



**BOARD OF ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
APRIL 14, 2015**

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

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

ELECTION OF OFFICERS

Motion: Mr. Neverman moved, seconded by Mr. Fatzinger to elect Matt Jones Chairman, Robert Swisher Vice Chairman and Bryan Baesel Secretary.

ROLL CALL:

Yeas: Neverman, Fatzinger, Swisher, Jones

Nays: None, motion carried

SELECTED CORRESPONDENCE

None

DOCKETS

Docket 2015-06

Applicant: James Cozad

Premises: 30805 Doral Lane, P.P. #211-12-040

Requesting to install a 6' high board on board fence 6' from the right-of-way at variance with 1211.04(b)(3) which states on a corner lot, no fence, wall, or hedge shall be located within 25' from the planned right-of-way line; a 19' setback variance.

Mr. Greg Hebble (Elyria Fence Co.), sworn in by Mr. Kelleher, explained when the Cozad's purchased the house in 1998 there was an existing board on board fence around the perimeter of the yard approximately 19' into the setback. They did not know it was not permitted until they went to obtain a permit to replace the existing fence. The existing fence is deteriorated and needs to be replaced. They plan to put the new fence in the exact same location. Their lot is a corner lot and their neighbor's driveway points at the rear of the house so they would like the fence for privacy. The house is setback deep into the lot and without a variance there would be little usable space in the yard if they installed the fence per code.

Members of the board discussed that the fence is going in the same location so it would not change the character of the neighborhood. It was uncertain how the existing fence was installed

or if there was a previous permit. The fence is setback far enough from the street so not to impede visibility for traffic at the intersection.

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

1. The Applicant's property is located at 30805 Doral lane.
2. The Applicants property is a corner lot.
3. The Applicant sought to install/replace (in the same location) an existing fence with a 6' board-on-board fence 6' from the right-of-way requiring a 19' setback variance.
4. The fence to be replaced has been in existence since the construction of the home 27 years earlier.
5. The City is unable to determine if a variance was granted (or necessary) for the original fence.
6. There has been no adverse effect to the neighborhood attributed to the current fence, or stated opposition or concern to its replacement.
7. The location and shape of the property is unique.
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. Neverman moved, seconded by Mr. Fatzinger to approve a 19' setback variance for Docket 2015-06

ROLL CALL:

Yeas: Neverman, Fatzinger, Swisher, Jones

Nays: None, motion carried

Docket 2015-07

Applicant: Mary Ellen Huesken

Premises: 1375 Glenbrook Lane, PP# 214-06-061

Requesting to install a generator 8' off the side lot line at variance with 1211.20(e) which states central air conditioner, heat pump, etc. may be located in the side yard of a lot providing such unit shall be no closer than 20' from the front building line, 10' from the side lot line and is not visible from the street on which the lot fronts; a 2' side yard setback variance.

Ms. Huesken, sworn in by Mr. Kelleher, explained she wishes to install a generator in her side yard. She needs a generator to keep her sump pump running as there are drainage issues on her lot. The lot is a very odd shape, being a triangle, and is adjacent to Clague Park. The generator will not be visible from the street or by her neighbors. Her yard also abuts the rear yards of the street behind her and is located on the cul-du-sac. She is unable to locate the generator in the rear yard as she feels it would be a safety hazard in that location and the proposed location is the location of the electrical box.

Members of the board reviewed the lot, which is an odd shape and uniquely placed on the street and adjacent neighbors. The unit will be placed in a landscape bed and Mr. Huesken advised additional bushes may be added to the bed. Members of the board felt the request was not substantial.

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

1. The Applicant's property is located at 1375 Glenbrook Lane.
2. The Applicant sought to install a backup generator in the side yard of their home. The code requires the unit to be located no closer than 10' from the side lot line and required a 2' variance.
3. The requested variance is not substantial.
4. The adjoining property would not suffer a substantial detriment as that home is located some distance away and fronts to Queen Anne's Gate.
5. There would be no detrimental effect on the character of the neighborhood and the generator will be shrouded by landscaping and not visible from Glenbrook Lane.
6. The spirit of the code would not be violated by the granting of a variance.

Motion: Mr. Fatzinger moved, seconded by Mr. Swisher to approve a 2' setback variance for Docket 2015-07

ROLL CALL:

Yeas: Neverman, Fatzinger, Swisher, Jones

Nays: None, motion carried

Docket 2015-08

Applicant: Michael E. Gallagher

Premises: 1500 Kingsway, PP# 214-05-133

Requesting to install a single story addition (green house) +-24' off the rear property line at variance with 1211.09 which states, the minimum rear yard dimension is 30', a +-6' rear yard setback variance.

Mr. Gallagher, sworn in by Mr. Kelleher, explained he is requesting a small variance for an attached greenhouse at the rear of his garage. The variance is not for the entire greenhouse but for one corner that sits in the setback. This location would enable him to access the greenhouse from the door at the rear of the garage. The structure will not be visible to neighbors due to the trees surrounding his property.

Members of the board discussed if the greenhouse could be moved over so the corner would not be in the setback. Mr. Gallagher explained it cannot due to the location of the utilities entering the house being adjacent to the greenhouse. It was questioned if there would be utilities in the greenhouse, which Mr. Gallagher explained it will have electric and heat. The variance request was minimal as only a small corner of the structure would be in the 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 1500 Kingsway.
2. The Applicant sought a variance to build an addition (greenhouse) to the rear of his home that would require a 6' variance to the required 30' rear yard set-back.
3. The property (rear yard) is uniquely shaped.
4. The proposed location was the best solution because of existing utility lines and air conditioning unit.
5. The adjoining property would not suffer a substantial detriment and is screened from view by existing evergreens.

6. There would be no detrimental effect on the character of the neighborhood
7. The spirit of the code would not be violated by the granting of a variance.

Motion: Mr. Fatzinger moved, seconded by Mr. Swisher to approve a +/-6' setback variance for Docket 2015-08

ROLL CALL:

Yeas: Neverman, Fatzinger, Swisher, Jones

Nays: None, motion carried

MISCELLANEOUS

None

APPROVAL OF MINUTES

Motion: Mr. Neverman moved, seconded by Mr. Fatzinger to approve the minutes of February 24, 2015

ROLL CALL:

Yeas: Neverman, Fatzinger, Swisher, Jones

Nays: None, motion carried

FINDINGS OF FACTS

Motion: Mr. Neverman moved, seconded by Mr. Fatzinger to approve the findings of fact for Docket 2015-03 Bigadza

ROLL CALL:

Yeas: Neverman, Fatzinger, Swisher, Jones

Nays: None, motion carried

Motion: Mr. Neverman moved, seconded by Mr. Fatzinger to approve the findings of fact for Docket 2015-04 Pintenich

ROLL CALL:

Yeas: Neverman, Fatzinger, Swisher, Jones

Nays: None, motion carried

Motion: Mr. Swisher moved, seconded by Mr. Neverman to approve the findings of fact for Docket 2015-05 Sofas

ROLL CALL:

Yeas: Neverman, Fatzinger, Swisher, Jones

Nays: None, motion carried

ADJOURNMENT

Chairman Jones adjourned the meeting at 7:52 P.M.

Matt Jones, Chairman

Nicolette Sackman, Clerk of Commissions

Approved: _____