

**BOARD OF ZONING APPEALS**  
**Springfield, Ohio**  
**Monday, October 21, 2019**  
**7:00 P.M.**  
**City Forum, City Hall**

**Meeting Minutes**  
(Summary format)

Chairperson Dori Gaier called the meeting to order at 7:00 P.M.

MEMBERS PRESENT: Mr. Mark Brown, Mr. James Burkhardt, Ms. Rhonda Zimmers, Mr. Mathew Ryan, Ms. Denise Williams and Ms. Dori Gaier.

MEMBERS ABSENT: None.

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

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**SUBJECT: Approval September 16, 2019 meeting minutes.**

Ms. Gaier asked if the Board had any corrections or additions to add to the minutes.

Hearing none, Ms. Gaier asked the Board members to voice yes if they were in favor of approving the minutes. Members voiced yes.

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

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**Case #19-A-27 Request from Adriel Harris for a conditional use permit for a community center (community garden) at 1020 W Perrin Ave. in a RS-5, Low-Density, Single-Family Residence District**

Ms. Gaier 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 seeks a conditional use permit to establish a community garden. The applicant included a layout of how the garden plots would be organized. The applicant also plans to repair the building to use it to store gardening equipment. Staff did receive multiple letters of opposition to this from surrounding neighbors.

**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: Yes.*

- (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. The applicant stated the existing building would be repaired.*

- (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. Gaier asked if the Board had any questions for Mr. Thompson.

Ms. Zimmers asked if the applicant was present.

Ms. Gaier asked how many neighbors called to complain verse the number of letters in the packet.

Mr. Thompson stated he received one phone call.

Ms. Gaier asked if the caller was the author of the letter.

Mr. Thompson stated that was correct.

Ms. Gaier asked how often there had been formal typed letters signed by neighbors submitted to the board.

Mr. Thompson stated that he does not remember any typed letters, they are usually hand written.

Ms. Gaier stated her concern was how many neighbors actually read the letter before they signed it.

Ms. Zimmers asked if there had been any police reports that the neighbors were complaining about with the parking issues and drug use.

Mr. Thompson stated there were none. Mr. Thompson explained one of the staff members that reviews the cases would be the police chief and he did not have any objections. Mr. Thompson stated in previous cases the police chief would let him know of any activity on the property.

Ms. Zimmers questioned where the author of the letter lived in proximity to the property.

Mr. Thompson stated that the caller and the author of the letter was Mr. Rick Meade and lives almost directly across the street.

Ms. Zimmers asked if the applicant had experience with a community garden.

Mr. Thompson stated the applicant had been involved with the Jefferson Street Oasis that had been very successful. Mr. Thompson stated the Jefferson Street Oasis was very well maintained.

Mr. Thompson stated the applicant explained she got involved with the community gardens to learn and hoped to bring the community gardens to a different neighborhood.

Ms. Zimmers asked if the applicant lived near the lot.

Mr. Thompson explained the applicant lives a few blocks west of the location.

Mr. Ryan asked if the applicant owned the property.

Mr. Thompson stated she was the owner. Mr. Thompson explained that the case actually started in Code Enforcement. There was a repair or demolish order for the garage on the property. Mr. Thompson stated the applicant explained that she wanted to fix the garage and start a community garden on the property. Mr. Thompson stated that he explained that she need to go in front of the City Plan Board as her first step.

Mr. Burkhardt asked if the board could require the accessory structure be fixed as part of their motion.

Mr. Thompson stated yes.

Ms. Zimmers asked if the applicant was the owner.

Mr. Thompson stated that was correct.

Ms. Gaier asked if the applicant had already been notified that she needed to repair the building and if the board needed to add that as a condition.

Mr. Thompson stated that was correct but suggested that the board add that due to the length of time it had taken to get to the point that were at.

Ms. Zimmers asked the applicant would run the property in a way that would be appealing to the rest of the community.

Mr. Thompson stated if she follows the example that the Jefferson Street Oasis then he would say yes and it would be an asset to the community.

Ms. Gaier asked if there were any further questions for Mr. Thompson. Hearing none, Ms. Gaier asked if there was anyone else that wished to speak. Hearing no further discussion, Ms. Gaier asked if there was a motion to close the public hearing.

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

Ms. Gaier stated that the public hearing was now closed and asked for a motion to approve Case #19-A-27.

**MOTION:** Motion by Mr. Burkhardt to approve Case #19-A-27 Request from Adriel Harris for a conditional use permit for a community center (community garden) at 1020 W Perrin Ave. in a RS-5, Low-Density, Single-Family Residence District with a condition that the accessory structure be repaired prior to the gardens being planted. Seconded by Ms. Williams.

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

1. Strong opposition
2. A community garden would help improve the lot and the building.

Board members decided they were unclear on some facts and felt they needed to reopen the case.

**MOTION:** Mr. Ryan made a motion to reopen the public hearing. Seconded by Mr. Burkhardt. Approval by voice vote.

Ms. Gaier stated that the public hearing was now open.

Ms. Zimmers asked what kind of information was received in the mail about the case.

Mr. Thompson stated that the information that was on the agenda was sent the neighbors.

Ms. Zimmers stated the wording on the agenda could have been misleading because it stated a community center which is different than a community garden.

Mr. Thompson stated that was possible.

Ms. Williams stated she was confused and thought a community center was going in. Ms. Williams asked what the difference was between community center and community garden.

Mr. Thompson stated nothing per say and explained habitat for humanity wanted to start a community garden at Linden Ave. and Rice St. Mr. Thompson stated the law director said a community garden use could fall under the community center definition. Mr. Thompson stated that's how it's been interpreted ever since.

Mr. Burkhardt stated that made sense.

Ms. Williams stated it was still confusing to her to read.

Ms. Zimmers explained that the gardens would be for the community.

Mr. Ryan asked if Mr. Meade was made aware of the community garden and not thinking that it was a community center.

Mr. Thompson stated that he was told about it being a community garden and still opposed.

Ms. Williams asked if the opposition and the applicant could be present at the meeting if they tabled the case until the following month.

Ms. Gaier stated that Mr. Meade was invested into that neighborhood and would like to hear why he is opposed to the community garden.

Mr. Ryan asked the back ground on how code enforcement got involved with the garage.

Mr. Thompson explained code enforcement had been proactive in the area. Mr. Thompson explained the whole could be seen from public right of way and was not received as a complaint.

Ms. Zimmers asked how long the applicant had owned the property.

Mr. Thompson stated that he was unsure but the auditor's website would have that information.

Ms. Zimmers stated she was curious why she hadn't made the repairs to the structure if she had owned the property for a while. Ms. Zimmers questioned if the code enforcement sending her a letter prompted her to turn the lot into a community garden or if she had the plan in place prior to the letter being sent.

Mr. Thompson stated he was unsure.

Mr. Ryan asked if code enforcement gave her the option to repair the structure.

Mr. Thompson stated that code enforcement gave her the option. Mr. Thompson explained each repair or demolish order gives the property owner a 30 day compliance letter to decide if they want to repair or demolish. Mr. Thompson explained from that point code enforcement would work the owner on a timeline to repair or demolish the structure. Mr. Thompson stated he explained to the applicant the process and she explained her plan to fix the structure to use for storage for the community garden.

**MOTION:** Motion by Mr. Ryan to close the public hearing. Seconded by Mr. Brown.

Ms. Gaier stated that the public hearing was now closed and asked for a motion to approve Case #19-A-27.

Board members amended the previous motion.

**MOTION:** Motion by Mr. Burkhardt to table discussion until applicant and opposing parties could be present. Seconded by Mr. Ryan.

**YAYS:** Mr. Ryan, Mr. Brown, Mr. Burkhardt, Ms. Zimmers, Ms. Williams and Ms. Gaier

**NAYS:** None

Motion Approved 6 to 0.

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**Case #19-A-28 Request from the City of Springfield for a variance from Chapter 1152.02 to allow a storage shed placed closer than five feet to a property line at 735 W Pleasant St. in a RS-8, Medium-Density, Single-Family Residence District.**

Ms. Gaier 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 to construct a 10' x 20' shed two feet from a property line. Chapter 1152.02 states "In R districts, an accessory building shall not be located closer than five (5) feet to a rear or side lot line." This variance is for a 60% reduction in the required setback. The lot is limited in available area for additional storage that would meet the setback requirement while also not interfering with the fire station operations.

**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 60% reduction in the required setback. However, there is a substantial hardship locating this anywhere else on the property while also meeting setbacks.*

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: Unknown.*

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

*Staff Comment: No.*

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 to permit a shed closer than five feet to a property line.

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

Ms. Zimmers asked if there was any opposition.

Mr. Thompson stated there was no opposition.

Ms. Gaier asked if there were any further questions for Mr. Thompson. Hearing none, Ms. Gaier asked if there was anyone else that wished to speak. Hearing no further discussion, Ms. Gaier asked if there was a motion to close the public hearing.

**MOTION:** Mr. Burkhardt made a motion to close the public hearing. Seconded by Ms. Williams. Approval by voice vote.

Ms. Gaier stated that the public hearing was now closed and asked for a motion to approve Case #19-A-28.

**MOTION:** Motion by Mr. Ryan to approve Case #19-A-28, request from the City of Springfield for a variance from Chapter 1152.02 to allow a storage shed placed closer than five feet to a property line at 735 W Pleasant St. in a RS-8, Medium-Density, Single-Family Residence District. Seconded by Mr. Brown.

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

1. There is no opposition.
2. The property will be well maintained.
3. It is a good use.

**YAYS:** Mr. Ryan, Mr. Brown, Mr. Burkhardt, Ms. Zimmers, Ms. Williams and Ms. Gaier

**NAYS:** None

Motion Disapproved 6 to 0.

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**Case #19-A-29 Request from Diedre Koik for a conditional use permit for a self-storage facility at 545 E Leffel Ln. in a CC-2, Community Commercial District**

Ms. Gaier 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 seeks a conditional use permit to establish a self-storage facility. The property was rezoned in 2019. It is currently undeveloped.

**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: Yes.*

- (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. Gaier asked if the Board had any questions for Mr. Thompson. Hearing none, Ms. Gaier asked if the applicant or the applicant's agent wished to speak.

Mr. John Spencer, Attorney for the applicant, stated he had nothing to add but would be happy to answer questions.

Ms. Gaier asked if the board had any questions for Mr. Spencer. Hearing none, Ms. Gaier asked if there was anyone else that wished to speak. Hearing no further discussion, Ms. Gaier 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. Gaier stated that the public hearing was now closed and asked for a motion to approve Case #19-A-29.

**MOTION:** Motion by Mr. Brown to approve Case #19-A-29, request from Diedre Koik for a conditional use permit for a self-storage facility at 545 E Leffel Ln. in a CC-2, Community Commercial District. Seconded by Mr. Burkhardt.

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

1. There is no opposition.
2. It is a conditional use.
3. It fits the area.

**YAYS:** Mr. Ryan, Mr. Brown, Mr. Burkhardt, Ms. Zimmers, Ms. Williams and Ms. Gaier

**NAYS:** None

Motion Disapproved 6 to 0.

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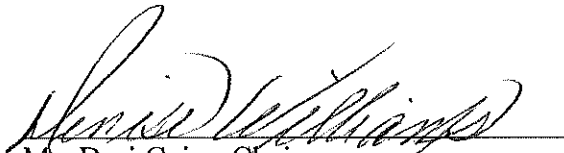
**Board Comments: None.**

**Staff Comments: None.**

**Subject: Adjournment**

Ms. Williams made a motion to adjourn the meeting. Seconded by Ms. Zimmers.

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



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