

**AVON BOARD OF ZONING & BUILDING APPEALS
JULY 3, 2024, 6:00 P.M., COUNCIL CHAMBERS
REGULAR MEETING MINUTES**

ROLL CALL

The meeting was called to order by Chairman Ladegaard at 6:00 p.m. in Council Chambers.

Present: Michael Bulger, Bill Hricovec, Mark Ladegaard, Chauncey Miller, Kurt Schatschneider, Jill Clements, Zoning Enforcement Officer, Pam Fechter, Econ. Dev./Planning Coordinator, John Gasior, Law Director, Susan Pintz, Planning Commission & ZBA Secretary

Absent: Duane Streator, Safety Director

REVIEW & CORRECTION OF MINUTES

Mr. Schatschneider moved, seconded by Mr. Miller, to dispense with the reading of the minutes of the regular meeting held on June 5, 2024, and to approve the minutes as published. The vote was: "AYES" all. The Chair declared the motion passed.

REPORTS & CORRESPONDENCE

None

ADDITIONS & DELETIONS

None

APPEALS & REQUESTS

1. Robert and Carrie Trager, 3213 Stone Wheel Run Street, 41-24

Proposal consists of installation of a fence within a drainage easement.

The following variance is requested:

1. Variance to allow fence within drainage easement. C.O. 1248.19 Structures and Improvements within Utility Easement or Right-of-Way.

Carrie Trager, 3213 Stone Wheel Run Street, Avon, Ohio 44011 was sworn in. Mrs. Trager requested a variance for the installation of a fence over the easement at the rear section of her property line.

Chair Ladegaard said when the city allows a homeowner to install a fence within the easement, the homeowner needs to be aware and agree that if the city would need to access the easement, it would be the responsibility and at the expense of the homeowner for any removal and/or replacement of the fence.

Mrs. Trager said she is aware and agrees. Mrs. Trager signed the easement agreement.

There were no questions or other comments.

Mr. Miller moved, seconded by Mr. Hricovec, to approve a variance to allow a fence within a drainage easement. The vote was: “AYES” all. The Chair declared the motion passed.

2. Jon and Cindy Cromling, 3976 Williams Court, 42-24

Proposal consists of a covered roof structure to an existing building.

The following variance is requested:

1. 611.9 sq. ft. variance. Code allows 2948.14 sq. ft; applicant proposes a total of 3560 sq. ft. C.O. 1262.08(a)(2) Maximum Area and Number of Accessory Buildings.

**Tracy Schwark, Brady3, 32862 Pin Oak Parkway, Avon, Ohio 44011 (P.O. Box 499)
Property address, 3976 Williams Court.** Ms. Schwark was sworn in.

Ms. Schwark stated she is with Brady3, the contractor that will be doing the work for Mr. and Mrs. Cromling. She said they are requesting 2 variances. The property owners have an accessory building that is currently on the property, and they would like to add a covered roof structure to cover the concrete which would increase the lot coverage and then a side yard variance.

There were no questions or other comments.

Mr. Miller moved, seconded by Mr. Hricovec, to approve a 612 sq. ft. variance.

The vote was:

**Mr. Bulger “yes”, Mr. Hricovec “yes”, Mr. Miller “yes”, Mr. Ladegaard “yes”
Mr. Schatschneider “no”**

4 “AYES”

1 “NAY”

The Chair declared the motion passed.

2. 19.28 ft. side yard setback variance. Code requires 40 ft.; applicant proposes 20.72 ft. C.O. 1262.08(b)(2)(B) Accessory Building Setback Requirements.

Mr. Miller moved, seconded by Mr. Schatschneider, to approve a 19 ft. side yard setback variance, Code requires 40 ft., applicant proposes 21 ft.

The vote was:

**Mr. Bulger “yes”, Mr. Hricovec “yes”, Mr. Miller “yes”, Mr. Ladegaard “yes”
Mr. Schatschneider “no”**

4 “AYES”

1 “NAY”

The Chair declared the motion passed.

3. **Nicolae and Ioana Neogoe, 32967 Heartwood Avenue, 43-24**

Proposal consists of construction of a pavilion.

The following variance is requested:

1. 66 sq. ft. variance. Code allows 300 sq. ft.; existing 80 sq. ft.; applicant proposes 286 for total of 366 sq. ft. C.O. 1262.08(a)(2) Maximum Area and Number of Accessory Buildings.

John Rumancik, 37968 Egg Hbr, Avon, Ohio 44011 was sworn in. Mr. Rumancik is representing the property owners, Nicolae and Ioana Neogoe. He said they are requesting a 66 sq. ft. variance for construction of a pavilion for the deck the homeowners have on their house.

Mr. Hricovec asked if the pavilion is constructed from a kit that is then put together. Mr. Rumancik said no and there are examples on Detroit Road.

There were no other questions or comments.

Mr. Schatschneider moved, seconded by Mr. Bulger, to approve a 66 sq. ft. variance. The vote was: “AYES” all. The Chair declared the motion passed.

4. **Schafelets, LLC, Steve Schafer, 2764 and 2760 Trinity Court, 44-24**

Proposal consists of new construction of a detached garage.

The following variance is requested:

1. 460 sq. ft. variance. Code allows 500 sq. ft.; applicant proposes 960 sq. ft. C.O. 1262.08(a)(1) Maximum Area and Number of Accessory Buildings.

Steve Schafer, Schafer Development, 1471 Lear Industrial Parkway, Avon, Ohio 44011 was sworn in. Mr. Schafer stated there is an existing garage on the property that is 24 ft x 36 ft. He requested to change the direction of the garage as it will be a better direction when entering. He was attempting to get a 2-car garage with 2 doors that would be 16 feet which would then be a 24 ft x 40 ft garage. That is what he submitted to the Zoning Department but then realized that he needed a variance. He said he could duplicate the existing garage and then change the direction of the garage and keep the size as 24 ft x 36 ft. and just get smaller doors.

Mr. Bulger and then Mr. Schatschneider asked if the garage would stay the existing size.

Chair Ladegaard stated yes

There were no other questions or comments.

Mr. Hricovec moved, seconded by Mr. Schatschneider, to approve a 364 sq. ft. variance for a total of 864 sq. ft. The vote was: “AYES” all. The Chair declared the motion passed.

5. **Steve and Michele Dobnikar, 2437 Chelsea Street, 45-24**

Proposal consists of installation of an inground pool encroached within front setback.

The following variance is requested:

1. 15 ft. front setback to allow in ground pool to encroach within the front setback. C.O. 1262.08(c)(4) Minimum Yard Requirements for Accessory Structures.

Steve and Michelle Dobnikar, 2437 Chelsea Street, Avon, Ohio 44011 were sworn in.

Mr. Dobnikar requested approval of a 40-foot side yard variance for installation of an inground pool. He said their lot is situated in a manner that the pool will be in the backyard but the way the road turns their lot would be considered a corner lot even though it is not actually a corner lot.

There were no questions or comments.

Mr. Miller moved, seconded by Mr. Bulger, to approve a 15 ft. front setback to allow an in-ground pool to encroach within the front setback. The vote was: "AYES" all. The Chair declared the motion passed.

6. **James and Jane Voelker, 37210 N. Doovys Street, 46-24**

Proposal consists of a shed to be located within a sanitary easement.

The following variance is requested:

1. Allow 15ft. x 8ft. shed to be located 10 ft. in a sanitary easement. C.O. 1248.19 Structures and Improvements within utility easement or right of way.

James and Jane Voelker, 37210 N. Doovys Street, Avon, Ohio 44011 were sworn in.

Mr. Voelker requested to install a storage shed on the northwest corner of their property within the sanitary easement and said this would not impair any of the water getting into the culvert. He said this would also allow them to have access to the rest of the backyard without having to remove existing landscaping. This structure would not be permanent, it could be removed from the property.

Chair Ladegaard stated when the city allows a homeowner to install a structure within the easement, the homeowner needs to be aware and agree that if the city would need to access the easement, it would be the responsibility and at the expense of the homeowner for any removal and/or replacement of the structure.

Mr. and Mrs. Voelker stated they are aware and agree to the terms and signed the agreement.

Mr. Kenneth Kinzel, 37246 N Doovys Street, Avon, Ohio 44011 was sworn in. He stated he opposes the easement request. He said it has been there for 25 years and he does not want anything to change. He felt Ms. Clements was incorrect in her assessment of the measurement to the easement. He believed that Ms. Clements thought the property line was going down the driveway. He had a drawing that he shared with the board. Mr. Kinzel said he is a neighbor to Mr. and Mrs. Voelker. He stated the utility road is between both of

their houses. He thinks Ms. Clements thought the property line was in the middle of the asphalt, which it is not. He said when he spoke with Ms. Clements, she said the structure could be about 1 foot away from the property line, but it is supposed to be 5 feet. He said he wanted to keep the easement the way that it is currently with no changes.

Ms. Clements stated that when she spoke with Mr. Kinzel, she told him any normal shed would need to be 5 feet from any property line, the 1 foot was never mentioned.

Mr. Kinzel said Ms. Clements stated it would be under 5 feet.

Ms. Clements replied that the homeowners are proposing 10 feet off the property line because the easement is 20 feet. She said it goes from the property into their yard 20 feet and Mr. Kinzel's.

Mr. Kinzel said yes that is correct.

Ms. Clement said correctly, it will go 20 feet towards Mr. Kinzel's and 20 feet towards Mr. and Mrs. Voelker's property. It is a 40-foot easement. Mr. and Mrs. Voelker are asking to be 10 feet off the property line.

Mr. Kinzel said if this is 5 feet off the property line it will affect the property value.

Chair Ladegaard stated it will be 10 feet off the property line.

Mr. Kinzel said he had no problem with that, but Ms. Clements said it would be 1 foot away or less than 5 feet away.

Ms. Clements stated she did not say that and always maintained it would be 10 feet off the property line, nothing is permitted within 1 foot of the property line.

Mr. Gasior stated what is being discussed is 10 feet.

Mr. Kinzel stated he is fine with that.

There were no other questions or comments

Mr. Miller moved, seconded by Mr. Hricovec, to approve a 15 ft. x 8 ft. shed to be located 10 ft. in a sanitary easement. The vote was: "AYES" all. The Chair declared the motion passed.

7. Konstadinos Dagiasis, 2980 Clearbrook Drive, 47-24

Proposal consists of construction of a pavilion.

The following variance is requested:

1. 112.6 sq. ft. variance. Code allows 2%-287.5; applicant proposes 400 sq. ft. C.O. 1262.08(a)(2) Maximum Area and Number of Accessory Structures.

**Konstadinos Dagiasis, 2980 Clearbrook Drive, Avon, Ohio 44011 was sworn in.
Kyle Klein, 133 Northfield Drive, Elyria, Ohio 44035 was sworn in.**

Mr. Klein stated they are requesting a 112 sq. ft. variance to install a pavilion. He provided Chair Ladegaard with an HOA approval letter.

Mr. Schatschneider asked what the HOA letter stated.

Chair Ladegaard said the HOA letter approved the project. He also said that an email was received from a neighbor that expressed disinterest in this project.

There were no other questions or comments

Mr. Miller moved, seconded by Mr. Schatschneider, to approve a 112.6 sq. ft. variance. The vote was: "AYES" all. The Chair declared the motion passed.

8. Doug Reynolds, 31880 Mills Road, 48-24

Proposal consists of a 28 ft. x 60 ft. accessory structure.

The following variance is requested:

1. 55 ft. side yard setback. Code requires 60 ft.; applicant proposes 5 ft. C.O. 1262.08(c)(4) Minimum Yard Requirements for Accessory Structures.

Doug Reynolds, 31880 Mills Road, Avon, Ohio 44011 was sworn in. Mr. Reynolds is requesting construction of an accessory structure 5 feet off the property line. He said both of his neighbors signed off stating they were not opposed to this request. He said the way the ordinance is written that if the property is over 2 acres it must be the length of the building, but his property is only 100 feet wide so that variance does not help him because his property is not wide enough to build 60 feet off the property line. He is requesting a 5-foot variance so that he can have the structure in the center of his property and be able to drive into the driveway.

Chair Ladegaard asked if he would consider being a little further off the property line and he suggested 15 feet off the property line?

Mr. Reynolds said if his neighbors asked him to be further off the property line he would consider it but since they do not have an issue with the 5 feet off the property line. Mr. Reynolds said would prefer the 5 feet off the property line. He said it would be more difficult for him to increase the distance off the property line.

Mr. Bulger had no questions.

Mr. Schatschneider asked if Mr. Reynolds would consider 10 feet off the property line.

Mr. Reynolds said no he would not consider that.

Mr. Schatschneider had no other comments.

Mr. Hricovec asked if he would consider 12 feet off the property line. Mr. Hricovec indicated that is the distance that most out buildings, in normal situations, on a normal lot

would be. He said the reason for that is, if for some reason, a piece of equipment would be needed to access that area it would be difficult. He realizes that Mr. Reynolds or his neighbors do not have an issue with the distance but potentially a future homeowner might have an issue. It might be a scenario where the neighbors do not get along, or maybe if the homeowner would try to fix or paint the structure there would not be enough room.

Mr. Miller stated he agreed with Mr. Hricovec.

Mr. Reynolds stated this request was approved about 3 years ago for 5 feet off the property line. He doesn't understand why the ordinance sets a bigger side yard requirement. His property is not wide, it is long.

Mr. Hricovec stated that is the reason he would be agreeable to 12 feet off the property line for a house.

Shelly Reynolds, 31880 Mills Road, Avon, Ohio 44011 was sworn in. Mrs. Reynolds would appreciate it if the variance did not have to be 12 or 15 feet off the property line. She does not want to look at the rear of her house and see a shop from her yard. She wants to see her backyard with the trees not a building in the back. She said her neighbors agreed and have no issue. She said this same request was granted when they purchased the property, and it was in the records, but the approval expired before they could start to build, and they had to reapply.

Chair Ladegaard stated the current request is a bigger building by about 10 feet.

Mr. Reynolds stated the square footage is only slightly bigger.

Chair Ladegaard said he would be agreeable to 10 feet off the property line and indicated to Mr. Reynolds that being 10 feet off the property line would allow him access to drive around and/or do maintenance around the structure.

Mr. Reynolds said he appreciated that advice.

Mr. Reynolds said the neighbors would do anything to help him and if they needed to come to the BZA meeting they would to show support. He has done a lot for this property. He said his house would have been built much sooner. However, 3 years ago he was dealing with some ordinance issues and that had to be resolved before he could start building his house which put him behind about 1-1/2 years behind schedule.

Mr. Gasior stated to Mr. Reynolds point, 3 years ago when he was in the process to develop his property the city realized that the 36-inch storm sewer was coming in from North Ridge underneath Mills Road right in front of Mr. Reynolds property. The city could not let Mr. Reynolds build his house until he agreed to enclose the ditch and upsize to install a 36-inch sewer, which was probably about \$20,000.00

Mr. Reynolds said that cost was only the labor and he paid for that.

Mr. Gasior said Mr. Reynolds did what he had to do to be compliant, which then caused him some delays. He indicated that he is not saying these are grounds to grant the variance request, but Mr. Reynolds did have to do quite a bit of work on the storm sewer in the front yard to install a driveway and connect it to Mills Road.

Mr. Reynolds stated that was a huge cost to him and that wasn't for him but rather for the city's infrastructure. He said the total bill including material, labor and surveying was over \$40,000.00.

Mr. Gasior said the city paid a portion of the sewer.

Mr. Reynolds said the city paid \$8,000.00 toward the bill. He believes since the city paid a portion and the city admitted in writing they were partially responsible for that and because it was such a big sewer they were not going to uphold the ordinance. He said the ditch was required to be installed to get a permit.

Mr. Gasior stated the bottom line is that Mr. Reynolds has put a lot of money into this property to get it buildable, it is a bowling alley style lot, and he does not have any objections from the neighbors. Mr. Gasior wanted to make that background part of the record.

Mr. Schatschneider said it doesn't cost anything to make the structure 10 feet off the property line. He thinks everyone would be agreeable to that, only 5 feet would be lost.

Mr. Reynolds reiterated his neighbors have no issues with the request.

Mr. Schatschneider asked if his neighbor has a structure 5 feet off his property line would Mr. Reynolds be agreeable to that.

Mr. Reynolds said one neighbor has a structure 2 feet on his property line.

Mr. Gasior states there is an issue with the property lines that began at the Westlake boundary line, and he knows the city has had to deal with several issues between property owners because whoever surveyed the property going from the Westlake line to the Countryside Estates was not accurate. He said there were properties that the city was not going to reform all the deeds on that strip of land so then each individual property owner had to deal with whatever encroachments there were.

Mr. Reynolds stated if it were surveyed now, he would be approximately 8 maybe 9 feet from the property line if everything was correct, but it was surveyed by someone his neighbor knew.

Mr. Gasior stated that the survey was quite a while ago, maybe the 80's or 90's. He said there was a dispute between 2 property owners. He said the city left the issue for the neighbors to resolve because the city was not in a position to go to court and have everyone on the strip of road have their deeds reformed. The property owners resolved their disputes internally. Therefore, Mr. Reynolds may be correct in saying that his property may be 8 feet over from where we are claiming the property line is.

Mr. Reynolds is asked for some empathy with his request. The ditch was a sore spot for him because it took him about 1-1/2 years of building. He has done a lot to make the property work. He got the ordinance before he built it because he wanted to make sure this was going to work the way he wanted it, or he wasn't going to build on the property. He said part of the reason he bought the property was so he could have an outbuilding. He never knew the variance approval would expire until a month ago when he went to get the permit.

Mrs. Reynolds asked why it would be an issue to the city to grant his request.

Mr. Ladegaard stated this would be setting a precedent and the 55-foot variance is an excessive request.

Mrs. Reynolds asked why it was approved before?

Chair Ladegaard did not know.

Mr. Reynolds said his other neighbor does not have a well-kept yard and this structure will block that.

There were no other questions or comments.

Mr. Miller moved, seconded by Mr. Schatschneider, to approve a 55 ft. side yard setback.

The vote was:

Mr. Bulger "yes", Mr. Hricovec "yes", Mr. Miller "yes"

Mr. Schatschneider "no"

Mr. Ladegaard "no"

3 "AYES"

2 "NAYS"

The Chair declared the motion passed.

9. James and Jill Swab, 38849 Bridle Court, 49-24

Proposal consists of an awning over a patio.

The following variance is requested:

1. 7 ft. 7 in. rear yard setback. Code requires 50 ft.; applicant proposes 42 ft.5 in. C.O. 1262.04(d)(4) Yard Requirements-Rear Yard.

Mike Sheets, Brightcovers, 3453 West 140th Street, Cleveland, Ohio 44111 was sworn in. Mr. Sheets is requesting on behalf of the homeowner approximately a 7-foot setback for an aluminum awning over an existing deck. This will be attached to the deck post, the wall and siding and will not be using any additional area.

There were no comments.

Mr. Bulger moved, seconded by Mr. Schatschneider, to approve a 7 ft. 7 in. rear yard setback. The vote was: “AYES” all. The Chair declared the motion passed.

10. The Vinnce Group, LLC, 37399 French Creek Road, 38-24

Proposal consists of a new commercial building.

The following variance is requested:

1. 31 parking space variance. Code requires 44; applicant proposes 13. Section C.O. 1292.04(d)(6) Required Off-Street Parking Spaces-Personal Services.

Mr. Schatschneider moved, seconded by Mr. Miller to un-table The Vinnce Group Appeal. The vote was: “AYES” all. The Chair declared the motion passed.

Mr. Schatschneider moved, seconded by Mr. Hricovec, to table to the August 7, 2024 meeting. The vote was: “AYES” all. The Chair declared the motion passed.

11. Millenium Holdings, 34654 Mills Road, 12-24

Proposal consists of (2) 5 ft. x 3 ft. Double face non-illuminated directional sign.

The following variance is requested:

1. 9 sq. ft. variance. Code allows 4 sq. ft.; applicant proposes 15 sq. ft. Section C.O. 1290.05(f) Schedule of Maximum Sign Area-Directional signs.
2. 2 ft. height variance. Code allows 3 ft; applicant proposes 5 ft. C.O. 1290.07 (f) Maximum Height of Freestanding Signs-Directional Signs.

Mr. Schatschneider moved, seconded by Mr. Bulger, to un-table the Millenium Holdings Appeal. The vote was: “AYES” all. The Chair declared the motion passed.

Mr. Schatschneider moved, seconded by Mr. Miller, to table until the August 7, 2024 meeting. The vote was: “AYES” all. The Chair declared the motion passed.

COMMENTS

Chair Ladegaard, Happy 4th of July and Happy Birthday to Mr. Miller on July 12th

Everyone said Happy Birthday.

Mr. Gasior stated with the Doug Reynolds variance, there is a problem with the property deeds and lines, and he knows the request was passed on a narrow vote but from the standpoint of a precedent being set, he does not think anyone will come into the city and make the argument that their property line is subject to an 8–10-foot variance based on a surveyor’s error. He said he does not think a precedent is being set by the board granting the variance because of the circumstances on Mills Road. Happy 4th.

Mr. Bulger had no comments.

Mr. Miller had no comments.

Mr. Hricovec had no comments.

Mr. Schatschneider had no comments
Ms. Clements had no comments.
Ms. Fechter had no comments.

ADJOURN

Mr. Bulger moved, seconded by Mr. Miller, to adjourn. The vote was: “AYES” all. The Chair declared the motion passed. The meeting was adjourned at 6:42p.m.

Mark Ladegaard, Chair, Board of Zoning
and Building Appeals

Susan Pintz, Planning Commission &
BZA Secretary

Date