



**BOARD OF BUILDING AND ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
April 26, 2022**

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

PRESENT: Karen Alfred, Robert Swisher, Brad Lamb
ABSENT: Bryan Baesel, Cynthia Nolde
ALSO PRESENT: Clerk of Commissions Nicolette Sackman and Westlake Law Director
Michael Maloney

Vice Chairman Swisher announced that only three members were present and for any variance to pass all three members must vote in favor of the request.

DOCKET

Docket: Ryan and Erin Myers 2022-09
29960 Sequoia Trail, PP#21724021, Ward 6
Requesting to install an addition 12'6" off the side property line, and 25' off the adjacent dwelling next door, with the sum total of the two side yards on this lot being 27'6".
1211.08(e): the width of either side yard of a lot shall be not less than 15' as set forth in §1211.09: and the total width of both side yards of a lot and the width of two adjoining side yards on adjoining lots shall be not less 30' as set forth in §1211.09; a 2' 6" side yard setback variance, a 5' setback for the adjacent side yards between dwellings; and a 2'6" setback for the sum total of side yards on this property.

Mr. Smalley (contractor), Ryan and Erin Myers were sworn in by Mr. Maloney. They explained the request is for a first floor addition that will be located behind the garage and will follow the same setback as the existing garage. This will give them more space in their laundry room and a rear access to the garage. Members of the board had no issues with the proposal.

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

- 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 approve a 2' 6" side yard setback variance, a 5' setback for the adjacent side yards between dwellings; and a 2' 6" setback for the sum total of side yards on this property.

ROLL CALL:

Yeas: Alfred, Swisher, Lamb

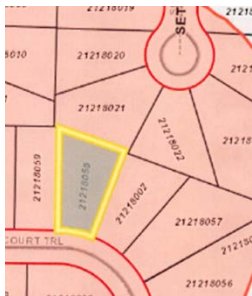
Nays: None, motion carried

Docket: Richard and Laura Toner 2022-10

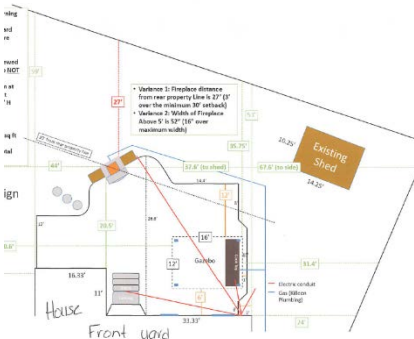
1837 Reeds Court Trail, PP#21218058, Ward 5

Requesting to install a detached recreational fireplace 27' off the rear property line.

§1211.04(n)(2): outdoor recreational fireplaces that are detached from a residence shall be located no closer than 30' to any rear property line; **a 3' setback variance**. The fireplace measures 4'4" above the height of 5'. §1211.04(n)(2): neither shall such structures exceed 3' in width or depth for any portion of the structure above the height of 5'; a **1'4" width variance for the height above 5'**.



Mr. Toner, sworn in by Mr. Maloney, explained he is seeking two variances for his outdoor fireplace. One is for the setback and the other is for the width of the fireplace above 5'. His rear yard is an odd shape due to the cul-de-sac behind his property and his lot being located on a curve. The rear yard setback line runs on an angle to his house. About 3' of the fireplace will be in the rear yard and he estimated the size in the setback was 10.1 sf. He reviewed the site plan of his rear yard. The top portion of the fireplace chimney is 4'4" wide above the height of 5' at the lowest portion and narrows toward the top.



Discussion ensued on the measurements provided, which Mr. Toner advised he reviewed them with Mr. Wilder in the building department and is where he was told to take the measurements.

Mr. John Hauschildt, 1829 Reeds Court Trail, sworn in by Mr. Maloney, stated that he supported the variance request.

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

- Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance – yes
- Whether the variance is substantial – no
- 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
- 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 approve a 3’ setback variance and a 1’4” width variance for the height above 5’ for the fireplace.

ROLL CALL:

Yeas: Alfred, Swisher, Lamb

Nays: None, motion carried

Docket: Elias Karsheh 2022-11

1464 Fitzroy, PP#21321042, Ward 1

Requesting to install a 325 sf pool house (pavilion) 7’ off the side property line.

§1211.04(O): outdoor structures shall be located in the rear yard and on lots under 20,000 sf the total maximum unenclosed structure is 200 sf; a **125 sf variance** and

§1211.04(g)(4): on lots under 20,000 sf the minimum setback from the side line shall be 10’ a **3’ side yard setback variance**.

Docket: Mark and Katharine Delorean 2022-12

22985 Detroit Rd., PP21425009, Ward 1

Requesting to construct a 389 sf garage addition 15’ off the east side property line, resulting in a total of 1,667 sf of garage area. §1211.33(a): an estate lot shall have a 25’ minimum side yard setback and 50’ sum total of side yards, garage area shall not exceed 1,400 sf; a **10’ side yard setback variance** and a **267 sf area variance**. The existing dwelling is 27’10” off the west property line so the sum total of the side yards will be 42’10”; a **7’2” variance for the sum total of side yards**.

Docket: Zachary Smith 2022-13

27656 Bryandale Dr., PP#21208026, Ward 3

Requesting to install a 4’ tall fence in the side yard of this corner lot, 1’ from the planned right-of-way line. §1211.04(b)(3): fences may be permitted along the side lot line to a height of not more than 6’ above the average finished grade except that on a corner lot, no fence shall be located within 25’ from the planned right-of way line; a **24’ side yard setback variance**.

Motion: Mr. Lamb moved, seconded by Ms. Alfred to table Dockets: Elias Karsheh 2022-11; Mark and Katharine Delorean 2022-12; Zachary Smith 2022-13 to the May 31, 2022 Board of Building and Zoning Appeals hearing.

ROLL CALL:

Yeas: Alfred, Swisher, Lamb

Nays: None, motion carried

MISCELLANEOUS

None

APPROVAL OF MINUTES

Motion: Mr. Lamb moved, seconded by Ms. Alfred to approve the minutes of the March 29, 2022 Board of Building and Zoning Appeals hearing.

ROLL CALL:

Yeas: Alfred, Swisher, Lamb

Nays: None, motion carried

ADJOURNMENT

Mr. Swisher adjourned the meeting at 7:52 P.M.

Robert Swisher, Vice Chairman

Clerk of Commissions Nicolette Sackman, MMC

Approved: _____