

BZA Public Hearing

May 23, 2016

Minutes

Chairman Stanard called the meeting to order at 6:01 pm.

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

ABSENT: Mayor Renda

Others Present: Jeff Filarski, Village Engineer; Aimee Lane, Law Director; Rick Loconti, Building Commissioner; Theresa Dean, Assistant Clerk

Mr. Fritz made a motion seconded by Mr. Pogatschnik to approve the minutes of the April 25, 2016 Board of Zoning Appeals Meeting with a correction to a typographic error on page four.

ROLL CALL

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

NAYS:

ABSTENTIONS: Mr. Bolek

MOTION CARRIED

Mrs. Lane administered the oath to those wishing to speak at this evening's Public Hearing regarding any of the items on the agenda.

In-Ground Pool - Side Lot Area Variance

36960 Chagrin Boulevard

Rule-Hoffman Residence

Mr. Stanard opened the Public Hearing at 6:04 pm. Mr. Rick Rule-Hoffman was present to request a five point zero three foot (5.03') variance from each side lot property line, east and west, to accommodate a lap pool measuring twenty-eight feet (28') long by twelve-feet (12') wide. Mr. Rule-Hoffman had previously requested area variances to accommodate an in-ground pool; this design has changed significantly since his last visit.

As there were no comments from the audience, Mr. Stanard closed the Public Hearing at 6:05 pm.

Mr. Fritz complimented Mr. Rule-Hoffman for working with the Board of Zoning Appeals and Planning Commission on his pool design and due-diligence was done in bringing a proposal that is closer to compliance with existing ordinances. Mr. Stanard seconded that opinion and commented that Mr. Rule-Hoffman is working with an unusually narrow lot. He noted that this plan is a complete reconfiguration from his previous proposal.

Mrs. Cooper also thanked Mr. Rule-Hoffman for his efforts. She asked about the fencing that was shown as part of Mr. Rule-Hoffman's proposed plans, and Mr. Loconti confirmed that it was in compliance with Village Ordinances.

Mrs. Lane summarized the finding of facts:

1. Special conditions and circumstances exist which are peculiar to the land or structure involved, specifically that the yard is very narrow: the backyard measures 61.94' wide by 89.73' deep.
2. There can be a beneficial use of the property without the variance, but the addition of a pool to the property will, in the future, yield a more reasonable return.
3. The variance is the minimum deemed necessary to make possible the reasonable addition of a pool in this lot's backyard.
4. The essential character of the neighborhood would not be substantially altered, and adjoining properties would not suffer substantial detriment as a result of the variance. No neighbors attended to voice an objection.
5. The variance would not adversely affect the delivery of governmental services such as water, sewer, or trash pickup.
6. The property owner did purchase the property with the knowledge of the zoning restrictions.
7. Special conditions or circumstances do not exist as a result of the actions of the owner, and the pool design has been drastically changed to meet the previous suggestion of the Zoning Board.
8. The property owner's predicament cannot feasibly be obviated through some method other than a variance.
9. The spirit and intent behind the zoning requirement will be observed and substantial justice done by granting a variance. The ends of the pool would be thirty feet (30') from the south property line and thirty feet (30') from the back of the house.
10. The granting of the variance requested would not confer on the applicant any special privilege that is 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 deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.

Mrs. Cooper made a motion seconded by Mr. Fritz to approve the Findings of Fact.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mrs. Cooper made a motion seconded by Mr. Fritz to approve a five-point-zero-three foot (5.03') area variance from both the east and west side property lines at 36960 Chagrin Boulevard for a pool.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Patio Wall Height - Area Variance

202 Meadowood Lane

Talisman Residence

The Public Hearing was opened at 6:11 pm.

Sandy Cohen with C. Rae Interiors was present to represent Bruce Tallisman. Ms. Cohen presented a design for a new patio incorporating a fire pit, low-walled outdoor kitchen, and low benches. She is requesting an area variance for the height of patio walls to be used as seating.

As there were no comments from the audience, the public hearing was closed at 6:12 pm.

Mr. Fritz asked if, at any point along the patio's perimeter, there is a significant drop in elevation that could create a danger if someone fell backward. Ms. Cohen, Mr. Fritz, and Mr. Bolek discussed the elevations, with Ms. Cohen pointing out measurements and indicating that some grading will happen during construction. She commented that two steps are shown on the elevations from the patio deck down to grade, though they are hoping to have only one, depending on how the land is graded. Mr. Loconti commented that the maximum height of exterior steps is eight (8) inches.

Mr. Loconti further clarified that the height requirement for determining if a railing is required is calculated from the patio deck, not the top of the surrounding wall. He feels that these plans are well within code for not requiring a railing and confirmed that the requested variance is for the height of the decorative wall.

Mr. Stanard said that, as previously noted, the issue of decorative/seating patio wall height is one that the Planning Commission plans to review for possible revision.

Mrs. Cooper clarified with Mr. Loconti that the proposed decorative wall is, at a maximum, three-feet, three-inches (3'3") high from the lowest point of the grade; therefore, the maximum variance allowed would be the difference between three-feet, three inches (3'3") and eighteen inches (18"), or twenty-one inches (21"). Mr. Loconti also clarified to Ms. Cohen that no variance is required for the wall that is part of the outdoor kitchen structure.

Mrs. Lane reviewed the Findings of Fact:

1. Special conditions and circumstances do not 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.
2. The property in question will yield a reasonable return and there can be a beneficial use of the property without the variance.
3. The variance, while substantial, does provide an improvement to the property and create additional outdoor living space.
4. The essential character of the neighborhood would not be substantially altered, and adjoining properties would not suffer substantial detriment as a result of the variance. No neighbors attended the hearing to object to the variance request.
5. The variance would not adversely affect the delivery of governmental services such as water, sewer, or trash pickup.
6. The property owner did purchase the property with the knowledge of the zoning restrictions.
7. Special conditions or circumstances do not exist as a result of the actions of the owner.
8. The property owner's predicament cannot feasibly be obviated through some method other than a variance.
9. The spirit and intent behind the zoning requirement will be observed and substantial justice done by granting a variance.
10. The granting of the variance requested would not confer on the applicant any special privilege that is 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 deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.

Mr. Bolek again asked about compliance with the building code and the need for fall protection. He said that his vote would be contingent upon the certainty that it is not a code-related issue. Mr. Loconti again said that it is not and that a guard is required only if the deck exceeds a height of thirty (30) inches.

Mr. Stanard, to Mr. Bolek's point, felt it would not be unreasonable to approve the application contingent upon the homeowner complying with all appropriate regulations of the Building Code of the State of Ohio. This was acceptable to both Mr. Bolek and to the architect. Mr. Loconti asked if there were plans for raised beds around the patio and Ms. Cohen replied that yes, beds would come up from grade.

Mr. Fritz made a motion seconded by Mr. Stanard to accept the Findings of Fact.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mr. Bolek made a motion seconded by Mr. Stanard to approve a maximum twenty-one (21) inch area variance for the height of the patio wall at 202 Meadowood Lane, contingent upon compliance with the Building Code of the State of Ohio.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Patio Wall Height - Area Variance

36030 Chagrin Boulevard

Austria Residence

Michael Supler of NewVista Enterprises, the architect for the project, was present to represent Dr. Mark Austria. Mr. Stanard declared the Public Hearing open at 6:27 pm.

Mr. Supler gave a description of the proposed patio, which includes two decorative walls to be used as seating. He pointed out the walls on the elevation and stated that they are asking for a six (6) inch area variance to raise the wall height from eighteen (18) to twenty-four (24) inches to allow for more comfortable seating

As no one in the audience commented on the project, the Public Hearing was closed at 6:28 pm.

Mr. Bolek asked for clarification on the site plan. Mr. Supler pointed out a utility area that appears behind one of the walls on the site plan and confirmed that the patio itself will be at grade. He also pointed out an area on the plan that would be slightly modified to extend the countertop of the proposed outdoor kitchen.

Mrs. Lane reviewed the Findings of Fact:

1. Special conditions and circumstances do not 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.
2. The property in question will yield a reasonable return and there can be a beneficial use of the property without the variance.
3. The variance is not substantial and is the minimum necessary to make possible the reasonable use of the land or structures.
4. The essential character of the neighborhood would not be substantially altered, and adjoining properties would not suffer substantial detriment as a result of the variance. No neighbors attended to voice an objection.
5. The variance would not adversely affect the delivery of governmental services such as water, sewer, or trash pickup.
6. The property owner did purchase the property with the knowledge of the zoning restrictions.

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.
9. The spirit and intent behind the zoning requirement will be observed and substantial justice done by granting a variance.
10. The granting of the variance requested would not confer on the applicant any special privilege that is 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 deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code. As noted in the course of discussion, the Village is in the process of considering an increase in decorative wall heights.

Mrs. Cooper made a motion seconded by Mr. Bolek to accept the Findings of Fact.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mrs. Cooper made a motion seconded by Mr. Bolek to approve an area variance of six (6) inches for two decorative patio seating walls at 36030 Chagrin Boulevard, contingent upon compliance with the Building Code of the State of Ohio.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Third Accessory Structure - Area Variance

10 Falls Creek
Miller Residence

Jeff Halpern was in attendance to represent his mother-in-law, Sydell Miller. Mr. Halpern will also be the contractor on the job. Mr. Stanard declared the Public Hearing open at 6:35 pm.

Mr. Halpern stated that his mother-in-law has asked him to build a sixteen by twenty (16 x 20) foot storage shed on her property. Mr. Halpern pointed out the proposed location; the site was originally a vacant lot that was split between Mrs. Miller and himself. He indicated that the lot is wooded and no trees will be taken down. The structure will be built as a pole structure and will be used primarily to store garden pots and other landscaping items that would otherwise be stored outdoors. Mr. Halpern said they also plan to plant trees or shrubbery such as arborvitae around the structure to further screen it.

As there were no comments from the audience, Mr. Stanard declared the Public Hearing closed at 6:37 pm.

Mr. Stanard asked about the two existing accessory structures on the property; Mr. Halpern replied that one is a glass gazebo with screen doors and the other is a small building to house pool mechanical equipment. Mr. Loconti and Mr. Halpern confirmed to the Planning Commission that the total square footage of all accessory structures will still remain under one-thousand (1,000) square feet with the addition of the proposed structure. Mr. Stanard asked about the size of the lot. Mr. Halpern replied that it was originally a buildable lot of approximately two point seven five (2.75) acres; it was split between and then consolidated with Mrs. Miller's and Mr. Halpern's properties. Mrs. Miller's property is now close to four (4) acres in size.

At Mr. Stanard's request, Mr. Halpern again clarified that the intended use of the proposed structure is for storage of outdoor equipment and materials. Mr. Halpern also confirmed that he is the only neighbor who would have a view of the structure.

Mrs. Lane reviewed the Findings of Fact:

1. Special conditions and circumstances do not 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. However, the property in question is heavily wooded, and the topography will help hide the proposed shed.
2. The property in question will yield a reasonable return and there can be a beneficial use of the property without the variance.
3. The variance is not substantial and is the minimum necessary to make possible the reasonable use of the land or structures.
4. The essential character of the neighborhood would not be substantially altered, and adjoining properties would not suffer substantial detriment as a result of the variance. There is no plan to remove trees to construct the shed; in fact, additional trees may be planted as screening.
5. The variance would not adversely affect the delivery of governmental services such as water, sewer, or trash pickup.
6. The property owner did purchase the property with the knowledge of the zoning restrictions, as constructive notice is deemed given when the owner purchases the property. However, the need for the storage shed was not anticipated at that time.
7. Special conditions or circumstances do not exist as a result of the actions of the owner.
8. The property owner's predicament cannot feasibly be obviated through some method other than a variance.
9. The spirit and intent behind the zoning requirement will be observed and substantial justice done by granting a variance.
10. The granting of the variance requested would not confer on the applicant any special privilege that is 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 deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.

Mr. Stanard made a motion seconded by Mr. Bolek to accept the Findings of Fact.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mr. Stanard commented that he appreciates that no trees will be felled for this project, that the lot is greater than three (3) acres in size, and that the existing accessory structures are a gazebo and a small utility building for pool equipment. The proposed third building would be for the storage of outdoor equipment necessary to maintain the property.

Mr. Stanard Made a motion seconded by Mr. Bolek to approve the third accessory structure building at 10 Falls Creek.

ROLL CALL

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

NAYES:

MOTION CARRIED

As there were no further comments or discussion, Mr. Fritz made a motion seconded by Mr. Pogatschnik to adjourn the meeting at 6:43 pm.

ROLL CALL:

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

NAYES:

MOTION CARRIED

Respectfully submitted,



Theresa Dean
Assistant Clerk