



**BOARD OF BUILDING AND ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
May 25, 2021**

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

PRESENT: Board Members Karen Alfred, Bryan Baesel, Cynthia Nolde, Robert Swisher, Brad Lamb

ALSO PRESENT: Clerk of Commissions Nicolette Sackman and Law Director Michael Maloney

SELECTED CORRESPONDENCE

Docket 2021-12 Wirkiowski

- Letter from Alan & Katherine Posta, 1600 Mendelssohn – in support

Docket 2021-13 Mazzone

- Letter from Dave Wiechec, 3298 Columbia – in support

Docket 2021-15 Stark

- Letter from Judith Stryffeler, 31401 W. Essig – in support
- Letter from Larry & Amy Jackson, 1856 Bur Oak – in support

DOCKETS

Docket 2021-12

Applicant: Adam & Kate Wirkiowski

Premises: 1622 Mendelssohn Drive, PP#21310069, Ward 3

Requesting to construct an addition 10’-5” off the side property line, 22’- 6” off the adjacent dwelling next door and this will result in the sum total of the two side yards on this lot being 25’- 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 and the width of two adjoining side yards on adjoining lots shall be not less than 30’, a **4’- 7” side yard setback variance**; a **7’- 6” adjacent side yards variance between dwellings**; and a **4’- 7” variance for the sum total of side yards on this property**.

Mr. Williams and Mr. and Mrs. Wirkiowski were sworn in by Mr. Maloney. Mr. Williams explained the request is for a sunroom addition to the rear of the house. The addition will not be closer to the side lot line than the existing house and is actually 1’ further away. The applicant has a larger rear yard and the sunroom is not visible from the street. The adjacent neighbor that is closest to the sunroom submitted a letter in support of the request. Mr. Williams felt as proposed the request meets the spirit and intent of the code. It was discussed that the lot and existing setbacks are non-conforming and the proposal will not increase the non-conformity.

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. Swisher moved, seconded by Mr. Lamb to grant a 4’- 7” side yard setback variance; a 7’- 6” adjacent side yards variance between dwellings; and a 4’- 7” variance for the sum total of side yards on this property for the proposal as submitted.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Swisher, Lamb

Nays: none, motion carried

Docket 2021-13

Applicant: Eric Mazzone

Premises: 25643 Rustic Lane, PP#21519059, Ward 2

Requesting to install a utility building 4’ off the side property line; 1211.04(k) & 1211.20: utility building shall be permitted a minimum of 10’ from the side property line, a **6’ side yard setback variance**.

Mr. Mazzone, sworn in by Mr. Maloney, explained he would like to install a 10’ x 12’ shed in his rear yard. His lot is unique in that it is a triangle shape with the narrow point of the triangle being located in the rear yard. If he were to place the shed in a location where it complied with the code it would be in the middle of his rear yard close to the house. The proposed location will also provide him visibility of the rear yard so he can see his children. Members of the board agreed the lot was unique and posed a practical difficulty regarding placement of a shed.

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: Ms. Alfred moved, seconded by Ms. Nolde to grant a 6’ side yard setback variance.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Swisher, Lamb

Nays: none, motion carried

Docket 2021-14

Applicant: Marcus and Kimberly DiCapua

Premises: 1578 Glen Lyon Dr., PP#21106022, Ward 3

Requesting to construct swimming pool equipment in the side yard of the property; 1211.04(g)(2)(B): the pool and all mechanical equipment used in conjunction therewith is to be located in the rear yard, a **location variance for the pool equipment from the rear to the side yard.** Additionally, he would like to relocate the air conditioner to the side yard of the property (facing the street); 1211.20(e): in the case of a corner lot, such unit shall not be located in either the front yard or the side yard facing the street, a **location variance for an air conditioner in the side yard.**

Mr. Knauer, sworn in by Mr. Maloney, explained the applicant is installing a pool in their rear yard which is not very deep due to adjacent preserved green space in the development and being a corner lot. Due to the lack of space, they would like to put the pool unit in the side yard and move the air conditioning unit there as well as it will need to be relocated due to the new pool location. It is not feasible to move the units to the other side of the house due to the finished basement and location of utilities. Diseased and dying trees were removed recently and new trees will be planted. The homeowner’s association approved the location.

Discussion ensued and the board reviewed the setback from the right-of-way, which is approximately 61’. The board would like the units to be screened and Mr. Knauer reviewed the landscape plan.

Ms. Joann Kirby, 1597 Bradley Road, sworn in by Mr. Maloney, advised she lives across the street and had concerns that trees were removed and would like to see the area screened so it is not visible and buffers sound.

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 location variance for the pool equipment from the rear to the side yard with the condition that the unit is screened from visibility.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Swisher, Lamb

Nays: none, motion carried

Motion: Mr. Lamb moved, seconded by Mr. Swisher to grant a location variance for an air conditioner in the side yard with the condition that the unit is screened from visibility.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Swisher, Lamb

Nays: none, motion carried

Docket 2021-15

Applicant: Gregg Stark

Premises: 1870 Bur Oak, PP#21107031, Ward 5

Requesting to install an addition 17’ off the rear line property; 1211.09: the minimum rear yard setback is 30’, a **13’ rear yard setback variance**.

Mr. Stark and Mr. Stec were sworn in by Mr. Maloney. Mr. Stark explained his proposal is for a covered veranda over the patio at the rear of the house 17’ off the rear property line. The patio will slightly be increased in one area and reduced in another. The style and size of the veranda is similar to others in the neighborhood. Initially they thought the area of the patio and proposed veranda was in the side yard but were informed when applying for a permit it is the rear yard. The property is a corner lot and is almost square in shape. Only a corner of the veranda will be in the setback and the majority of the structure will comply. The patio is located next to the patio door so if another location was selected, it would not be connected to the patio door into the house. Mr. Stark showed photos of other homes with similar structures located closer to the property line, which he was advised were in the side yards. The structure is located adjacent to the neighbor’s garage.

Discussion ensued that by appearance the area looks like a side yard but is technically the rear yard due to the lot to depth ratio. The lot is almost square and if the side lot line along the street was slightly longer it would make what is not the rear yard the side yard and it could be located 15’ off the side lot line and what is being proposed is 17’ off the lot line. The lot shape was unique since it is almost square rather than a traditional rectangular shaped lot.

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 – no
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. Swisher moved, seconded by Ms. Alfred to grant a 13’ rear yard setback variance

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Swisher, Lamb

Nays: none, motion carried

Docket 2021-16

Applicant: Nicholas Stroup

Premises: 23527 Hilliard Blvd., PP#21426001, Ward 1

Requesting to install a generator 4’ - 6” off the side property line; 1211.20 (e): central air conditioner, heat pump, etc. may be located in the side yard of a lot providing such units shall be no closer than 10’ from the side lot line, a **5’- 6” setback variance from the side property line.**

Mr. Stoup, sworn in by Mr. Maloney, explained he would like to place a generator in the side yard as this is the location of the utilities needed for connection. He stated that the proposed location was least impactful than other locations for site and sound reasons. He noted there is also a furnace intake vent near this location.

Discussion ensued regarding the placement, noise level and screening. It was noted the rendering provided made the unit look like it was setback off the house at a distance and Mr. Stroup advised the contractor did not make the drawing to scale and it will be located about 3.5’ off the house to allow for proper air circulation. He will screen the unit so it is not visible from the street.

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: Ms. Alfred moved, seconded by Mr. Swisher to grant a 5’- 6” setback variance from the side property line with the condition that it is screened from view from the street.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Swisher, Lamb

Nays: none, motion carried

Docket 2021-17

Applicant: Joseph Erni

Premises: 26965 Sentry Lane, PP#21303037, Ward 3

Requesting to install a 96 sf utility building in his rear yard, 6’ from the side and 4’ from the rear property lines; 1211.04 (k): a utility building shall be permitted in a rear yard a minimum of 10’ from the side and 10’ from the rear property lines, a **4’ side yard setback variance** and a **6’ rear yard setback variance**.

Mr. Erni, sworn in by Mr. Maloney, explained he would like to install a shed 6’ from the side property line and 4’ from the rear property line. It will be on the southeast side of the yard inside the fence. His lot is a corner lot with an odd shape and a narrow rear yard being only 35’ deep. He looked at other locations for the shed. He cannot place it outside the fenced in area because there is not enough room and in a location where it would fit outside of the fenced in area there would be a negative impact on his neighbors as it would be more visible than the proposed location. If he complied with the code it would be too close to his house and still require a variance. Other locations in the rear yard do not work due to the layout of his house on the property, narrow width of the rear yard, location of the fence in the side yard (not on the lot line) and being too close to the house.

Discussion ensued clarifying that there is no longer a pool on the property. There is an existing plastic shed that is in the proposed location of the new shed, which will be removed. The layout of the yard, sewer easement, and location of swing set in the rear yard was reviewed. The shed will be 4’ off the fence on the rear property line and 3’ of the fence in the side yard. The neighbor’s shed is located in a green space near the applicant’s proposed shed.

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. Swisher moved, seconded by Ms. Alfred to grant a 4’ side yard setback variance.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Swisher, Lamb

Nays: none, motion carried

Motion: Ms. Alfred moved, seconded by Ms. Nolde to grant a 6’ rear yard setback variance.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Swisher, Lamb

Nays: none, motion carried

Docket 2021-18

Applicant: James Johnson

Premises: 3215 Columbia Rd., PP#21530016, Ward 2

Requesting to install a deck (entrance feature) 7’ into the required 50’ front yard setback and 8’ into the required 15’ side yard setback; 1211.22: building features may project into required front and side yards of a dwelling, but shall not project more than 5’ in the front yard and 3’ into a side yard, taking into consideration the allowed building feature projections, a **2’ encroachment in the front yard setback** and a **5’ into the required side yard setback**.

Mr. Johnson and contractor Mr. Herb, were sworn in by Mr. Maloney. Mr. Johnson explained he had a front stoop on his house that had to be removed due to foundation work that had to be done. The ground has settled and he would like to put a larger front deck on the house that is 10’ x 11’9”. The deck will maintain the same setback as the existing house, but requires a 5’ side yard setback to do that. The deck will extend 2’ into the front yard setback. He is allowed to project 5’ into the front yard and his deck will go 7’ into the front yard requiring a 2’ variance. The deck will be no closer to the property line than the existing house.

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 – no

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. Swisher to grant a variance for a 2' encroachment in the front yard setback.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Swisher, Lamb

Nays: none, motion carried

Motion: Mr. Lamb moved, seconded by Ms. Alfred to grant a variance for a 5' into the required side yard setback.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Swisher, Lamb

Nays: none, motion carried

Docket 2021-19

Applicant: Richard Chappel

Premises: 881 Richmar Dr., PP#21204038, Ward 3

Requesting to construct an 8' tall fence 11' from the planned right-of-way line;

1211.04(b)(3): fences may be permitted along the side or rear lot lines 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 2' height variance** and a **14' setback variance for location**.

Mr. Chappel, sworn in by Mr. Maloney, explained he lives on a corner lot and has minimal privacy as his yard faces the street. He is proposing to install three lattice panels that are 8' tall and 8' wide 11' off the right-of-way. The panels will be spaced approximately 8' apart with arborvitaes in between. He did not want a solid fence and thought the lattice panels would be better.

Discussion ensued on where the panels will be placed as it was uncertain. Mr. Chappel reviewed his yard and they will be located on the Georgetown Dr. side of his property. The trees were discussed and the existing crab apple trees will be removed and the location of the large trees to remain were reviewed. It was questioned why an 8' tall fence is being requested and Mr. Chappel felt that would provide additional screening from the view of the second floor of the house across the street and break up the line of sight. The height was discussed. Members of the board were not in favor of the 8' height and granting a 2' height variance. The lot is unique due to the curve so the proposed location would not block the line of site for the neighbor or pedestrians/bicyclists on the sidewalk or street. After discussion Mr. Chappel removed his request for an 8' tall fence and is only requesting a setback 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 - 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. moved, seconded by Mr. to grant a 14’ setback variance for the location of the lattice fence panels as shown and submitted on the plans.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Swisher, Lamb

Nays: none, motion carried

MISCELLANEOUS

None

APPROVAL OF MINUTES

Motion: Ms. Alfred moved, seconded by Mr. Swisher to approve the minutes of the April 27, 2021 Board of Building and Zoning Appeals meeting.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Lamb, Swisher

Nays: None, motion carried

ADJOURNMENT

Mr. Baesel adjourned the meeting at 8:51 P.M.

Bryan Baesel, Chairman

Nicolette Sackman, Clerk of Commissions

Approved: _____