



**BOARD OF ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
NOVEMBER 24, 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, Robert Swisher
ALSO PRESENT: Assistant Law Director Sean Kelleher and Clerk of Commissions
Nicolette Sackman

SELECTED CORRESPONDENCE

None

DOCKETS

Docket 2015-29

Applicant: Hannah Ghanem

Premises: 2577 Columbia Rd., PP#215-28-026

Requesting to install a utility building 5'4" from the side property line at variance with 1211.04(k) which states a utility building shall be permitted in a rear yard provided that the there is a minimum setback of 10' from both the rear and side property lines; a side yard setback variance of 4'8".

Mr. Nidal Ides, sworn in by Mr. Kelleher, explained he hired a paid a contractor to install a shed in his back yard. He assumed the contractor pulled all necessary permits but when he pulled permits for a fence he was installing one of the inspectors came out to inspect the posts and notified him that the shed could not be in the location it was placed. It was discovered that the contractor did not pull permits and has since disappeared as Mr. Ides has not been able to contact the contractor to rectify the situation. He is aware that the shed has already been constructed without proper permits and setback location but he is seeking a variance to keep the shed in its location as he assumed he had hired a reputable contractor. He did submit letters with his application from two of his three surrounding neighbors that they do not object to his proposal. The third neighbor is a renter and he has been unable to contact the property owner. He noted there is a privacy fence along the rear of his property line so the shed is not very visible to surrounding neighbors, other than the top portion of the shed which would still be visible in the proper location.

Members of the board questioned if there was previously a slab in the location of the shed, which Mr. Ides advised there was and he assumed the previous owner may have used it for a grill but he wasn't sure what they used the pad for. The slab had been expanded slightly for the new shed and there is a slope to the rear of his year. The shed is not visible from the street and does not

pose a negative impact on the neighborhood. It was discussed that the privacy fence is located 3' off the property line. It was also questioned and discussed if the contractor can be fined for installing a shed without a permit. The board was sympathetic to the applicant's situation, as he assumed the contractor pulled all the necessary permits, but noted they seem to get a lot of requests for forgiveness for structures installed without a permit in a location that does not comply with code. They questioned if fines are imposed by the building department for constructing items without a permit or variance. It was noted in this case the contractor was probably not a registered and licensed contractor.

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

1. Applicant's property is located at 2577 Columbia Rd.
2. The Applicant sought a variance to install a utility building 5'4" from the side property line at variance with 1211.04(k) which requires a minimum setback of 10' a variance of 4'8".
3. The shed has already been built because the Applicant alleged he believed that the contractor (secured from the internet) had pulled all necessary permits.
4. There is a privacy fence along the rear of applicant's property line so the shed is not very visible to surrounding neighbors, other than the top portion of the shed which would also be visible in the proper location.
5. The slab upon which the shed was placed pre-existed the current applicant's ownership and there is a slope to the rear of his yard.
6. The shed is not visible from the street.
7. Two of three surrounding neighbors (the third neighbor is a renter) do not object to this variance.
8. The adjoining properties would not suffer a substantial detriment and;
9. 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 side yard setback variance of 4'8".

ROLL CALL:

Yeas: Lamb, Basel, Jones, Neverman, Swisher

Nays: None, motion carried

Docket 2015-30

Applicant: Richard Najdusak

Premises: 2305 Dover Center Rd., PP#213-16-004

Requesting to install a second 240 sf utility building 12' high, and located 10' off the side property line at variance with 1211.04(k) which states a utility building (1) shall be permitted provided that such is not larger than what is permitted for applicant's sized lot (lots 60,000 to 80,000 sf shall be a 300 sf maximum building size with a minimum 15' side and rear yard property line setback); a variance for a second 240 sf utility shed (there is an existing 120 sf shed on this property); a 60 sf area variance to allow a total of 360 sf for both sheds; and, a 5' side yard setback variance.

Mr. and Mrs. Najdusak were sworn in by Mr. Kelleher. Mr. Najdusak explained he is seeking a variance to install a second shed. He has a very large deep wooded lot with a creek that runs through the rear yard. He has an existing shed that is 10' x 12' located on the opposite side of

the creek from his house that is accessed from a bridge that is on the property. That shed is more of a decorative structure, but it does house yard maintenance equipment, and is not visible from the house. Mr. Najdusak presented photos of the structure to the board. He explained that he has a multi-generational family living in his house being that his in-laws, kids and grandkids all live in the house with him and his wife. They have a lot of personal items and need a place to store all of their items. They wish to keep their personal items, such as antiques, separate from the lawn mower and yard equipment with gas motors, which is why they would like a second shed. The new shed will be 12' x 20' in a barn style design and located on the same side of the creek as the house so that they can keep an eye on the shed and items inside rather than locating it in the woods where it would not be visible. Mr. Najdusak is aware he will need several variances for his request. The proposed location would not require the removal of any trees. If he were to place the shed 15' off the side lot line per the code requirements he would have to remove trees.

Members of the board noted that in 1995 a variance was granted for a second garage and questioned why a second shed was necessary when the applicant has two garage areas and questioned if both garages were still on the property. Mr. Najdusak advised they were. The original garage is a lower level garage that is under the house and the second garage was an addition to the front of the house. They currently park vehicles in all the garage areas as they have a large family living in the house. Mr. Neverman questioned expanding the existing shed to the 300 sq. ft. allowable or removing the existing shed and building a one new bigger shed so there is only one shed and not two sheds and two garages. Mr. Najdusak spent a lot of money on the existing shed which is very decorative and would like to keep it, plus he does not want to mix the various household items and yard equipment in one shed. Chairman Jones felt the two garage areas were under one roof and all part of the house rather than an attached and a detached garage and this was a unique lot with the creek and lot size. He did not have an issue with the request in this case due to the lot size, creek, and divided garage area under one roof. Further discussion ensued on the two garage areas and two shed areas. The new shed will have electric in it.

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

1. Applicant's property is located at 2305 Dover Center Rd.
2. The applicant needed three variances; 1. To install a second utility building. 2. A 60' variance to exceed the 300 total sq ft restriction, and 3. a side yard property line setback variance of 5 feet.
3. As to all three variances the Board found that;
4. The Applicant has a very large deep wooded lot with a creek that runs through the rear yard.
5. The Applicant has an existing shed that is 10' x 12' located on the opposite (far) side of the creek from his house that is accessed from a bridge that is on the property.
6. The existing shed is a decorative structure and, while it does house yard maintenance equipment, it is not visible from the house.
7. The new shed will be 12' x 20' in a barn style design and located on the same (near) side of the creek as the house.
8. The proposed location would not require the removal of any trees.
9. The lot is unique given the creek and lot size.
10. The adjoining properties would not suffer a substantial detriment and;
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. Basel moved, seconded by Mr. Swisher to approve a variance for a second 240 sf utility shed (there is an existing 120 sf shed on this property) and the total amount of shed area should not exceed 360 sf.

ROLL CALL:

Yeas: Basel, Jones, Swisher

Nays: Neverman, Lamb, motion carried

Motion: Mr. Basel moved, seconded by Mr. Swisher to approve a 60 sf area variance to allow a total of 360 sf for both sheds.

ROLL CALL:

Yeas: Basel, Jones, Swisher

Nays: Neverman, Lamb, motion carried

Motion: Mr. Basel moved, seconded by Mr. Swisher to approve a 5' side yard setback variance for only the 240 sf. shed as shown on the plans submitted.

ROLL CALL:

Yeas: Basel, Jones, Swisher

Nays: Neverman, Lamb, motion carried

Docket 2015-31

Applicant: Jim Scharfeld

Premises: 830 Bassett Rd., PP#211-14-016

Requesting to install a utility building 6' from the side property line 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 4'. *Note: Shed was started without a permit

Mr. Scharfeld, sworn in by Mr. Kelleher, explained he is seeking a 4' side yard setback variance for a shed he is installing. There will be shrubs next to the shed to provide screening and the property is located in an industrial zoned area and is one of the few residential houses left in the area. He started to construct a new shed to replace his old existing shed and did not realize he needed a permit to replace an existing shed. The new shed is in the rear of the yard and the surrounding property owners do not have any objections to the request.

Members of the board discussed this is one of a few remaining houses in this location and it is quite possible in the future the houses will cease to exist and be replaced with industrial uses so they did not have any objections to the proposal. Mr. Ford also anticipated that in the future the house may no longer be there but since moving in he has been making improvements to the property. The board reiterated earlier comments regarding items being constructed without permits and then asking for forgiveness after the fact and what can be done on a case by case basis and this may be a matter for the building/property maintenance department.

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

1. Applicant's property is located at 830 Bassett Rd.

2. The Applicant sought a variance to install a utility building 6' from the side property line requiring a variance of 4'.
3. The shed was started without a permit.
4. The property is located in an industrial zoned area and is one of the few residential houses left in the area.
5. There will be shrubs next to the shed to provide screening.
6. The new shed is in the rear of the yard and the surrounding property owners do not have any objections to the request.
7. The adjoining property would not suffer a substantial detriment and;
8. There will be no detrimental effect to the character of the neighborhood.
9. The spirit of the zoning code would not be violated by the granting of the variance.

Motion: Mr. Neverman moved, seconded by Mr. Basel to approve a side yard setback variance of 4'.

ROLL CALL:

Yeas: Lamb, Basel, Jones, Neverman, Swisher

Nays: None, motion carried

Docket 2015-32

Applicant: Bradley Seybert

Premises: 2347 Beaver Creek, PP#214-30-084

Requesting to install a second separate garage area of 364 sf. to an existing home with an existing 836 sf of garage area (a combined total of 1200 sf.), at variance with 1211.04(a)(2) which states on lots of single family uses private garages shall be limited to one garage area and on lots sized 40,000 sq. ft. or more, maximum garage area shall be 1,200 sq. ft.; a variance to allow two separate garage areas.

Mr. Steve Schill, architect for the applicant, was sworn in by Mr. Seybert. He explained the applicant wishes to install a garage addition which is under the same roof line of the house and existing garage but is considered a second garage area. The addition is designed so the garage appears to be an "L" shape with a walkway between the existing garage and the new garage area. The total garage area will not exceed the total area permitted for the parcel. The "L" shape is being designed as at the rear of the new garage area will be a covered patio that is created in the space between the garage areas.

Members of the board discussed that this request seems to be not necessary as both garage areas are under the same roof line and asked for legal guidance. Mr. Kelleher explained the two garage areas are separate and have a separate wall and are not two spaces that are connected in the interior so they are considered two separate garage areas. Members of the board felt this type of a request should be permitted under the code and it is not an attached and detached garage and is all part of the same structure. It was noted that the board can suggest that the planning commission review the code requirements and could recommend to amendments to council. There are not very many cases that come before the board for type of a request and they can be addressed on a case by case basis.

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

1. Applicant's property is located at 2347 Beaver Creek.

2. The Applicant sought a variance to install a second separate garage area.
3. The additional garage area would be under the same roof line of the house and existing garage but would be considered a second garage area.
4. The total garage area will not exceed the total area permitted for the parcel.
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. Basel to approve a variance to allow two separate garage areas.

ROLL CALL:

Yeas: Lamb, Basel, Jones, Neverman, Swisher

Nays: None, motion carried

MISCELLANEOUS

Chairman Jones and members of the board thanked Mr. Neverman for his years of service and wished him well in his retirement.

APPROVAL OF MINUTES

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

ROLL CALL:

Yeas: Lamb, Jones, Neverman, Basel, Swisher

Nays: None, motion carried

FINDINGS OF FACTS

Motion: Mr. Neverman moved, seconded by Mr. Lamb to approve the findings of fact for Docket 2015-25 DiIorio

ROLL CALL:

Yeas: Lamb, Basel, Jones, Neverman, Swisher

Nays: None, motion carried

Motion: Mr. Swisher moved, seconded by Mr. Lamb to approve the findings of fact for Docket 2015-26 Schoenberger

ROLL CALL:

Yeas: Lamb, Basel, Neverman, Swisher

Abstain: Jones

Nays: None, motion carried

Motion: Mr. Neverman moved, seconded by Mr. Basel to approve the findings of fact for Docket 2015-27 Welo

ROLL CALL:

Yeas: Lamb, Basel, Jones, Neverman, Swisher

Nays: None, motion carried

Motion: Mr. Neverman moved, seconded by Mr. Basel to approve the findings of fact for Docket 2015-28 Assad

ROLL CALL:

Yeas: Lamb, Basel, Jones, Neverman, Swisher

Nays: None, motion carried

ADJOURNMENT

Chairman Jones adjourned the meeting at 8:21 P.M.

Matt Jones
Matt Jones, Chairman

Nicolette Sackman
Nicolette Sackman, Clerk of Commissions

Approved: January 26, 2016