

# Board of Zoning Appeals Public Hearing June 27, 2016 Minutes

Chairman Stanard called the Board of Zoning Appeals meeting to order at 6:03 pm.

PRESENT AT ROLL CALL: Mrs. Cooper, Mr. Pogatschnik, Mayor Renda, Mr. Stanard  
ABSENT: Mr. Bolek, Mr. Fritz

OTHERS PRESENT: Jeffrey Filarski, Village Engineer; Aimee Lane, Law Director; Rick Loconti, Building Official; Theresa Dean, Assistant Clerk

Mrs. Cooper made a motion seconded by Mr. Pogatschnik to adopt the minutes from the Board of Zoning Appeals Public Hearing on May 23, 2016.

ROLL CALL:

AYES: Mrs. Cooper, Mr. Pogatschnik, Mr. Stanard

NAYS:

ABSTENSIONS: Mayor Renda

MOTION CARRIED

At this time, Mrs. Lane administered the oath to those wishing to speak at this evening's meeting.

## **Chagrin Blvd River Development**

551 Chagrin Boulevard

Use Variance - Request for Lighting of Chagrin Bluffs Subdivision Sign

Mr. Stanard began by introducing the request for a use variance to light a subdivision sign and reminding the Board of Zoning Appeals that it does not have the authority to authorize a use variance. Therefore, the consideration is to make a recommendation to City Council for their approval if the recommendation is favorable.

Mr. Stanard opened the public hearing at 6:06 pm.

Jason Friedman, owner, and Anna Juras of Dimit Architects were in attendance to request permission to light the Chagrin Bluffs subdivision sign that will be installed at 551 Chagrin Boulevard. Mr. Friedman wishes to install low-level, wall-wash lighting so the subdivision sign can be seen at night. The lights he is proposing to use have an integral dimmer to control brightness. These are small LED light units that would be installed within the landscaping and not be visible from the road. Based on the manufacturer's recommendation for the area to be lit, he proposes installing four lights. The planned sign is nine (9) feet in length; the manufacturer recommends that one light be installed per twenty-four

(24) inches to be lit. The lights will be set ten (10) inches from each side with twenty-five (25) inches between each light.

Mr. Friedman brought in one of the lights as a sample and plugged it in to demonstrate how it can be dimmed.

As no one in the audience offered commentary, the Public Hearing was closed at 6:09 pm.

Mr. Stanard asked Mayor Renda how the ordinance came about to prohibit this type of lighting. Mayor Renda said that this pre-dated her term in office. Mr. Filarski thought it carried over from the previous Zoning Code; neither he nor the Mayor recalled it being a point of contention when the Zoning Code was last updated.

Mr. Stanard asked Mr. Filarski if the utility company would install a street light at the location, as this may impact the lighting on the sign. Mr. Filarski said that yes, a standard street light would be installed.

Mrs. Cooper felt that, because of the location at a bend in the road, some lighting may be needed to help identify the subdivision. However, she said that her preference be that lighting be minor enough to simply mark the entrance for safety purposes versus advertise the development. Mr. Friedman replied that he did not mention safety in his proposal but the intention is not for marketing; it is just to identify the development to anyone looking for the site. Mrs. Cooper asked if Mr. Friedman would be willing to work with the Village if, once installed, the lighting is determined to be inappropriate or too bright. He said that he would be, and that this particular style of light with the integral dimmer allowed for that flexibility.

Mrs. Lane added that, if the Board of Zoning Appeals makes the recommendation to Council to approve the use variance, the recommendation should be specific. She suggested that any lighting be subject to inspection and approval after installation. Mrs. Lane also mentioned that the standard in other sections of the Zoning Code referencing lighting of signs is that lighting not be of excessive brightness or causing hazardous glare; it would be appropriate for any recommendation on this variance to be subject to this same standard.

Mr. Pogatschnik commented that he would want to ensure that glare does not come from the unlit side of the sign.

At this time, Mrs. Lane read the Findings of Facts:

The applicant is seeking a variance from section 1325.08 and 1183.13 of the Codified Ordinances to install low-level lighting of the subdivision sight at 551 Chagrin Boulevard. The Board of Zoning Appeals finds that an unnecessary hardship does exist when considering the following:

1. The variance requested does not stem from a condition that is unique to the property at issue and not ordinarily found in the same zone or district. However, it has been noted that the subdivision entrance exists on a curve in Chagrin Boulevard.
2. Granting the variance will not have any material adverse effect on the right of adjacent property owners or residents. The applicant is using low-level, wall-wash lighting with an integral dimmer and has agreed to the condition that the light will not shine onto adjacent properties and will not

cause excessive brightness or hazardous glare. Also, neighbors were notified of the Public Hearing and no one attended to object.

3. Granting the variance will not have any material adverse effects on the public health, safety or general welfare of the Village of Moreland Hills. It appears that the lighting may, in fact, aid the public and safety forces in finding the street.
4. The variance is consistent with the spirit and intent of the code because the applicant has agreed to abide by the requirement that the lighting not be excessively bright or cause hazardous glare.
5. The variance sought is the minimum that will afford relief to the applicant.

Mr. Stanard made a motion seconded by Mayor Renda to approve the Finding of Facts.

**Roll Call:**

AYES: Mrs. Cooper, Mayor Renda, Mr. Pogatschnik, Mr. Stanard

NAYS: NONE

MOTION CARRIED

Mr. Stanard made a motion seconded by Mrs. Cooper to recommend that Council consider for approval a use variance at 551 Chagrin Boulevard for four (4) low-level, wall-wash light fixtures to illuminate the Chagrin Bluffs subdivision sign, conditioned upon acceptance by the Building Commissioner's inspection and that the lights be not excessively bright or create glare.

**Roll Call:**

AYES: Mrs. Cooper, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS:

ABSTENTIONS:

**Garcia Residence**

429 Bentleyville Road

Area Variance - Request for twenty-three point three (23.3) foot Side Yard Setback Variance

In attendance to represent the project were Patrick and Mara Garcia, homeowners; Henry Piper architect with MES/Sky Builders; and Mark Savransky, general contractor, MES/Sky Builders.

Mr. Stanard opened the public hearing at 6:20 pm.

Because the Garcias have previously appeared before the Planning Commission for approval to add a detached garage to their property, Mr. Piper gave a history of the project. One of the criteria for a home when the Garcias were searching for a new residence was that it have, or be able to have, a four-car garage. However, in corresponding with the Building Commissioner about a possible addition, they learned that the proposed placement would be a violation of the side yard set-back requirements specified in Schedule 1151.07(2)(c) and would, therefore, require a variance. Mr. Piper discussed the calculations required under note (c) which, in this instance, would require a seventy point three (70.3) foot side setback. He also mentioned that the home was built before note (c) was adopted and is itself now non-conforming.

The homeowners originally wanted to build the garage as an addition to the front of the house due to two characteristics of the home: it is rotated out of parallel to the street, and it has a front setback of one-hundred-forty-five (145) feet, significantly in excess of the required seventy (70) feet. Given the orientation of the home, the backyard of the home overlaps the adjacent property.

The owners and architect did not wish to pursue a variance request at that time and, as a work-around, proposed and obtained approval for a one point five (1.5) story detached garage as an accessory structure which would have had a footprint of twenty-four (24) by thirty-six (36) feet, a height of twenty-four (24) feet, and been located ten (10) feet from the property line, as required for accessory structures. However, due to the proposed positioning of the garage, the neighbors at 419 Bentleyville said that this would block the views from their back yard. Mr. Piper displayed photos showing the neighbor's home, property lines, and proposed positioning for the previously approved detached garage to illustrate how the views would be obstructed by the detached structure.

Mr. Garcia said they are looking at being long-term residents and feels that an attached garage makes more sense both in terms of Cleveland winters and in maintaining the backyard views for both them and for their neighbor.

At this time, their neighbor, Lisa Buescher, addressed the Board. She and her husband reside at 419 Bentleyville Road; their house is on the side where the garage would be added. She read a letter to the Village stating their "enthusiastic and unconditional support for the variance that Patrick and Mara Garcia are requesting for their property at 429 Bentleyville Rd., Moreland Hills." (A copy of the letter is attached as Appendix A). She stated that the variance request is mutually agreed upon; they feel the variance will enable the addition to be done in such a way to maintain views and property values for both properties.

Mr. Piper stated that the new design provides a forty-seven (47) foot side yard setback but that they cannot realistically place the addition with the seventy point three (70.3) foot set back required by note (c) in the Zoning Code. He went on to say that the requirements in note (c) have no "cap" on the maximum side yard setback requirement and could, at some point, extinguish the building envelop altogether.

As no additional comments were offered by anyone else in the audience, Mr. Stanard closed the Public Hearing at 6:34 pm.

Mr. Stanard clarified with Mr. Piper that, if this variance is granted, no detached garage will be built; Mr. Piper confirmed this. Mr. Piper also stated that there are functional advantages of an attached garage in terms of ease of use, particularly in bad weather.

Mayor Renda said she very much appreciated seeing how the Garcias have worked with their neighbor and the Village to come forward with the best solution. Mr. Stanard concurred and also appreciated Mrs. Buescher's willingness to speak on behalf of the project. Mrs. Cooper commented that she always supports an attached garage over one that is detached.

Mrs. Lane read the finding of facts, as follows:

Patrick and Mara Garcia, owners of the property at 429 Bentleyville Road, have requested a variance of twenty-three point three (23.3) feet from the requirements of Schedule 1151.07(2)(c) for a garage addition to be located forty-seven (47) feet from the side lot line.

1. Special conditions and circumstances do exist which are peculiar to the land or structure and which are not applicable generally to other lands or structures in the same zoning district. The existing relationship of the applicant's and neighbor's houses to the side property line and the applicant's and neighbor's mutual desire to preserve existing views and vistas, which are unique to these properties, would be compromised by the zoning-compliant detached accessory building previously approved. Additionally, application of the side yard setback regulation to the existing house and its configuration results in an unreasonably large side set back of seventy point three (70.3) feet.
2. The property in question will yield a reasonable return and can be of beneficial use without the variance. The applicant's and neighbor's property value and use are not necessarily dependent on the granting of the variance. However, granting the variance would support the underlying intent of the Code to enhance both properties by preserving views across the rear yard and would allow the applicant a larger and more useful building addition in lieu of the approved detached accessory garage.
3. The variance is not substantial when considering it would leave the existing separation between the applicant's and neighbor's houses unchanged and is the minimum necessary to satisfy the functional requirements.
4. The essential character of the neighborhood would not be substantially altered, nor would there be a detrimental effect on any neighbor's property as a result of the variance. The granting of the variance would have the positive result of preserving the existing rear yard views which would otherwise be blocked by the approved detached accessory building. Additionally, the adjacent neighbor has expressed her and her husband's support for the variance.
5. The variance will not adversely affect the delivery of government services.
6. The property owners did purchase the property with knowledge of the zoning condition.
7. Special conditions or circumstances do not exist as a result of the actions of the owner.
8. The property owner's predicament can feasibly be obviated through some method other than a variance. However, the previously-approved detached accessory building, which conforms to the Zoning Code, creates an aesthetic practical difficulty to both the applicant and the neighbor by blocking a mutually desired view and vista shared by the neighbor and the applicant.
9. The spirit and intent of the zoning requirement would be observed and substantial justice done by granting a variance. The established separation between dwellings would be maintained by granting the variance in lieu of the accessory building option.
10. The granting of the variance will not confer on the applicant any special privilege denied by this regulation to other lands, structures, or buildings in the same district.
11. A literal interpretation of the provision of this Code would create an aesthetic practical difficulty that this Board's action can alleviate to benefit both applicant and neighbor.

Mayor Renda made a motion seconded by Mr. Stanard to approve the Findings of Facts.

**Roll Call:**

AYES: Mrs. Cooper, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS:

MOTION CARRIED

Mayor Renda made a motion seconded by Mr. Stanard to approve the request for a twenty-three point three (23.3) foot side yard setback variance at 429 Bentleyville Road.

**Roll Call:**

AYES: Mrs. Cooper, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS:

MOTION CARRIED

As there was no other business, Mrs. Cooper made a motion seconded by Mr. Pogatschnik to adjourn the Board of Zoning Appeals meeting at: 6:38 pm.

**Roll Call:**

AYES: Mrs. Cooper, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS: None

Respectfully submitted,



Theresa Dean  
Assistant Clerk

419 Bentleyville Rd.  
Chagrin Falls, OH  
44022

June 16, 2016

Dear Moreland Hills Building Committee,

We are writing to voice our enthusiastic and unconditional support for the variance that Patrick and Mara Garcia are requesting for their property at 429 Bentleyville Rd., Moreland Hills.

The Garcia's approached us with a plan for additional garage space that they would like to attach to their current home. We appreciate their willingness to request a variance in trying to keep both properties views and backyards in keeping with the majestic nature of Moreland Hills properties. In our conversations with them, we also appreciate that they did not fully understand the importance of having an attached garage in northeast Ohio, the importance of preserving living space in their backyard, and the implications on property values.

We hope Moreland Hills will consider this variance as a mutually agreed upon request from property owners and neighbors. The variance will help both parties keep their property values and enhance the look of the owner's home in keeping with the current neighborhood. Thank you in advance for your consideration.

Sincerely yours,



Brendan and Lisa Buescher

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