



**BOARD OF BUILDING AND ZONING APPEALS  
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING  
July 27, 2021**

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

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

**SELECTED CORRESPONDENCE**

**Docket 2021-25 Gingerich**

- 7/26 Emails from city staff regarding adjacent commercial lighting is legally non-conforming as they predate the current lighting code.

**DOCKETS**

Docket 2021-25

Applicant: Brad Gingerich

Premises: 24091 Detroit Rd., PP#21406013, Ward 1

Requesting to construct a fence 8' high fence (in the front yard) 15' off of the right-of-way, which abuts a lot zoned for nonresidential purposes (general business zoning to the west).

1211.04(b)(1): fences shall be permitted along the side lot line in the front yard but shall not be constructed within 15' the planned right-of-way line to a height not exceeding 6' when residential properties abut a lot used or zoned for nonresidential purposes; a **2' height variance**.

Mr. Gingerich, sworn in by Mr. Maloney, reviewed the proposal from the previous meeting noting it has not changed but he provided photos of his property and the view of the adjacent commercial building and lights. In the winter months the lights are very visible and shine into his homes. Due to the difference in grade he is requesting an 8' tall fence rather than the 6' tall fence permitted.

Members of the board discussed the proposal. An email was received from Planning Director Jim Bedell and Property Maintenance Office Jim Ward noting the lights are pre-existing legal non-conforming light that were install prior to the current lighting code requirements. Due to the various grades of surrounding properties, the 8' tall fence along the side of the commercial property will appear to be shorter than the 6' tall fence along the rear of the commercial property.

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: Mr. Lamb moved, seconded by Ms. Alfred to approve a 2’ height variance.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Lamb, Swisher

Nays: none, motion carried

Docket 2021-27: Anastasia Steele  
25761 Rose Rd., PP#21519027, Ward 2

Requesting to install an attached garage addition 9’ off the side property line: 1211.09: the minimum side yard setback is 15’, a **6’ side yard setback variance**.

Mr. Steel (father) and Ms. Steel (property owner) were sworn in by Mr. Maloney. Mr. Steel explained there is an existing garage on the property that is in poor condition and will be demolished. It is located 5’6” off the property and the new garage will be located 9’ off the property line. A variance is needed because the new garage does not comply with the current setback requirements for a new structure. He reviewed the site plan.

Members of the board discussed the proposal and did not have an issue as the new garage is an improvement and will have a larger setback off the property line than the existing garage.

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: Mr. Swisher moved, seconded by Ms. Nolde to approve a 6' side yard setback variance.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Lamb, Swisher

Nays: none, motion carried

Docket 2021-28: Bret and Cheryl Tidwell  
30460 Adams Ln., PP#21608067, Ward 6

Requesting to enlarge his existing structure to a total footprint of 3,294 sf on a lot which is 15,078 sf; 1211.09: percent of lot coverage on a single family lot shall be a maximum of 20%, a **variance of 278 total sf on this lot (or 1.8%)**. Also requesting to install a second attached garage area where the garage areas when combined will equal 1,222 sf; 1211.04(a)(2): on lots of single family uses, garages shall be limited to one area and on lots less than or equal to 20,000 sf, the maximum garage space shall be 800 sf., a **variance for a second garage area** and a **variance for 422 sf of area**.

Mr. Tidwell and Mr. Liggett were sworn in by Mr. Maloney. Mr. Liggett reviewed the proposal for an addition and a second garage area. The addition is at the rear of the house and the new garage area is to the side of the existing house and new addition. He reviewed the site plan. The existing garage is a side load but is placed at the front of the house so it cannot be expanded as an addition would have to be in the front yard, which would not fit the character of the neighborhood or be desirable. The new garage area will be front load and the additional space is needed so the applicant can park his commercial work van inside rather than in the driveway. The garage will also have space for a work room and tool storage area. The existing garage cannot accommodate the van due to its size (22' long) and other vehicles owned by the applicant. Behind the property is a retention basin and Mr. Liggett felt the request would not impact the character of the neighborhood.

Members of the board discussed the proposal noting an addition to the existing garage is not desirable but questioned if the interior footprint of the garage can be reduced by removing the work shop to eliminate the need for an area variance. It was suggested that the proposed work space area could become part of the great room addition. Mr. Tidwell explained he needs the area for tools and to unload and change tools/equipment in his vehicle daily that is needed for his job. It was also noted due to interior structural beams it was not desirable to reconfigure the layout of the addition. Discussion ensued regarding the area, lot coverage, layout and design of the addition and garage. Mr. Maloney advised the request should be tabled so he can research the proposed use to determine if it is permitted or not (storage for business equipment).

Motion: Mr. Lamb moved, seconded by Mr. Swisher to table the proposal to the August 31<sup>st</sup> hearing.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Lamb, Swisher

Nays: none, motion carried

Docket 2021-29: Timothy and Celeste Mueller

31350 Detroit Rd., PP#21107006, Ward 5

Requesting to install a 1,152 sf detached garage 19'-11" in height; 1211.04(a)(2): on single family lots 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 and shall not exceed 15' in height, a **variance of 152 sf in area** and a **4' -11" height variance**.

Mr. Shirk (contractor), Mr. and Mrs. Mueller were sworn in by Mr. Maloney. Mr. Mueller explained they are constructing a new house and detached garage. The proposal is to have a second floor in the garage for a home office. To accommodate an office, the garage needs to be taller than what a garage would normally be and they would like some additional space in the two car garage. Mr. Mueller advised he works at home and has international clients so at times he is on the phone or working in the middle of the night. A separate home office would provide for a quieter environment for his family. Photos of the proposed structure were presented. He explained the property has a slope and the garage will sit below the street due to the grade.

Members of the board discussed the following: the grade of the property; proximity of surrounding homes and the adjacent barn; the setback, which complies; concerns with the office space being used as a second dwelling; the design of the building; due to the grade the garage will not appear as tall as it is from the street; and the depth of the property.

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 – 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. Swisher moved, seconded by Ms. Alfred to approve a 4' -11" height variance and a variance of 152 sf in area with the condition that the structure is used for storage/garage and not a second residence.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Lamb, Swisher

Nays: none, motion carried

Docket 2021-30: William and Deborah Doty

1746 Dover Center Rd., PP#21224002, Ward 3

Requesting to construct an 8' high fence to enclose a garden in his rear yard;

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, a 2' height variance.

Mr. and Mrs. Doty were sworn in by Mr. Maloney. Mr. Doty explained he is seeking a 2' height variance for his garden fence. He installed the fence not knowing he could not do so at 8' tall. The fence has posts and transparent wire metal mesh. The reason for the fence is to prevent deer from getting into the garden and eating their vegetables.



GARDEN INTERIOR VIEW

GARDEN EXTERIOR VIEW

Mr. Doty explained the garden is behind their garage with one neighbor's house setback behind the garden about 1,000'. He reviewed the layout of the garden and location in the yard. He stated that the neighbors have no objections to his proposal.

Members of the board discussed the proposal and were not opposed to the constructed fence and a variance for this fence only and nothing different in the future.

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: Ms. Alfred moved, seconded by Mr. Swisher to approve a 2' height variance with the condition that the fence is approved as submitted at the dimension, height and location presented in the plans.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Lamb, Swisher

Nays: none, motion carried

Docket 2021-31: Jennifer Palmieri

2979 Forest Lake Dr., PP#21604003, Ward 6

Requesting to construct a 5' tall ornamental fence in the side yard 10' 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 15' setback variance.

Ms. Palmieri and Mr. Burelia, were sworn in by Mr. Maloney. Ms. Palmieri explained they are installing an in ground pool and need a variance for the location of the fence. They own a corner parcel, which requires a 25' setback. There is an existing row of evergreen along the length of the property near the sidewalk. The fence would be placed next to the evergreens on the side of the evergreen opposite of the sidewalk. The fence would not be seen due to the evergreens. Ms. Palmieri stated the proposed fence would not change the character of the neighborhood and noted there was a fence in the neighborhood along the sidewalk.

Members of the board discussed the following: the location of the fence in relation to the evergreens and the fence would not impact visibility due to the existing evergreens.

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: Mr. Lamb moved, seconded by Ms. Alfred to approve a 15' setback variance as submitted.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Lamb, Swisher

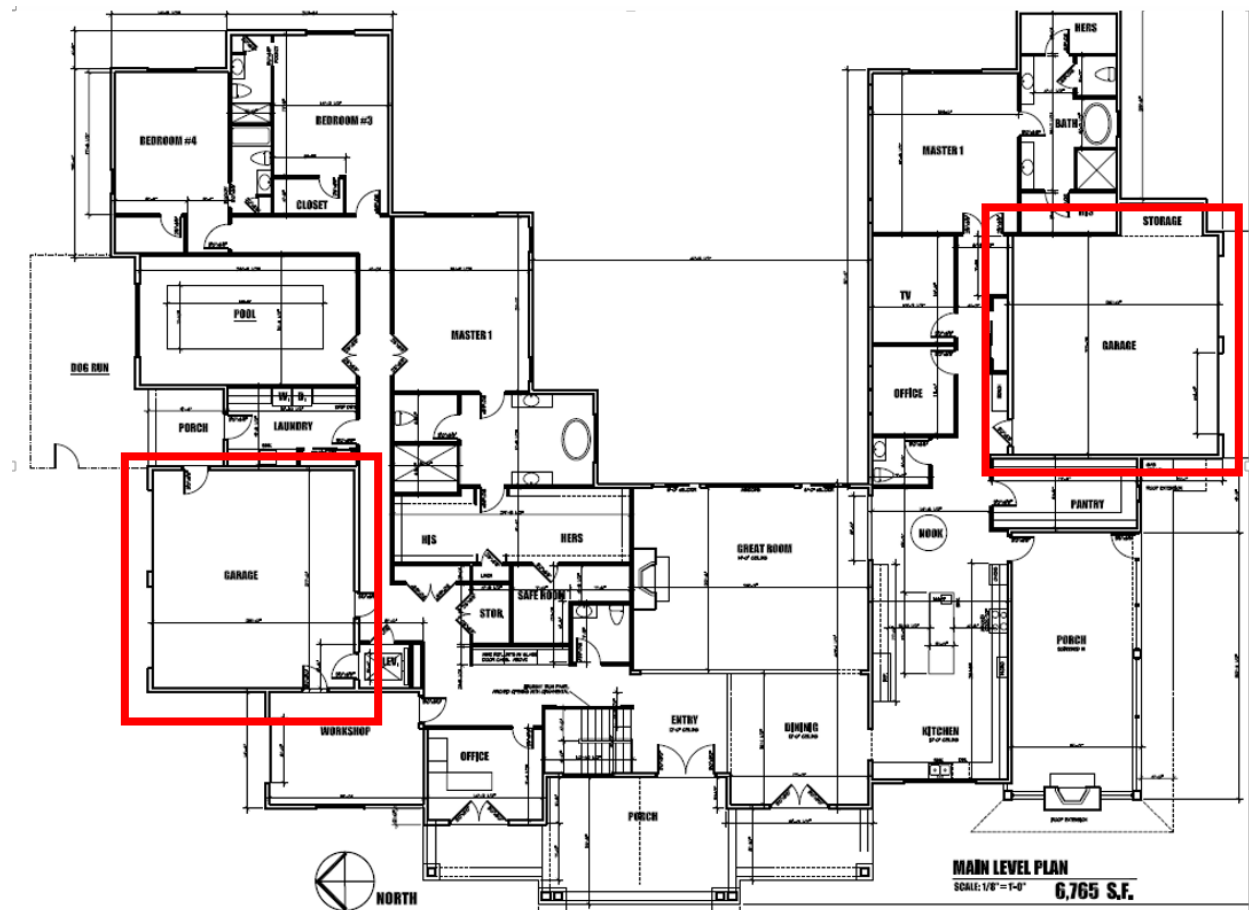
Nays: none, motion carried

Docket 2021-32: Elaine Webster

3871 Bradley Rd., PP#21709003, Ward 6

Requesting to construct a single family dwelling with two garage areas; 1211.04(a)(2): on lots of single family uses private garages shall be limited to one garage area; a **variance for two garage areas.**

Mr. Webster and Mr. Greenwalt (architect) were sworn in by Mr. Maloney. Mr. Greenwalt explained the Websters are constructing a new home with two side load garage areas on each



side of the house. There will be a garage on each side of the house. The design allows for an in home health care worker to live in the house in the future or space for guests visiting. It was expressed the design is unique but from the street would have a better appearance than seeing a four car garage at the front of the house. The property used to be two parcels, each with a house and garage on each lots. The lots were assembled and is an estate sized lot.

Members of the board discussed the following: the design of the house; if other options were looked at, such as one four car garage; and the assembly of the parcels. Mr. Greenwalt explained two garage areas were no different than the two garages that used to exist on the property and the applicant was not aware that they could not have two garage areas. As proposed, garage doors would not be seen from the street, which the applicant though would be more aesthetically pleasing than garage doors for a four car garage.

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 – yes
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 approve a variance for two garage areas.

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Lamb, Swisher

Nays: none, motion carried

**MISCELLANEOUS**

None

**APPROVAL OF MINUTES**

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

ROLL CALL:

Yeas: Baesel, Alfred, Nolde, Lamb

Abstain: Swisher

Nays: None, motion carried

**ADJOURNMENT**

Mr. Baesel adjourned the meeting at 9:25 P.M.

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Bryan Baesel, Chairman

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Nicolette Sackman, Clerk of Commissions

Approved: \_\_\_\_\_