

CITY OF AURORA
OHIO
BOARD OF ZONING APPEALS
Meeting Minutes
May 17, 2016

The Aurora Board of Zoning Appeals met in a rescheduled meeting Tuesday, May 17, 2016 in the Council Chambers at City Hall. The meeting was called to order at 6:29 p.m. by Vice Chairman Bernard McCarrell.

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

DECLARATION OF OATH:

Marie Lawrie swore in those that planned to speak.

AMENDMENTS TO THE AGENDA:

MOTION: To add Findings of Fact, Jerry Hirter, 880 Hilliary Ln (1603010) and Findings of Fact, Joseph Mrozowski, 477 E Pioneer Tr (1603015) to the Miscellaneous Portion of the agenda

Mr. Carr moved for approval; Mr. Gramm seconded, and the motion carried, 3-0, on a unanimous voice vote.

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.

MOTION: To approve the minutes of the April 13, 2016 meeting

Mr. McCarrell moved for approval; Mr. Gramm seconded, and the motion carried, 3-0, on a unanimous voice vote.

NEW BUSINESS:

MIKE GERVACE, 1131 EAST BLVD (1603011) – TWO 5 FOOT SIDE YARD SETBACKS TO ERECT A SINGLE FAMILY RESIDENCE, WHERE A 6 FOOT MINIMUM AND 16 FOOT TOTAL MINIMUM SETBACKS ARE REQUIRED

Mike Gervace, property owner was on hand to answer questions. He was seeking a variance to erect a single family residence on the vacant parcel. The parcel is located in the Geauga Lake subdivision where the area contains existing, non-conforming parcels. He stated that granting the variance would benefit the parcel, allowing him to erect a home with a two-car garage. He owns the parcel next door at 1135 East Blvd. When asked if the neighbor to the east of the property had contacted the Building Department, the Clerk stated that a gentleman came in to view the plans at the office and stated he was the next door neighbor. He said the plans looked very nice. The applicant confirmed that he purchased the parcel with the understanding that it had 50 feet of frontage and when it was surveyed the accurate frontage was 49.6 feet across. To build the unit he has planned, he would still be asking for a variance regardless of this fact. There was no one present at the meeting to make public comment pertaining to the variance request.

The Board discussed the variance request among themselves. Mr. Gramm stated that the variance request was not substantial. He furthered stated that he saw no opposition from neighbors. Mr. Carr agreed. Mr. McCarrell stated that he saw no feasible way to solve the predicament without granting a variance. Granting the variance would not interfere with government services. He further stated that the spirit and intent behind the zoning code would still be observed if the variance was granted.

MOTION: To grant the variance as requested

Mr. Gramm moved for approval; Mr. Carr seconded, and the motion carried, 3-0, on a roll call vote.

Yeas: None

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

HICKORY RIVER SMOKEHOUSE, 238 E GARFIELD RD (1603017) – 9' X 18' PARKING SPACES, WHERE 10' X 20' PARKING SPACES ARE REQUIRED

Joe Shomette, business owner, attended the meeting to represent the variance request. He stated that the parking lot is very limited. If he could stripe the parking lot with 9' x 18' parking spaces, that would allow 2 more parking spots and more seating in the restaurant. There was no one present wishing to make public comment on this variance. He did not feel this variance would pose a safety issue.

The Board discussed the variance request among themselves. Mr. McCarrell stated that the variance request was not substantial. Other projects in the City have been given a variance for these size parking spaces. The other Board members did not disagree.

MOTION: To grant the variance as requested

Mr. Gramm moved for approval; Mr. Carr seconded, and the motion carried, 3-0, on a roll call vote.

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

Nays: None

HICKORY RIVER SMOKEHOUSE, 238 E GARFIELD RD (1603017) – 18.5 FOOT TWO-WAY PARKING LOT AISLE, WHERE A 22 FOOT, TWO-WAY PARKING LOT AISLE IS REQUIRED

Joe Shomette continued to represent Hickory River Smokehouse. He was seeking a variance to allow a smaller parking lot aisle, which would permit him to stripe the parking lot with two extra parking spaces parallel to the retaining wall. This would allow for more seating in the restaurant. He stated that parking lot will be minimal traffic and a slow speed. He did not believe this would be a safety issue. Mr. Carr voiced a concern about whether emergency vehicles would have adequate room to address an emergency situation. He also asked the applicant how he would prevent parking in this location if the variance was denied. Mr. Shomette explained that he has not had an issue with anyone parking in that area to date. A possible sign was discussed that would indicate that parking was not permitted in that area. There was question of whether Mr. Shomette would be liable for an accident if someone parked parallel in the parking lot. Mr. Shomette stated that if the parking lot was not stripped in that fashion, he would not be liable if someone parked unlawfully. There was no one present at the meeting to make public comment on this variance request.

MOTION: To grant the variance as requested

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

Yeas: None

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

The Board discussed their vote. Mr. McCarrell stated that delivery of Government Services would be adversely affected, as stated in the staff report per the opinion of the Fire Department. Everyone agreed.

GARY ANDERS, 1090 W GARFIELD RD (1604018) – ACCESSORY STRUCTURE IN A SIDE YARD, WHERE AN ACCESSORY STRUCTURE SHALL ONLY BE LOCATED IN A REAR YARD

Gary and Lois Anders, property owners were in attendance. Mr. Anders stated that they recently purchased the property. They did not know they needed a permit for a shed. They had the shed delivered and set up in the side yard. They were seeking a variance to allow them to keep the shed in its current location. Mr. Anders further stated that behind his house he has a pond and a septic system. He also has a very wet piece of property. The side yard was the location that seemed best. The house has an attached garage, as well as a detached garage located to the east of the dwelling. He had the shed erected in the side yard to the west of the dwelling.

Mike Distaulo, neighbor at 1060 W Garfield Road was in attendance to make public comment. He stated that the Anders have been improving the property since they purchased it including have a new roof installed. There was an old shed, which was an eyesore on the property when the previous owners lived in the house. He was in favor of the new shed and in favor of granting the variance for its current location. He stated that there are not any neighbors across the street, as there is a nature preserve in that location.

Discussion turned to the fact that the shed is not sitting on a foundation that meets the Ohio Building Code. Mr. Anders was asked if a foundation remains from the previous shed, which was located within compliance of the zoning code. He stated that there was not a remaining foundation and that the area is very wet. He was concerned that to relocate the structure to the rear yard would result in the shed being surrounded with water. He was also not in favor of moving the shed to the rear of the property, as he and his spouse have health issues and that would make for a long walk to retrieve items from the shed. It was also stated that to bring a riding mower to the front of the property would result in the owner driving over the neighbor's property line.

There was no one else present at the meeting to make public comment about the variance request.

The Vice Chairman closed public comment and the Board discussed the variance request among themselves. Mr. Carr stated he saw no feasible location in compliance to move the structure. He further stated that the applicant must install a foundation that meets the Ohio Building Code. Mr. McCarrell stated that the structure could be moved to the rear of the property. He further stated that the applicant was unaware of the zoning code before he had the shed erected. He stated that the variance is substantial and can feasibly be solved another way. He further stated that character of the neighborhood would not be altered by granting the variance.

Vice Chairman McCarrell made the applicant aware that he could request that his variance request be tabled until the next meeting, when there should be more members present to vote on the request. With just three members in attendance at this meeting, he would need a unanimous vote in favor of the variance for approval. Mr. Anders asked for a vote.

MOTION: To approve the variance request as requested

Mr. Carr moved for approval; Mr. McCarrell seconded, and the motion carried, 3-0, on a roll call vote.

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

Nays: None

MISCELLANEOUS:

Fact of Findings, Jerry Hirter, 880 Hilliary Ln (1603010) – Deck within the Development Perimeter

MOTION: To approve the Fact of Findings, as submitted

Mr. McCarrell moved for approval; Mr. Carr seconded, and the motion carried, 3-0, on a roll call vote.

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

Nays: None

Fact of Findings, Joseph Mrozowski, 477 E Pioneer Tr (1603015) – 960 Square Foot Accessory Structure on less than one acre

MOTION: To approve the Fact of Findings, as submitted

Mr. Carr moved for approval; Mr. McCarrell seconded, and the motion carried, 3-0, on a roll call vote.

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

Nays: None

ADJOURNMENT:

MOTION: To adjourn the meeting

Mr. McCarrell moved to adjourn at 7:09p.m. Mr. Gramm seconded, and the motion carried on a unanimous voice vote.

Bernard McCarrell - Vice Chairman

Marie Lawrie - Clerk