

BOARD OF ZONING APPEALS

October 11, 2021

The meeting was called to order at 5:30 p.m. by Chairperson Niki Decker. Board members present were Niki Decker, Nathan Duricek, Brian Elmer, and Megan Wolfinger (4). Craig Reiter was absent (1). Also present was Mark Easterling, Deputy Planning and Zoning Administrator.

APPROVAL OF MINUTES

Mr. Duricek moved to approve the minutes of the September 13, 2021 meeting as written. Seconded by Mr. Elmer. Ayes: (4). Nays: (0).

Ms. Decker administered an oath to those that would be speaking at the meeting.

APPLICATION 43-21 – Megan and Rashad Mason are requesting a zoning variance in order to keep a recently installed accessory structure. The property is located at 227 Meadowood Drive and is zoned R-3 (Single Family Residential).

NOTE: *1250.61(b) Accessory Buildings and Uses: Accessory buildings such as garages and utility buildings, may be located in a rear yard, provided that such buildings are separate from the main structure by at least ten (10) feet and are set back at least five (5) feet from the side and rear lot lines.*

1. The applicants are requesting a zoning variance to allow for a recently constructed garage to remain in the rear yard. The garage has been installed three (3) feet from the side property line.

Recommendation:

The Zoning Inspector recommends approval of the zoning variance based on meeting the criteria for variances A, C, D, and F of Chapter 1275.02(c)(3). The garage has been built in the same location as the old garage that was there. Accessory structures within the vicinity are also built closer than five feet to the property line.

Mr. Easterling reviewed Application 43-21. Megan Mason was present via AT Teleconference System, and confirmed that the location of the new garage is the same as the old garage. There was a brief discussion about the Code, and Mr. Easterling noted that once the old garage was torn down that it lost its non-conforming status. Mr. Easterling added that neighbor comments were not received. There were no further questions or concerns from the Board, nor the public.

Mr. Elmer moved to approve Application 43-21 as submitted, and finding A, C, D, and F of Chapter 1275.02(c)(3) to be true. Seconded by Ms. Wolfinger. Ayes: (4). Nays: (0).

APPLICATION 44-21 – J&J Fence is requesting a zoning variance in order to keep a recently installed fence. The property is located at 1120 Valley Bluff Drive and is zoned R-2 (Single Family Residential).

NOTE: Chapter 1250.42 Fences, Walls, Structural Screens, Hedges, and Screen Plantings:

R1 - R5 Zoning: 4' Maximum in Front Yard
4' Maximum in Side Yard
6' Maximum in Rear Yard

1. The applicant is requesting a zoning variance that would allow for a six (6) foot fence to be installed in the front yard.

Recommendation:

1. The Zoning Inspector recommends approval of the zoning variance based on meeting the criteria for variances A, B, C, and D of Chapter 1275.02(c)(3). The property is a corner lot with three front yards. The area where the six (6) foot fence is located is on the back side of the house, which abuts 795. Also, the area where the fence is installed sits lower than the road.

Mr. Easterling reviewed Application 44-21. Jason Stella, 1120 Valley Bluff Road, was present, and noted that J&J Fence made a mistake in failing to obtain a permit prior to the work being performed. Mr. Stella added that four (4) foot panels are no longer available, and that the fence is a wooden shadow box style. There was a brief discussion about the fence that had been previously installed by the Developer along the properties that back up to 795. There were no further questions or concerns from the Board, nor the public.

Mr. Duricek moved to approve Application 44-21 as submitted, and finding C, D, E, and G of Chapter 1275.02(c)(3) to be true. Seconded by Mr. Elmer. Ayes: (4). Nays: (0).

Debbie Walle, 1138 Valley Bluff Road, questioned whether each resident along Valley Bluff Road that backs up to 795 will need their own variance for a six (6) foot fence, and Mr. Easterling confirmed that each homeowner will need to submit individual variance requests.

APPLICATION 45-21 – Jimmy Lewis is requesting a zoning variance in order to keep a recently installed driveway. The property is located 1107 Hunting Creek Drive and is zoned R-1 (Single Family Residential).

NOTE: Chapter 1250.51(b)(7) No portion of a driveway shall be closer than five (5) feet to a side or rear property line.

1. The applicant is requesting a zoning variance that would allow for a driveway to be installed within the required five (5) foot setback from the side property line. The driveway has been installed (3) feet off of the property line.

Recommendation:

1. The Zoning Inspector recommends denial of the variance as it does not meet enough of the conditions needed to grant a variance. This property is not subject to any physical restraints as this is a new construction project. There are other options that can be explored in order to install a driveway.

Mr. Easterling reviewed Application 45-21. Jim Lewis was present, and added that he apologizes for the miscommunication between the builder and the driveway contractor. He said that his property currently abuts an empty field and that he has a border around his driveway. There was a brief discussion about nearby properties with driveways that have been installed within the required five (5) foot setback, and Mr. Easterling noted that variances may have been granted for those. There were no further questions or concerns from the Board, nor the public.

Mr. Elmer moved to approve Application 45-21 as submitted, and finding C, D, E, and F of Chapter 1275.02(c)(3) to be true. Seconded by Mr. Duricek. Ayes: (4). Nays: (0).

APPLICATION 46-21 – Toledo Sign Company, on behalf of Perrysburg First United, is requesting a zoning variance for a freestanding sign. The property is located at 200 W. Second Street and is zoned INS (Institutional).

NOTE: *Chapter 1250.32(a) Permanent Signs Allowed:*

Institutional:

Maximum Height: 6'

Maximum Size: 48 SF

Setback: 10' from property line

1. The applicant is requesting a variance that would permit the construction of a permanent freestanding sign with a reduced setback from the front property line. The freestanding sign is proposed to have a setback of one (1) foot from the front property line.

Recommendation:

1. No recommendation provided.

Mr. Easterling reviewed Application 46-21. Jim Jennings, Perrysburg First Church, and Dana Fairchild, Toledo Sign, were present on behalf of the application. Mr. Jennings said that they are replacing existing signage that is directional notating the preschool and church office. He added that the previous signage was angled and one-sided, and Mr. Fairchild said that the new free-standing sign will be centered in the grassy area. There were no further questions or concerns from the Board, nor the public.

Mr. Elmer moved to approve Application 46-21 as submitted, and finding B, C, D, and G of Chapter 1275.02(c)(3) to be true. Seconded by Ms. Decker. Ayes: (4). Nays: (0).

APPLICATION 47-21 – Balance Perrysburg LLC is requesting a zoning variance in order to keep a recently installed wall sign. The property is located at 26520 N. Dixie Highway and is zoned C-4 (Highway Commercial).

NOTE: *Chapter 1250.32(a) Permanent Signs Allowed:*

Wall Sign:

Zoning District: CO

Maximum Size: 10% of façade up to 75 SF

Quantity: 1 per façade up to 3

1. The requested variance would permit the applicant to keep a wall sign that is eighty-nine (89) square feet, exceeding the seventy-five (75) square foot maximum.

Recommendation:

1. No recommendation provided.

Mr. Easterling reviewed Application 47-21. Prakash Karamchandani, Balance Pan-Asian Grille, was present and added that the updated triangle signs are the same size as the signage that was approved in December 2015. He noted that the new triangle signs are covers over the older style. Mr. Elmer confirmed that new signage upgrades require Board of Zoning Appeals approval. There were no further questions or concerns from the Board, nor the public.

Ms. Wolfinger moved to approve Application 47-21 as submitted, and finding B, C, D, and G of Chapter 1275.02(c)(3) to be true. Seconded by Ms. Decker. Ayes: (4). Nays: (0).

APPLICATION 48-21 – Teresa Kranjec is requesting a zoning exception to allow for a house to be constructed. The property is located at 1002 Wilderness Court and is zoned R-1 (Single Family Residential).

NOTE: Chapter 1230.01 Intensity and Dimensional Standards

R-1 Zoning:

Front Yard = 45'

Rear Yard = 50'

Side Yard Min = 10'

Side Yard Total = 25'

1. The applicant is requesting a zoning exception to construct a new house with a reduced rear yard setback. The house will be forty-seven (47) feet off of the rear yard property line.

Recommendation:

1. The Zoning Inspector recommends approval of the zoning exception request. The house will be located on a corner lot making the placement of the structure difficult. The exception request is not substantial as the owners only want to build within the first three (3) feet of the required setback.

Mr. Easterling reviewed Application 48-21. Matt Brusoe, Schoen Builders, was present on behalf of the application, and added that this is a corner lot where the street cuts in deeper into the lot. He noted that the buildable area is narrower and that the three-car garage is the only portion of the home that is extending into the rear yard setback. Mr. Easterling confirmed that there were no comments received from neighboring property owners. There were no further questions or concerns from the Board, nor the public.

Ms. Decker moved to approve the zoning exception of Application 48-21 as submitted. Seconded by Mr. Duricek. Ayes: (4). Nays: (0).

APPLICATION 49-21 – Brianna and Klaus Hunger are requesting a zoning variance to install a shed. The property is located at 519 Hickory Street and is zoned

R-3 (Single Family Residential).

NOTE: *1250.61(f) Accessory Buildings and Uses: The combined footprints of all accessory buildings on a lot shall not exceed the lesser of 5% of the lot size or 4,000 SF. However, the Board of Zoning Appeals may consider an exception to the maximum size requirement providing that the requested size does not exceed 8% of the lot size.*

1. The applicants are requesting a variance that would allow for 5.55% of the lot size in accessory structures. The property owner would demolish an existing shed and construct a new shed that is one hundred and ninety-two (192) square feet. This will be in addition to an existing garage that is five hundred and sixty (560) square feet. The lot size is thirteen thousand five hundred and fifty (13,550) square feet, which would allow, by Code, six hundred seventy-seven (677) square feet of accessory structures.

Recommendation:

1. The Zoning Inspector recommends approval of the zoning variance based on meeting the criteria for variances B, C, D, and E of Chapter 1275.02(c)(3). The proposed amount of square footage for accessory structures will not be substantial from what is permitted by Code.

Mr. Easterling reviewed Application 49-21. Klaus Hunger was present, and said that he needs a bigger shed to store all of his stuff. Mr. Easterling confirmed that there were no comments received from neighboring property owners. There were no further questions or concerns from the Board, nor the public.

Ms. Decker moved to approve Application 49-21 as submitted, and finding B, C, D, and E of Chapter 1275.02(c)(3) to be true. Seconded by Mr. Duricek. Ayes: (4). Nays: (0).

APPLICATION 50-21 – Sean Nester and Nadeem Moghal are requesting an administrative appeal concerning the interpretation and application of Chapter 1215.02 and Chapter 1230.01 pertaining to the definition of single family residence as it pertains to an attached accessory structure. The property is located at 4005 McCallister Drive and is zoned R-1 (Single Family Residential).

NOTE:

1215.02(64)(A): One-Family Dwelling. A building designed exclusively for and occupied exclusively by one (1) family.

1215.02(64)(B): Two-Family Dwelling. A building designed exclusively for occupancy by two (2) families living independently of each other in their own dwelling unit.

1250.061(c): Where an accessory building or structure is physically attached to a main building it shall be subject to and must conform to all regulations of this Chapter applicable to main buildings.

1250.061(e): The second story of an accessory building may be used for storage only and no part of such building shall be made habitable.

1. The applicants are requesting an administrative appeal for the denial of a zoning permit based on our interpretation of a one-family dwelling. The Planning and Zoning Division has determined that the (future) use of the structure would classify as a two-family dwelling or multiple-family based on the layout and details of the plans submitted. This would be an independent living facility that is still attached to the main structure.

Recommendation:

1. No recommendation provided.

Mr. Easterling reviewed Application 50-21. Sean Nester, Sean Patrick Builders, and Matt Fischer, Marshall Melhorn, were present on behalf of the application. Mr. Fischer said that the future use of the proposed structure is speculative, and added that they believe that the accessory structure is dependent upon the main residence. Mr. Easterling clarified that the plans labeled in green were submitted in July 2021 and were approved for zoning permits by the Planning & Zoning Division with the cabana/pool house structure. He noted that the plans labeled in red were denied as the Planning & Zoning Division considered the future use of the multi-family independent structure. Mr. Fischer stated that the property fits R-1 zoning, and that there is no intention to turn the accessory structure into an Airbnb or a rental. There was a brief discussion about the proposed use of the accessory structure, and the Board noted that at the original appeal in May 2021, the applicants stated that they were intending to use this space for their mother-in-law to live in. Mr. Elmer noted that Chapter 1215.02(64)(A), Chapter 1215.02(64)(B), Chapter 1250.061(c), and Chapter 1250.061(e) are based on interpretation, and not specified to each situation. Mr. Easterling confirmed that the Code has to leave room for interpretation, and noted that it is the spirit and intent of the Code for this application to determine the use of this accessory structure and whether or not it can operate on its own apart from the main residence. There was a brief discussion about the range being removed from the accessory structure as previously discussed at the May 10, 2021 meeting. Mr. Easterling clarified that it was his understanding that the plans that were approved by the Planning & Zoning Division in July 2021 were what was intended to be constructed. Ms. Decker noted that there is a fireplace proposed in the accessory structure. Ms. Wolfinger asked about the reference to Chapter 1250.061(e) and Mr. Easterling said that the proposed accessory structure pertains to “no part of such building shall be made habitable.” Mr. Easterling clarified that the Board is tasked with deciding if the Planning & Zoning Division interpreted the Code correctly pertaining to this appeal, and added that the applicants could appeal to City Council as a next step if the Board votes to uphold the decision from the Planning & Zoning Division. There were no further questions or concerns from the Board, nor the public.

Ms. Wolfinger moved to uphold the decision of the Planning and Zoning Division concerning the interpretation and application of Chapter 1215.02 and Chapter 1230.01 pertaining to the definition of single family residence as it pertains to an attached accessory structure at 4005 McCallister Drive. Seconded by Mr. Duricek. Ayes: Duricek and Wolfinger (2). Nays: Decker and Elmer (2).

OTHER BUSINESS

There being no further business, the meeting adjourned at 6:36 p.m.

Respectfully submitted,

Heather Alfaro