



**BOARD OF ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
January 26, 2021**

The hearing was called to order at 7:30 P.M. by Vice Chairman Swisher

PRESENT: Board Members Karen Alfred, Robert Swisher, Bryan Baesel, Brad Lamb,
(one vacant position)
ALSO PRESENT: Clerk of Commissions Nicolette Sackman and Law Director Michael
Maloney

SELECTED CORRESPONDENCE

Docket 2021-02 Makadia

Correspondence re concerns and opposition from:

- 1/25/21 Sophia and Rahul Patel, 31396 West Essig Ln.
- 1/25/21 & 1/26/21 Jackie Wise, 31387 West Essig Ln.
- 1/25/21 Judith Ann Stryffeler, 31401 West Essig Ln.
- 1/25/21 Dr. Jill Hosking, 31375 Jager Dr.
- 1/25/21 Meg and Kevin Rowe, 31389 Jager Dr.
- 1/25/21 Molly Stehlik, 31403 Jager Dr.
- 1/26/21 Gregg and Adrienne Stark, 1870 Bur Oak Dr.
- 1/26/21 Meenakshi Sharma, 21411 West Essig Ln.
- 1/26/21 Amy Jackson, 1856 Bur Oak Dr.
- 1/26/21 Anthony and Crystel Shaia, 1842 Bur Oak Dr.

DOCKETS

Docket 2020-32 – *tabled 11/24/20*

Applicant: Mr. and Mrs. Ward Collins

Premises: 29162 Schwartz Rd., PP#216-12-020, Ward 6

Requesting to install a second 120 sf utility building 6’6” off the rear property line at variance with 1211.04 (k) & 1211.20: a utility building shall be permitted in a rear yard provided that the maximum building size on lots less than 20,000 sf is 120 sf in area located a minimum of 10’ from the rear property line and utility sheds shall not have doorways facing the nearest adjacent side and rear lot lines; a *variance to allow doorways facing the nearest adjacent side yard*, a *variance for a second 120 sf utility building*, & a *3’6” rear yard setback variance*.

Applicant was not present.

Motion: Ms. Alfred moved, seconded by Mr. Lamb to table the request until the February 23, 2021 public hearing.

ROLL CALL:

Yeas: Swisher, Basel, Lamb, Alfred

Nays: none, motion carried

Docket 2020-33 – ***tabled 11/24/20***

Applicant: Seif Tajour

Premises: 2365 Pebblebrook Ln., PP#214-29-024, Ward 1

Requesting to install a 24” high raised patio 5’ off the side property line and 8’ off the rear yard line, 1211.09: minimum yard dimensions are 15’ (of a side yard) and 30’ (of a rear yard), a **10’ side yard setback variance**, and a **22’ rear yard setback variance**.

Mrs. Tajour and Mr. Becerra were sworn in by Mr. Maloney. Mr. Becerra explained the proposal is for an extension of the extension patio in the rear yard in the side and rear yard setbacks. It will be raised as the rear yard has a slope. Back fill and limestone will be used to level the patio due the grade. The material will be pavers over a 4” concrete slab. He stated there were drainage issues and water is coming onto the applicant’s property from the adjacent neighbor behind.

Members of the board discussed the proposal. They were unclear what the patio and retention wall will look like as what was submitted does not provide enough details. There were concerns with the drainage issues along the property lines and the additional hard surface proposed will increase drainage issues. The location of the proposed patio in relation to the fence was discussed with it being noted the fence is on the property line. It was determined that the submittal did not have enough details for the board to approve the request.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance - yes
2. Whether the variance is substantial - yes
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance - no
4. Whether the variance would adversely affect the delivery of governmental services -
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a
6. Whether the property owner’s predicament feasibly can be obviated through some other method other than a variance - yes
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance - yes

Motion: Mr. Lamb moved, seconded by Ms. Alfred to grant a 10’ side yard setback variance.

ROLL CALL:

Yeas: none

Nays: Swisher, Basel, Lamb, Alfred, motion failed

Motion: Mr. Lamb moved, seconded by Ms. Alfred to grant a 22' rear yard setback variance.

ROLL CALL:

Yeas: none

Nays: Swisher, Basel, Lamb, Alfred, motion failed

Docket 2021-01

Applicant: Dominic and Andrea Vullo

Premises: 851 Bradley Road, PP#211-13-003, Ward 3

Requesting to install a 4,500 sf detached garage 16' in height, and located in their front yard at a residence located in an Exclusive Industrial. 1218.02(e) and 1211.04(a)(2): on lots of single family uses private garages shall be limited to one garage area of 1,200 sf on lots sized 40,000 sf or more. No garage shall exceed 1,200 sf and a detached private garage shall be located in the rear yard and shall not exceed 15' in height; a **variance of 3,300 sf for the area; 1' for height** & a location **variance for it to be located in the front yard.**

Mr. Vullo, sworn in by Mr. Maloney, explained he is proposing to construct a detached garage in the front yard. His property is zoned industrial and located behind Camp Bow Wow. The house sits far off the street and the garage will be screen by trees and the commercial use in front, so it will not be visible from the street. His lot is approximately 2.5 acres. The building will be used for a home gym, storage of two boats, and possibly space for a home office. He does not have a garage and needs storage space.

Members of the board reviewed the proposal noting this is a unique lot. They discussed what will be stored in the building, landscape screening, the location, and while the building will be in the front yard of the house, it is behind a commercial business. It was questioned if the building will be used for commercial storage as noted in November prior to the variance request. Mr. Vullo stated his business is located in Columbia Station and will remain at that location not his home. Ms. Sackman advised his property is zoned industrial and his residential use of the property is a legal non-conforming use. The structure cannot be used for both residential and commercial use and is for residential use, which limits the garage area to 1,200 sf on a lot his size. The board noted a variance for a 4,500 sf garage was substantial.

After a careful review of the evidence and testimony, the Board made the following findings of fact regarding the variance of 3,300 sf for the area:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance - yes
2. Whether the variance is substantial -yes
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance – n/a
4. Whether the variance would adversely affect the delivery of governmental services - no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – yes
6. Whether the property owner's predicament feasibly can be obviated through some other method other than a variance – yes
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance - no

After a careful review of the evidence and testimony, the Board made the following findings of fact regarding a 1' height variance:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance - yes
2. Whether the variance is substantial - no
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance - no
4. Whether the variance would adversely affect the delivery of governmental services - no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a
6. Whether the property owner's predicament feasibly can be obviated through some other method other than a variance - yes
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance - yes

After a careful review of the evidence and testimony, the Board made the following findings of fact regarding a variance for the garage to be located in the front yard:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance - no
2. Whether the variance is substantial - no
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance - no
4. Whether the variance would adversely affect the delivery of governmental services - no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a
6. Whether the property owner's predicament feasibly can be obviated through some other method other than a variance - no
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance - yes

Motion: Mr. Lamb moved, seconded by Ms. Alfred to grant a variance of 3,300 sf for the area.

ROLL CALL:

Yeas: none

Nays: Swisher, Basel, Lamb, Alfred, motion failed

Motion: Ms. Alfred moved, seconded by Mr. Basel to grant a 1' height variance.

ROLL CALL:

Yeas: Swisher, Basel, Lamb, Alfred

Nays: none, motion carried

Motion: Ms. Alfred moved, seconded by Mr. Basel to grant a variance for a garage to be located in the front yard.

ROLL CALL:

Yeas: Swisher, Basel, Lamb, Alfred
Nays: none, motion carried

Docket 2021-02

Applicant: Ashok & Binita Makadia

Premises: 31384 West Essig Lane, PP#211-07-043, Ward 5

Requesting to install a 4,524 sf single-family home on a 20,125.67 sf lot, which will result in 22.5% lot coverage. 1211.09: maximum percent lot coverage by a main building is 20%.

This will require a **variance of 2.5% for lot coverage**. Additionally, requesting to construct a 1,138 sf attached garage. 1211.04(a)(2): on lots of single family uses private garages shall be limited to one garage area of 1,000 sf, on lots sized more than 20,000 but less than 40,000 sf.; an **area variance of 138 sf**.

Mr. Chad Enders and Mr. Mark Krahe from Petro's Homes were present and sworn in by Mr. Maloney. Mr. Enders explained they tried to be proactive by circulating plans to the surrounding neighbors and collecting signature in support. Unfortunately incorrect plans were shown and he apologized as numerous letters were received in opposition of the request so he wished to clarify the correct proposal. He reviewed the site plan for a house with a footprint of 4,524 sf which has a lot coverage of 22.5% and only 20% is permitted. Approximately a 4,025 sf house can be constructed without a variance. The house complies with all building setbacks and is similar to other houses in the neighborhood. The garage area is limited to 1,000 sf and they are proposing 1,138 sf due to the layout of the garage. The attached four car garage was designed to sit on an angle from the house. The lot shape is not rectangular due to the cul-du-sac and a corner of the parcel that is lost due to the cul-du-sac shape. If the garage was designed to be a side load garage there would be more concrete and less room to turn around. He reviewed the interior space of the garage, which will have room for storage and a spice kitchen (it is not a full kitchen).

The following were present and sworn in by Mr. Maloney: Dr. Jill Hosking, 31375 Jager Dr.; Amy Jackson, 1856 Bur Oak Dr.; Richard Verone, 31387 West Essig Ln.; Jackie Wise, 31387 West Essig Ln.; Meenakshi Sharma, 21411 West Essig Ln.; Austin Makadia, applicant's son; and Mrs. Makadia, applicant. The following concerns and opposition was expressed: While Petro's home builds a nice house, they should have to comply with all codes no differently than any other resident in the neighborhood; the house is massive, overwhelming and too large for the lot; no one has a four car garage and the applicant shouldn't be allowed to have one; the garage space should be reduced; if this house is built the property values will go down; people do not want to have their views blocked or to have to look at a massive house and garage; the driveway is too big; the retaining wall is too long; there will be no room for any landscape or green space; they should not be allowed to have such a large driveway and have cars parked on the driveway so it looks like a parking lot; there is no need for a spice kitchen and surrounding residents will have to deal with undesirable odors; the house should be built elsewhere on a larger lot; there is no reason for an angled garage with storage space between the two garage areas; there is no reason for a courtyard between the driveway and the house with concerns how it will be use and should not be allowed; none of the setbacks are being followed; the residents are being deceived and more information should be required; and the driveway is too close to the property line.

The applicant and her son explained the household consists of five people and a four car garage allows for more cars to be parked inside a garage. The additional space with in the garage (the

two areas create a V shape with space between the garages all under the same roof without any wall separation) will be used for storage, a woodworking space and a spice kitchen which is not a full kitchen and will have ventilation. They stated they are nice people and are not looking to cause any harm to surrounding neighbors. They have never had any issues with odors from cooking meals and adjacent neighbors have outdoor grills and cook food that would have undesirable odors to the applicant. The value of the surround property will not go down and their house will increase property values. They discussed the landscape.

Mr. Chad Enders and Mr. Mark Krahe reviewed the site plan showing that the house complies with all setbacks. They are only seeking variances for lot coverage as the house is not much larger than what can be built without a variance and one would not visibly be able to see the difference. They showed the layout of a house that complies and if the garage were to be changed to a side load garage it would not be as attractive as what they are proposing. The scale and height of the house is permitted on the lot and if reduced will look the same as what is being proposed only approximately 400 sf smaller.

Law Director Maloney stated the variances are for lot coverage and garage area only. The footprint includes the garage area and all setbacks comply and are not an issue. Odors are not under consideration and are allowed as people can cook. Members of the board reviewed the proposal.

After a careful review of the evidence and testimony, the Board made the following findings of fact regarding the lot coverage:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance - yes
2. Whether the variance is substantial - yes
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance - yes
4. Whether the variance would adversely affect the delivery of governmental services - no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – yes
6. Whether the property owner's predicament feasibly can be obviated through some other method other than a variance - yes
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance – N/A

After a careful review of the evidence and testimony, the Board made the following findings of fact regarding the garage area:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance - yes
2. Whether the variance is substantial -yes
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance - yes
4. Whether the variance would adversely affect the delivery of governmental services - no

5. Whether the property owner purchased the property with the knowledge of the zoning restriction – yes
6. Whether the property owner’s predicament feasibly can be obviated through some other method other than a variance - yes
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance - no

Motion: Mr. Basel moved, seconded by Mr. Lamb to grant a variance of 2.5% for lot coverage.

ROLL CALL:

Yeas: none

Nays: Swisher, Basel, Lamb, Alfred, motion failed

Motion: Mr. Basel moved, seconded by Ms. Alfred to grant an area variance of 138 sf.

ROLL CALL:

Yeas: none

Nays: Swisher, Basel, Lamb, Alfred, motion failed

Docket 2021-03

Applicant: Jonathan and Carolyn Sue Onk

Premises: 1448 Cobblestone Way, PP#213-18-072, Ward 1

Requesting to install an addition 8’3.5” off the side property line, with a sum total of the two side yards on this lot being 25’2.5”. 1211.08(e) & 1211.09: the width of either side yard of a lot shall be not less than 15’, the total width of both side yards of a lot shall be not less than 30’; a **6’8.5” side yard setback variance**; & a **4’9.5” variance for the sum total of side yards on this property**.

Mr. Onk and architect Mr. McGettrick were sworn in by Mr. Maloney. Mr. McGettrick explained the addition is proposed to be constructed on the north side of the house 8’3.5” off the side property line which also requires a 4’9.5” variance for the total of both side yards on the applicant’s property as they will not total 30’. The addition is to create an ADA accessible bedroom. The location is selected due to a swimming pool in the rear yard. He presented a letter from the neighbor in support of the request. The floor plan was reviewed and as designed allows accessibility for a wheelchair. The proposed location was the most feasible based on the interior layout of the house. Mr. Onk stated the addition allows for his parents to age at home.

Members of the board reviewed the proposal and reviewed where the pool equipment and air conditioning units will be located. Mr. McGettrick explained the existing pool equipment and air conditioning unit are not being relocated and will remain at the rear of the house. The new air conditioning unit will be placed behind the addition.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance - no
2. Whether the variance is substantial - no

3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance - no
4. Whether the variance would adversely affect the delivery of governmental services - no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a
6. Whether the property owner’s predicament feasibly can be obviated through some other method other than a variance - no
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance - yes

Motion: Ms. Alfred moved, seconded by Mr. Basel to grant a 6’8.5” side yard setback variance; & a 4’9.5” variance for the sum total of side yards on this property.

ROLL CALL:

Yeas: Swisher, Basel, Alfred

Nays: Lamb, motion carried

Docket 2021-04

Applicant: Robert and Amy Fedor

Premises: 2400 Winged Foot Dr., PP#214-30-072, Ward 1

Requesting to install the landing and steps of a deck 7’-1” off the side property line.

1211.22(b)(2) which states: landings and steps not extending above the first floor level of a building shall be allowed to project a minimum of 3’ into a required side yard setback.

Considering a 3’ allowed projection, the required side yard setback for this installation is 12’; a **4’-11” side yard setback variance**.

Contractor Mr. Barski, sworn in by Mr. Maloney, explained the existing deck is being rebuilt. The current spacing for the steps of the stairs to the deck are not consistent in width and height. The remodel will correct this issue and bring them up to code. Due to the change in the spacing the stairway and upper deck landing will be 7’1” off the property line. He noted the lot is pie shaped and not the entire structure is located 7’1” off of property line and only the rear portion is that close. The landscape screening will be reviewed and the deck will not be visible.

Members of the board reviewed the site plan, location of the structure, if there was another way to configure the stairs and landing, and the location of the neighbor’s house. Mr. Barski explained a spiral staircase was considered so a variance wasn’t necessary but it is not functional for access to the upper level deck and the patio below. The patio would need to be removed to reduce the width of the deck to comply with the setback. He noted the deck and staircase have been on the property for approximately 20 years without any negative impact to the neighbor. The deck and the neighboring house are separated by the neighbor’s green space, driveway and parking pad. That house is also laid out in such a way that the deck and at the neighbor’s rear yard and not visible.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

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

2. Whether the variance is substantial - no
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance - no
4. Whether the variance would adversely affect the delivery of governmental services - no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a
6. Whether the property owner’s predicament feasibly can be obviated through some other method other than a variance - yes
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance - yes

Motion: Mr. Lamb moved, seconded by Mr. Basel to grant a 4’-11” side yard setback variance with the condition that the variance is for the deck access as submitted to BZA.

ROLL CALL:

Yeas: Swisher, Basel, Lamb, Alfred

Nays: none, motion carried

MISCELLANEOUS

None

APPROVAL OF MINUTES

Motion: Mr. Lamb moved, seconded by Ms. Alfred to approve the minutes of the November 24, 2020 meeting.

ROLL CALL:

Yeas: Alfred, Swisher, Basel, Lamb

Nays: None, motion carried

ADJOURNMENT

Chairman Swisher adjourned the meeting at 9:54 P.M.

Robert Swisher

 Robert Swisher, Vice Chairman

Nicolette Sackman

 Nicolette Sackman, Clerk of Commissions

Approved: 2/23/21