



**BOARD OF ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
SEPTEMBER 29, 2015**

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

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

SELECTED CORRESPONDENCE

2015-20 Brandstetter

9/29/15 correspondence from Robert Tuneberg, 3008 Holly Ln. – objections
9/29/15 correspondence from Audry Karanovich, 25905 Yeoman Dr. – no objections
9/29/15 correspondence from Maureen & Gary Murphy, 3000 Holly Ln. – no objections

2015-22 Gabre

9/28/15 correspondence from Kathryn Climburg, 28223 Bassett Rd. – no objections

2015-23 Sacco

9/28/15 correspondence from Michael & Erin Sabetta, 959 Richmar Dr. – no objections
9/28/15 correspondence from Shawn & Melanie Sweeney, 999 Richmar Dr. – no objections
9/28/15 correspondence from Margaret Sweeny, 990 Richmar Dr. – no objections

DOCKETS

Docket 2015-19

Applicant: Gene Bernhard

Premises: 29995 Sequoia Trail, PP#217-24-057

Requesting to install a generator at 4'6" off the side lot line, 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 5'6" side yard setback variance.

Mr. Gene Bernhard, sworn in by Mr. Kelleher, explained he wishes to install a generator for necessity purposes as he lives in a subdivision that is in a flood zone. Bretton Woods has had flood issues for over 30 years and his property has flooded many times over the years. Currently he uses a temporary generator that he runs as needed. He would like to have a permanent generator that runs off natural gas so that if he is not home and the power goes off the generator

will run. The grade of his property is not what is shown on the plat and his lot is 3' lower than his neighbors so all of the water runs to his house and floods his basement. There are drainage issues and substandard sewers in his subdivision so a generator is a necessity. Mr. Bernhard reviewed the layout of his lot, which is a corner lot and heavily screened with many evergreens and landscape materials. He explained the generator will not be visible from the street due to all the screening. It will be placed on the side of the house next to the chimney in a location where the gas line is located. It cannot be located behind the house due to the windows and doors, plus there is no access to the gas line at the rear of the house and the patio would need to be removed. Mr. Bernhard and Mr. Kevin Muldoon, sworn in by Mr. Kelleher, explained the unit is not very noisy and is similar to an air conditioner unit. It cannot be located near a window or door for safety reasons. The test cycle for the unit will run five minutes once a week and they can set it to run at a time that would not disturb the neighbors.

Members of the board discussed the proposal noting that the applicant's request is not problematic and did review possible other locations to place the unit but due to windows could not go in the other suggested locations. Mr. Muldoon explained the unit must be a minimum of 5' away from any window or door. The board will like to see that the unit is screened and due to the amount of existing vegetation it appears that it will be screened from view from the street but will place a condition of approval that it continue to be screened and not visible.

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

1. The Applicants property is located at 29995 Sequoia Trail;
2. The Applicant sought a variance to install a generator at 4'6" off the side lot line, at variance with 1211.20(e) which, in this instance, allows a generator to be no closer than 10' from the side lot line and not visible from the street on which the lot fronts. This required a 5'6" side yard setback variance;
3. Applicant lives in a subdivision that suffers flooding;
4. The installation of a this type of generator (that runs off of natural gas) would engage the Applicant's sump pump in a flooding situation even if he is not home;
5. The grade of Applicant's property appears to be lower than that of his neighbor's and is therefore somewhat unique;
6. The generator will not be visible from the street due to all the existing landscape screening;
7. The generator could not located behind the house due to existing windows and doors;
8. The reason for the variance could not be solved in another manner;
9. The adjoining properties would not suffer a substantial detriment and;
10. 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 Docket 2015-19 as presented with the condition that the generator be screened or continue to be screened so that it is not visible from the street.

ROLL CALL:

Yeas: Lamb, Basel, Jones, Neverman

Nays: None, motion carried

Docket 2015-20

Applicant: Amy and Jeff Brandstetter

Premises: 25923 Chaucer Dr., PP#215-20-051

Requesting to install a 4' high chain link fence 1' 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 24' setback variance.

Chairman Jones stated that he would be abstaining from voting and discussion but in his capacity as chair would facilitate the discussion. Mr. Jeff Brandsetter and Mr. Greg Hebble (Elyria Fence) were sworn in by Mr. Kelleher. Mr. Hebble explained the applicant's lot is a corner lot and they wish to install a 4' chain link fence 1' off the sidewalk that will line up with their neighbor's fence that is along the sidewalk. They would like place the fence in this location so they are able to utilize more of their rear yard. Placing the fence 25' off the sidewalk puts the fence in the middle of their back yard. Mr. Hebble stated they were granted a permit but when the footers were inspected they were advised the fence had to be 25' off the planned right-of-way.

Mr. Brandsetter submitted letters from Audry Karanovich, 25905 Yeoman Dr., and Maureen & Gary Murphy, 3000 Holly Ln., in support of his request. He advised that three of the four neighbors on the corner have fences along the sidewalk and he would like to do the same thing as everyone else in the neighborhood. He did not think his request would diminish the character of the neighborhood. The letter received from Mr. Tuneberg was difficult to read but Mr. Brandsetter did not see the relevance of having a dog as many of the neighbors have dogs and have fences that are adjacent to the sidewalk.

Members of the board discussed the proposal and felt the intent of the code was that fences do not block the visibility of motorists and a 4' chain link fence did not block visibility. It was noted that some of the existing fences may have been installed prior to the current code which requires the 25' 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 25923 Chaucer Dr.
2. The Applicants sought to install a 4' high chain link fence 1' from the right-of-way at variance with 1211.04(b)(3) which requires (on a corner lot) that no fence, wall, or hedge shall be located within 25' from the planned right-of-way line. This required a 24' setback variance;
3. The fence, as proposed, will line up with their neighbor's fence (thought to be non-conforming) that is also along the sidewalk;
4. Placing the fence 25' off the sidewalk would put the fence in the middle of the applicant's back yard;
5. The proposed fence (chain link) would not block the visibility of motorists, which is believed by the board to be the primary purpose of this code section;
6. The adjoining properties would not suffer a substantial detriment;
7. There will be no detrimental effect to the character of the neighborhood, and;
8. 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 Docket 2015-20 as submitted.

ROLL CALL:

Yeas: Lamb, Basel, Neverman
Nays: None, motion carried

Docket 2015-21

Applicant: Greg and Debbie Steinberg

Premises: 29254 Grande Court, PP#216-27-055

Requesting to install a generator at 4'4" off the front building line, 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 15'8" building line setback variance.

Mrs. Steinberg, sworn in by Mr. Kelleher, explained they wish to install a generator at the side of their house adjacent to a bump out. They have a furnished basement and purchased the house a year ago. They were told by the previous owner that the basement has flooded in the past and Mrs. Steinberg would like to install a gas generator so that if power goes off the sump pump will still run to prevent flooding in the basement. She reviewed the layout of her yard, which is a corner lot and her house sits at a 45° angle on the lot. The location of the unit will be on the side of the house. This location, while closer to the street is actually further away from the neighbor's house. In anticipation of installing a generator they removed landscape and replaced a window with a ventless glass block window so the generator can go in the proposed location. This is the location of the gas line and if they were to try to place the unit at the rear of the house it would be closer to the neighbor's house, there are too many windows and doors at the rear of the house so there would be no location to place the unit. Plus the rear yard has an extensive patio and raised retaining garden walls that would be problematic for placement of a generator.

Discussion ensued that the unit should be screened so it is not visible from the street. Mrs. Steinberg advised that it will be as they removed the landscape in the proposed area so the unit could be installed and will replace it once the unit is installed. Members of the board are aware there are limitations as to where these units can be placed due to regulations and would like the unit screened.

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

1. The Applicant's property is located at 29254 Grande Court;
2. The Applicant sought to install a generator at 4'4" off the front building line at variance with 1211.20(e) which, in this instance allows a generator to be no closer than 20' from the front building line. This required a 15'8" building line setback variance;
3. The installation of a this type of generator (that runs off of natural gas) would engage the Applicant's sump pump in a flooding situation even if they are not home;
4. The position of the Applicants' home relative to their neighbor's property is angled and therefore somewhat unique;
5. The generator will be screened and not be visible from the street;
6. The generator could not located elsewhere due to existing windows, doors and the gas line, thus the reason for the variance could not be solved in another manner;
7. The adjoining properties would not suffer a substantial detriment and;
8. 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 approved Docket 2015-21 as submitted with the condition that the generator be screened per building code requirements.

ROLL CALL:

Yeas: Lamb, Basel, Jones, Neverman

Nays: None, motion carried

Docket 2015-22

Applicant: Andrew Gabre

Premises: 28255 Bassett Rd., PP#216-32-071

Requesting to install a 192 sf utility building 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 greater than 20,000 sf but less than 40,000 sf is no greater than 150 sf in area and less than 12' in height; an area variance of 42 sf.

Mr. Gabre, sworn in by Mr. Kelleher, explained he lives on a heavily wooded lot which requires a lot of maintenance and equipment to maintain the yard. In addition to the trees on his yard the adjacent lot is vacant with a lot of trees and those leaves and branches blow into his yard. In addition to yard maintenance equipment, he owns a power washer as he has a multi layered deck and sided house which requires power washing. He is permitted a 150 sq. ft. shed which just isn't large enough to house the equipment he owns, which he now stores partially on his covered patio. Mr. Gabre presented a photo showing the layout of how his equipment would fit in a 192 sq. ft. shed (12' x 16').

Members questioned the size of Mr. Gabre's lot, which is 30,000 sq. ft. Mr. Neverman felt the code should be reviewed relative to the size of shed that is permitted on a lot as the board is seeing frequent requests for larger sheds than 150 sq. ft. The board would like the planning department to review the code and suggest possible code amendments. There is an existing 8' x 8' plastic shed on the property which will be removed and the board reiterated that only one shed is permitted per parcel.

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

1. The Applicant sought a single variance to allow the installation of a 192 sf utility building at variance with 1211.04(k) which, in this instance, allows the structure to be no greater than 150 sf in area. This variance required an area variance of 42 sf;
2. The Applicant's property is heavily wooded lot (as is his neighbor's) requiring perhaps more equipment to maintain the yard;
3. The utility building as proposed will be preferable to the existing 8' x 8' plastic shed which is on the property now and will be removed as only one shed is permitted per parcel;
4. The variance was not substantial;
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 Docket 2015-22 as submitted.

ROLL CALL:

Yeas: Lamb, Basel, Jones, Neverman

Nays: None, motion carried

Docket 2015-23

Applicant: David Sacco

Premises: 1006 Richmar Dr.; PP#212-10-018

Requesting to install an 8' x 10' shed 1' from the side property line utility building at variance with 1211.04(k) which states a utility building shall be permitted in a rear yard with a minimum side and rear setback of 10'; a side yard setback variance of 9'.

Ms. Shannon Sweeny, sworn in by Mr. Kelleher, explained she was representing Mr. Sacco. The proposal is for an 8' x 10' shed setback off the side property line 1'. She explained at the back of the house the yard has a steep grade down to the creek and the only location to place the shed is the proposed location as it is the only flat area.

Members of the board discussed that while the rear yard is scenic there is no functional rear yard. To put the shed in the rear yard it would have to be on stilts and they felt this lot is unique with limited space to place a 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 1006 Richmar Drive;
2. The Applicant sought a single variance to allow the installation of a utility building (8' x 10' shed) 1' from the side property line at variance with 1211.04(k) requiring, in this instance, a minimum side yard setback of 10'. This variance required a side yard setback variance of 9';
3. The yard in the rear of the house has an immediate and steep grade down to a creek and because of this peculiarity, the proposed area is the only location to place the shed because it is the only flat area;
4. The property is unique;
5. There will be no detrimental effect to the character of the neighborhood, 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 Docket 2015-23 as submitted.

ROLL CALL:

Yeas: Lamb, Basel, Jones, Neverman

Nays: None, motion carried

Docket 2015-24

Applicant: Dirando Greszler

Premises: 28986 Fall River Dr., PP#216-20-039

Requesting to install an addition 13' off the side property line and the width of both side yards of this lot (@ addition) will be 25.5'; 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'), a 2' side yard setback variance 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 4.5' variance for the width of both side yards. At the location where this addition abuts an adjacent side yard, applicant is proposing a 13'

setback (adjacent yard is 12.5' at this location), a 4.5' adjoining side yards setback variance.

Mr. Alan Greszler and Mr. Richard Simon (contractor) were sworn in by Mr. Kelleher. Mr. Simon explained the Greszlers wish to expand their laundry room at the rear of the house and it will not encroach more than the existing house setback. The addition will be further off the lot line than the existing house is but since it is a new addition it must comply with current codes.

It was questioned if the house received a variance, which Ms. Sackman advised it did not and was constructed under an old code that permitted the smaller 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 28986 Fall River Drive;
2. The Applicants sought a total of 2 variances, both were side yard variances for an addition to their home that would put the addition less than 15 feet from the side property line as well as less than 30 feet in total, from the neighboring home;
3. As to the first requested variance, seeking to place the addition 13' off the side property line wherein 15' is required, the Board determined that:
4. The variance was not substantial;
5. The adjoining property would not suffer a substantial detriment and;
6. The spirit of the zoning code would not be violated by the granting of the variance.
7. As to the second requested variance seeking to place the addition 25.5' from the existing neighboring home wherein 30' is required, the Board found that:
8. The addition will be further off the lot line than the existing house is but since it is a new addition it must comply with current codes;
9. The adjoining property would not suffer a substantial detriment, and;
10. 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 2' side yard setback variance for Docket 2015-24.

ROLL CALL:

Yeas: Lamb, Basel, Jones, Neverman

Nays: None, motion carried

Motion: Mr. Neverman moved, seconded by Mr. Lamb to approve a 4.5' variance for the width of both side yards for Docket 2015-24.

ROLL CALL:

Yeas: Lamb, Basel, Jones, Neverman

Nays: None, motion carried

Motion: Mr. Neverman moved, seconded by Mr. Lamb to approve a 4.5' adjoining side yards setback variance for Docket 2015-24.

ROLL CALL:

Yeas: Lamb, Basel, Jones, Neverman

Nays: None, motion carried

MISCELLANEOUS

Mr. Neverman announced that he will not serve another term on the board and will retire in

December at the end of his term. He thanked the members of the board and they thanked him for his time and service on the board.

APPROVAL OF MINUTES

Motion: Mr. Neverman moved, seconded by Mr. Lamb to approve the minutes of August 25, 2015

ROLL CALL:

Yeas: Lamb, Jones, Neverman, Basel

Nays: None, motion carried

FINDINGS OF FACTS

Motion: Mr. Neverman moved, seconded by Mr. Lamb to approve the findings of fact for Docket 2015-14 Meyers

ROLL CALL:

Yeas: Lamb, Basel, Jones, Neverman

Nays: None, motion carried

Motion: Mr. Neverman moved, seconded by Mr. Lamb to approve the findings of fact for Docket 2015-15 Veillette

ROLL CALL:

Yeas: Lamb, Basel, Jones, Neverman

Nays: None, motion carried

Motion: Mr. Neverman moved, seconded by Mr. Lamb to approve the findings of fact for Docket 2015-16 Todd

ROLL CALL:

Yeas: Lamb, Basel, Jones, Neverman

Nays: None, motion carried

Motion: Mr. Neverman moved, seconded by Mr. Lamb to approve the findings of fact for Docket 2015-17 Mossbrugger

ROLL CALL:

Yeas: Lamb, Basel, Jones, Neverman

Nays: None, motion carried

Motion: Mr. Neverman moved, seconded by Mr. Lamb to approve the findings of fact for Docket 2015-18 Jablonski

ROLL CALL:

Yeas: Lamb, Basel, Jones, Neverman

Nays: None, motion carried

ADJOURNMENT

Chairman Jones adjourned the meeting at 8:35 P.M.

Matt Jones, Chairman

Nicolette Sackman, Clerk of Commissions

Approved: _____