

BOARD OF ZONING APPEALS

Springfield, Ohio

Monday, June 17, 2019

7:00 P.M.

City Forum, City Hall

Meeting Minutes

(Summary format)

Acting Chairperson Denise Williams called the meeting to order at 7:00 P.M.

MEMBERS PRESENT: Mr. Mark Brown, Ms. Jeannette Anderson, Ms. Rhonda Zimmers, and Ms. Denise Williams.

MEMBERS ABSENT: Mr. Mathew Ryan, Mr. James Burkhardt, and Ms. Dori Gaier.

OTHERS PRESENT: Stephen Thompson, Planning, Zoning, and Code Administrator
Cheyenne Pinkerman, Community Development Specialist.

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SUBJECT: Approval May 20, 2019 meeting minutes.

Ms. Williams asked if the Board had any corrections to add to the minutes.

Ms. Williams asked the Board members to voice yes if they were in favor of approving the minutes. Members voiced yes.

Ms. Williams asked if any opposed to voice nay. Hearing none, Ms. Williams stated the minutes stand approved.

Case #19-A-18 Request from Roger & Carla Boomershine for a conditional use permit to open a school for specialized private instruction at 411-417 E Main St. in a CC-2, Community Commercial District

Ms. Williams stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

Mr. Thompson gave the staff report.

The applicant is requesting a conditional use permit to establish a school, specialized private instruction. The applicant will hold classes teaching basic skill development.

ANALYSIS for Conditional Use:

In considering an application for a conditional use, the Board shall give due regard to the nature

and condition of all adjacent uses and structures, and the consistency therewith of the proposed use and development. Before authorizing a use as a conditional use, the Board shall review the facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that the proposed conditional use at the proposed location:

- (1) Would not be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust and dirt, cinders, noxious gases, glare and heat, fire and safety hazards, sewage wastes and pollution, transportation and traffic, aesthetic and psychological effects. The Board shall use and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering organizations, and can be applied to the proposed use, to assist it in reaching a fair and objective decision;

Staff Comment: It would not.

- (2) Is in fact a conditional use as established under the provisions of this Springfield Zoning Code as eligible to be permitted in the district involved;

Staff Comment: A school, specialized private instruction is a conditional use.

- (3) Will be harmonious with and in accordance with the general objectives, or with any specific objective of this Springfield Zoning Code;

Staff Comment: Yes.

- (4) Will be designed, constructed, operated and maintained as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;

Staff Comment: Yes.

- (5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

Staff Comment: Yes.

- (6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

Staff Comment: It will not.

- (7) Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. Upon authorizing a

conditional use, the Board shall impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this Springfield Zoning Code for the particular conditional use, as the Board may deem necessary for the protection of adjacent properties and the public interest.

Staff Comment: Yes.

STAFF RECOMMENDATION:

Approval of the conditional use permit.

Ms. Williams asked if the Board had any questions for Mr. Thompson.

Ms. Williams asked if there were any complaints.

Mr. Thompson stated there were none.

Ms. Williams asked if the applicant or the applicants' agent wished to speak.

Mr. Roy Boomershine, 6200 South Plateau Drive. Springfield, OH, stated they wanted to work with the young people in Springfield doing basic skilled work. Mr. Boomershine mentioned doing woodworking, t-shirt printing and craftwork. Mr. Boomershine stated they were limited to fifteen for the occupancy. Mr. Boomershine stated they preferred to work with smaller groups.

Ms. Williams asked if the board had any questions for the applicant. Hearing none, Ms. Williams asked if there was anyone else that wished to speak at that time. Hearing no further discussion, Ms. Williams asked if there was a motion to close the public hearing.

MOTION: Mr. Brown made a motion to close the public hearing. Seconded by Ms. Anderson. Approval by voice vote.

Ms. Williams stated that the public hearing was now closed and asked for a motion to approve Case #19-A-18.

MOTION: Motion by Ms. Anderson to approve the conditional use permit for 411-417 E Main St for a school, specialized private instruction. Seconded by Mr. Brown.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. No opposition.
2. Good use of Property.

YEAS: Ms. Zimmers , Ms. Anderson, Mr. Brown, and Ms. Williams

NAYS: None

Motion Approved 4 to 0.

Case #19-A-19 Request from Melinda Insley for a variance from Chapter 1156.01(b) for a privacy fence in a front yard setback at 1629 Tibbetts Ave. in a RS-5, Low-Density, Single-Family Residence District

Ms. Williams stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

Mr. Thompson gave the staff report.

The applicant is requesting a variance from Chapter 1156.01 to construct a privacy fence over 2.5 feet tall in a front yard. The applicant constructed privacy fence along Prairie Ave, which is considered a front yard since it is a corner lot. The fence would not interfere with visibility of traffic.

ANALYSIS for Variance:

The Board may grant a variance only where there exists a “practical difficulty” as defined by the courts in Ohio in established case law. The Ohio Supreme Court’s decision in Kisil v. City of Sandusky, (1984) 12 Ohio State 3d 30, is a land mark decision in establishing common law governing variances by distinguishing between “use” and “area variances.” Area variances involve an exception from such requirements as yard, lot, and height standards. The Supreme Court established that a practical difficulty must exist before an area variance can be granted.

Then subsequent to this case, in Duncan v. Village of Middlefield, (1986) 23 Ohio 3d 83, the Ohio Supreme Court more fully explained the practical difficulty standards. The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered a practical difficulty in the use of his/her property include, but are not limited to:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

Staff Comment: Yes.

2. Whether the variance is substantial;

Staff Comment: Yes.

3. Whether the essential character of the neighborhood will be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

Staff Comment: No.

4. Whether the variance would adversely affect the delivery of government services (e.g., water, sewer);

Staff Comment: No.

5. Whether the property owner purchased the property with the knowledge of the zoning restrictions;

Staff Comment: No.

6. Whether the property owner's predicament can be obviated through some method other than a variance; or

Staff Comment: Yes. The fence could be moved back to match the setback of the house.

7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Staff Comment: Yes. The fence is on the side of the house, which is the intent of this code to maintain a certain aesthetic.

STAFF RECOMMENDATION:

Approval for a variance from Chapter 1156.01(b) for a privacy fence over 2.5 feet tall in a front yard setback.

Ms. Williams asked if the Board had any questions for Mr. Thompson.

Ms. Anderson asked there was any opposition.

Mr. Thompson stated there was no opposition.

Ms. Williams asked if the applicant wished to speak.

Ms. Melinda Insley, 629 Tibbetts Avenue, Springfield, OH, explained that she partook in foster care and had two, two year old twins. Ms. Insley explained that was her reasoning for wanting the fence. Ms. Insley explained that she did not have a back door and would like to start the fence at the side door. Ms. Insley stated she wanted to get a pool and would like to have a taller fence for that reason.

Ms. Williams asked if the board had any questions for the applicant. Hearing none, Ms. Williams asked if there was anyone else that wished to speak at that time. Hearing no further discussion, Ms. Williams asked if there was a motion to close the public hearing.

MOTION: Ms. Zimmers made a motion to close the public hearing. Seconded by Ms. Anderson. Approval by voice vote.

Ms. Williams stated that the public hearing was now closed and asked for a motion to approve

Case #19-A-19.

MOTION: Motion by Ms. Anderson to approve a variance from Chapter 1156.01(b) for a privacy fence over 2.5 feet tall in a front yard. Seconded by Mr. Zimmers. .

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. No opposition.
2. Makes sense for safety reasons.
3. Straight forward.

YEAS: Ms. Zimmers, Ms. Anderson, Mr. Brown, and Ms. Williams

NAYS: None

Motion Approved 4 to 0.

Case #19-A-20 Request from Aaron Howard for a variance from Chapter 1152.02(f) for an accessory structure that is 20 feet tall at 127 Willis Ave. in a RS-5, Low-Density, Single-Family Residence District.

Ms. Williams stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

Mr. Thompson gave the staff report.

The applicant is requesting a variance from Chapter 1152.02(f) to construct an accessory structure over 16 feet tall. It is an existing garage with a flat roof and the applicant wants to add a trussed roof system, which will make the overall height 20 feet. The garage will be for personal use.

ANALYSIS for Variance:

The Board may grant a variance only where there exists a “practical difficulty” as defined by the courts in Ohio in established case law. The Ohio Supreme Court’s decision in Kisil v. City of Sandusky, (1984) 12 Ohio State 3d 30, is a land mark decision in establishing common law governing variances by distinguishing between “use” and “area variances.” Area variances involve an exception from such requirements as yard, lot, and height standards. The Supreme Court established that a practical difficulty must exist before an area variance can be granted.

Then subsequent to this case, in Duncan v. Village of Middlefield, (1986) 23 Ohio 3d 83, the Ohio Supreme Court more fully explained the practical difficulty standards. The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered a practical difficulty in the use of his/her property include, but are not limited to:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

Staff Comment: Yes.

2. Whether the variance is substantial;

Staff Comment: Yes. It is a variance of 25% in the height maximum.

3. Whether the essential character of the neighborhood will be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

Staff Comment: No.

4. Whether the variance would adversely affect the delivery of government services (e.g., water, sewer);

Staff Comment: No.

5. Whether the property owner purchased the property with the knowledge of the zoning restrictions;

Staff Comment: No.

6. Whether the property owner's predicament can be obviated through some method other than a variance; or

Staff Comment: Yes. The existing flat roof could be utilized.

7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Staff Comment: Yes.

STAFF RECOMMENDATION:

Approval for a variance from Chapter 1152.02(f) to construct an accessory structure over 16 feet tall.

Ms. Williams asked if the board had any questions for Mr. Thompson.

Ms. Anderson asked there was any opposition.

Mr. Thompson stated there was no opposition.

Ms. Zimmers asked what the building was used for originally.

Mr. Thompson explained that he had discussed that with the applicant prior to the meeting and stated the structure was originally constructed to be used as a dairy. Mr. Thompson stated the structure has had multiple uses including an electrician shop and a garage door company. Mr. Thompson explained the structure was built in 1931 and there was a stone with a date on it. Mr. Thompson stated over the past 90 years the building had been used for several commercial uses. Mr. Thompson explained that applicant planned to use the structure for personal use for storage. Mr. Thompson explained the flat roof had poor drainage.

Ms. Williams asked if the applicant wished to speak. Hearing none, Ms. Williams asked if there was anyone else that wished to speak at that time. Hearing no further discussion, Ms. Williams asked if there was a motion to close the public hearing.

MOTION: Ms. Zimmers made a motion to close the public hearing. Seconded by Mr. Brown. Approval by voice vote.

Ms. Williams stated that the public hearing was now closed and asked for a motion to approve Case #19-A-20.

MOTION: Motion by Ms. Anderson to approve a variance from Chapter 1152.02(f) for an accessory structure that is 20 feet tall. Seconded by Mr. Brown.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. No opposition.
2. Improves the property value.
3. Preserving a 90 year old building.

YEAS: Ms. Zimmers, Ms. Anderson, Mr. Brown, and Ms. Williams

NAYS: None

Motion Approved 4 to 0.

Board Comments:

None.

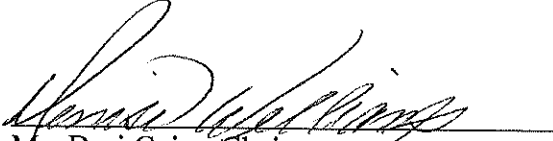
Staff Comments:

None.

Subject: Adjournment

Ms. Anderson made a motion to adjourn the meeting. Seconded by Mr. Brown.

Ms. Williams adjourned the meeting at 7:40 pm.



Ms. Dori Gaier, Chairperson
Ms. Denise Williams, Vice-Chairperson