

BOARD OF ZONING APPEALS

September 11, 2017

The meeting was called to order at 5:30 p.m. by Vice Chairman Jason Decker. Board members present were Greg Bade, Niki Decker, Jason Decker and Rob Vela (4). Craig Pickerel was absent (1). Also present was Mark Easterling, Deputy Planning and Zoning Administrator and Cody Grodi, Zoning Inspector.

Mr. Bade moved to approve the minutes of the August 14, 2017 meeting as written. Mr. Vela seconded and they were unanimously approved.

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

APPLICATION 34-17 – James & Kathleen Detwiler are requesting one zoning variance that would allow them to keep the existing six (6) foot fence in their front yard. The property is located 565 E. Seventh Street, and is zoned R-3 (Single Family Residential).

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

	Max Height	
	Permitted	*Restricted
Front Yard	4'	6'
Side Yard	4'	6'
	*Requires BZA Approval	

1. The applicants are requesting a variance that would allow for them to keep the existing six (6) foot fence in the front yard.

Recommendation:

1. The Deputy Administrator recommends approval of the zoning variance based on meeting the criteria for variances B, C, D, and F of Ch. 1275.02(3). The new fence replaced a six (6) foot fence that had been in existence since 1985. The fence is of good quality and does not pose any safety concerns.

Mr. Easterling reviewed Application 34-17. There was no one present on behalf of the applicant. Mr. Vela asked if the fence was three panels of fence, but not past the tree. Mr. Easterling noted that it is actually two panels of fence. Mr. Vela asked if it is a direct replacement, and Mr. Easterling confirmed that it is, but with a new style of fence.

Mr. Vela moved to approve Application 3-17 finding B, C, D and F of Section 1275.02(c)(3) to be true. Seconded by Mr. Bade and it was unanimously approved.

APPLICATION 35-17 – Barry Muller is requesting one zoning variance to construct an attached concrete patio in the side yard setback. The property is located at 919 Locust 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 100% variance to reduce the minimum side yard setback to zero (0) feet so that he may construct a concrete patio where a wooden one was removed.

Recommendation:

1. The Deputy Administrator recommends approval of the zoning variance based on meeting the criteria for variances B, C, D, and E of Ch. 1275.02(3). The patio is replacing a wooden patio of the same dimension. I would further recommend that the patio be kept at least one (1) foot from the property line barring no opposition from the adjacent neighbor.

Mr. Easterling reviewed Application 35-17 and distributed pictures that he received via email regarding the application. Barry Muller, 919 Locust Street was present. It was noted that there is an existing walkway that is up against the side of the home that leads to the rear yard. Mr. Vela asked if the variance was for the patio to go up against the property line. Mr. Muller confirmed, mentioning that the existing concrete walkway was from 1958, and that all neighbors are in support, including his abutting neighbor. Referencing the pictures provided, Mr. Bade said that the concrete walkway appears to be three and a half (3.5) feet wide. Mr. Easterling added that the homes in this area are very unorthodox. Mr. Bade asked about the property lines and who determines the lines in this case. Mr. Bade added that according to the Wood County Auditor's website the Muller's property goes over the lot line and so how would it be confirmed that the one (1) foot setback could be verified. Mr. Easterling added that there is likely a discrepancy according to the auditor's website. Mr. Bade asked if the logical lot line should be assumed as the actual lot line. Mr. Vela noted the existing fence was likely the lot line, and Mr. Decker said that ultimately the burden would fall on the homeowner for an official survey to be done on the property to identify actual lot lines. Mr. Bade noted that in his opinion the one (1) foot setback is not adequate, and that it should be more than one (1) foot. Mr. Bade said that he thought that it would be logical to stay off of the lot line. Mr. Muller said that in the future if it is necessary for whatever reason that he has no issues and that they would take up the concrete if needed. Mr. Bade added that because the Code says that the setback is a required five (5) feet, that he would be willing to split that in half, to a two and a half (2.5) foot setback. Ms. Decker asked about the concrete slab shown in the pictures, and Mr. Muller said that they found that slab under the deck and that it was going to be removed.

Mr. Bade moved to approve Application 35-17 subject to the condition that the patio be kept one and a half (1.5) feet back from the property line, finding criteria B, C, D and E of Section 1275.02(c)(3) to be true. It was seconded by Mr. Vela and was unanimously approved. Mr. Vela asked if the fence could be used as a landmark, and Mr. Easterling added that the fence will be noted as the lot line.

APPLICATION 36-17 – Steven Mitchell is requesting two zoning variances that would allow him to keep the recently replaced driveway. The property is located at 28190 Simmons Road, and is zoned R-4 (Single Family Residential).

NOTE: *Chapter 1250.51(c)(3) Curb Cuts and Driveways:* Only one (1) access/curb-cut onto a public street shall be permitted.

NOTE: *Chapter 1250.51(c)(3) Curb Cuts and Driveways:* The total area of a driveway shall not exceed thirty-five percent (35%) of the area of the front yard located on private property.

1. The applicant is requesting a zoning variance that would allow for two curb cuts to remain installed.
2. The applicant is requesting a zoning variance that would allow for his driveway to occupy forty-eight percent (48%) of his front yard

Recommendation:

1. No recommendation provided.

Mr. Easterling reviewed Application 36-17. Steven Mitchell, 28190 Simmons Road was present and said that there was an existing driveway that they replaced. Mr. Decker asked how long ago it was replaced, and Mr. Mitchell said this past July. Mr. Vela asked about the side driveway, and Mr. Mitchell said that there is a barn in the back of the property and that this driveway gives them access. He mentioned that the neighboring property was putting in a parking lot and that he contacted the contractor from that project to do their driveway. Mr. Easterling said that he received an email from a neighboring property at 28309 Simmons Road in support of the new driveway. Mr. Mitchell noted that there is a ditch on the other side of their property, which would leave them with no space to access the barn in back. Mr. Vela asked about the front slab, and Mr. Mitchell said that it was an exact replacement. Mr. Bade asked if it was assumed that the contractor had pulled the permit, and Mr. Mitchell confirmed. Ms. Decker asked if the old driveway had always occupied forty-eight percent (48%) of the front yard, and it was confirmed that that was the case. It was noted that both driveways have always been there and that there has always been two curb cuts. Mr. Mitchell noted that the driveway to the left has always been asphalt.

Mr. Vela made a motion to approve Application 36-17 #1 regarding the two curb cuts, finding B, C, D and E of Section 1275.02(c)(3) to be true. Seconded by Mr. Bade and it was unanimously approved.

Mr. Vela made a motion to approve Application 36-17 #2 regarding the driveway percentage in the front yard, finding B, C, D and E of Section 1275.02(c)(3) to be true. Seconded by Mr. Bade and it was unanimously approved.

APPLICATION 37-17 – Jason Mack is requesting one zoning variance that would allow him to construct a six (6) foot fence in his front yard. The property is a corner lot located at 1090 Westbrook Drive, and is zoned R-3 (Single Family Residential).

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

	Max Height	
	Permitted	*Restricted
Front Yard	4'	6'
Side Yard	4'	6'
*Requires BZA Approval		

1. The applicant is requesting a variance that would allow for him to construct a six (6) foot fence ten (10) feet into the front yard.

Recommendation:

1. The Deputy Administrator recommends approval of the zoning variance based on meeting the criteria for variances B, C, D, and F of Ch. 1275.02(3). The new fence would provide additional screening from both the City property and the arterial street (W. South Boundary).

Mr. Easterling reviewed Application 37-17. Jason Mack, 1090 Westbrook was present. Mr. Vela asked about the ten (10) foot section of fence. Mr. Mack explained that the property facing the west will be a six (6) foot tall privacy fence, which will run the full length of the backyard. He also said that a portion of the front yard facing south, towards W. South Boundary will be six (6) foot tall privacy fence, then the remaining portion facing south leading up to the house will be four (4) foot split rail. Mr. Decker asked about the materials that will be used, and Mr. Mack said that the six (6) foot fence will be vinyl and that the four (4) foot fence will be a wooden split rail. Mr. Bade asked about the purpose of the gate in the rear, and Mr. Mack said that it was for access to Mr. Freeze.

Mr. Bade moved to approve Application 37-17 finding B, C, D and F of Section 1275.02(c)(3) to be true. Seconded by Mr. Decker and it was unanimously approved.

APPLICATION 38-17 – David and Mary Heather Munger are requesting one zoning variance that would allow them to construct a six (6) foot fence in the side yard. The property is located at 443 West Front Street and is zoned R-3 (Single Family Residential).

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

	Max Height	
	Permitted	*Restricted
Front Yard	4'	6'
Side Yard	4'	6'
	*Requires BZA Approval	

1. The applicants are requesting a variance to construct a six (6) foot fence, which would run along the eastern property line, from the rear yard and continue into the side yard.

Recommendation:

1. The Zoning Inspector recommends approval of the zoning variance based on meeting the criteria for variances B, C, D, and F of Ch. 1275.02(3). The new six (6) foot fence will replace a non-conforming chain link fence in the same location.

Mr. Grodi reviewed Application 38-17. David Munger, 443 West Front Street was present and asked if the Board received the pictures that he submitted. The Board had not yet seen them, and so Mr. Easterling got the pictures for the Board. Mr. Munger said that the existing chain link fence has rusted, and that he plans on contacting Lewandowski Engineers to help him to identify the pins for the property lines. Mr. Vela asked about the materials that will be used, and Mr. Munger said that it will be a painted wood fence that matches the existing fence on the east side of the property. Mr. Bade confirmed that these applications will also go to the Historic Landmarks Commission, and Mr. Munger said that they are on tonight's agenda. Mr. Decker asked if there was any comment from neighbors, and Mr. Easterling said that there was not.

Ms. Decker moved to approve Application 38-17 finding criteria B, C, D and F of Section 1275.02(c)(3) to be true. It was seconded by Mr. Bade and was unanimously approved.

APPLICATION 39-17 – David and Mary Heather Munger are requesting two zoning variances. The first variance would allow them to construct a six (6) foot fence in the front yard. The second variance would allow them to install an in-ground swimming pool in their side yard. The property is located at 425 West Front Street and is zoned R-3 (Single Family Residential).

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

	Max Height	
	Permitted	*Restricted
Front Yard	4'	6'
Side Yard	4'	6'
	*Requires BZA Approval	

NOTE: Chapter 1250.58(c) Location of Swimming Pools: Swimming pools, whirlpools, hot tubs, or similar features shall be permitted in the rear yard or within the side yard if a variance 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 patio and of fifteen (15) 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 allowable distance from a residence to the above features is subject to any applicable building codes. No such structures may be placed within recorded easements for any purpose.

1. The applicants are requesting a variance to construct a six (6) foot fence, which would run along a portion of the front property line.
2. The applicants are requesting a variance to install an in-ground swimming pool in the side 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 Ch. 1275.02(3). The new six (6) foot fence will be located behind existing landscaping and will give the applicants additional privacy from traffic.
2. The Zoning Inspector recommends approval of the zoning variance based on meeting the criteria for variances A, B, D, and F of Ch. 1275.02(3). Due to the grading in the rear yard, placing the pool in the rear yard would pose challenges. The rear yard has a steep slope, whereas the side yard is relatively flat.

Mr. Grodi reviewed Application 39-17. David Munger, 425 West Front Street was present. Mr. Munger made note of the drawings included with his application and showed the intended positioning of his variance requests. Mr. Bade mentioned that this property is very screened from existing landscaping. Ms. Decker asked if this fence will match the other fence at 443 West Front Street. Mr. Munger said that the fence will be white brick to match the house. Ms. Decker confirmed that this application will go to the Historic Landmarks Commission, and Mr. Munger said that they are on tonight's agenda. Mr. Easterling noted that there were no comments received from the neighbors. Mr. Bade questioned if the pool will be eighteen (18) feet off of the property line, and Mr. Easterling clarified that it is only required to be fifteen (15) feet off according to the Code.

Mr. Bade moved to approve Application 39-17 # 1 regarding the six (6) foot fence, finding criteria A, B, C and D of Section 1275.02(c)(3) to be true. It was seconded by Mr. Vela and was unanimously approved.

Mr. Bade moved to approve Application 39-17 # 2 regarding the in-ground swimming pool, finding criteria A, B, D and F of Section 1275.02(c)(3) to be true. It was seconded by Mr. Vela and was unanimously approved.

There being no further business, the meeting adjourned at 6:09 p.m.

Respectfully submitted,

Heather Alfaro