

**REGULAR MEETING MINUTES
AVON BOARD OF ZONING & BUILDING APPEALS
OCTOBER 2, 2024, 7:00 P.M.
CITY HALL COUNCIL CHAMBERS**

ROLL CALL

The meeting was called to order by Chair Ladegaard at 7:01 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. Schatschneider to approve the minutes of the regular meeting held on September 4, 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. Lenard DiFrancesco, 36497 Kinzel Road, 63-24

Proposal consists of a Lot Split and Consolidation.

The following variance is requested:

1. Expansion of a non-conforming lot. C.O. 1282.03(d) Nonconforming Use of Lot.

Gary Smitek 36715 Avalon Court, Avon, Ohio 44011 was sworn in. Mr. Smitek is representing Lenard DiFancesco.

Mr. Gasior, Law Director, asked if Mr. Smitek had standing to speak on behalf of Mr. DiFancesco.

Ms. Fechter, Planning Coordinator, indicated Mr. Smitek does have standing. She stated the project was presented at Planning Commission on September 18, 2024, and approval was given for the Lot Split contingent upon a BZA variance approval.

Mr. Smitek indicated Mr. DiFrancesco would like to split the front parcel of his property and give that portion to his sister, and the rear part of the parcel will be consolidated to the adjacent parcel. He said everything including the driveway will stay the same.

Ms. Fechter said the current parcel of record measures at 40.5 feet, but it is non-conforming, so the variance request is to make the lot conforming.

Mr. Gasior said this variance would not make it conforming it would make it legal by expansion of the lot.

Bethany Anderson 36477 Kinzel Road, Avon, Ohio was sworn in. She is the neighbor in front of Mr. DiFrancesco. She was under the impression that the property being consolidated will then be sold and developed. She wanted to know if the property is sold will there be a cluster home development or something else developed on that parcel.

Ms. Fechter said there are no plans currently submitted to the city. Mr. Smittek is presenting this project to help Mr. DiFrancesco separate and reconfigure the two parcels.

Ms. Anderson asked Mr. Smittek if he intended to purchase Mr. DiFrancesco's property?

Mr. Smittek said it will probably happen, but he does not know for sure.

Ms. Anderson asked if Mr. Smittek does purchase the property will there be a meeting prior to any development on the property.

Ms. Fechter said yes, the project would need to be submitted to the Planning Department and presented to the Planning Commission. Once the project is scheduled for a Planning Commission meeting the adjacent neighbors will be notified.

Ms. Anderson asked if the driveway would stay the same?

Mr. Smittek replied yes, the driveway will stay the same.

There were no other questions or comments.

Mr. Miller moved, seconded by Mr. Hricovec, to approve the Expansion of a Non-Conforming Lot. The vote was: "AYES" all. The Chair declared the motion passed.

2. **Thomas and Gabrielle Sheridan, 4267 St. Francis, 65-24**
Proposal consists of installation of an inground pool.

The following variance is requested:

1. 4 ft. setback pool to house; code requires 15 ft.; applicant proposing 11 ft. C.O. 1478.03 Swimming Pools Location.

John Nash, Nash Project Management, 2425 Deerfield Drive was sworn in. Mr. Nash is representing Mr. and Mrs. Sheridan. He stated the homeowners would like to install a pool in the backyard which is located on a cul-de-sac in the Red Tail Development. He said it is a very narrow space (the topographical map was displayed on the screen). Mr. Nash said he is trying to fit the pool into the space as best as possible. A three-season room will also be built in the area at an angle. Mr. Nash tried to position the addition to allow as much room as possible in the area. He said the distance from the pool to the house, is 11.25 feet, however he would like to request 10 feet from the house. He said the door on the addition will be about 20 feet away from the pool. He believes there are clearances in the rear corner and the side. The variance request is the distance from the pool to the house.

Chair Ladegaard said it appears to be a tight area.

Mr. Hricovec asked if the roof on the three-season room will be a single story?

Mr. Nash replied yes it will be a single story. It will be a gable roof that will come back at an angle. Mr. Nash wanted to clarify that he would like to request 10 feet from the house.

There were no other questions or comments.

Mr. Miller moved, seconded by Mr. Hricovec, to approve a 5 ft. setback variance from the pool to the house; code requires 15; applicant requested 10 feet from the house. The vote was: “AYES” all. The Chair declared the motion passed.

3. **Alex and Karen Michalczyk, 3198 Stone Wheel Run, 66-24**
Proposal consists of installation of an inground pool.

The following variance is requested:

1. 7 ft. variance; code requires 15 ft.; applicant proposing 8 ft. C.O. 1478.03 Swimming Pools Location.

Tyler Hrusch, American Earth Company, 32700 Lorain Road, North Ridgeville, Ohio 44039 was sworn in. Mr. Hrusch is representing Mr. and Mrs. Michalczyk. The homeowners would like to install an inground pool. Mr. Hrusch said there is an existing 12-inch storm sewer which goes through the backyard (referring to the topographical map). It will be very tight to install the pool. Kevin Hoffman of Polaris Engineering had redesigned the storm sewer as shown on the drawing. Mr. Hoffman has been working with City Engineer, Ryan Cummins to get this approved. Mr. Hrusch spoke to Mr. Hoffman and Mr. Cummins earlier in the week and this is pending approval via a revised drawing where structures will be used for the bends of the storm sewer instead of the ECP ((spelling) inaudible) bends. There will be manholes installed where the new bends will be. Mr. Hrusch stated the pool cannot be moved back any farther without pushing the pipe back farther and the homeowners do not want to push it back much farther because there is not much slope available in the pipe from point A to point B. Mr. Hrusch would like to try and keep the pool about 8 feet off the coved porch which will be a little over 20 feet off the back of the house.

Chair Ladegaard asked how large will the pool be?

Mr. Hrusch said the pool would be a 14 ft. x 30 ft. fiberglass pool.

Chair Ladegaard asked Mr. Hrusch if he considered turning the pool sideways.

Mr. Hrusch said it was an option that was considered but Mr. and Mrs. Michalczyk wanted to maintain a useful green area in the backyard because they have grandchildren and other family members that visit. He indicated the elevation points drop off significantly the farther back it goes but the north side of the yard is flat.

Chair Ladegaard stated this request is more than the board would usually allow. He said the board might be agreeable to a 10-foot variance. He asked Mr. Hrusch if he would consider a 10-foot variance.

Mr. Hrusch said that could be acceptable. He believes the code allows for concrete on top of the easement, but the pool structure cannot be inside the easement. Even if the pool was pushed back another 2 feet the only part of the new structure that would be in the easement would be part of the concrete deck.

Mrs. Clements, Zoning Enforcement Officer, said a separate variance would be needed for that. She indicated nothing is permitted in the easement. There have been a few BZA requests that have had corners of concrete for pools which have been approved depending on where the pipe is located. If the relocation of the easement is approved the way that it is proposed and would be pushed back, then another variance will need to be requested.

Mr. Hrusch said they could move the storm sewer back 2 feet as to avoid another variance request and zoning meeting and the get approval from engineering with storm sewer relocated 2 feet so they can relocate the pool 2 feet.

Mrs. Clements said when she spoke to Mr. Cummins, she did not get the impression that this would be able to work but Mr. Cummins has been working with Polaris Engineering.

Mr. Gasior, Law Director, said this is an existing easement in a platted plat. Even if the pipe is physically moved, the easement would need to be replatted or get the documents signed.

Mr. Streater, Safety/Services Director, said the easement is with the HOA. The easement needs to change on the plat. He said Mr. Cummins, Mr. Hoffman and himself discussed the issue and that is the direction they are looking at taking with this issue. Because of where the easement is they would have to move the easement within the original plat from the subdivision. The city is agreeable with moving it but there are some other legal things that need to be done to legally change the easement. He added there are several other legal issues to address other than the appeal that has been presented to the board.

Chair Ladegaard stated there will be more issues to be addressed even if the appeal passes.

Mr. Miller said this course of action sounds reasonable.

Mr. Bulger stated he would agree to 10 feet if it works out.

Mr. Schatschneider agrees with the 10 feet but thinks turning the pool would solve the problem.

Mr. Hricovec said he agrees with everyone else that turning the pool would solve the problem but if the 10-foot works without turning the pool, then he would agree to that.

Mr. Hrusch said the reason for the placement of the pool is for the symmetry of the backyard, it lines up with the covered porch and to the south of the covered porch is their existing patio. If they turned the pool, there would be a clear view of site from the driveway and the street into the pool area. They were trying to conceal the pool for privacy reasons.

Mr. Gasior asked if there was approval from the HOA.

Mr. Hrusch replied yes there is approval from the HOA.

Mr. Gasior asked if the HOA approval was to install the pool in their easement and fence.

Mr. Hrusch replied yes.

Mr. Michalczyk provided Mrs. Pintz, BZA Secretary, a copy of the HOA approval letter for the record.

Mr. Hricovec stated if the easement needed to be accessed the pool would need to be removed.

Mr. Gasior said he may need to look at the Stone Wheel HOA documents because many of the storm easements were granted to the HOA and the city, because if the HOA fails to act the burden falls upon the city. He wanted to make sure if the city needed to access the storm sewer easement because the HOA failed to do what they needed to do, and the city needs to replace the sewer and in the process the pool is damaged the city does not want to be responsible.

There were no other questions or comments.

Mr. Schatschneider moved, seconded by Mr. Hricovec, to approve a 5 ft. variance; code requires 15 ft, applicant is requesting keeping 10 feet of the property line. The vote was: "AYES" all. The Chair declared the motion passed.

Mr. Hrusch asked if the next steps would be to get a final drawing and an approval from Mr. Cummins and then speak to Mr. Gasior.

Mr. Gasior said Mr. Cummins will communicate with Mr. Hoffman, Mr. Streator and himself. He stated he would like to review the HOA documents. He understands there is an HOA approval letter, but he would like to see what the HOA's responsibility is in the easement. If the HOA does not have an obligation to repair anything in the event access is needed to the easement, then that will fall upon the city as well.

4. Avon JV LLC, 36320 Detroit Road, 64-24

Proposal consists of additional square footage for wall sign for University Hospitals Urgent Care.

The following variance is requested:

1. 8.1 sq. ft.; code allows 36 sq. ft.; applicant proposing 44.1 sq. ft. C.O. 1290.05(e)(1) Schedule of Maximum Sign Area.

Sam Castiuc, Signarama, 18200 South Miles Road, Warrensville Hts., Ohio 44128 was sworn in. Mr. Castiuc is representing University Hospitals.

Eric Placek, 540 Barrenwood, Wadsworth, Ohio 44281 was sworn in. Mr. Placek is representing University Hospitals.

Mr. Castiuc stated a variance is requested to increase the size of the existing sign on the University Hospital Urgent Care building by 8.1 sq. ft. He said given the nature of the services provided at the urgent care it is important that visibility is strong and accessibility and convenience for all the patients is enhanced. They feel the current sign is a little small given the size of the space. He indicated the tenant next door has a smaller space but a larger sign. Therefore, it is requested the sign be 8.1 sq. ft. larger than what is permitted.

Mr. Placek wanted to stress the importance of being able to find the urgent care and to be of service to the community. He believes the sign is small and would like it to be more visible and more easily seen from the street. He was at the site and noticed the sign is difficult to see at a distance. He is requesting the appeal be granted.

Mrs. Clements, Zoning Enforcement Officer, stated that Jersey Mike's next door did receive a 10 sq. ft. variance for their sign with a smaller storefront.

There were no other questions or comments.

Mr. Bulger moved, seconded by Mr. Schatschneider, to approve an 8.1 sq. ft. variance.

The vote was:

**Mr. Bulger "yes", Mr. Miller "yes", Mr. Schatschneider "yes", Mr. Ladegaard "yes"
Mr. Hricovec "no"**

4 "AYES"

1 "NAY"

The Chair declared the motion passed.

COMMENTS

Mr. Bulger had no comment.

Mr. Hricovec had no comment.

Mr. Miller had no comment.

Mr. Schatschneider had no comment.

Mrs. Clements said the homecoming parade is Thursday, October 3 at 6:00 p.m. traffic will be backed up.

Ms. Fechter said Happy Halloween and Happy Arbor Day.

Mr. Gasior had no comment.

Mr. Streator had no comment.

Chair Ladegaard had no comment.

ADJOURN

Mr. Miller moved, seconded by Mr. Bulger, to adjourn. The vote was: "AYES" all. The Chair declared the motion passed. The meeting was adjourned at 7:25 p.m.

Mark Ladegaard, Chair, Board of Zoning
and Building Appeals

Susan Pintz, Planning Commission &
BZA Secretary

Date