

**REGULAR MEETING MINUTES
AVON BOARD OF ZONING & BUILDING APPEALS
SEPTEMBER 4, 2024, 7:00 P.M.
CITY HALL COUNCIL CHAMBERS**

ROLL CALL

The meeting was called to order by Chair Ladegaard at 7:02 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, Duane Streator, Safety, Director Susan Pintz, Planning Commission & ZBA Secretary

REVIEW & CORRECTION OF MINUTES

Mr. Miller moved, seconded by Mr. Bulger to approve the minutes of the regular meeting held on August 7, 2024, and to approve the minutes as published. The vote was: “AYES” all. The Chair declared the motion passed.

REPORTS & CORRESPONDENCE

None

ADDITIONS & DELETIONS

Ms. Clements, Zoning Enforcement Officer, requested Item 5, Scott Patterson Appeal be removed from the agenda.

Mr. Miller moved, seconded by Mr. Bulger, to remove Item 5, Scott Patterson Appeal from the agenda and approve the amended agenda. The vote was: “AYES” all. The Chair declared the motion passed.

APPEALS & REQUESTS

1. Duncan Todd, Jr, 35442 Keller Drive, 56-24

Proposal consists of a 20 ft. x 14 ft. addition to the north side of the house.
Tabled on August 7, 2024.

Motion to un-table.

Mr. Schatschneider moved, seconded by Mr. Hricovec, to untable the Duncan Todd, Jr. appeal. The vote was: “AYES” all. The Chair declared the motion passed.

The following variance is requested:

1. 5 ft. side yard setback; code requires 12 ft., existing nonconforming is at 7 ft. C.O.
1282.03(c) Nonconforming Use of Lot.

Duncan Todd, Jr., 35442 Keller Drive, Avon, Ohio 44011 was sworn in. Mr. Todd said he purchased his home about 7 years ago and the house is closer than the existing setback

is permitted. He is requesting a variance for a 20 ft. x 14 ft. addition to the rear north side of his home.

Mitch Randolph, 35410 Keller Drive, Avon, Ohio 44011 was sworn in. Mr. Randolph has concerns about the addition because his house is close to Mr. Todd's house already. He said they have a sunroom at the rear of their house, and if the addition is built then it will block his view to the sky when he is in his sunroom. He said the views and scenery are important to him and if the addition is built, he will be looking at a roof. He said Mr. Todd is a good neighbor and he has no issues with him. Mr. Randolph feels it is an encroachment concern and he doesn't really know where his property line is. He said when he purchased the property, he was told he owned 10 feet on each side of the fence, and he has maintained the grass area in that location. He suggested Mr. Todd have the property surveyed to clarify the property lines. He said the addition will drastically change his view in his backyard and porch.

Chair Ladegaard stated Mr. Todd is permitted to build the addition to the home and the only issue the board decides is if the addition will be 7 feet or 12 feet off the property line. Chair Ladegaard asked Mr. Todd if he would be willing to obtain a survey of the property.

Mr. Todd agreed to obtain a survey of the property. Mr. Todd asked Mr. Randolph if that would be acceptable to him.

Mr. Randolph said nothing will be acceptable because he does not want the addition built. He said will be losing his view and privacy.

Ms. Clements said according to the drawing that was submitted it looks like the existing house is 7 foot off the property line. The new addition will stay in line with the 7 feet but in the rear of the home, it will push in 1 foot, so the rear of the addition will be 8 feet.

Mr. Todd confirmed Ms. Clements is correct.

There were no other questions or comments.

Mr. Miller moved, seconded by Mr. Schatschneider, to approve a 5 ft. side yard setback. The vote was: "AYES" all. The Chair declared the motion passed.

2. **Zachary and Kayla Heigelmann, 35927 Hanamar Drive, 60-24**
Proposal consists of installation of a fence in a drainage easement.

The following variance is requested:

1. Allow installation of a fence in a storm sewer, retention basin and access easement.
C.O. 1248.19 Structures and Improvements within Utility Easement or Right of Way.

Zachary Heigelmann, 35927 Hanamar Drive, Avon, Ohio 44011 was sworn in. Mr. Heigelmann said he built his house a couple of months ago and he wanted to install a fence to the rear of the property line so he can have full access of his yard rather than 35 feet off the back, it would be 50 feet off the back.

Chair Ladegaard said when the city allows a homeowner to install a fence within the drainage 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.

Mr. Heigelmann agreed, and he would accept the responsibility.

Mr. Gasior indicated Mr. Heigelmann would need to sign the Drainage Easement Agreement which will then be notarized and filed with Lorain County Recorder's Office. In the event he sells his house the next homeowner will be aware of the agreement.

There were no other questions or comments.

Mr. Schatschneider moved, seconded by Mr. Bulger, to approve the installation of a fence in a storm sewer, retention basin and access easement with acceptance of responsibility. The vote was: "AYES" all. The Chair declared the motion passed.

3. **Travis and Casey Nickels, 36668 Wendell Street, 61-24**

Proposal consists of construction of a covered patio off the rear of the home.

The following variance is requested:

1. 8 ft. 2 in. rear yard setback; code requires 50 ft.; applicant proposing 41 ft. 10 in. C.O. 1262.04(d)(4) Lot and Yard Requirements-Rear Yard.

Travis Nickels, 36668 Wendell Street, Avon, Ohio 44011 was sworn in. Mr. Travis said his house burned down in June 2024. They have had the house rebuilt and are using the opportunity to fix some of the things that they did not like on the house that burned down. One of the things they did not like was the short, covered patio. He is requesting an 8-foot variance for the extension of a covered patio.

Chair Ladegaard stated a letter approving Mr. Nickels request was received from the HOA.

There were no other questions or comments.

Mr. Bulger moved, seconded by Mr. Hricovec, to approve the 8 ft. 2 in. rear yard setback. The vote was: "AYES" all. The Chair declared the motion passed.

4. **Christopher and Deborah Kovacs, 4160 St. Theresa Blvd., 62-24**

Proposal consists of construction of a covered patio.

The following variance is requested:

1. 9 ft. rear yard setback; code requires 20 ft.; applicant proposing 11 ft. C.O. 1262.04(d)(4) Lot and Yard Requirements-Rear Yard.

Christopher Kovacs, 4160 St. Theresa Blvd. Avon, Ohio 44011 was sworn in. Mr. Kovacs is requesting a variance for a covered patio in the rear of their home. They are adjacent to Red Tail Golf Course. He didn't realize the setback requirement was so large. He approached the HOA to request to build the covered patio and they said everything was acceptable and he only needed 8 feet. He proceeded with the city and discovered there was

a larger setback requirement. He said the covered patio would help protect their windows at the rear of the house from golf balls as they live near the golf course. He said they installed drainage in their backyard because of the drainage coming off the golf course because of the sprinklers. He obtained HOA approval for this project and both of his neighbors do not have any objection.

There were no other questions or comments.

Mr. Bulger moved, seconded by Miller, to approve the 9 ft. rear yard setback. The vote was: “AYES” all. The Chair declared the motion passed.

5. Scott Patterson, 39240 Winesap, 63-24

Proposal consists of construction of a 10 ft. x 10 ft. accessory structure.

The following variance is requested:

1. 56 sq. ft. variance; code allows 344 sq. ft.; applicant proposes 400 sq. ft. Section C.O. 1262.08(a)(2) Maximum Area and Number of Accessory Structures.

Item deleted at the request of Jill Clements, Zoning Enforcement Officer

6. Isomer Group Inc, Nagel Road, 50-24

Proposal consists of a Commercial Development.

The following variance is requested:

1. 10 ft. front parking setback variance; code requires 35 ft.; applicant proposes 25 ft. Section C.O. 1270.06(a)(1) Off Street Parking, Loading and Access Drives.

Carl Frey, Labella Associates, 6150 Parkland Blvd, Suite 100, Mayfield Heights, Ohio 44124 was sworn in. Mr. Frey is representing Isomer Group.

Ms. Fechter refers to the drawing on the screen which indicates the plans for the Nagel Road development. Currently the east side is rezoned. The city needed an additional right of way for future expansion of Nagel Road as well as in the rear of the development. The city has requested there be a connecting driveway going from Drug Mart at Detroit all the way behind the businesses to get to Middleton. She added, to the east of this project is a residential subdivision, the city was very cognizant of the landscape buffer, and it was going to be between the residential district and the commercial district. The City Administration supports the variance due to the right of way being provided and Isomer Group's plan for the rear of the property.

Mr. Frey indicated Ms. Fechter provided a summary of the request. He said there are several compounding limitations on being able to develop the land and they are finding with the layout of some initial projects that the depth is becoming an issue, so they are asking for some relief on the front setback to accommodate future development.

Chair Ladegaard asked if there are any plans in the process, as far as tenants.

Mr. Frey said there is one project that has been in conversation with the city which is a McDonalds. They have a specific site layout requirement to accommodate their drive thru and parking. He said initially Isomer Group had the pond as a buffer but there were conversations with neighbors, and it was decided to remove the pond so they could have a planted buffer.

There were no other questions or comments.

Mr. Miller moved, seconded by Mr. Hricovec, to approve the 10 ft. front parking setback variance. The vote was: “AYES” all. The Chair declared the motion passed.

COMMENTS

Kurt Wagner 33003 Detroit Road, Avon, Ohio 44011. Mr. Wagner said his property is adjacent to St. Joseph Cemetery. He is not sure what the process is to bring an issue to the Board of Zoning. He said about a year ago the cemetery decided they were going to completely clean the entire buffer zone that had been well established between his and the cemetery property. The cemetery has cut down everything that was less than a 4-inch tree. He wanted to talk with the board about codified ordinances that are in place that he believes are not being followed by the cemetery. In April 2024 and spoke with Jill Clements and then spoke with Mr. Gasior. Mr. Wagner stated he appeared at the May BZA and spoke briefly to Ms. Clements and Mr. Gasior after the meeting ended. After those conversations Mr. Gasior indicated he would reach out to the cemetery and Mr. Wagner feels has been more than patient after not receiving a response after 3 months. He wanted to approach the board because people get concerned about buffers and doesn't think he has been treated properly by the cemetery. He believes there are several areas where the cemetery is in violation of the codified ordinances: 50-foot setbacks for gravesites and 100-foot setbacks for crematoriums and mausoleums. In early May Ms. Clements and Mr. Wagner measured and provided documentation on the where the cemetery was building and continuing to put gravesites that are in clearly within the setback. The cemetery built a crematorium for storage of ashes at about 25 feet from the property line when the codified ordinances required it to be 100 feet from the property line. He said it was built within the last 3-5 years. He acknowledged that he purchased his house while the cemetery existed. As he is expected to follow the ordinances and codes, he believes the cemetery should follow the same ordinances and codes. Mr. Wagner said he paid \$20,000 in taxes and the cemetery paid zero. He wants to know what will be enforced by the city as it relates to the setbacks for the cemetery.

Mr. Gasior stated the board does not have a comment but are willing to listen to his concerns. Mr. Gasior said he and Ms. Clements have spoken to Mr. Wagner previously and he has spoken to Andrej Lah, Director of St. Joseph Cemetery. Mr. Gasior said he doesn't think it is appropriate for anyone on the board to speak on this matter.

Mr. Wagner requested the board research this issue. He said the last time he spoke to Mr. Gasior was May 24, 2024, and never had a response from Mr. Gasior. Mr. Wagner said the last time he spoke with Mr. Lah was September of 2023.

Mr. Gasior said after he spoke to Mr. Wagner in May 2024, he spoke to Andrej Lah and Mr. Lah said he would contact Mr. Wagner directly. Mr. Gasior said he will reach out again to Mr. Lah and ask him to contact Mr. Wagner. Mr. Gasior said he assumed when he did not hear from Mr.

Wagner or Mr. Lah that Mr. Wagner and Mr. Lah had spoken, and matter had been resolved. Mr. Gasior asked Mr. Wagner to let Mr. Gasior know one way or another of his contact with Mr. Lah. Mr. Wagner summarized his conversation with Mr. Lah as Mr. Lah will research the issue and respond to Mr. Wagner. Mr. Lah told Mr. Wagner the cemetery can maintain their property the way they see fit. Mr. Wagner said he does not want to file a lawsuit against as he does not have the financial resources to support a lawsuit against the cemetery of the Cleveland Diocese.

Mr. Gasior said this is not the forum for this issue. This is potentially a Planning Commission or City Council issue.

Mr. Wagner said he understood and but like the city to research the issue and the cemetery's compliance with the ordinance and codes.

Mr. Bulger had no comment.

Mr. Hricovec had no comment.

Mr. Miller had no comment.

Mr. Schatschneider had no comment.

Ms. Clements had no comment.

Ms. Fechter had no comment.

Mr. Gasior had no comment.

Mr. Streator had no comment.

Chair Ladegaard had no comment.

ADJOURN

Mr. Miller moved, seconded by Mr. Hricovec, to adjourn. The vote was: "AYES" all. The Chair declared the motion passed. The meeting was adjourned at 7:36 p.m.

Mark Ladegaard, Chair, Board of Zoning
and Building Appeals

Susan Pintz, Planning Commission &
BZA Secretary

Date