

MINUTES OF THE MEETING OF THE BOARD OF ZONING & BUILDING APPEALS, 7-1-20

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 Gail Hayden, Acting Secretary

MINUTES OF THE REGULAR MEETING – JUNE 3, 2020

A motion was made by Mr. Schatschneider and seconded by Mr. Klingshirn to dispense with the reading of the minutes of the Regular Meeting held Wednesday, June 3, 2020, and to approve said minutes as published . The vote was: Mr. Bulger, “yes”; Mr. Klingshirn, “yes”; Mr. Ladegaard, “yes”; Mr. Schatschneider, “yes”; Mr. Miller, “yes”. The Chairman declared the motion passed.

ADDITIONS/DELETIONS

There were no additions or deletions to the agenda.

JOSEPH AND HEATHER CARLONE APPEAL

Joseph and Heather Carlone are requesting a 10’ 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 2459 Roxboro Street.

Joseph and Heather Carlone were sworn in by Mr. Gasior.

Mr. Carlone stated that they were there to request a variance for the driveway. He said that when they moved into Avon they asked for a three car garage and were told by their builder that they were not building those in that block. Then a few weeks after they moved in, all the houses with three car garages started to be built. Mr. Carlone said that they are a family of five and have a son who is going to be getting his driver’s license this year and another son right behind that who will also be getting his license. So they are looking to utilize the space for an extra car to prevent having to park in the street or block the sidewalk.

There were no questions from the Board.

A motion was made by Mr. Bulger and seconded by Mr. Ladegaard to approve a 10’ 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 2459 Roxboro Street. The vote was: Mr. Bulger, “yes”; Mr. Klingshirn, “yes”; Mr. Ladegaard, “yes”; Mr. Schatschneider, “yes”; Mr. Miller, “yes”. The Chairman declared the motion passed.

JEFFREY CRAWFORD APPEAL

Jeffrey Crawford is requesting a 312 sq. ft. variance from C.O. 1262.08(a)(2) Maximum Area and Number of Accessory Buildings to allow the construction of a detached covered patio to be located at 34418 St. Maron.

Jeffrey Crawford was sworn in by Mr. Gasior.

Mr. Crawford stated that he provided a topo with a drawing showing the location of where they would like their covered patio to go. It is 600 sq. ft. – 20' x 30'. He believes they are allowed 288 sq. ft. based on the 2% and the lot size so they are requesting the variance so they can make it adequate. Mr. Miller asked if it was basically open all the way around and Mr. Crawford said, yes. Mr. Schatschneider said that Mr. Crawford was asking for a pretty large size variance, over 100%, and asked if he had thought about reducing it down, like 20' x 20'. Mr. Crawford said that it was all about aesthetics and use and function and with 20' x 20', he might as well not build it. It would not be what they want. They are all about enjoying the outdoors as long as they can throughout the year so the 20' x 30' gets them that and it actually fits the back yard. Their patio is a very large amount of space out there so that should be taken into account. Mr. Schatschneider asked if the other homeowners have anything to say about it and Mr. Crawford said that they all support it; it enhances the community. Mr. Schatschneider said that the problem is that it is oversized by quite a bit. The Board usually gives variances but not that excessive. Mr. Crawford said to keep in mind that it is only about 2% of his property. Mr. Schatschneider said that has nothing to do with this Board; he is allowed 300 sq. ft. and he is asking for twice that amount. He asked if there was a way that Mr. Crawford could make it any smaller. He said they were going to have everybody in the whole development coming up and wanting to put one of these in their backyard. Mr. Crawford stated that their property is tucked away. There is a big basin behind their yard; no one is going to see the patio from the street. Mr. Schatschneider said that does not help them out here with granting variances. Granting variances of over 50-80-100% is something that they do not like to do.

Mr. Crawford stated that across from them there is a covered porch, a patio, that is twice the size of what they are doing right here. Mr. Schatschneider asked, but what is their 2% of their property? It all depends on that. He then said that was all that he had; he thought this variance is excessive.

Mr. Ladegaard stated that, as a Board, they have to keep things in line and a 20' x 30' is too excessive. 2% of Mr. Crawford's lot size of 14,563 sq. ft. gives him an allowable 291.26 sq. ft. Granting 100% variance, which is 20' x 30' would make it 600 sq. ft. and that is just too much. If they give him this, then they have to let everybody in the City do the same thing. He said that he would be ok with a 20' x 22' and that would give Mr. Crawford about a 50% variance.

Mr. Crawford said that he appreciated that but can we at least take into account the scale? He thought that scale is what is important, too, not just the 100% larger. When he thought about this, he thought about bigger and smaller and he scaled it all out and 20' x 30' just seemed like a very adequate, nice fit, scaled properly with the home and the back yard, so that is just his perspective.

Mr. Bulger stated that he was good with what Mr. Schatschneider and Mr. Ladegaard had said. Mr. Klingshirm said he had been to Mr. Crawford's home that day and that the patio is big. Mr. Crawford asked if it is big because of the 2% or is it big because you feel that it is too big? Mr. Ladegaard said, no, it is the 2%. Mr. Crawford stated that, with all due respect, it sounds like we are hung up on the 100% and he understands that and that is why he was there. The 2% just did not seem like it was adequate at all; he could not imagine putting a 291 sq. ft. covered porch there. They use that outdoor space to cook, to entertain, to gather, so they want it to be

appropriate and suitable for all that and a 291 sq. ft. area just does not allow them to do that. So he would just hope that we can look at it from a logical, common sense standpoint, not just the rule.

Mr. Ladegaard said, again, as far as he was concerned, if they let Mr. Crawford have this variance, then they have to let everybody; they have to open up that door. Mr. Crawford asked, do you have to let everybody? Isn't that why we do a variance, for a case by case? Let's look at the entirety of what is going on and make a sound decision; that is what he was asking for. Mr. Ladegaard said, yes, and where he was personally was at 20' x 22' and that is giving Mr. Crawford leeway. That is where he was but he could not speak for the rest of the Board.

Mr. Miller noted that Mr. Crawford had said that he had the approval of the Homeowners Association? Mr. Crawford said, yes, all the neighbors and one of them is a retired architect who is on the HOA and he runs all the architectural side of it. Mr. Klingshirn asked if Mr. Crawford had a letter from the HOA and Mr. Crawford said, no, he did not have a letter from anybody but all his neighbors got letters from the City so they are aware of what is going on. Mr. Miller stated that usually the Board likes to see an approval from the HOA. We could go ahead and vote on it contingent on getting that approval. Mr. Gasior said, yes, you could do it that way. You cannot issue the building permit, though, until you get the approval. If you are going to make it contingent on receiving that approval from the HOA, then you have to get the HOA approval letter in here.

Mr. Miller asked Mr. Crawford if he wanted the Board to vote on the original submitted size of 20' x 30'? Mr. Crawford asked if the negotiations were done and Mr. Miller said they were trying to come to a reasonable compromise with the square footage because they do not want it to be too excessive. Mr. Crawford asked, what about a 20' x 25' at the very least? That would keep the width he needs and the width is important. Mr. Schatschneider said that the 20' x 22' that Mr. Ladegaard had proposed would give them a 150 sq. ft. variance. 20' x 25' would be a 250 sq. ft. variance, which is almost 80%. He said that he could see the 20' x 22'. Mr. Crawford asked if they could compromise. Keep in mind that scale is really important here not so much that one size.

Mr. Bulger asked Mr. Crawford where he was at a compromise; what was he asking? Mr. Crawford said that he was asking to go to 20' x 25'. They are going to have an outdoor kitchen, a sitting area, a place to gather at the table and when you start putting all that into play, it is not a lot of room. Mr. Bulger stated that they have to follow what is set forward in the Ordinances and what is acceptable and that is why they try and make a compromise.

Mr. Miller asked Mr. Crawford if he would be acceptable with 20' x 25' and Mr. Crawford said, yes, he would be very appreciative. Mr. Klingshirn stated, plus we have to get the letter of approval from the HOA.

A motion was made by Mr. Schatschneider and seconded by Mr. Klingshirn to approve a 20' x 25' covered patio at 34418 St. Maron, contingent on a letter of approval from the HOA. The vote was: Mr. Bulger, "yes"; Mr. Klingshirn, "yes"; Mr. Ladegaard, "no"; Mr. Schatschneider, "no"; Mr. Miller, "no". The Chairman declared the motion defeated.

Mr. Crawford said, so the Board was all in agreement at 22' but not a 25'? Mr. Miller stated that they are voting on it. Mr. Schatschneider asked if Mr. Crawford wanted to reinstate and try to go

for 20' x 22'? Mr. Crawford asked if they would agree on a 20' x 24'? Mr. Ladegaard said that they can take a vote on it but he knew where he was. Mr. Crawford asked, so you are stuck on a 22'? Mr. Ladegaard said that he was not stuck; that is just what it was; it is what we have to do for everybody. They are there to make compromises and Mr. Crawford is asking for too much and that is just the way it is. It does not matter who was standing there. He was going to say the same thing to whoever was across from him asking for this. It is nothing personal. Mr. Crawford said that he did not look at it as personal. We are talking about 30 sq ft. He said that he appreciates the leeway that they are giving him but he was just trying to maximize a space for enjoying their home. Mr. Bulger said he understands that but he was just going with what is in front of him there. Mr. Crawford said again that he appreciates their giving him leeway from the original 291 sq. ft. He certainly wants the 30 sq. ft. but that is not going to happen, but is there a little flexibility between the 22' and the 25'? Is there at least a compromise there?

Mr. Miller stated that it was unusual but they could vote on it. Mr. Crawford said that he does not want it to be a perfect square as it is not aesthetically pleasing so if he could get a little more than the 22' to make it so that it is more of a rectangle, he thought that also weighs into the equation. Mr. Schatschneider suggested making it narrower, making it 18' wide, so that it does not look square. Mr. Crawford asked if they could approve a 20' x 23'?

A motion was made by Mr. Bulger and seconded by Mr. Klingshirn to approve a 20' x 23' covered patio at 34418 St. Maron, contingent on a letter of approval from the HOA. The vote was: Mr. Bulger, "yes"; Mr. Klingshirn, "yes"; Mr. Ladegaard, "yes"; Mr. Schatschneider, "no"; Mr. Miller, "yes". The Chairman declared the motion passed.

NICK CHAMBERS AND ANNA HANEY APPEAL

John Nash of Nash Project Management is requesting a 17'6" rear yard setback variance from C.O. 1262.04(d)(4) Lot and Yard Requirements to allow the construction of a covered roof over the patio with fireplace to be located at 36405 Montrose.

John Nash was sworn in by Mr. Gasior.

Mr. Nash stated that Mr. Chambers and Ms. Haney's house faces north and gets beaten with the sun. They want to spend more time at home now and want the patio to be shaded. Mr. Nash looked at their home and there is an existing breakfast room at the back of the house and an existing concrete, stamped patio. Basically they were just going to go over the patio and cover that area and put a fireplace on the back side. At some time during the process, he got hold of the Building Department and got a topo and then discovered that the breakfast room was not on the topo. So that is an existing part of the structure right now and sits back past the rear building line. Mr. Nash said he told them that they needed to go to the Board and get their variance approved and at that point it would take care of the original structure that is already there. They are on an inside corner and unfortunately, if the lot were a rectangle and an inside corner, then they would not be having this problem. But the short side on Truxton is substantially shorter than the side on the west. So on the west side the lot line is 179.7 ft. and they pick up a 15' front building line, 50' rear building line and then you take the house 52' off there, it leaves 27' as buildable and they are at 27'3" or something like that. The problem is that the lot goes across at an angle. So they are requesting a variance. It is going to be post foundations so it will not be any type of continuous foundation or anything enclosed; it is strictly for an outdoor cover over a stamped, concrete patio.

Mr. Schatschneider asked Mr. Schneider, the Zoning Enforcement Officer, if he ever found out what happened with that addition that is on there as far as a permit and Mr. Schneider answered, no, there was no permit for it. Mr. Schatschneider then asked if they accept this, do they need to have a variance for that addition to the building and Mr. Schneider said, no, because that is less than what is required. Mr. Schatschneider asked, it is in the 50 ft. setback? Mr. Schneider said that was correct. Mr. Schatschneider said, but the 17'6" is more than what that addition was; that is for the new addition that he is putting on? Mr. Schneider said, right, it is not the square footage of the area, it is just part of what is encroached into the rear yard setback.

A motion was made by Mr. Bulger and seconded by Mr. Ladegaard to approve a 17'6" rear yard setback variance from C.O. 1262.04(d)(4) Lot and Yard Requirements to allow the construction of a covered roof over the patio with fireplace to be located at 36405 Montrose. The vote was: Mr. Bulger, "yes"; Mr. Klingshirn, "yes"; Mr. Ladegaard, "yes"; Mr. Schatschneider, "yes"; Mr. Miller, "yes". The Chairman declared the motion passed.

ADJOURN

A motion was made by Mr. Ladegaard and seconded by Mr. Klingshirn to adjourn. The vote was:

Mr. Bulger, "yes"; Mr. Klingshirn, "yes"; Mr. Ladegaard, "yes"; Mr. Schatschneider, "yes"; Mr. Miller, "yes". The Chairman declared the motion passed.