



**BOARD OF ZONING APPEALS  
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING  
AUGUST 25, 2015**

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

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

**SELECTED CORRESPONDENCE**

None

**DOCKETS**

**Docket 2015-14**

**Applicant: Tim Meyer**

**Premises: 2057 Dover Center Rd., PP#213-14-070**

**Requesting to install a utility building which is 288 sf in size, at variance with 1211.04(k) which states a utility building shall be permitted in a rear yard provided that the maximum building size on lots 20,000 to 40,000 sf shall be 150 sf in area, an area variance of 138 sf.**

Mr. Tim and Mrs. Joan Meyers were sworn in by Mr. Kelleher. Mr. and Mrs. Meyers explained they have a unique lot where their house and the adjacent neighbor's house have a shared driveway with a very narrow side yard between their homes. Their house is built in the hill of the property and heavily wooded. They have very limited access to their rear yard due to the layout of their property and often have to access the rear yard with equipment by using the public walkway that is adjacent to their house. The only access to the rear of their yard from their yard is a 3' wide stone stairway which is not wide enough or accessible enough for a riding lawn mower or other equipment. Their garage is under the bedrooms of the house, so it is not safe to store equipment in the garage due to gas fumes. They would like a larger shed than permitted to house all the landscape equipment they have to maintain their yard. In the past they have stored items outside their existing shed, which is too small, and items have been ruined by the weather or vandalized by kids that hang out on the walking path and are destructive in the neighborhood. They have had equipment stolen from their yard and would like a large enough shed to store all their equipment and to be able to lock it in the shed. Mr. Meyers advised that his neighbors did not have any objections to his proposal and the door of the shed would face the walking path and noted his rear yard is fenced in.

Members of the board reviewed the request and were understanding of the need for a shed but

questioned if they really needed a shed that was an additional 138 sf. ft. larger. They questioned storing a snow blower at the rear of the yard in a shed rather than in the garage where it would be used during the winter months. Mr. Meyer explained their kids snow blow the joint driveway and have been moving the blower back and forth from the shed for years. They cannot store it in the garage due to gas fumes that would be below their bedrooms. The proposed location of the new shed will replace the existing shed and be located at the rear of the property in the center of the back property line (setback per code). The Meyers felt this was the best location and stressed the need for more storage space due to the uniqueness of the house construction and grade of the yard. They have no other options for an addition to the house or garage for storage due to the unique lot and house.

Councilman Nick Nunnari, sworn in by Mr. Kelleher, explained he is not the Meyer's councilman but has known the Meyers for many years and they have a very nice yard and take excellent care of their property. The Meyer's have a lot of landscape in their yard, the shed will not be used for commercial use and they have a unique lot.

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

1. The Applicants property is located at 2057 Dover Center Road.
2. The Applicant sought a variance to install a 288 sq. ft. utility building wherein 150 sq. ft. is the maximum allowable under the code for properties of that size, an area variance of 138 sq. ft.
3. As to the variance, the Board found that though the variance was substantial the property is unique.
4. The reason for the variance could not be solved in another manner;
5. The adjoining properties would not suffer a substantial detriment and;
6. The spirit of the zoning code would not be violated by the granting of the variance.

**Motion:** Mr. Neverman moved, seconded by Mr. Lamb to approve a 138 sq. ft. variance with the condition that no driveway ever be constructed to the rear of the property so that the shed cannot be used as a second garage and that the shed not be used for a commercial purposes now or in the future.

ROLL CALL:

Yeas: Lamb, Swisher, Jones, Neverman

Nays: None, motion carried

### **Docket 2015-15**

**Applicant: Robert Veillette**

**Premises: 1494 Glen Lyon Dr., PP#211-06-016**

**Requesting to install an attached pavilion 20' off the rear property line, at variance with 1211.09 & 1211.22(c) which states minimum rear yard setbacks shall be 30' and shelters (unenclosed) shall be permitted to project into a rear yard setback a maximum of 3', a 7' rear yard setback variance.**

Mr. Brian Maurer (contractor for the applicant), sworn in by Mr. Kelleher, explained the applicant wishes to construct a roof over their existing patio to make more use of their rear yard. The structure will setback 7' into the rear yard setback and is attached to the rear of the house. The property is part of a residential PUD and has common land behind the applicant's house.

The roof line and materials to be used will match the existing house. There will be no demolition of the existing patio and the roof structure will go above the patio and maybe extend an additional 3' around the patio for the structure footers.

Mr. Neverman advised that this is a unique property because it is an in residential PUD and the lots are not the standard size of the single family lot as there is common property that is to be maintained as a wooded area throughout the PUD. The way the lots were approved by the city they are much smaller than a standard single family lot and have smaller side and rear yards. If this were a normal single family lot the structure would not sit in the rear yard setback as the lot would be much larger to allow for a rear yard. He advised that the homeowners association has approved the proposal and he was in support of the variance request. Members of the board agreed the lot is unique being a single family PUD and if it were platted as a normal single family lot would not need a variance as there would be a larger lot. It was discussed that the structure will not be enclosed now or in the future.

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

1. The Applicant's property is located at 1494 Glen Lyon Dr.
2. The Applicants sought a variance to build an attached pavilion to the rear of their home.
3. The proposed pavilion has a footprint extending into the rear yard that would bring it to within 20' of the rear yard lot line, thus requiring a 7' variance from the 30' requirement set forth in 1211.09. Applicants are allowed by 1211.22(c) an additional 3' for "projections of building features" into the rear yard.
4. As to both variances, the Board determined that the property is part of a residential PUD and therefore somewhat unique.
5. The Applicant's proposed pavilion has received the apparent pre-approval of their home owner's association.
6. The adjoining properties would not suffer a substantial detriment and;
7. There will be no detrimental effect to the character of the neighborhood,
8. The spirit of the zoning code would not be violated by the granting of the variance.

**Motion:** Mr. Swisher moved, seconded by Mr. Neverman to approve a 7' rear yard setback variance with the condition that the structure not be enclosed now or in the future.

ROLL CALL:

Yeas: Lamb, Swisher, Jones, Neverman

Nays: None, motion carried

#### **Docket 2015-16**

**Applicant: Craig Todd**

**Premises: 27483 Seneca Dr., PP#212-31-030**

**Requesting to install an attached garage addition 8' 8" off his side property line and with 22' total width of the two adjoining side yards, at variance with 1211.09 which states minimum side yard setbacks in residential districts shall be 15', a 6' 4" side yard setback variance, and 1211.08(e) which states the width of two adjoining side yards on adjoining lots shall not be less than the total width as set forth in Section 1211.09 (30'), an 8' variance for the total width of these two side yards.**

Mr. Craig Todd and Ms. Susan Uranker, were sworn in by Mr. Kelleher. Mr. Todd explained the

history of his property and in the past has had multiple additions to his home where he hired a contractor and permits were pulled. For this job he hired a contractor and assumed his contractor pulled all necessary permits but discovered when the job was stopped that permits were not pulled. He is now trying to correct the problem and was informed by the building department that his proposal is not permitted without a variance. He currently has a one car garage and would like a two car garage. His lot is 90' wide and side the garage is located on is closer to the neighbor's property. The garage addition would be 8'8" from the property line. He has looked at other options for a garage addition but his rear yard is very shallow so there is not room behind the existing garage for an addition and if he were to construct an addition in front of the house and existing garage setback it would not be in line with the rest of the home on the street and would look out of place. He felt his lot was unique as he has one of the only homes with a single car garage and really would like to be able to have a two car garage which is normal to today's standards. Ms. Uranker explained they cannot move the garage so it is a side load garage as there is not enough room on this side of the house where the existing garage is located. The post office is 30' behind their property and there is not room for a garage at the rear of the house. The location proposed seems to be the best location although it would be closer to the neighbor's property line than permitted by code.

Members of the board reviewed the proposal noting the location of the garage addition is a tight space but due to the layout of the house on the lot, existing garage, and limited rear yard, this is really the only location for an addition to the garage. They can understand the desire for a two car garage and a single car garage is not very practical. This is a difficult addition but the adjacent neighbor has installed a possibly 6' tall board on board fence around their property to screen themselves from Mr. Todd's house and so their yard is not very visible. The garage will not be very visible due to the fence.

Mr. Dennis Poland, 27485 Seneca Dr., sworn in by Mr. Kelleher, is the next door neighbor and expressed that they oppose the proposal as the garage would be 8'8" off the property line and this is the side of the house where their bedrooms are located. They were concerned with noise from construction and the garage from vehicles. There is an existing shed that is very close to the property line. Mr. Poland can understand the need for a two car garage but was not in support of the variance request.

Mr. Todd noted that there will not be any windows in the garage that face the neighbor and noise would be minimal and normal noise from pulling a vehicle in and out of a garage.

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

1. The Applicant's property is located at 27483 Seneca Dr.
2. The Applicant sought two variances. The first variance to install an attached garage addition 8' 8" off his side property line where 1211.09 requires 15' and secondly a variance allowing 22' total width of the two adjoining side yards where 1211.09 requires 30', a 6' 4" side yard setback variance, and an 8' variance for the total width of these two side yards respectively.
3. That a single car garage is no longer customary and is less practical for potential resale.
4. The 6' tall board on board fence installed by the neighbor acts as a screen to the neighbor's property.
5. Unique aspects of the property make the proposed location of the garage addition the

most logical site.

6. The adjoining property would not suffer a substantial detriment and;
7. The spirit of the zoning code would not be violated by the granting of the variance.

**Motion:** Mr. Neverman moved, seconded by Mr. Lamb to approve a 6'4" side yard setback variance.

ROLL CALL:

Yeas: Lamb, Baesel, Neverman

Nays: Jones, motion carried

**Motion:** Mr. Neverman moved, seconded by Mr. Lamb to approve an 8' variance for the total width of these two side yards.

ROLL CALL:

Yeas: Lamb, Baesel, Neverman

Nays: Jones, motion carried

#### **Docket 2015-17**

**Applicant: Joy and Robert Mossbruger**

**Premises: 31499 Lincoln Rd., PP#217-03-006**

**Requesting to install a 300 sf shed, 14' or less in height at variance with 1211.04 (k) which states a utility building shall be permitted in a rear yard provided that the maximum building size on lots 40,000 to 60,000 sf shall be 200 sf in area and less than or equal to 14' in height, an area variance of 100 sf.**

Mrs. Mossbruger, sworn in by Mr. Kelleher, explained they are seeking a variance to allow a 300 sf. shed. She explained they were granted a permit by the building department for the shed as the county showed that their property was larger than 60,000 sf. ft. but the permit was put on hold once construction began (footers are in) as the lot was not as large as originally thought. They paid for the permit, hired a contractor, began work believing the proposal was permitted and were then stopped by the building department due to the conflict in yard size. Mrs. Mossbruger explained they have a very large wooded lot and they are very active gardeners and have won Westlake in Bloom awards for their yard. Currently they are storing all of their equipment in their garage as they have no shed (they constructed their house three years ago). They would like to have the 300 sf. ft. shed to house all of their landscape equipment and to be able to use their garage to store their vehicles. They are very concerned with the appearance of their yard and the construction of the shed would allow them to properly store all the equipment needed to maintain the yard. They were told their yard is just shy of the 60,000 sq. ft. required for this size shed but the county records show the yard as larger than 60,000 sq. ft. At their previous house they had a shed that was 10' x 12' which is just too small for storage, especially for a yard this size.

Discussion ensued regarding the size of the yard and it was noted the county measures the lots on some older streets from the centerline of the road so they are larger per county records than the actual lot size. The lot is also not square which would reduce the amount of area, however, the board felt the lot was very close to the size lot which permits a 300 sq. ft. shed.

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

1. The Applicant's property is located at 31499 Lincoln Road.
2. The Applicant sought a single variance to allow the installation of a 300 sf shed at variance with 1211.04 which allows 200 sf for the lot size of 40,000 to 60,000 sf, an area variance of 100 sf.
3. If the Applicant's property was over 60,000 sf. they would be allowed a shed of 300 sf. without seeking a variance.
4. The Applicant's property has been estimated by the County Auditor to be slightly over 60,000 sf. and while that is erroneous, it is very close.
5. The variance was not substantial;
6. The adjoining properties would not suffer a substantial detriment and;
7. The spirit of the zoning code would not be violated by the granting of the variance.

**Motion:** Mr. Neverman moved, seconded by Mr. Lamb to approve a 100 sf. ft. area variance with the condition that no driveway ever be constructed to the rear of the property so that the shed cannot be used as a second garage and that the shed not be used for a commercial purposes now or in the future.

ROLL CALL:

Yeas: Lamb, Baesel, Neverman, Jones

Nays: None, motion carried

#### **Docket 2015-18**

**Applicant: David Jablonski**

**Premises: 3243 Canterbury Rd., PP#215-18-029**

**Requesting a building permit to install an addition 8'6" off the side property line, which creates a sum total width of both side yards for this lot of 23'7", at variance with 1211.08(e) which states the width of either side yard of a lot shall be not less than the respective dimensions as set forth in 1211.09 (15') and 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 the total width as set forth in 1211.09 (30'), a 6'6" side yard setback variance, and a 6'5" variance for the sum total of his two side yards.**

Mr. Jablonski, sworn in by Mr. Kelleher, explained his wishes to demolish his existing garage and build an addition to his house for a mud room and attached two car garage. Over the years he has built multiple additions to the home and this would complete what he would like to do. He is proposing that the garage be 8'6" off the property line but discussed that he would like a wider garage and could possibly reduce the size of the mud room to accommodate a larger garage. Access to the house from the garage would be through the mud room, which would be beneficial due to his children's sports.

Mr. Neverman reviewed the request and expressed that he was not in favor of the proposal as presented as the garage will be too close to the side yard line, closer than the existing garage, and this is a very deep lot (465') so another configuration of the garage could be designed so a variance was not necessary. Discussion ensued on options for the garage but Mr. Jablonski was not in favor of another configuration of the garage and preferred the design as proposed. Other members of the board agreed that this proposal may not be the best solution and some would be in favor of a variance to allow the garage at the same setback as the existing garage, which is 10'8" from the side lot line. Lengthy discussion ensued on the setback and the board was not in

support of a garage closer than the existing garage.

Councilman Nick Nunnari, sworn in by Mr. Kelleher, explained the past additions to the house have been nice improvements to the neighborhood and the architectural design of the garage would fit with the character of the house. He is in favor of the variance request.

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

1. The Applicant's property is located at 3243 Canterbury Road.
2. The Applicant sought two variances, the first to permit the construction of an addition (in order to replace an existing detached garage with an attached garage) 8'6" off the side property line where 1211.09 requires 15', and secondly a variance allowing 23'7" total width of the two adjoining side yards where 1211.09 requires 30', a 6' 6" side yard setback variance, and an 6'5" variance for the total width of these two side yards respectively.
3. The Board Found that as proposed by the Applicant:
4. The existing detached garage is 10'8" off of the side lot line.
5. The proposed attached garage will be even closer than the existing garage to the side lot line.
6. The Applicant's lot is very deep (465') so another configuration of the garage could be designed to make a variance unnecessary.
7. No real practical difficulty exists requiring the variance and the reason for the variance can be solved in another manner.
8. Subsequently the Board found however that allowing the addition to be situated the same distance (10'8") from the side lot line as the existing detached garage would:
9. Not cause a substantial detriment to the adjoining properties and;
10. The variance would not be substantial.
11. There will be no detrimental effect to the character of the neighborhood,
12. The spirit of the zoning code would not be violated by the granting of the variance.

**Motion:** Mr. Neverman moved, seconded by Mr. Swisher to approve a 4'4" side yard setback variance so the garage is setback 10'8" off the side lot line.

ROLL CALL:

Yeas: Lamb, Baesel, Neverman, Jones

Nays: None, motion carried

**Motion:** Mr. Swisher moved, seconded by Mr. Lamb to approve a 4'3" variance for the sum total of his two side yards (to allow 25'9").

ROLL CALL:

Yeas: Lamb, Baesel, Neverman, Jones

Nays: None, motion carried

### **MISCELLANEOUS**

None

### **APPROVAL OF MINUTES**

**Motion:** Mr. Swisher moved, seconded by Mr. Lamb to approve the minutes of June 30, 2015

ROLL CALL:

Yeas: Lamb, Swisher, Jones, Neverman  
Nays: None, motion carried

**FINDINGS OF FACTS**

**Motion:** Mr. Neverman moved, seconded by Mr. Lamb to approve the findings of fact for Docket 2015-12 Miclat

ROLL CALL:

Yeas: Lamb, Swisher, Jones, Neverman  
Nays: None, motion carried

**Motion:** Mr. Lamb moved, seconded by Mr. Neverman to approve the findings of fact for Docket 2015-13 Myers

ROLL CALL:

Yeas: Lamb, Swisher, Jones, Neverman  
Nays: None, motion carried

**ADJOURNMENT**

Chairman Jones adjourned the meeting at 8:52 P.M.

\_\_\_\_\_  
Matt Jones, Chairman

*Nicolette Sackman*  
\_\_\_\_\_  
Nicolette Sackman, Clerk of Commissions

Approved: 9-29-2015