



**BOARD OF BUILDING AND ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
February 23, 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
ABSENT: Cynthia Nolde
ALSO PRESENT: Clerk of Commissions Nicolette Sackman and Asst. Law Director Regis McGann

ELECTION OF OFFICERS

Due to only four members present the election of officers will be held March 30, 2021.

SELECTED CORRESPONDENCE

Docket 2021-06 Haddad

- Correspondence received from Mohammed and Rana Khan, 29221 Regency Circle

DOCKETS

Docket 2020-32 – *tabled 11/24/20, 1/26/21*

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 and requested to be tabled to March 30th.

Motion: Mr. Lamb moved, seconded by Ms. Alfred to table the request until the March 30, 2021 public hearing.

ROLL CALL:

Yeas: Swisher, Basel, Lamb, Alfred

Nays: none, motion carried

Docket 2021-05

Applicant: Rob and Renee Grendow

Premises: 1828 King James, PP# 21327042, Ward 2

Requesting to install pool equipment in the side yard of the property: §1211.04(g)(2)(B) states all pool mechanical equipment is to be located in the rear yard; **a location variance for pool equipment in the side yard.**

Contractor Mr. Miller, was sworn in by Mr. McGann, he explained the proposal is to locate the pool equipment at the corner of the house in the side yard. The applicant's back yard is shallow. The electrical box was relocated as is the air conditioning unit to the proposed location and it is more efficient if the pool equipment is located in the same location. He explained the air conditioning unit is permitted to be in the location proposed. Moving the pool equipment from the rear yard to the side yard is an adjustment of 4'. The yard is fenced in and the fence will be replaced with a solid vinyl fence, which will screen the both units from view.

Members of the board reviewed the proposal and questioned the noise of the unit. Mr. Miller explained it is quieter than the air conditioner as it is a high tech whisper unit. The proposed location will be further away from the neighbor based on the site configuration of both lots. It was suggested that the unit is screened with landscape, which Mr. Miller advised he will do.

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 - 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 to allow pool equipment in the side yard with the condition that the unit is screened with landscape.

ROLL CALL:

Yeas: Swisher, Basel, Lamb, Alfred

Nays: none, motion carried

Docket 2021-06

Applicant: Basem and Maryanne Haddad

Premises: 29275 Grande Ct., PP# 21627050, Ward 6

Requesting to install a deck 15' off the rear property line: 1211.09 which states: the minimum yard dimensions of a rear yard is 30'; **a 15' rear yard setback variance**. Note: *This is an enlargement of a deck which was previously approved in 1995.*

Mr. Haddad, sworn in by Mr. McGann, explained there was an existing deck when they moved into the house 14 years ago. The wood was deteriorating so in 2019 they replaced it with a synthetic material and at that time decided to expand the deck so there was more room. They had a friend build the deck and did not know a permit was needed since there was already a deck. The deck is slightly raised off the grade with a couple of steps. Their property is pie shaped as they live on a cul-du-sac and the rear yard is shallow so there is no other place for the deck. The presented and reviewed photos of the property and surrounding properties to show the deck is not close to the neighbor.

Members of the board discussed the proposal and it was noted that one corner of the deck is located 15' from the rear property line, while the other corner is 20' from the property line and there is a small stamped concrete pad on the property. There was discussion that the applicant had been cited by the property maintenance offer when he received a complaint. Mr. Haddad explained the complaint was not regarding the deck, but the side yard where his landscaper went over the property line mowing some of the neighbor's yard. When the property maintenance office was out he saw the deck and issued the citation for the deck. It was questioned if there would be any issues with access by governmental service, which Mr. Haddad advised there is not.

Ms. Lynn Ashkar, 29055 Weybridge Dr., sworn in by Mr. McGann, reiterated the deck is low and barely above grade so the applicant cannot see into surrounding homes, has been there for over two years without any issues, is used for social distancing, there was a cost to install the deck and the rear yard is unique and requested the granting of the variance.

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 - 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. Lamb to grant a 15' rear yard setback variance with the condition that the variance is for the deck as submitted and no further expansion of the deck.

ROLL CALL:

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

MISCELLANEOUS

Ms. Sackman explained since the charter amendment the board has become the Board of Building and Zoning Appeals so new By Laws need to be adopted. She noted the By Laws are the same other than the name change from Board of Zoning Appeals to the Board of Building and Zoning Appeals.

Motion: Mr. Lamb moved, seconded by Ms. Alfred to approve the Board of Building and Zoning Appeals By Laws.

ROLL CALL:

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

APPROVAL OF MINUTES

Motion: Mr. Lamb moved, seconded by Ms. Alfred to approve the minutes of the January 26, 2021 Board of Zoning Appeals meeting.

ROLL CALL:

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

Ms. Sackman reported that the minutes from the last Board of Building Appeals meeting needed to be approved since that board has been dissolved and merged in the Board of Zoning Appeals. While none of the Board of Building and Zoning Appeals members were present at the Board of Building Appeals meeting they are able to approve the minutes as they are just approving that they are minutes.

Motion: Mr. Lamb moved, seconded by Ms. Alfred to approve the minutes of the March 5, 2020 Board of Building Appeals meeting.

ROLL CALL:

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

ADJOURNMENT

Chairman Swisher adjourned the meeting at 8:15 P.M.

Robert Swisher, Vice Chairman

Nicolette Sackman, Clerk of Commissions

Approved: _____