



Agenda Board of Zoning Appeals

Date: September 7, 2023
To: Board of Zoning Appeals
From: Cody Grodi, Zoning Inspector
Re: **Items for the September 11, 2023 Meeting**

1. Call to Order - 5:30 PM
2. Roll Call
3. Approval of August 14, 2023 Meeting Minutes
4. Administer Oath
5. Zoning Permit Obligation
6. New Business

APPLICATION 29-23

JEROME PARKER, ON BEHALF OF HARBOR TOWN SOUTH LLC, IS REQUESTING A USE VARIANCE TO ALLOW FOR MULTI-FAMILY HOUSING. THE PROPERTY IS LOCATED AT 0 LIGHTHOUSE VILLAGE (190001010000) AND IS ZONED PBP (PLANNED BUSINESS PARK).

NOTE: CHAPTER 1275.02 JURISDICTION OF BOARD OF ZONING APPEALS

THE BOARD OF ZONING APPEALS SHALL NOT HAVE THE POWER TO ALTER OR CHANGE THE ZONING CLASSIFICATION OF ANY PROPERTY, NOR TO MAKE ANY CHANGE IN THE TERMS OF THE ZONING CODE. THE BOARD DOES HAVE POWER TO ACT ON THOSE MATTERS WHERE THIS ZONING CODE PROVIDES FOR AN APPEAL, ADMINISTRATIVE REVIEW, INTERPRETATION OR EXCEPTION AND TO AUTHORIZE A VARIANCE UNDER THIS CHAPTER AND THE LAWS OF THE STATE OF OHIO. SUCH POWERS INCLUDE:

1275.02(D) USE VARIANCE

(1) TO HEAR AND DECIDE INSTANCES WHERE IT IS ALLEGED THAT THE APPLICANT'S PROPERTY IS NOT BEING USED FOR THE PURPOSES PERMITTED IN THE ZONING DISTRICTS BECAUSE THE RESTRICTIONS WOULD UNREASONABLY CREATE AN UNDUE HARDSHIP. THIS IS BECAUSE:

- A. APPLICANT'S PROPERTY CANNOT BE USED FOR THE PURPOSES PERMITTED IN THE ZONING DISTRICTS.
- B. APPLICANT'S PLIGHT IS DUE TO UNIQUE CIRCUMSTANCES PECULIAR TO HIS PROPERTY AND NOT A GENERAL CONDITION IN THE NEIGHBORHOOD.
- C. APPLICANT'S SUGGESTED USE WOULD NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD.
- D. APPLICANT'S PROBLEM HAS NOT BEEN SELF-CREATED.
- E. THE UNAVAILABILITY OF ADMINISTRATIVE RELIEF WHICH MIGHT AFFORD REASONABLE ALTERNATIVES.

PROPERTY.

F. IN ADDITION TO THE INFORMATION REQUIRED FOR OTHER VARIANCE REQUESTS, A USE VARIANCE UNDER THIS CHAPTER SHALL INCLUDE A PLAN DRAWN TO SCALE DETAIL AND IMPROVEMENTS PROPOSED BY THE APPLICANT AND A SUMMARY OF THE FACTS ALLEGED HARDSHIP.

NOTE: CHAPTER 1225.08 LAND USE AND BASE ZONING DISTRICT TABLE

	AG	RESIDENTIAL						COMMERCIAL				OFFICE SERVICE	INDUSTRIAL		S
RESIDENTIAL	A-1	R-1	R-2	R-3	R-4	R-5	RM	C-1	C-2	C-3	C-4	OS	I-1	I-2	PE
ONE FAMILY DWELLING	P	P	P	P	P	P	P		P						
TWO-FAMILY DWELLING						P	P		P						
MULTIPLE FAMILY DWELLINGS							P								
APARTMENTS ABOVE 1ST FLOOR									P			S			
BED & BREAKFAST		S	S	S	S	S			S						
ASSISTED LIVING UNITS							P								
MOBILE HOMES (1235.04W)															

1. THE APPLICANT IS REQUESTING A USE VARIANCE THAT WOULD ALLOW FOR MULTIPLE UNITS TO BE CONSTRUCTED OUTSIDE OF THE AREA PERMITTED BY THE HARBOR TOWN ZONING. THE VARIANCE WOULD ALLOW FOR ONE HUNDRED AND FORTY (140) UNITS TO BE CONSTRUCTED ON THE PROPERTY.

Recommendation:

1. The Zoning Inspector recommends denial of the use variance as the request does not meet the requirements required under Chapter 1275.02(d). Harbor Town is zoned as a Planned Business Park (PBP) and a use variance is not permitted in a PBP.

For a use variance to be granted, Harbor Town South LLC must show that all of the above mentioned requirements are met.

A) The property can be used for the purposes permitted in the zoning district. In fact, the applicant stated they intend to use the property in accordance with the district in their application. (Final Page of Application 29-23).

B) The property is now undeveloped land and does not have any inherent unique characteristics that would make it impossible to use as intended in the zoning code. Again, the applicant provided proof of use of the property in accordance with the district in their application. (Final Page of Application 29-23).

C) The applicant's suggested use is outside of the available uses and therefore is not in line with the zoning code for the area, as a majority of the surrounding area is PBP.

D) The applicant's problem has been self-created. The property was zoned a PBP when the applicant purchased the property on 12/30/2022. The current owners would have had full knowledge of the acceptable uses for the property. Further, though PBP zoning did previously allow multi-family zoning, Ordinance 80-2013 removed multi-family zoning. This was done in 2013 and went through the public notice and public hearing process prior to the applicant's purchase.

E) The applicant still has reasonable use of the property as demonstrated in their own application. However, not all of the requirements for undue hardship must be met. Even if the applicant were to prove the elements of undue hardship, the applicant's own application material shows that the other requirements have not been met. A use variance shall not be granted.

APPLICATION 31-23

JERL MACHINE IS REQUESTING A ZONING VARIANCE IN ORDER TO INSTALL A SIGN. THE SIGN IS CURRENTLY LOCATED AT 11140 AVENUE ROAD AND IS ZONED I2 (GENERAL INDUSTRIAL).

NOTE: CHAPTER 1250.32(A) PERMANENT SIGNS ALLOWED
I2 ZONING DISTRICT: FREESTANDING SIGN
MAXIMUM SIZE: 72 SQUARE FEET
MAXIMUM HEIGHT: 10 FEET
SETBACK: 25'

NOTE: CHAPTER 1250.39 VARIANCES

1. THE BOARD OF ZONING APPEALS MAY GRANT A VARIANCE ONLY IF IT FINDS THAT THE FOLLOWING APPLY:

(A) THAT THE LITERAL ENFORCEMENT OF THE REQUIREMENTS OF THIS CHAPTER WOULD BE UNREASONABLY PRACTICAL DIFFICULTIES BASED ON THE PRESENCE OF SPECIAL CONDITIONS AND CIRCUMSTANCES ARE PECULIAR TO THE LAND OR STRUCTURE INVOLVED AND WHICH ARE NOT APPLICABLE TO OTHER LANDS OR STRUCTURES IN THE SAME ZONING DISTRICT. A FINDING OF SUCH SPECIAL CONDITIONS

CIRCUMSTANCES SHALL BE BASED ON A REVIEW OF FACTORS INCLUDING BUT NOT FOLLOWING:

- (1) EXCEPTIONAL NARROWNESS, SHALLOWNESS OR SHAPE OF A SPECIFIC PROPERTY; OR EFFECTIVE DATE OF THIS CHAPTER OR AMENDMENT; OR
- (2) EXCEPTIONAL TOPOGRAPHIC OR ENVIRONMENTAL CONDITIONS OR OTHER FACTORS OR SITUATION ON THE LAND, BUILDING OR STRUCTURE; OR
- (3) THE IMPACT ON THE PROPERTY OF USES OR DEVELOPMENT OF IMMEDIATELY ADJOINING OR PROPERTIES.
- (4) WHETHER THE APPLICANT WAS AWARE OF THE RELEVANT CODE LIMITATION WHEN THE PROPERTY WAS SOLD OR LEASED TO IT.
- (5) WHETHER THE PROPERTY IN QUESTION WILL YIELD A REASONABLE RATE OF RETURN IN THE ABSENCE OF THE PROPOSED VARIANCE, OR WHETHER THERE CAN BE ANY BENEFICIAL USE OF THE PROPERTY WITHOUT THE PROPOSED VARIANCE.
- (6) WHETHER THE ISSUE COULD BE RESOLVED BY SOME OTHER METHOD, EVEN IF SUCH OTHER METHOD IS LESS CONVENIENT OR MOST COSTLY TO ACHIEVE.
- (B) THAT GRANTING THE VARIANCE WILL NOT CAUSE A SUBSTANTIAL ADVERSE EFFECT ON THE IMPROVEMENTS IN THE VICINITY OR WILL NOT MATERIALLY IMPAIR THE INTENT AND PURPOSE OF THE REQUIREMENT BEING VARIED OR OF THIS CHAPTER, AND IS THE MINIMUM VARIANCE NECESSARY TO PROVIDE RELIEF.
- (C) THAT THE VARIANCE WOULD NOT ADVERSELY AFFECT THE DELIVERY OF GOVERNMENT SERVICES (E.G., WATER, SEWER, GARBAGE).
- (D) THAT THE VARIANCE AS GRANTED WOULD NOT CONFER ON THE APPLICANT A SPECIAL PRIVILEGE OR DEPRIVE THE APPLICANT OF RIGHTS, WHEN COMPARED WITH THOSE RIGHTS CONFERRED ON IMMEDIATELY ADJOINING PROPERTIES;
- (E) THAT THE VARIANCE REQUEST IS NOT ONE WHERE THE SPECIFIC CONDITIONS OF THE PROPERTY ARE SO GENERAL OR RECURRENT IN NATURE AS TO MAKE THE FORMULATION OF A REGULATION FOR THOSE CONDITIONS REASONABLY PRACTICABLE.

1. THE APPLICANT IS REQUESTING A VARIANCE TO INSTALL A SIGN. THE SIGN IS SETBACK FURTHER FROM THE PROPERTY LINE THAN WHAT IS PERMITTED. THE SIGN IS SETBACK TWENTY FEET FROM THE PROPERTY LINE.

Recommendation:

1. The Zoning Inspector recommends denial of the zoning variance as the request does not meet the requirements required to grant a variance. The property still has beneficial use without the variance. Even if the property owner can still install a new sign that conforms to the guidelines set forth in the Perrysburg Zoning Ordinance, it is not a hardship that would prevent the applicant from meeting the size requirement.

APPLICATION 32-23

CYNTHIA GRAY IS REQUESTING TWO ZONING VARIANCES IN ORDER TO INSTALL A PAVED SWIMMING POOL IN A SIDE YARD. THE PROPERTY IS LOCATED AT 14720 WOOD CREEK COURT (SINGLE FAMILY RESIDENTIAL).

NOTE: 1250.61(A) NO ACCESSORY BUILDING OR USES SHALL BE LOCATED IN ANY FRONT YARD SETBACK EXCEPT UNDER UNUSUAL CIRCUMSTANCES WHERE SUCH ACTIVITY WILL NOT CONTRADICT THE INTENT AND PURPOSES OF THIS ZONING CODE OR WHERE ENFORCEMENT WOULD CAUSE EXTREME HARDSHIP. EITHER EXCEPTION SHALL REQUIRE APPROVAL OF THE BOARD OF ZONING APPEALS.

NOTE: CHAPTER 1250.58(C) LOCATION OF SWIMMING POOLS: SWIMMING POOLS, WHIRLPOOLS, OR SIMILAR FEATURES SHALL BE PERMITTED IN THE REAR YARD OR WITHIN THE FRONT YARD IF IT IS APPROVED BY THE BOARD OF ZONING APPEALS. IN ALL CASES, SWIMMING POOLS SHALL MAINTAIN A MINIMUM SETBACK OF FIVE (5) FEET FROM A PROPERTY LINE TO ANY DECK OR PAVILION AND FIVE FEET TO THE WATER'S EDGE. IN ALL CASES, WHIRLPOOLS, HOT TUBS OR SIMILAR FEATURES SHALL MAINTAIN A MINIMUM SETBACK OF FIVE (5) FEET FROM ANY PROPERTY LINE. THE SETBACK FROM A RESIDENCE TO THE ABOVE FEATURES IS SUBJECT TO ANY APPLICABLE EASEMENTS. SUCH STRUCTURES MAY BE PLACED WITHIN RECORDED EASEMENTS FOR ANY PURPOSE.

1. THE APPLICANT IS REQUESTING A VARIANCE THAT WOULD ALLOW FOR A PAVED SWIMMING POOL IN THE SIDE YARD.
2. THE APPLICANT IS REQUESTING A VARIANCE THAT WOULD ALLOW FOR AN IN-GROUND SWIMMING POOL BE INSTALLED IN THE SIDE YARD.

Recommendation:

1. The Zoning Inspector recommends approval of the zoning variance based on meeting the criteria of Chapter 1275.02(c)(3). The rear yard of the property has a steep grade that would make placement of the pavilion difficult. The pavilion will exceed the setback required for an accessory structure.
2. The Zoning Inspector recommends approval of the zoning variance based on meeting criteria of Chapter 1275.02(c)(3). The rear yard of the property has a steep grade that would make placement of the swimming pool difficult. The swimming pool will exceed the setback required for a swimming pool.

APPLICATION 33-23

LINDELL STEWART IS REQUESTING A ZONING EXCEPTION TO CONSTRUCT A DECK. THE PROPERTY IS LOCATED AT 1046 HICKORY STREET AND IS ZONED R-3 (SINGLE FAMILY RESIDENTIAL).

NOTE: CHAPTER 1230.01 INTENSITY AND DIMENSIONAL STANDARDS
R-3 ZONING:
FRONT YARD = 35'

REAR YARD = 35'
SIDE YARD MIN = 8'
SIDE YARD TOTAL = 20'

1. THE APPLICANT IS REQUESTING A ZONING EXCEPTION FOR A FRONT YARD SETBACK. THE DECK WILL BE CONSTRUCTED TWENTY-TWO (22) FEET OFF OF THE FRONT PROPERTY LINE.

Recommendation:

1. The Zoning Inspector recommends approval of the zoning exception. The deck will only be used to provide for safer access to the front door. The footprint will be the same as the existing patio.

APPLICATION 34-23

JUSTIN BLECHARCZYK IS REQUESTING A ZONING VARIANCE TO CONSTRUCT AN ACCESSORY BUILDING. THE PROPERTY IS LOCATED AT 321 E. SECOND STREET AND IS ZONED R-3 (RESIDENTIAL).

NOTE: 1250.61(F) THE COMBINED FOOTPRINTS OF ALL ACCESSORY BUILDINGS ON THE LOT SHALL NOT EXCEED THE LESSER OF 5% OF THE LOT SIZE OR 4,000 SF. HOWEVER, THE BOARD OF ZONING ADJUSTMENTS MAY CONSIDER AN EXCEPTION TO THE MAXIMUM SIZE REQUIREMENT PROVIDING THE TOTAL LOT SIZE DOES NOT EXCEED 8% OF THE LOT SIZE.

1. THE APPLICANT IS REQUESTING A VARIANCE THAT WOULD ALLOW FOR 5.83% OF THE LOT TO BE USED FOR ACCESSORY STRUCTURES. THE PROPERTY OWNER WOULD LIKE TO CONSTRUCT AN ACCESSORY BUILDING THAT WILL BE SEVEN HUNDRED TWENTY-NINE (729) SQUARE FEET. THE TOTAL SQUARE FOOTAGE OF ACCESSORY BUILDINGS ON THE PROPERTY WOULD BE ONE THOUSAND FOUR HUNDRED SEVENTY (1,470) SQUARE FEET IF GRANTED A VARIANCE. BY CODE, ONLY ONE THOUSAND TWO HUNDRED SIXTY-TWO (1262) SQUARE FEET WOULD BE ALLOWED.

Recommendation:

1. No recommendation provided.

7. Other Business
8. Adjournment

The next meeting is scheduled for October 9, 2023 at 5:30 P.M. in the Municipal Building, located at 201 W. Indiana Avenue.

cc: Media

