

MINUTES OF THE BOARD OF ZONING & BUILDING APPEALS, 10-6-21

WEDNESDAY, OCTOBER 6, 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.

NOMINATIONS FOR CHAIR

Mr. Miller announces that he is resigning as chairman and will open the floor for nominations for Chairman of the Board. Mr. Miller nominates Mark Ladegaard and asks if there are any other nominations. There being no other nominations, he asks the clerk to cast a unanimous ballot for the sole nomination of Mark Ladegaard to be the Chairman.

Mr. Ladegaard now takes over the meeting.

Mr. Ladegaard opens the floor for nominations for Chairman Pro-tem and he nominates Chauncey Miller. Mr. Ladegaard asks if there are any other nominations. Mr. Ladegaard says he instructs the clerk to cast a unanimous ballot for the sole nomination of Chauncey Miller to be the Chairman Pro-tem.

MINUTES OF THE REGULAR MEETING – SEPTEMBER 1, 2021

A motion was made by Mr. Klingshirn, seconded by Mr. Hricovec to dispense with the reading of the regular minutes of Wednesday, September 1, 2021, and to approve said minutes as amended. The vote was: “AYES” All. The Chairman declared the motion passed.

ADDITIONS/DELETIONS

HAJDARI APPEAL

Astrit Hajdari is requesting a 23 sq. ft. variance from C.O. 1262.08(a)(2) Maximum Area and Number of Accessory Buildings to allow the construction of a pavilion to be located at 2441 Muirwood.

The applicant not being present and no one there, Mr. Gasior suggests we move this to item #11A and see if they show up. The Chair moves to the next item.

POLGAR APPEAL

Bret Tidwell of Mastercraft Custom Homes representing Aimee Polgar is requesting a 2' setback variance from C.O. 1262.08(c)(3) Minimum Yard Requirements for Accessory Structures to allow the construction of the driveway to go up to the property line located at 33500 Reserve Way @ St. Andrews.

Bret Tidwell of Mastercraft Custom Homes is sworn in by Mr. Gasior. Mr. Tidwell says this is a new construction home and the garage entrance is in the back of the property, and they are asking for a 2' area that goes up to the reserve in the back to allow enough room for turn into the garage. Mr. Tidwell says after looking at their vehicles they would need the room and there will be a curb on the end of that to make sure cars don't go off that into the property. Mr. Tidwell said they also set the garage lower, so they don't need to do any retention walls, its just a slab. Mr. Tidwell says with the curb it allows them to back up slowly to know where they are at. They talked to the neighbors and no on has any issues. He continues to say it appears to be a drainage area looking back there. Mr. Hricovec says his concern would be the development of the property behind them but there won't be any of that.

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A motion was made by Mr. Klingshirn, seconded by Mr. Miller to approve a 2' setback variance from C.O. 1262.08(c)(3) Minimum Yard Requirements for Accessory Structures to allow the construction of the driveway to go up to the property line located at 33500 Reserve Way @ St. Andrews. The vote was: "AYES" All. The Chair declared the motion passed.

MCCORMICK APPEAL

Joey and Shana McCormick are requesting a 30' setback, 2' height and a 70% opacity variance from C.O. 1294.08(a)(c)(2) Fence Location, Height and Opacity to allow the installation of a 6' board on board fence to be located at 2822 Moon Road.

Joey McCormick, 2822 Moon Road is sworn in by Mr. Gasior. Mr. McCormick says he submitted the application for the fence and hindsight is 20/20 and they should have investigated this a little more before they bought the property because they are a corner lot and have two front yards and they understand why that regulation is in place, but they want to be able to fence in as much as they can. They have two small children, and their safety is important to them and want some more area to have fenced. Mr. McCormick says the original submission that Rick sent back to him was the house is going to face Moon Road so instead of the fence ending at the beginning of the house, they want to move it to the corner of the garage and would meet that 50' setback that would face Moon. They also were looking to get an additional 20' towards French Creek so that would still allow 30' to the road and he thinks that is a reasonable request. Mr. Ladegaard says he drove down there today and drove both ways but coming from the east for visibility it appears to be plenty of room, and he thinks is ok.

Mr. Klingshirn asks if it will be a 100% and Mr. McCormick says it will be a 6' white vinyl fence that will go from the front of the house as far as they can take it to French Creek to the back of the property and will fence along the back of the house and along the Moon Roadside. Mr. Klingshirn says there is going to be a new house on French Creek and Mr. McCormick says next to him. Mr. Klingshirn says this should be 4' right. Mr. Ladegaard says they will need a 2' extension, a 70% opacity and the 20' setback variance. Mr. McCormick says they kept some trees around the corner as they could because it was an all-wooded lot so the trees will be there anyways so that will be blocked. Mr. Klingshirn says there isn't a hardship for the side, and he doesn't like the idea of the 2' more than what they are supposed to and its solid. Mr. McCormick says they live in Stonebridge and they moved for the bigger yard and to have more privacy and the neighbors would respect that. Mr. McCormick says he could put more trees there like it was prior that cutting them down was helpful. He respects the Board and what they are here for, and he is just trying to make as much of the property that he can with the lot he bought. He would like to have a 6' since French Creek is the busier road and doesn't want everyone driving by their house knowing what they are doing so that 2' would be nice and that's what they are hoping for. Mr. Klingshirn would be more comfortable with 4' and more open. Mr. Hricovec suggests maybe when the fence that runs parallel to French Creek, if you could run from the corner halfway down to the back corner of the house at 4' and then bring it up to 6' so you get the privacy in the back yard. Mr. McCormick says he understands that, and he would be willing to meet in the middle of that. Mr. Klingshirn offers some suggestions but was hard to hear what was said on the recording. (Was instructed to use microphone better) and Mr. McCormick says talking about the higher footage of the fence you are talking about splitting the difference and Mr. Hricovec explains an option. Mr. McCormick says he would not be opposed to that, there is some tall bushes that separate the neighbors on Moon so if they do a 6' or 4' he doesn't think it will make a difference so it should need to be lowered. Mr. Klingshirn says that is fine, its more on the French Creek side. Mr. Ladegaard asks where will the 6' start? Mr. Klingshirn says the back corner of the house. Mr. McCormick asks if he could a 6' around the entire house then met in the middle on the French Creek side and start a 4' there to the front of the garage. Conversation continues among the Board members and Mr. McCormick as they are getting a sketch to what they are thinking on so Mr. McCormick can understand what is going on. He says in the perfect world he would love to do a 6' vinyl fence around the house. If he follows with what they are saying and splitting the difference on the French

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Creek side moving toward Moon and in front of the house that faces Moon, he is ok with that but wants the back half down French creek would like to do 6 feet. Mr. Klingshirn says from the back corner of the house on French Creek to the back that would be 6 feet the rest would be 4 feet. Mr. Bulger asks if the 4' section be with the opacity, or would it be solid? Mr. McCormick asks what the opacity means. Mr. Bulger says its not just board to board there is open areas. Mr. Bulger says if he is hearing it the 4' would have the open and the 6' would be solid. Mr. McCormick says that would look funky and would like to have it all solid. More discussion is involved with what he is permitted and where it could agree with Mr. McCormick. Mr. Klingshirn thought there was some open space, but Mr. Ladegaard says there is no open space, that is part of the compromise.

Craig Young, 39278 French Creek is sworn in by Mr. Gasior. Mr. Young asks what was the purpose of a fence ordinance in the first place? Mr. Young says places like Sheffield he believes they don't have one, so what was the overall intent? Mr. Ladegaard says just like all our rules that is what was put down and they must follow. Mr. Young says with all due respect to Joey, he works out of his house and has been for 32 years and he looks out on his property 8-10 hours a day. What he is not really excited about is to look at a white stockade fence. Mr. Young says he gets it and appreciates the want to have the privacy, but he thinks one of the things that makes Avon a nicer place to live is the fact there aren't a lot of fences. Its nice to look out his back window as its wide open. Mr. Young says he is not excited about spending 8-10 hours a day looking out and seeing the fence. Mr. Young says he also thinks at some point he will want to sell his property and what a perspective buyer would think of walking out their front door looking at that.

Dave Selestak, 39332 French Creek is sworn in by Mr. Gasior. Mr. Selestak says if he understands the goals, he thinks the setback variance no one has an issue with that. He says its more of a comment, suggestion, recommendation- what he heard was one, you want to be able to keep the kids in and two, you want to create a more private backyard. Mr. McCormick says yes. Mr. Selestak says based on the way the house sits facing Moon Road, to the south side of the lot is where the neighbor has that 7-8-foot-tall row of hedges. Mr. Selestak on that side other than not being able to keep your kids in, in his opinion you can put a compliant opacity fence there, keeps the kids in and you get the opacity. Mr. Selestak says coming back north which is the back of the property, again, you can run an allowed opacity and asks what that is again. Mr. Schneider says its 70% in the front yard, rear yard can be solid along with the side yard. Mr. Selestak says what he is getting at is he thinks if they did an open fence and put hedge in you could accomplish all your goals. Mr. McCormick says he understands that, and he doesn't like the mix open and not open mixture. He understands what they are saying and appreciates they have probably lived here a long time but for them it's the kid's safety and in his opinion, it's going to be there regardless of it being open or not. There will still be the lesser fence in the front that might help their view or not. Mr. Selestak asks if they can do something with some landscaping along the fence. Mr. McCormick says he is not opposed to that, they must put sidewalks on both side of the road and they have talked some type of landscaping eventually. Mr. Schneider says Mr. McCormick could have gotten a fence permit coming off the back of his house 6' high and you would be looking at the whole north side of his house plus the fence and he wouldn't need a variance. Mr. Schneider says he is willing to work with Board so he's doing what he is allowed to do. Mr. Selestak says again he is not trying to be difficult at all, he appreciates the woods are gone. Mr. McCormick says they were looking at a junk yard. Mr. Young says he is fine if they can do some type of greenery, so he isn't overlooking a stockade. Mr. Ladegaard asks if he wants to come back with something else? Mr. McCormick says eventually there will be something there but will not commit that they are going to do something, he thinks its reasonable now and there will be something just not sure when. He is happy with what was discussed and hopes they can agree to disagree and if they put additional now or a couple years down the road. Mr. Gasior says its going to be a motion to approve per the drawing that was submitted tonight.

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A motion was made by Mr. Miller seconded by Mr. Hricovec to approve 30' setback, 2' height and a 70% opacity variance from C.O. 1294.08(a)(c)(2) Fence Location, Height and Opacity to allow the installation of a 6' board on board fence and a 4' height fence per drawing agreed upon to be located at 2822 Moon Road. The vote was: 4 "AYES" 1 "NAY" Mr. Klingshirn. The Chair declare the motion passed.

BRITT APPEAL

Brian and Jennifer Britt are requesting approval of a 26' rear yard setback variance from C.O. 1262.04(d)(4) Lot and Yard to allow the construction of a 2,478 sq. ft. accessory building to be located at 2915 Stone Wheel Run.

A motion was made by Mr. Miller, seconded by Mr. Bulger to entertain a motion to reconsider. The vote was: "AYES" All. The Chair declared the motion passed.

Mr. Klingshirn informs the Chair that he will be abstaining from the vote.

Mr. Britt is sworn in by Mr. Gasior. Mr. Britt says upon recommendation, he spoke with Mr. Coco to accommodate the Boards concerns which was the length or size of the variance from 29' and moved it up as far as they could and still kept the capability to keep the function of the inside of the building and moved it up to 26' and lessened the square footage a bit and is asking for approval.

A motion was made by Mr. Miller, seconded by Mr. Bulger to approve a 26' rear yard setback variance from C.O. 1262.04(d)(4) Lot and Yard to allow the construction of a 2,478 sq. ft. accessory building to be located at 2915 Stone Wheel Run. The vote was: 4 "AYES", 1 "ABSTAIN" Mr. Klingshirn. The Chair declared the motion passed.

GOOD APPEAL

John Nash representing Brandon and Hallie Good is requesting a 10' side yard variance from C.O.1262.04(d)(3) Lot and Yard Requirements to allow the construction of a roof over the existing patio located 3429 Truxton Place.

John Nash of Nash Project Management is sworn in by Mr. Gasior. Mr. Nash says they are trying to do a covered patio off the back of their house. They have an existing brick paver patio they are trying to cover a portion of it. Mr. Nash says they have an inside corner lot, and their house is at an angle and there isn't much room in the back area. Mr. Nash says he's tried shifting the roof or do something different. They are trying not to disturb the existing patio and he was going to put his structural column just on the other side of the wall, its point loads, there isn't a full foundation where they could turn it into something its not. It will be an open structure with 2 posts. Mr. Nash says there will be a fireplace on the northwest side. Mr. Nash talked to the owner to the north side of them and they will be doing something with his house and doesn't think it's a big impact. Mr. Ladegaard says the neighbor to the north sent in an email and they were ok with it. Mr. Nash says his concern was drainage and they are doing a gable roof that will be tied into the downspouts so there are no water issues.

A motion was made by Mr. Klingshirn, seconded by Mr. Hricovec to approve a 10' side yard variance from C.O.1262.04(d)(3) Lot and Yard Requirements to allow the construction of a roof over the existing patio located 3429 Truxton Place. The vote was: "AYES" All. The Chair declared the motion passed.

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WOLANIN APPEAL

Andre Wolanin is requesting a 544 sq. ft. variance from C.O. 1262.08(a)(2) Maximum Area and Number of Accessory Buildings to allow the construction of a pool house with bathroom to be located at 3770 Center Road.

Andre and Dina Wolanin are sworn in by Mr. Gasior. Mr. Wolanin says when they bought the house, it came with a barn on it. They are putting a pool behind the house between the house and the barn, and they are asking to put a pool house in. Mr. Ladegaard confirms a 16'x34' and Mrs. Wolanin said she just noticed the drawing says something different than what the builder says, and she says its 34 feet. Mr. Bulger asks if it changes the request on the square footage and it was determined no. Mr. Ladegaard double checks to make sure it does not and it doesn't.

A motion was made by Mr. Bulger, seconded by Mr. Klingshirn to approve a 544 sq. ft. variance from C.O. 1262.08(a)(2) Maximum Area and Number of Accessory Buildings to allow the construction of a pool house with bathroom to be located at 3770 Center Road. The vote was: "AYES" All. The Chair declared the motion passed.

HAJDARI APPEAL

Astrit Hajdari is requesting a 23 sq. ft. variance from C.O. 1262.08(a)(2) Maximum Area and Number of Accessory Buildings to allow the construction of a pavilion to be located at 2441 Muirwood.

A motion was made by Mr. Miller, seconded by Mr. Hricovec to table until the November meeting. The vote was: "AYES" All. The Chair declared the motion passed.

COMMENTS

Mr. Schneider says he will be retiring at the end of the month, and this was his last meeting. It was a pleasure working with you all. Mr. Ladegaard asks with the Zoning Board how long have you been with the city? Mr. Schneider says 24 years. Congratulations to Mr. Schneider.

ADJOURN