legal and if the house setback complies with the code or if it is encroaching on the rear yard setback. Members of the board felt the lot is an odd and unique shape and the deck proposed is not overly large. There were concerns if the house is setback 20' off the rear lot line there would only be a 4' space between the deck and the rear yard.

After a careful review of the plans and testimony of the Applicant, the Board finds that:

1. The Applicant's property is located at 28672 Touchstone Circle.
2. The Applicant sought to install an attached deck on their property.
3. The Applicants rear yard is 30' deep
4. The applicants sought a variance from the 30' rear yard setback requirement (WCO 1211.09) to build a deck off the rear of their house that would be 16' deep by 22' across.
5. Proposed plans included an accompanying set of stairs (entrance feature) for an additional 3' (permitted by WCO 1211.22) and would add 3' into the encroachment of the rear yard setback.
6. The rear yard slopes away from the house approximately 4'4" over thirty feet.
7. A 17" variance was requested
8. The board found as to all requested variances, that;
9. The shape of the property is unique.
10. The adjoining property would not suffer a substantial detriment.
11. There would be no detrimental effect on the character of the neighborhood.
12. The spirit of the code would not be violated by the granting of a variance.

Motion: Mr. Fatzinger moved, seconded by Mr. Neverman to approve a 17' setback variance for Docket 2015-03

ROLL CALL:

Yeas: Neverman, Fatzinger, Swisher, Basel

Nays: None, motion carried

Docket 2015-04

Applicant: Pintenich

Premises: 28419 Center Ridge Rd., PP# 216-17-006

Requesting to install a detached garage 25'- 6" in height with a 6' cupola at variance with 1211.04(a)(2) which states a detached private garage shall not exceed 15' in height from the average grade to the peak of the gable; a 10' - 6" height variance for the garage and a 16' - 6" variance for the cupola.

Mrs. and Mr. Pintenich were sworn in by Mr. Kelleher. Mr. Pintenich reviewed the history of the house advising it was constructed 16 years after the civil war. They are currently restoring the house to its original condition. It is one of less than 200 century homes in Westlake and he believes is the only Queen Anne Victorian home. As part of the restoration they would like to construct a carriage house as historically homes did not have garages but had barns or carriage houses. He would like to match the pitch of the roof to the pitch of the house, which is a 12:12 pitch. Doing this would require a variance for the height. Mr. Pintenich advised the grade of the yard behind the house is about 10' lower than the house so while what is being requested is a tall

garage it will not appear as tall from Center Ridge Road due to the grade of the rear yard. Mrs. Pintenich stated they would like to keep the same pitch as the house to historically match. She reviewed the location of the stone wall behind the house and explained the carriage house will be setback further on the lot where they slope continues to lower. The carriage house will have a decorative cupola on the top.

Members of the board questioned if the carriage house will have a second floors, if there are plans for a residence on the second floor as historically those type of buildings had living quarters above, the area of the building and if they had a topo showing the grade as 10' was questionable. Mrs. Pintenich explained they do not plan for a residence in the carriage house and plans to keep most of the upper area open. She would like to have an open loft on one end for storage. The grade dimensions were discussed and the lower lever of the house, adjacent to the stone wall is about 7' lower than the first floor of the house. The rear yard sloped down even more further back in the yard in the location of the carriage house. The area of the building will be 1,000 sq. ft. which complies with code based on the size of their lot. Mr. Pintenich estimated the house is about 32' tall due to the steep pitch of the roof.

After a careful review of the plans and testimony of the Applicant, the Board finds that:

1. The Applicant's property is located at 28419 Center Ridge Road.
2. The Applicant sought variances to build a detached garage to match the style of the 19th century home they are restoring.
3. There is no garage on the property now
4. The home on the property is "Queen Anne Victorian" in style, built in 1881, and features a steeply pitched roof.
5. The design of the detached garage is intended to match the style of the home, featuring a gables, a steeply pitched roof, and a cupola.
6. The rear of the property where the detached garage is proposed to be built is visibly below that of street level.
7. The Proposed garage features a 25'6" roofline requiring a 10'6" height variance from the requirements of 1211.04(a)(2)
8. The Proposed garage features a 25'6" roofline with a centered cupola rising 6' (with a 3 Sq. foot base) above that roofline requiring an additional 16'6" height variance from the requirements of 1211.04(a)(2)
9. The loft space will be for storage only and will not be made occupiable.
10. The adjoining property would not suffer a substantial detriment.
11. With the condition that the loft space be for storage only and not be made occupiable, there would be no detrimental effect on the character of the neighborhood.
12. The spirit of the code would not be violated by the granting of a variance.

Motion: Mr. Fatzinger moved, seconded by Mr. Neverman to approve a 10'6" height variance for the garage with the condition that the garage not be occupied on the second floor and there is only a loft for storage on the second floor for Docket 2015-04

ROLL CALL:

Yeas: Neverman, Fatzinger, Basel

Nays: Swisher, motion carried

Motion: Mr. Fatzinger moved, seconded by Mr. Neverman to approve 16'6" variance for a

decorative cupola with the condition that the cupola is limited to a 3' square base for Docket 2015-04

ROLL CALL:

Yeas: Neverman, Fatzinger, Basel

Nays: Swisher, motion carried

Docket 2015-05

Applicant: Sofas

Premises: 1767 Taylor's Mill Turn, PP# 212-19-039

Requesting to install an addition at variance with 1211.08(e) which states the width of either side yard of a lot shall be not less than 15' as set forth in 1211.09 & the total width of both side yards of a lot and the width of two adjoining side yards on adjoining lots shall not be less than 30' as set forth in 1211.09. Applicant is requesting to install the addition 10' 6" off the side property line, a 4' 6" setback variance. The total width of both side yards of this lot will be 23', a 7' variance. At the location where this project abuts an adjacent side yard, applicant is proposing a 25' total dimension between dwellings (total side yards), a 5' variance for the total adjoining side yard dimension.

Mr. Sofas was sworn in by Mr. Kelleher and explained he wishes to construct an addition on his house. His in-laws have moved in with him and have health issues so it is very difficult for them to use the stairs. He explained when his house was constructed in 1978 the garage was built with a 12.5' setback. The addition would be behind the garage in an empty space but it would have a setback of 10.5'. This additional space gives more room in the interior for better access and accommodations inside the addition. The area of the addition is 360 sq. ft.

Members noted the lots in this area are only 80' wide and only an additional 2' will be closer to the side yard line than currently exists with the garage setback.

After a careful review of the plans and testimony of the Applicant, the Board finds that:

1. The Applicant's property is located at 1767 Taylor's Mill Turn.
2. The home currently has only 12'6" side yard setbacks on both sides of the home (25' total).
3. The home's construction likely predates the current requirement of 15' side yard setbacks (30' total).
4. The Applicant sought a variance to build an addition to his home that would bring the home's north side 2' closer to the neighboring side-yard, thereby requiring a 4'6" side yard setback variance under the current requirements of WCO 1211.09.
5. Because applicant seeks to enlarge the ground floor, the requirements of WCO 1211.17 require the applicant's property to now comply with the other requirements of the current Zoning Code.
6. The further encroachment of the home will reduce the total of both side-yard setbacks to 23' requiring a 7' side yard setback variance under the current requirements of WCO 1211.09.
7. Finally the addition requires a variance a 5' "total side yard" (between dwellings) under the current requirements of WCO 1211.09.
8. The adjoining property would not suffer a substantial detriment.
9. There would be no detrimental effect on the character of the neighborhood

10. The spirit of the code would not be violated by the granting of a variance.

Motion: Mr. Fatzinger moved, seconded by Mr. Basel to approve a 4' 6" side yard setback variance for Docket 2015-05

ROLL CALL:

Yeas: Neverman, Fatzinger, Basel, Swisher

Nays: None, motion carried

Motion: Mr. Fatzinger moved, seconded by Mr. Basel to approve a variance of 7' for total width of both side yards for Docket 2015-05

ROLL CALL:

Yeas: Neverman, Fatzinger, Basel, Swisher

Nays: None, motion carried

Motion: Mr. Fatzinger moved, seconded by Mr. Basel to approve a variance of 5' for the total adjoining side yard dimension for Docket 2015-05

ROLL CALL:

Yeas: Neverman, Fatzinger, Basel, Swisher

Nays: None, motion carried

MISCELLANEOUS

None

APPROVAL OF MINUTES

Motion: Mr. Fatzinger moved, seconded by Mr. Neverman to approve the minutes of January 27, 2015

ROLL CALL:

Yeas: Neverman, Fatzinger, Swisher, Basel

Nays: None, motion carried

FINDINGS OF FACTS

Motion: Mr. Fatzinger moved, seconded by Mr. Basel to approve the findings of fact for Docket 2015-01 Assad

ROLL CALL:

Yeas: Neverman, Fatzinger, Swisher, Basel

Nays: None, motion carried

Motion: Mr. Fatzinger moved, seconded by Mr. Basel to approve the findings of fact for Docket 2015-02 Grooms

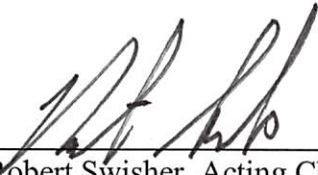
ROLL CALL:

Yeas: Neverman, Fatzinger, Swisher, Basel


Nays: None, motion carried

ADJOURNMENT

Acting Chairman Swisher adjourned the meeting at 8:10 P.M.



Robert Swisher, Acting Chairman



Nicolette Sackman, Clerk of Commissions

Approved: 4.14.15