

# Board of Zoning Appeals Public Hearing

## September 26, 2016

### Minutes

Chairman Stanard called the Board of Zoning Appeals meeting to order at 6:02 p.m.

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

ABSENT: Mr. Bolek

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

Mrs. Cooper made a motion seconded by Mr. Pogatschnik to approve the minutes from the Board of Zoning Appeals Public Hearing on June 27, 2016.

ROLL CALL:

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

NAYS:

ABSTENSION: Mr. Fritz

MOTION CARRIED

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

#### **Taylor Residence - Detached Garage, Area Variance**

279 Bentleyville Road

An area variance of six point three feet (6.3') is requested for a detached garage with a three point seven-foot (3.7') side yard set back.

Mr. Stanard opened the public hearing at 6:03 pm.

Richard Siegfried of RSA Architects was in attendance to represent the project. He said that the Taylor residence is located on a unique, nine (9) acre, steeply-sloping piece of property. The existing garage is in disrepair, and the house itself is small, with little storage. The proposal is to remove the existing garage and build a new garage in the same place. Because the foundation will be removed, a variance is required to position the new garage in the same location, which is currently non-conforming. The new garage will include a basement and additional second-floor storage. One new feature will be a stairway along the outside to access the second floor. Mr. Siegfried also pointed out a shaded area on the site plan where they wish to excavate to create a yard and garden space that does not currently exist. He distributed additional photos of the existing conditions.

Mr. Fritz asked about the planned excavation. Mr. Siegfried said the area will be seeded and a retaining wall added that matches an existing wall on the site. Mr. Fritz asked if there were additional erosion control measures planned. Mr. Siegfried replied no, not at this time.

As there were no comments from the audience, Mr. Stanard closed the public hearing at 6:07 pm.

Mr. Stanard asked for additional clarification about the condition of the hillside. Mr. Siegfried displayed the survey drawings and indicated that the new garage will be in the same location. There have been no problems in terms of the existing garage slipping, and excavation to create the lower level of the garage will take more weight off of the hillside than is being put on. A geotechnical report was previously done during planning for a large addition that was never built, and the recent report received from Summit Testing and Inspection Company indicates that this project should improve the hillside stability.

Mrs. Cooper asked for clarification about the topography of the site and pointed out the steep drop-off next to the garage. Mr. Siegfried replied that this is the area they wish to flatten and where a new retaining wall will be added. This will be a strong wall system by MacK Industries out of Medina. Mrs. Cooper pointed out that, per the letter from Summit Testing, the proposed retaining wall had not yet been evaluated. Mr. Siegfried replied that this is correct, as he did not have all of the necessary information from the contractor at the time Summit Testing made their report.

Mrs. Cooper asked if the size of the stairway had been reduced to keep it off the property line. Mr. Siegfried replied that the survey line needs to be reestablished in the field and that there is flexibility to narrow the stairs if needed. Mrs. Cooper commented that she drove by the property and agrees that this is the only reasonable place for the garage.

Mr. Fritz said that he agrees with Mrs. Cooper about the placement of the garage and asked Mr. Filarski if he agrees that removal of the soil to create a basement will make the site inherently more stable. Mr. Filarski replied that he does agree but requires a revised engineering report to address the proposed retaining wall. Mr. Fritz also asked if there were other suggested erosion control measures to be considered. Mr. Filarski replied that temporary control will be in place during construction. The area should not require permanent matting in the flat area above the garage and the need for matting in other areas can be determined by the landscaper.

Mr. Fritz also asked about trees on the site. Mr. Siegfried replied that there are no plans for timbering or removal of large trees.

Mr. Stanard verified with Mr. Filarski that he is comfortable with the temporary erosion control measures proposed during excavation to create the basement. He also asked if there were any potential drainage issues, and Mr. Filarski replied that the applicants have properly addressed drainage by running a discharge line to the bottom of the slope.

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

The applicant, Curtis Taylor, has requested a variance of six point three feet (6.3') for a detached garage to be located at 279 Bentleyville Road. This is a variance from section 1151.13 (b)(1). Mrs. Lane referenced the applicant's submission (attached as Appendix A). She also cited question nine (9), "Would the spirit and intent behind the zoning requirement be observed and substantial justice done by

granting a variance." The applicant replied "yes," and Mrs. Lane felt it should also be added that, in fact, the new foundation and basement will help stabilize the hillside.

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

ROLL CALL:

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

NAYS:

MOTION CARRIED

Mayor Renda made a motion seconded by Mrs. Cooper to approve the six point three-foot (6.3') variance for a detached garage at 279 Bentleyville Road contingent upon the Village Engineer's acceptance of a revised geotechnical report.

ROLL CALL:

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

NAYS:

MOTION CARRIED

As there was no other business, Mayor Renda made a motion seconded by Mr. Pogatschnik to adjourn the Board of Zoning Appeals meeting at 6:18 pm.

ROLL CALL:

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

NAYS:

MOTION CARRIED

Respectfully submitted,



Theresa Dean Assistant Clerk

Board of Zoning Appeals  
Area Variance Application Supplemental Information

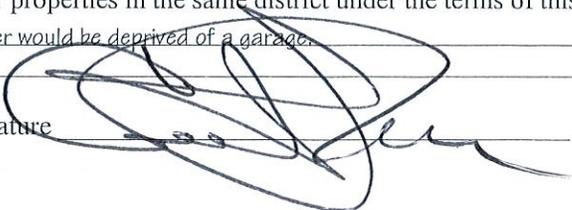
Application for property located at: 279 Bentleyville Rd

Variances from the terms of the Code shall not be granted by the Board of Zoning Appeals unless the "evidence demonstrates that the literal enforcement of this Planning and Zoning Code will result in practical difficulty."

In determining "practical difficulty", the Board of Zoning Appeals will consider the following factors:

1. Do special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district? Yes, the topography is unique to the site and is driving the need for a variance.
2. Will the property in question yield a reasonable return or can there be any beneficial use of the property without the variance? Less yield not having a garage will lesson the return
3. Is the variance substantial and is it the minimum necessary to make possible the reasonable use of the land or structures? Yes, the garage can only be located on the site in the area where the variance is required due to topography.
4. Would the essential character of the neighborhood be substantially altered or would adjoining properties suffer substantial detriment as a result of the variance? Not at all, Their is already an existing garage (in poor shape) that if the variance is granted will be replaced with a nicer garage. So it would help improve the neighboring properties.
5. Would the variance adversely affect the delivery of governmental services, such as water, sewer, or trash pickup? No
6. Did the property owner purchase the property with knowledge of the zoning restrictions? Yes
7. Do special conditions or circumstances exist as a result of the actions of the owner? No
8. Can the property owner's predicament feasibly be obviated through some method other than a variance? No, the topography prohibits it.
9. Would the spirit and intent behind the zoning requirement be observed and substantial justice done by granting a variance? Yes
10. Will the granting of the variance requested confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district: No, to our knowledge the condition is unique.
11. Would a literal interpretation of the provision of this Code deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code? Yes, due to the unique site and topography, the owner would be deprived of a garage.

Signature



Date

2/16/16