

MINUTES OF THE BOARD OF ZONING & BUILDING APPEALS, 7-7-21

WEDNESDAY, JULY 7, 2021, COUNCIL CHAMBERS, AVON CITY HALL

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

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

MINUTES OF THE REGULAR MEETING – JUNE 2, 2021

A motion was made by Mr. Ladegaard, seconded by Mr. Klingshirn to dispense with the reading of the regular minutes of Wednesday, June 2, 2021, and to approve said minutes as amended. The vote was: "AYES" All. The Chairman declared the motion passed.

ADDITIONS/DELETIONS

BRITTANY GREENHILL APPEAL

Brittany Greenhill is requesting approval of 2' side yard variance from C.O. 1262.08(c)(3) and a 2' side yard setback variance from C.O. 1262.08(c)(1) Minimum Yard Requirements for Accessory Structures to allow the construction of a driveway extension and patio to be located at 37501 French Creek Road.

Brittany and Brian Greenhill and Chris Donze are all sworn in by Mr. Gasior.

Mrs. Greenhill says they moved to the house about 5 years ago and it has a gravel driveway currently and they want to widen the driveway to 10' instead of 8 feet. If they went with 8' it would be 5' off the lot line but they want to have a 3' variance to allow more room on both sides of the car with the 10' driveway. Mr. Klingshirn said you want 3' I thought you wanted 2 feet. Mrs. Greenhill says they want it to be 10' wide and it would be 3' off the lot line. Mr. Klingshirn says right, instead of 5' feet you would be 3' so you would need a 2' variance. Mrs. Greenhill says, she probably said it wrong, they just want to put a driveway in to make it look nicer and redo the front steps and sidewalk and add a back patio. Mr. Hricovec says its straight forward and said there is not sight line for the neighbors that would be uninviting and has no issues with it. Mr. Ladegaard says your lot is narrow as it is, and it will look nice. Mr. Bulger says he agrees and will do nothing but improve the lot.

A motion was made by Mr. Ladegaard, seconded by Mr. Hricovec to approve a 2' side yard variance from C.O. 1262.08(c)(3) Minimum Yard Requirements for Accessory Structures to allow the construction of a driveway extension to be located at 37501 French Creek Road. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Hricovec, seconded by Mr. Klingshirn to approve a 2' side yard variance from C.O. 1262.08(c) () Minimum Yard Requirements for Accessory Structures to allow the construction of a patio to be located at 37501 French Creek Road. The vote was: "AYES" All. The Chair declared the motion passed.

BREW KETTLE APPEAL

Randy Parsons of Mann Parson Gray Architects representing Chris Russo and the Brew Kettle is requesting approval of a 6-car stacking variance from C.O. 1292.09(a)(1) Off-Street Waiting Spaces for Drive-Thru Facilities to reduce the number of stacking from 10 to 4 for the carry-out wind for Brew Kettle to be located at 33287 Just Imagine Drive.

Randy Parsons is sworn in by Mr. Gasior.

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Mr. Parsons says he is asking for a stacking of vehicles variance for the carry out window. This is not a drive thru and has no menu board, this came about through COVID process that a lot of people didn't want to get out of their cars to pick up their takeout orders. This window will allow patrons to drive up to get their food and be on their way. Ms. Fechter says Brew Kettle was in awhile ago and approved through Planning, the pandemic hit so they stopped. Ms. Fechter says if there is any back up, they have it all internally so it will not go onto a road just within their own property.

A motion was made by Mr. Bulger, seconded by Mr. Hricovec to approve a 6-car stacking variance from C.O. 1292.09(a)(1) Off-Street Waiting Spaces for Drive-Thru Facilities to reduce the number of stacking from 10 to 4 for the carry-out wind for Brew Kettle to be located at 33287 Just Imagine Drive. The vote was: "AYES" All. The Chair declared the motion passed.

VAULT SELF STORAGE APPEAL

Vinny Violi of Vault Self Storage is requesting approval of a 40-parking spot variance from C.O. 1292.04(g)(4) Off-Street Parking Standards to allow a reduced number of parking spaces for Vault Self-Storage to be located at 34500 Mills Road.

Vinny Violi is sworn in by Mr. Gasior.

Mr. Violi says he has a 32,000 sq. ft. proposed storage facility that under current code for every 300 sq. ft. there should be a parking space. Mr. Violi is asking for the variance due to the mini warehouse type of business. They did a traffic study, and the report shows that during peak hours for weekdays and weekends at most there would only be 7 cars in the facility and code requires 100 parking spaces. Mr. Violi says they do have parking all around the buildings, but it would be hard to get to the number they need. Mr. Miller asks what the daily on-site visits are typically? Mr. Miller says you might have 5-6 at one time. Mr. Violi says their facilities at most will have 6-7 people. Ms. Fechter says they do not have any employees, its kiosk operation. Mr. Ladegaard asks how many units will they have? Mr. Violi says total units is a little over 200. Mr. Ladegaard asks how many he was supposed to have. Ms. Fechter says it was between 102 and 106 spaces.

A motion was made by Mr. Bulger, seconded by Mr. Ladegaard to approve a 40-parking spot variance from C.O.1292.04(g)(4) Off-Street Parking Standards to allow a reduced number of parking spaces for Vault Self Storage to be located at 34500 Mills Road. The vote was: "AYES" All. The Chair declared the motion passed.

HARSHIL PARIKH APPEAL

Harshil Parikh is requesting approval of a 15' setback variance and a 3' height variance from C.O. 1294.08(a)(c)(2) Fence Location to allow the installation of a 6' high privacy fence facing Jaycox Road located at 2424 Norton Place.

Harshil Prikh is sworn in by Mr. Gasior.

Mr. Prikh has applied for the fence approval and every place was ok with the 6' privacy fence except for the area by Jaycox and wants the variance so he can put it close to the mound. Mr. Prikh says that would leave it about 25' from the property line facing Jaycox. Mr. Klingshirn says his concern is if the fence goes back there and his neighbor gets a fence, they wont line up. Mr. Prikh says the neighbor already has a fence in the same place where he is requesting the variance, they have a 4' aluminum see through fence. Mr. Klingshirn says, and you want 6' and asks if it will be seeing through and Mr. Prikh says no, privacy. Mr. Hricovec says he was there yesterday and walked it and the neighbor to the north of it is beyond the mound and it's a 4' and see through. Mr. Hricovec says he doesn't see an issue of it being by the mound, but his issue would be the height as it could start a change reaction down the road. Mr. Ladegaard asks Rick, on the code, we can't build a fence in the utility right of way, what utility right of way is that for

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and how big is it? Mr. Schneider says the existing City right of way was a 20' easement. Mr. Ladegaard 20' inside his lot line and Mr. Schneider says right and then there is an overlapping, 35' landscape easement. Mr. Ladegaard asks who the landscape easement is too. Mr. Schneider says originally it was to the HOA when this development first started. The developer put sprinklers in to take care of the landscape easement but some where down the line, it got changed over to the individual property owners and the HOA abandoned it. Mr. Ladegaard says they gave it back to the homeowner. Ms. Fechter asks Mr. Prikh if he is aware, he is responsible for that mound. Mr. Ladegaard says so where he wants to put the fence, is it in the easement? Mr. Schneider says it needs to go where the 35' easement ends is where he should put the fence if its approved. Mr. Ladegaard says if this does get approved, the code says if any utility needs to access that part of the fence, you will be responsible to replace that fence, and your ok with that? Mr. Prikh says yes. Mr. Ladegaard says the neighbor has a 4' fence where he wants to put this fence and he thinks it would be different if we were talking about a different type of community but being Jaycox Road and having a large traffic volume, in his opinion, the 6' privacy fence is fair. Mr. Miller says the neighbor to the north has a 4' fence, seeing the HOA has given up the easement, its better to have the fences line up and HOA would approve a 4' and Mr. Miller says his opinion he is against a 6' fence. Mr. Bulger says if the HOA has given up on it and turned it back, they don't want anything to do with it, they don't have anything to say about it. Mr. Bulger says the rest of his yard he is allowed a 6' fence except that one section, it would make it look silly. Mr. Bulger says he doesn't have an issue keeping it uniformed around the yard. There are houses down the street that have white vinyl fences but didn't get into back yard but doesn't see a problem. Ms. Fechter says she wanted to add the HOA didn't abandon this, this easement issue happened in the development phase. When the development was almost done, and they were selling the lots, but the HOA is still varying active within the neighborhood. Mr. Miller says it would be nice to have them all line up as you allowed a 4' fence. Mr. Miller asks if he wants a motion to vote on as proposed the 6 feet? Mr. Prikh says yes, in that case it will be uniformed for the whole lot and the HOA already approve the whole lot except that one side. Mr. Miller says the HOA does not approve a 6' fence. Mr. Prikh says it's the City restriction and the HOA follows that and that is why he came to the Board to see if they will remove that restriction. Mr. Prikh says they aren't saying the cant do it at all they want it to be closer to the mound. Mr. Miller says he would think they want uniformity on these fences. Mr. Hricovec asks if there is a rule if he puts up a 4' fence and put it 2' off the ground? Mr. Schneider says its from the ground level. Mr. Hricovec says if it was on the other side of the mound, it would be up a foot already. Mr. Miller asks if they limit them what they can plant on the mound? Mr. Prikh says he isn't aware of any restrictions, and he was going to plant some trees in that area and haven't gotten approval from the HOA yet. Mr. Schneider says the neighbor put his fence where the easement line is and is compliant. Mr. Klingshirn says he wants to go back farther. Mr. Prikh says he would put it behind the mound as close to the mound itself. The 15' setback variance is from his house to the easement line and that is where the neighbor has his fence. It was noted as long as the neighbor was outside of the easement the neighbor would not have needed a variance because they installed at the required height for the fence. Mr. Gasior says the uniqueness is there is mounding in place with planting and the fence will be behind that and wouldn't be as noticeable from the road.

A motion was made by Mr. Ladegaard, seconded by Mr. Bulger to approve a 15' setback variance from C.O. 1294.08(a)(c)(2) Fence Location to allow the installation of a 6' high privacy fence facing Jaycox Road located at 2424 Norton Place. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Bulger, seconded by Mr. Ladegaard to approve 3' 3' height variance from C.O. 1294.08(a)(c)(2) Fence Location to allow the installation of a 6' high privacy fence facing Jaycox Road located at 2424 Norton Place. The vote was: 3 "AYES", 2 "NAYS" MR. Klingshirn and Mr. Miller. The Chair declared the motion passed by a vote of 3-2.

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MICHAEL KOWAL APPEAL

Michael Kowal is requesting relief from C.O. 1478.01(b) Swimming Pools, International Building Code Appendix G, Section AG 105 Barriers requirement to waive the requirement of having a fence around the inground swimming pool with concrete patio with wall to be located at 3640 Split Rail Lane.

Michael Kowal is sworn in by Mr. Gasior.

Mr. Kowal says he apologizes for missing last month meeting. Mr. Kowal says they do not want the fence around the property. They are putting an inground pool in back yard and the code states it doesn't necessarily have to have a fence but a barrier around the property reaching 48" tall. Mr. Kowal says the back yard is entirely coved with landscaping either trees or ferns and whatever isn't covered yet, it will be. Mr. Kowal says the code says it's a barrier and not a fence and they have a key coded auto cover on the pool. The code will be entered to open the cover and the liner is built into the pool. Mr. Kowal says all of us could stand on the cover as that's how it made and the safety, its top of the line. Mr. Kowal says the cover will be on it when they are not in the pool, and it opens and closes in 15 secs. He feels the 4' fence around the property isn't needed. Mr. Klingshirn says if you go into lunch and forget to put the cover on, the neighbor comes in and finds the pool. Mr. Kowal says he understand but the neighbor kid can find the retention pond behind his property too that isn't fenced. Mr. Klingshirn says that is different than a pool, but Mr. Kowal says there is still 3'-4' of water in there consistently. Mr. Kowal says it closes in 15 sec and Mr. Klingshirn asks if you forget to close it and Mr. Kowal says same thing can happen if he forgets to close the gate to the fence. Mr. Kowal says they can play in a world of what ifs, but he checked with their insurance company and agent, and they do not have any issues with holding liability if they felt there was an increased issue or risk. Mr. Schneider says with the fence you are required to have self-latching gates, so it won't be left open. Mr. Kowal says yes, the code says if the fence connects into the property at the house which it would, they will need to have a safety cover. Mr. Kowal says the safety cover is safe enough to have the need of a fence behind then why he needs one all around. Mr. Kowal says it's in section Swimming Pools Ohio International, Residential Code, Appendix G, Section AG 105.2. Mr. Schneider asks if it says it in the City Ordinance and Mr. Kowal says that was what he was given that the city basis it off. Mr. Kowal says its in Section 105.1.9 and reads that section of the code and says he is worried about a child going out and you're talking about a self-latching gate, my child can walk out the back door and in the code the auto satisfies the need from the safety aspect. Mr. Schneider says the top of the barrier should be 48" and Mr. Kowal says absolutely that's the trees around. Mr. Schneider says if trees are planted next to each other you will have a gab of 4" and Mr. Kowal says for the most part they are all grown in. Mr. Schneider says nope, I've walked the property. Mr. Schneider says you do not have a continuation of trees within 4" along your whole property. Mr. Kowal says if they are not there, they will have them and will put in additional trees. Mr. Kowal thinks the pool cover/liner is much safer than a fence.

A motion was made by Mr. Ladegaard, seconded by Mr. Hricovec to a grant relief from C.O. 1478.01(b) Swimming Pools, International Building Code Appendix G, Section AG 105 Barriers requirement to waive the requirement of having a fence around the inground swimming pool with concrete patio with wall to be located at 3640 Split Rail Lane. The vote was: "NAYS" All. The Chair declared the motion denied.

ADJOURN

A motion was made by Mr. Ladegaard, seconded by Mr. Klingshirn to adjourn. The vote was: "AYES" All. The Chair declared the motion passed.