

MINUTES OF THE BOARD OF ZONING & BUILDING APPEALS, 6-3-2020

WEDNESDAY, JUNE 3, 2020 COUNCIL CHAMBERS, AVON CITY HALL

The meeting was called to order at 7:00 P.M. by Chairman Chauncey Miller.

Present: Michael Bulger; Bruce Klingshirn; Mark Ladegaard; Chauncey Miller; Kurt Schatschneider; Pam Fechter, Planning Coordinator; John Gasior, Law Director; Rick Schneider, Zoning Enforcement Officer and Jill Clements, Secretary.

MINUTES OF THE REGULAR MEETING – MAY 6, 2020

A motion was made by Mr. Ladegaard, seconded by Mr. Klingshirn to dispense with the reading of the regular minutes of Wednesday, May 6, 2020 and to approve said minutes as amended.

The vote was: “AYES” All. The Chairman declared the motion passed.

ADDITIONS/DELETIONS

EVAN NOVAK APPEAL

Evan Novak is requesting a 13’ front yard variance from C.O. 1262.08(c)(2) Minimum Yard Requirements for Accessory Structures to allow the construction of a driveway extension located at 3548 Case Road.

Evan Novak is sworn in by Mr. Gasior. Mr. Novak says they have small boys and would like to add a basketball hoop and they need the extra space for the drive extension. Mr. Novak says they did not want to bring it out to the street, so they need the extra space and the variance per City code.

A motion was made by Mr. Ladegaard, seconded by Mr. Klingshirn to approve a 13’ front yard variance from C.O. 1262.08(c)(2) Minimum Yard Requirements for Accessory Structures to allow the construction of a driveway extension located at 3548 Case Road. The vote was: “AYES” All. The Chair declared the motion passed.

BRIAN BUZAS APPEAL

Brian Buzas is requesting a variance from C.O. 1246.05(a)(1) Design Standards-Sidewalks, Walking Paths, Trails and Bicycle Paths to allow them not to install the sidewalks at their new home located at 3892 Nagel Road.

Brian Buzas is sworn in by Mr. Gasior. Mr. Buzas his parents deeded him some property and built a new home and is asking for delay on installing the sidewalk. Mr. Buzas says his house is surrounded by his parent’s property and the sidewalks would go to nowhere. On the property Mr. Buzas parent own is a grape vineyard and they don’t want to entice people to go onto the first couple of rows of the vineyard. Mr. Schatschneider asks how many miles of sidewalk is installed in Avon every year. Mr. Schneider says it varies from year to year depending on the program but is about 5,000-8,000 feet a year. Mr. Schatschneider says usually it surrounds developments, schools and Mr. Schneider says yes. Mr. Schneider says they try to connect schools first, churches, community centers then development to development and hopefully the whole City will have sidewalks. Mr. Schatschneider says eventually there will be sidewalks in the whole city, and he doesn’t have a problem with not putting the sidewalk in now but if you put it in now

MINUTES OF THE BOARD OF ZONING & BUILDING APPEALS, 6-3-2020

you won't be tearing up the yard. Mr. Buzas says they have about 1,300 feet of frontage that his parents own on the 42 acres. Mr. Buzas says he does know that doesn't include his property and understands that he will have to put them in eventually. Mr. Buzas says they would like to keep people away from the grapes. Mr. Schatschneider says he doesn't have a problem, but they will have to connect eventually and with building the house it's the best time. Mr. Ladegaard says it makes sense and if he will when it comes time, he's fine. Mr. Gasior says we have done this in the past and has an agreement to assess that we would ask Mr. and Mrs. Buzas to sign and return it. Mr. Gasior says grant the variance subject to them signing the agreements. Mr. Gasior says the agreement says he will agree to install sidewalks within 60 days of the City's request. If Mr. Buzas fails to do so, he agrees to voluntary assessment. Mr. Gasior says when the relief like this is granted, we want everyone to understand when the time comes, they will need to put the sidewalks in. Mr. Klingshirn says it will likely cost more 5 years from now.

A motion was made by Mr. Ladegaard, seconded by Mr. Schatschneider to approve the variance to allow the Buzas' not to install the sidewalks at their new home located at 3892 Nagel Road subject to the agreement being signed and returned. The vote was: "AYES" All. The Chair declared the motion passed.

DAVID SWOPE APPEAL

David Swope is requesting a 3' front yard variance from C.O. 1262.08(c)(2) Minimum Yard Requirements for Accessory Structures to allow the construction of a driveway extension located at 38750 Amberwood.

David Swope is sworn in by Mr. Gasior. Mr. Swope says that he would like to put an extension on his driveway off to the right. Mr. Swope says he has a 14 and 15 year and they will be driving. Mr. Swope says with his current promotion within the City he will be taking home a City vehicle which he would need to respond in, he hopes to add this to avoiding moving cars. Mr. Swope says he could do it without the variance if he moved it 3 feet but feels the extra 3 feet when measuring makes it better. Mr. Klingshirn says he noticed an electrical box and Mr. Swope says he hopes to put landscape around that when completed.

A motion was made by Mr. seconded by Mr. to approve a 3' front yard variance from C.O. 1262.08(c)(2) Minimum Yard Requirements for Accessory Structures to allow the construction of a driveway extension located at 38750 Amberwood. The vote was: "AYES" All. The Chair declared the motion passed.

ZZ'S BIG TOP APPEAL

Mathias Hauck of ZZ's Big Top is requesting a 9' front yard setback variance from C.O.12624.04 Lot and Yard Requirements to allow the construction of a deck and patio. They are also seeking a 3' height and 70% opacity variance from C.O. 1294.08(a) Fence Location, Height and Opacity to allow a 6' board on board fence in the front yard located at 35015 Detroit Road.

MINUTES OF THE BOARD OF ZONING & BUILDING APPEALS, 6-3-2020

Mathias Hauck of ZZ's, George Douzos of 5D Construction, and Christina Schmitz of SIXMO, are all sworn in by Mr. Gasior. Ms. Fechter says there is a new drawing and her and Mr. Schneider went out on site and met with Mr. Hauck. Ms. Fechter says Detroit Road could expand soon, but they wanted to protect the right of way area. Ms. Fechter says they asked to move the fence back and won't need the setback variance just the height and opacity. Mr. Miler confirms they will need height and opacity and Mr. Douzos says yes a 3' variance and 70% opacity. Mr. Douzos says the reason is to have the patio area surrounded with a 6' tall fence to give that some privacy from Detroit Road and isolation from people walking. Mr. Douzos says with the information of Detroit Road getting wider and closer to the building, it makes sense to have the 6' tall fence. Mr. Douzos says they are asking for 70% opacity to allow a board on board fence. Mr. Schneider confirms Mr. Douzos statements you allowed 30% and they want 100% so it's a 70% variance. Mr. Miller says because of the proximity to the road would they make consideration on the opacity. Mr. Miler says he knows they want privacy but also it would be nice to see if something is coming you can see to try to get out of the way. Mr. Schatschneider confirms the 3' railing around the front is fine and its agreed yes that is decorative and complies. Mr. Schatschneider asks about safety concerns and Ms. Fechter says they are aware of those and its in front of Planning Commission and they will look to see what they want, like bollards. Mr. Schatschneider says he feels 5' tall fence is adequate there and would like to see 50% opacity of visual contact to see out. Mr. Douzos asks why the one foot shorter. Mr. Schatschneider says he would be able to see what is coming and it allows air flow as well. Mr. Klingshirn says he thinks the Police might like something they can see through. Mr. Hauck says the fence that is around ABC is a zero see through fence. Mr. Schatschneider says that's in downtown Avon, and they have different rules there. Mr. Hauck says with the fence being set back, its 35' away from the street and Mr. Schatschneider says its still considered front yard. Mr. Hauck says parking and all entrances are on Jaycox Road. Mr. Klingshirn says corner lots have two front yards. Mr. Ladegaard clarifies they would need a 2' variance as they are allowed 4 foot. Mr. Ladegaard asks since the lots are not combined do both lots need to have a variance since a structure is going on over the property lines to another lot. Mr. Schneider says no, if they own both lots. Ms. Fechter says the County does not require consolidations. Mr. Ladegaard says so he can never sell that lot then. Mr. Schneider says he would have to remove the fence and deck. Mr. Ladegaard just wants to make sure its ok. Mr. Ladegaard says he had to come in for a variance for his dad since he owned the lot next door and the building encroached onto the other lot being next door, owning both. Ms. Fechter says its her understanding they can consolidate but the county doesn't require it. Mr. Gasior says they can consolidate, or they have done deed restrictions to cover that other parcel. Mr. Douzos says they won't have an issue with a letter stating if they sell that separately they will remove the fence. Mr. Gasior says if you own two lots you would have a zero setback on both lots since your straddling the line. Ms. Fechter says in Palmer, they didn't consolidate as they did a deed restriction. Mr. Ladegaard says when he bought some land, he consolidated it with no problems. Mr. Gasior says it would require a new survey to be done. Mr. Ladegaard says he's not asking for all that, he just wants to know should they give him a different variance for it being a structure with no primary dwelling. Ms. Fechter says, and they assign it to the parcel number since there is no address. Mr. Schneider says recently variances have been granted if you own both parcels of land, you could straddle a building on the property line, if you own both parcels. A discussion on if they should consolidate the lots or not or deed restrict the parcels continues referencing some past practices. Mr. Gasior says the deed restriction is important as the other property owner with the deck being on not the primary parcel of the deck. Mr. Douzos

MINUTES OF THE BOARD OF ZONING & BUILDING APPEALS, 6-3-2020

asks if they can make the commitment that if anything happens with the other property, they would remove the deck and fence. Mr. Gasior says yes, they have done that in the past but ideal is to resurvey both parcels to avoid any potential future issues. Mr. Hauck says there is some water way that does in between the properties and they can try to do that. Mr. Hauck says he wants to get up and going sooner than later. Mr. Douzos wants to know if they can keep moving forward and Mr. Gasior says they need to still get approval for the Special Use Permit from Planning and then Council. Mr. Schneider says last month a home was granted a variance for front yard setback and that house straddled two lots. Mr. Schatschneider asks if both of those lots are commercial, and it was determined yes and asks with it being commercial does that have any influence to allow him to move forward. Mr. Gasior says granting the area variance doesn't mean they will get the Special Use. Mr. Gasior says you can go forward tonight and vote with the understanding that Planning or Council might want them to consolidate or deed restrict. Ms. Fechter asks if it could be rolled into the Special Use to allow them to keep moving. Mr. Bulger asks if there is a requirement from the Liquor Board that they must follow about not allowing things to pass through. Mr. Hauck says you will come onto the patio from the building and not entrances from the street. Mr. Klingshirn says he doesn't like the height but agrees a one-foot variance to make it 5' is good and Mr. Miller adds he would like to have a little more opacity. Mr. Hauck asks if they staggered board with angles would that be acceptable. Mr. Miller asks if he agrees to the 5' and the staggered board on board with 50% and it was agreed.

A motion was made by Mr. Ladegaard seconded by Mr. Schatschneider to approve a 20% opacity variance from C.O. 1294.08(a) Fence Location, Height and Opacity to allow a staggered board on board fence with 50% opacity in the front yard located at 35015 Detroit Road. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Bulger seconded by Mr. Schatschneider to approve 1' height from C.O. 1294.08(a) Fence Location, Height and Opacity to allow a 5' high fence in the front yard located at 35015 Detroit Road. The vote was: "AYES" All. The Chair declared the motion passed.

COMMENTS

ADJOURN

A motion was made by Mr. Klingshirn, seconded by Mr. Schatschneider to adjourn. The vote was: "AYES" All. The Chair declared the motion passed. The meeting was adjourned at 7:51P.M.