

CITY OF AURORA  
OHIO  
**BOARD OF ZONING APPEALS**  
Meeting Minutes  
April 13, 2016

The Aurora Board of Zoning Appeals met in a scheduled meeting Wednesday, April 13, 2016 in the Council Chambers at City Hall. The meeting was called to order at 6:30 p.m. by Vice Chairman Bernard McCarrell.

Prior to the start of the meeting, Mr. Carr took the oath of office. His new term of office will expire at the end of 2019.

**ROLL CALL:** Present: Tom Carr, Alternate  
Tony Gramm  
Bernard McCarrell, Vice Chairman  
Tim Novotny  
Absent: Terese Fennell, Chairman  
Jeff Iammarino  
Also Present: Meredith Davis, Asst. Director Planning, Zoning, Building Division  
Dean DePiero, Law Director  
Marie Lawrie, Clerk

**DECLARATION OF OATH:**

Mr. DePiero swore in those that planned to speak.

**AMENDMENTS TO THE AGENDA:**

A letter was received from Kevin and Barb Schroeder in favor of granting the variance request at 880 Hilliary Lane. A letter was also received from Barnett Management on behalf of 880 Hilliary Lane stating that the project was approved as long as the applicant complied with the setbacks. D. Kotkowski of 457 E Pioneer Trail submitted a letter against granting the variance at 477 E Pioneer Trail.

**MOTION: To accept the documents for consideration**

Mr. Novotny moved for approval; Mr. Carr seconded, and the motion carried, 4-0, on a unanimous voice vote.

A letter was presented by Mr. Mrozowski from Sandy and Bob Earley in favor of the variance request for 477 E Pioneer Trail.

**MOTION: To accept the document for consideration**

Mr. Novotny moved for approval; Mr. Carr seconded, and the motion carried, 4-0, on a roll call vote.

Yeas: Mr. Novotny, Mr. Carr, Mr. Gramm, Mr. McCarrell

Nays: None

**APPROVAL OF MINUTES:**

There were not enough members present at this meeting that were also in attendance on February 18, 2016 to approve the minutes. They will be considered at the next meeting.

There were not enough members present at this meeting that were also in attendance on March 9, 2016 to approve the minutes. They will be considered at the next meeting.

**NEW BUSINESS:**

**JERRY & LISA HIRTER, 880 HILLIARY LN (1602010) – DECK WITHIN THE DEVELOPMENT PERIMETER**

Jerry Hirter, homeowner was present to discuss his variance request. David Duffy of Nature's Landscape and Design was in attendance as well. Mr. Hirter described his plans to build a deck and paver patio with steps protruding 5 feet into the development perimeter. He stated that his neighbors, Kevin and Barb Schroeder, 4 units to the south submitted a letter in favor of his variance. He has no neighbors to the north and east of his property is the Ohio Edison substation. There was discussion pertaining to how the resident understood from the salesperson that this type of project would be permitted when purchasing the condo. Included in this discussion was the topic of the Yards and Setbacks Addendum that homeowners sign at the time of purchase which states that structures cannot be erected in the setbacks. The applicant was asked if there was a way to reconfigure the design to meet code requirements. Mr. Hirter stated that there is a way, however; he preferred the design he submitted. Mr. Novotny asked if there had been a meeting between Barnett Management and the City to address this issue. There was a meeting via telephone between the parties, in which the management company acknowledged the setback requirements. Mr. Hirter stated that in the coming week the homeowner's association would be officially formed and Barnett Management's services would no longer be necessary. It was stated that whether the homeowner's association or a management company oversees the development, the setback restrictions will remain the same. Once the HOA is established, a meeting could take place with the Building Department to go over the codes. Ms. Davis let the members know that the Building Department has communicated with Ryan Homes on more than one occasion pertaining to informing purchasers of the Residential Conservation Development codes. There was no one present wishing to make public comment on this variance request.

The Board discussed the variance request among themselves. Mr. Carr explained the spirit and intent of the RCD. He reminded the Board that others have come before them with variance requests which were tabled. At that time, the applicants were able to revise their plans to comply with the Zoning Codes. Mr. Novotny understands the plight of the homeowner. He stated that it is unfortunate that the salesperson gives misinformation to the buyer. However, he stated there are rules for the RCD and that is the buyer/homeowner's responsibility to understand. He would like to see a meeting take place to resolve this. Mr. McCarrell mentioned that Board members have been to speak with the Ryan Homes representatives. Mr. Gramm mentioned that the Board could motion to table the project. Mr. McCarrell stated that the Board may be leaning toward denying the variance and asked the applicant whether he would like them to motion to table the project or to take a vote. Mr. Hirter asked for a vote. Mr. Carr explained that although the Board looks at each request separately and there is potential for 35 homeowners to request a variance in the future, they will be considering the spirit and intent of the RCD, which means to protect and preserve common areas. Ms. Davis confirmed that a deck, whether free-standing deck or attached as well as the steps themselves are considered a structures by the Ohio Building Code.

**MOTION: To grant the variance as requested**

Mr. Novotny moved for approval; Mr. McCarrell seconded, and the motion was unanimously **DEFEATED**, on a roll call vote.

Yeas: None

Nays: Mr. Novotny, Mr. McCarrell, Mr. Carr, Mr. Gramm

**JOHN LAWRIE, 184 N PARK DR (1603012) – ADDITION WITH AN 8' SIDE YARD SETBACK**

John Lawrie, homeowner was on hand to answer questions. He was seeking a 2 foot variance to widen his two-car garage by 5 feet. He stated that most two-car garages are 20 foot wide and his is 18 foot. He also stated that the back of the family room fireplace protrudes into the garage space. He explained the difficulty he and his wife experience trying to fit both vehicles inside the garage, as well as the challenge of mobility around the vehicles. He had letters from all the neighboring properties in favor of the variance, as well as an email from the homeowner's association stating that it was not necessary for the applicant to seek their approval. Mr. Lawrie provided garage door information to the Board, explaining that he plans to replace his large double door with two single car garage doors. There was no one present wishing to make public comment on this variance.

The Board discussed the variance request among themselves. Mr. Gramm did not feel the variance was substantial. Mr. McCarrell did not feel the applicant could feasibly solve his issue by another method. He also stated that government services would not be affected and the character of the neighborhood would not be substantially altered.

**MOTION: To grant the variance as requested**

Mr. Novotny moved for approval; Mr. Gramm seconded, and the motion carried, 4-0, on a roll call vote.

Yeas: Mr. Novotny, Mr. Gramm, Mr. Carr, Mr. McCarrell

Nays: None

LARRY LAHMAN, 76 E PIONEER TR (1603013) – ADDITION WITHIN 12’ OF DETACHED GARAGE

Larry Lahnan, property owner was present at the meeting. He was seeking a variance to allow an addition to be constructed on the rear elevation of his home which would sit approximately 13 feet from his detached garage. The addition will not encroach on neighboring properties. The variance is strictly due to the required distance per code between the primary structure and the accessory structure, which is 15 feet minimum. There was no one present at the meeting who wished to make any public comments.

The Board addressed the checklist. Mr. Novotny stated he saw no issues as pertained to the checklist with this variance request. Mr. Carr stated the request is not substantial so long as the property owner is comfortable with the distance between the structures. Mr. McCarrell stated that he could reduce the size of the addition to comply with code. The applicant was not inclined to do that.

**MOTION: To grant the variance as requested**

Mr. Gramm moved for approval; Mr. Carr seconded, and the motion carried, 4-0, on a roll call vote.

Yeas: Mr. Gramm, Mr. Carr, Mr. McCarrell, Mr. Novotny

Nays: None

KENNETH RUGGERIO, 567 DOVER DR (1603014) – DECK WITHIN THE DEVELOPMENT PERIMETER

This item was removed from the agenda. An error in the topography map showed this proposed deck within the setback for the subdivision. This project did not need a variance.

**MOTION: To remove this item from the agenda**

Mr. Carr moved for approval; Mr. McCarrell seconded, and the motion carried, 4-0, on a roll call vote.

Yeas: Mr. Carr, Mr. McCarrell, Mr. Gramm, Mr. Novotny

Nays: None

JOSEPH MROZOWSKI, 477 E PIONEER TR (1603015) - 960 s.f. POLE BARN

Joseph Mrozowski, homeowner was on hand to explain his request. He was proposing to erect a 960 square out building to store lawn maintenance equipment and patio furniture, etc. The code allows for 2 accessory structures with a total square footage of

576 on a parcel less than 1 acre. The parcel that the applicant would like to erect this building on is .92 acres. Additionally, he has a small storage shed on the property at this time. When the homeowner was asked what he planned to do with the existing shed, he stated that if he was required to tear it down in order to erect this new pole barn, he would do that, however; he hoped that he could have both buildings. The applicant recently purchased this property. It consists of two parcels. If he were to combine the parcels into one unit, he would not need to ask for a variance. The combined acreage would be over 1 acre. Mr. Mrozowski stated that he would need the services of a surveyor to combine the lots for an approximate cost of \$3000.00 - \$4000.00. There was a letter from submitted from D. Kotkowski, of 457 E Pioneer Trail opposing the variance. The applicant also submitted a letter from Sandy and Bob Earley, of 496 Eldridge Road in favor of the variance. The chairman opened the floor for public comment.

Joseph Booker, of 440 Eldridge Road inquired whether the applicant would need to follow the Residential Guidelines that he was subject to when he built his shed. He also inquired about whether the pole barn might be used for business purposes. He asked whether the structure would have water, electric, and gutters. He also inquired where the gutters would drain to. He was not in favor of the variance.

Terry Booker, of 440 Eldridge Road stated that the proposed building plan shows this structure will be erected 25 feet from her property line. She reminded that Board that he was asking for 40 percent larger than code allows. She understood that it might be inconvenient to combine the parcels, however; she was not in favor of the variance due to flooding concerns.

Karen Formanek, of 446 Eldridge Road was not in favor of the variance. She stated that he would not need the variance if he combined the lots. As the request stands, she did not support a variance request greater than 60 percent larger than code allows. She asked that the Board uphold the zoning codes.

Ms. Davis stated that the plans for the structure would go through a building review ensuring that it is built to Ohio Building Code standards. That review will address whether the building must have gutters. It would also review water and electric, if the applicant plans to include those utilities. The structure will also need approval from the Architectural Board of Review and will be subject to the Residential Guidelines.

The applicant addressed the concerns by stating he will not be using the building for a business purpose. The height of the structure will be 15 feet. The structure will match the house. He plans to landscape around it.

**MOTION: To accept the letter from Sandy and Bob Earley, 496 E Pioneer Trail for consideration**

Mr. Novotny moved for approval; Mr. Carr seconded, and the motion carried, 4-0, on a roll call vote.

Yeas: Mr. Novotny, Mr. Carr, Mr. Gramm, Mr. McCarrell

Nays: None

The chairman closed public comment and the Board discussed the variance request among themselves. The expense and time involved with consolidating the parcels was discussed. A discussion ensued about the possibility of requiring landscaping to screen the structure. The options for the applicant were described, including building a smaller accessory structure, combining the 2 parcels and building the proposed structure, or granting the variance with stipulations. Mr. DePiero explained that if the variance was granted with required landscaping, the applicant could disregard the variance, combine the lots, and legally erect the shed without following the stipulations.

**MOTION: To grant the variance as requested**

Mr. Novotny moved for approval; Mr. Carr seconded, and the motion was unanimously **Defeated**, on a roll call vote.

Yeas: None

Nays: Mr. Novotny, Mr. Carr, Mr. Gramm, Mr. McCarrell

JAY SCHOLLES, 930 MEADOWBROOK DR (1603016) – ADDITION WITH A 32’ SIDE YARD SETBACK

Ronald Lowe, 5011 Pine Point, Stow was acting as the agent for the homeowner who was out of town and unable to attend the meeting. Also in attendance was Ed Wurm Sr of Classic Homes. They were seeking a variance to allow the homeowner to have a first floor master suite added to their home. Mr. Lowe explained that owners are getting older and would like to be proactive. The current master suite is on the second floor. Other homes in the area have a master bedroom on the first floor and this would not affect the character of the neighborhood. The rear of the property contains the septic system and therefore they cannot erect an addition in an area that would comply with the zoning code. It was explained that the home sits approximately 260 feet from the cul-de-sac and 260 – 270 feet from the nearest neighbor. The Duneden Homeowners Association provided a letter of approval. Photos were submitted to demonstrate the proposed site.

**MOTION: To accept the photos of the property for consideration**

Mr. Novotny moved for approval; Mr. Carr seconded, and the motion carried, 4-0, on a roll call vote.

Yeas: Mr. Novotny, Mr. Carr, Mr. Gramm, Mr. McCarrell

Nays: None

Mr. McCarrell opened the floor for public comment.

Annette Richards, 921 Meadowbrook Lane was not in favor of the variance. She did not wish to see the buffer between her house and the applicants get any smaller. She stated that the applicant’s decorative lights are on all night and shine in her bedroom in the winter. She chose to build in that development because of the mature trees and because there are no street lights. She further stated that the homeowner’s association did not notify members of this variance request. She received a letter from Mr. Wurm and from the City of Aurora. There was discussion about the amount of trees that would need to be cut down for the addition. Mr. Lowe demonstrated that it was minimal. The

Board suggested that Ms. Richards speak to her neighbor concerning the decorative lights and the use of a timer or changing the direction of the lights. It was also suggested to speak to the HOA about this issue as well. A conversation ensued pertaining to putting the addition on the front elevation of the home. It was stated that due to the angle of the property line, there would be just 7 feet of space to work with. Ed Wurm Sr of Classic Homes spoke to the suggestion of a front elevation addition stating that this would have a negative effect on the beautiful design of the front elevation. He also mentioned that this subdivision has 50 foot setbacks, where in many other subdivisions that number is much less. As the original builder of the home, he felt the side elevation was the only good place to erect the addition.

The Board discussed the checklist. Mr. Novotny stated that this variance meets the items on the checklist that allow the Board to approve the request, including that the spirit and intent behind the zoning regulation would still be observed. The character of the neighborhood would not be negatively impacted. Mr. Novotny was inclined to vote yes. Mr. Carr stated that the variance was not substantial. He felt that all parties involved could handle the lighting issues. He was also inclined to approve the variance. Mr. Gramm agreed. Mr. McCarrell stated that he also was in favor of supporting the variance as the setback of 50 feet is a considerable distance and the variance request of 18 feet would not be substantial.

**MOTION: To grant the variance as requested**

Mr. Gramm moved for approval; Mr. Carr seconded, and the motion carried, 4-0, on a roll call vote.

Yeas: Mr. Gramm, Mr. Carr, Mr. McCarrell, Mr. Novotny

Nays: None

**MISCELLANEOUS:**

None

**ADJOURNMENT:**

**MOTION: To adjourn the meeting**

Mr. Novotny moved to adjourn at 7:49p.m. Mr. Carr seconded, and the motion carried on a unanimous voice vote.

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Bernard McCarrell - Vice Chairman

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Marie Lawrie - Clerk