

Minutes

Clark County Board of Zoning Appeals

Regular Meeting ~ 2:00 pm.
Thursday, October 28, 2021

Springview Government Center
3130 East Main Street
Springfield, Ohio 45505

Jerri Taylor, Chairperson of the Clark County Board of Zoning Appeals of Clark County Ohio, called the meeting to order at 2:03 pm. and asked for the Roll Call.

Present For Roll Call: Mr. Paul Hazlett, Mrs. Jerri Taylor, Mr. Tom Duffee and Mr. Rick Smith.

Absent For Roll Call: Mrs. Sandy Forstrom and Ms. Greta Wilt.

Also in Attendance: Mr. Allan Neimayer, Mrs. Jennifer Tuttle and Mrs. Rachel Clime-Ricketts of Clark County Community & Economic Development.

Chairperson Taylor explained how the meeting will be conducted.

Chairperson Taylor asked if there are any comments regarding the minutes. Hearing none, she asked for a motion.

Approval of the September 23, 2021 Minutes

Motion by Mr. Hazlett, seconded by Mr. Duffee, to **Approve** the minutes as presented.

VOTE: Yes: Mr. Hazlett, Mr. Duffee and Mrs. Taylor.

No: None.

Abstain: Mr. Smith.

Motion carried.

Chairperson Taylor asked Staff to present the first case.

Case #BZA-2021-29 ~ Property Owner/Applicant: David Rathbun ~ Location: 2416 Lindair Dr., Mad River Township ~ Request: Variance to Section 802.03 to allow an accessory structure in the front yard.

Mr. Allan Neimayer, Senior Planner, stated the subject property is located at 2416 Lindair Dr. in Mad River Twp. and consists of 0.53 acres. The property is Lot 1 of the Lindair Acres Subdivision and is currently zoned R-1 (Rural Residence District). The Applicant has filed this variance request to construct a 10 ft. by 16 ft. shed in the front yard of a corner lot. Mr. Neimayer reviewed slides of zoning and land use of the immediate area.

Chairperson Taylor asked if the shed meets the setbacks from Lindair Road. Mr. Neimayer replied, we are looking at a 40 ft. setback from the right of way line for the primary structure and this will be further back. This is the accessory structure. It is up to the Board to determine an appropriate setback. Mr. Neimayer added if this was a side yard the required setback would be at least 15 feet. The proposed location is further back than the garage.

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Hearing no further questions, Chairperson Taylor opened this portion of the public hearing at 2:11 pm. and asked if the Applicant would like to speak.

David Rathbun, Applicant, 2416 Lindair Dr., was sworn in. Mr. Rathbun stated that he needs the variance for the shed because three-quarters of our yard is considered front yard. At our back property line is a drainage ditch. The rain and run off from everyone, it fills up pretty quick. That ditch is about three to four feet deep in that area. If I had to put a shed in the backyard it would go near there and that would create an area for my three youngest children to not be in sight around the drainage ditch. We talked to our surrounding neighbors and none of them have an issue with it.

Chairperson Taylor asked if the other side of the property is septic. The Applicant responded yes the other side is the septic, leach field and chimney. The drop-off from Lindair Dr. to Dayton-Springfield Rd. is about an eight ft. elevation drop. There will not be electric to the shed, just solar lights.

Mr. Duffee asked the structure that is there will that replace the temporary shed? The Applicant responded yes. Mr. Duffee then asked about the camper. The Applicant replied it is from camping this weekend. I keep it there to clean it before we move it.

With no further questions for the Applicant, Chairperson Taylor asked if anyone would like to speak in favor of this request. There were none. She then asked if anyone wished to speak in opposition to the case. There were none.

Chairperson Taylor closed this portion of the public hearing at 2:17 pm. and asked for discussion among the Board.

Mr. Hazlett stated it is the classic corner lot. He has a good plan. I do not see a problem with it.

Mr. Duffee had no comment. Mr. Smith has no problem with it.

Chairperson Taylor agreed with Mr. Hazlett. She has no issue.

Hearing no further questions or comments from the Board, Chairperson Taylor asked for a motion.

Action on Case #BZA-2021-29 ~ Property Owner/Applicant: David Rathbun ~ Location: 2416 Lindair Dr., Mad River Township ~ Request: Variance to Section 802.03 to allow an accessory structure in the front yard.

Motion by Mr. Hazlett, seconded by Mr. Smith to **Approve** the Variance request as presented.

VOTE: Yes: Mr. Hazlett, Mr. Smith and Mr. Duffee.

No: None.

Motion carried.

Chairperson Taylor stated that she is recusing herself from Case #BZA-2021-26.

Vice-Chairperson Smith asked Staff to present the next case.

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Case #BZA-2021-26 ~ Property Owner/Applicant: Phillip Bennett ~ Location: 4819 Merrimont Ave., Moorefield Township ~ Request: Amend approval from September 23, 2021 for Variance to Section 805.02.02 to install an 8 ft. tall fence in the side & rear yard.

Mr. Neimayer stated the subject property is located at 4819 Merrimont Ave. in Moorefield Twp. and consists of 0.25± acres. The property is currently zoned R-2A (Medium Density Single-Family Residence District). The requested variance was to install an 8 ft. tall fence in the rear and side yard for privacy around the pool due to the elevation of the property. On August 27, 2021 the BZA voted to approve the variance request for an 8 ft. tall fence in the rear yard only. Mr. Neimayer explained the Applicant is requesting the Board to reconsider their original decision in light of a similar case (Case #BZA-2020-37) where the Board approved an 8 ft. tall fence in the side and rear yard.

Motion by Mr. Hazlett, seconded by Mr. Duffee, to go into an Executive Session.

VOTE: Yes: Mr. Hazlett, Mr. Duffee and Mr. Smith.

No: None.

Motion carried.

Time out: 2:22 pm.

Time In: 3:09 pm.

Vice Chairperson Smith states that Mr. Duffee is going to review the case.

Mr. Duffee stated that there are a couple things before you present, Mr. Bennett. My understanding of your desire to return to the Board is that you found a prior case that the Board approved an 8 ft. fence. What the Board wants to explain for you and for our own record is that an argument of precedence may have some validity, but our Board approaches each case as a unique case. There might be some similarities from a previous and a current case, but we also look at differences as well. I want to have it on record that just because a decision was made prior does not mean it is applied to your case. However, in your current case we found our Board discussion last time was to approve an 8 ft. section of fence on the rear property line and 6 ft. on the side property lines but in the rear yard. After reviewing our decision, we worded it improperly. We did not use our vocabulary to explain what the Board meant. The actual decision that was made was to approve an 8 ft. fence in the rear yard which is what you asked for. So our thought here is there is no need for you to discuss any further because what you desire is what we already approved, unless you have other items you want to bring to our attention. You have what you want simply because we made an error in the wording of the motion.

Mr. Hazlett stated I want to apologize for the confusion.

Mr. Smith stated I want to make it clear that there was a difference in terminology. The terminology means different things at different times with different cases. This was a misunderstanding and we did not clarify it enough. That has nothing to do with prior cases. We decipher those individually. Your neighbor could ask for an 8 ft. fence and we may not give it him. It is based on circumstances.

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Staff Comments

Next scheduled meetings: November 18 and December 16, 2021.

Adjournment

Motion by Mr. Smith, seconded by Mr. Duffee, to Adjourn.

VOTE: Motion carried unanimously.

The meeting was adjourned at 3:24 pm.

Mrs. Jerri Taylor, Chairperson