

BOARD OF ZONING APPEALS

AUGUST 14, 2017

The meeting was called to order at 5:36 p.m. by Chairman Craig Pickerel. Board members present were Greg Bade, Niki Decker, Craig Pickerel and Rob Vela (4). Jason Decker was absent (1). Also present was Mark Easterling, Deputy Planning and Zoning Administrator and Cody Grodi, Zoning Inspector.

The minutes of the July 10, 2017 meeting were approved as written. Ayes: Pickerel, Vela and N. Decker (3). Abstain: Bade (1).

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

APPLICATION 27-17 – Barbara & John Wilch are requesting one zoning variance to construct a detached garage in their front yard. The property is located at 201 E. South Boundary Street and is zoned R-3 (Single Family Residential).

NOTE: *1250.61(a) Accessory Buildings and Uses:* No accessory building or uses shall be located in any front or side yard setback except under unusual circumstances where such activity will not conflict with the intent and purposes of this Zoning Code or where enforcement would result in extreme hardship. Either exception shall require approval of the Board of Zoning Appeals.

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 applicant is requesting a variance to construct a portion of detached garage in a front yard, approximately twenty-three (23) feet from the front property line.

Recommendation:

1. The Deputy Administrator recommends denial of the variance as it does not meet enough of the conditions needed to grant a variance. The situation can be resolved through other methods aside from receiving a variance, and the applicant's situation does not demonstrate a need.

Mr. Easterling reviewed Application 27-17. Barbara and John Wilch, 201 E. South Boundary Street, were present. Mr. Wilch explained that they have a corner lot, which means that they have two front yards. He said that the new garage that they want to build extends ten (10) feet further into the front yard. Ms. Wilch noted that their request should be listed as the "side" front yard, as it is truly the side of their property, that which faces Elm Street. Mr. Bade confirmed that the Wilch's do in fact have two front yards, as they are a corner lot. Mr. Wilch noted that they found out three weeks ago that their side yard is actually considered a front yard. Mr. Bade spoke about the existing garage that is going to be demolished, he mentioned that if the existing garage is demolished first

then the new garage would be able to be moved over some to be out of the right-of-way. Ms. Wilch stated that there are currently two existing properties on Elm Street where the garages extend beyond the boundaries of the homes. Mr. Bade said that pre-existing conditions do not change their request. Ms. Decker asked how the driveway entry is affected. Ms. Wilch said that they are tearing out the existing driveway and putting in a new driveway, which will eliminate the amount of hard surface that there currently is. Ms. Decker asked why the old garage is being torn down. Ms. Wilch said that it was built in 1950 and is not in good condition. She mentioned that a lot of the property is currently covered in hard surface and that they would like more yard space as opposed to hard surface. Ms. Decker mentioned that if they move the new garage back a little bit to the old garage that they would still have the same amount of driveway leaving the property. Ms. Wilch said that the garage is going to be demolished regardless if the waiver is granted, but that they would rather have more back yard. Ms. Wilch added that the traffic is terrible and that they would rather the orientation be in the back yard. Mr. Vela questioned the setbacks on side yards. Mr. Easterling confirmed that R-3 zoning is a total of twenty (20) feet with a minimum of eight (8) feet on one side. Ms. Wilch stated that they are asking for twenty-three (23) feet. That their house is over 100 years old and that they did not choose where the house is located. Mr. Vela stated that because the Wilch's have frontage, that it is still considered a front yard, and accessory structures are not allowed in front yards. Mr. Easterling confirmed. Mr. Pickerel asked if any other comments were received from neighbors, and Mr. Easterling said he did not receive any other comments.

Mr. Bade made a motion to approve Application 27-17 as submitted. Mr. Easterling noted to the Board that Mr. Bade was moving to approve Mr. Easterling's recommendation. Mr. Bade clarified that he was moving to approve the application, not the recommendation. Mr. Easterling told Mr. Bade that he would need to list the four criteria that are met to approve this application.

Mr. Bade withdrew his motion.

Mr. Bade moved to approve Application 27-17 finding B, C, D and E of Section 1275.02(c)(3) to be true. Seconded by Mr. Vela. Ayes: (2). Nays: (2). Application 27-17 was denied due to a tie vote.

APPLICATION 28-17 – Tanya Kaminski is requesting one zoning variance that would allow her to construct a six (6) foot fence in her front yard. The property is located at 26658 Ft. Meigs Road, and is zoned R-1 (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 to construct a six (6) foot fence that would allow her to enclose a portion of the front yard along Heilman Road.

Recommendation:

1. The Deputy Administrator recommends approval of the zoning variance based on meeting the criteria for variances A, C, D, and F of Ch. 1275.02(3). The new fence will allow the applicant to bring the property into compliance with the property maintenance code.

Mr. Easterling reviewed Application 28-17. Tanya Kaminski, 26658 Ft. Meigs Road was present. Ms. Kaminski apologized to the city for the condition of her yard and said that she is working on making changes to her fence for security and privacy. Mr. Vela asked about the photos provided and an existing fence, and Ms. Kaminski said that it was there when they moved in. Mr. Easterling added that the newer fence is in the process of being constructed and is in the picture dated 7/25/17. Ms. Kaminski said that she did not know that her property had two frontages that she was just replacing the fence that was in disrepair. Mr. Bade noted that the existing fence went down Heilman and that it appeared that the new fence was extending further down on Heilman, than from where the old fence was. Mr. Easterling and Ms. Kaminski confirmed that the new fence would be extending further down on Heilman. Mr. Pickerel asked if the red line on the plans was the final fence layout, and Mr. Easterling confirmed that it was. Mr. Pickerel asked if there were any comments from the neighbors, and Mr. Easterling said that he was contacted by four neighbors, three in favor and one opposed. Mr. Bade asked if the opposing neighbor was an abutting neighbor, and Mr. Easterling confirmed that it was not an abutting neighbor.

Mr. Vela moved to approve Application 28-17 finding criteria A, C, D and F of Section 1275.02(c)(3) to be true. It was seconded by Ms. Decker and was unanimously approved.

APPLICATION 29-17 – Thomas Current is requesting one zoning exception to permit rear yard setback relief. The property is located 760 Little Creek Drive and is zoned R-4 (Single Family Residential).

NOTE: *Chapter 1230.01 Intensity and Dimensional Standards:*

R-4 Zoning:

Front Yard = 35'

Rear Yard = 30'

Side Yard Min = 6'

Side Yard Total = 16'

1. The applicant is requesting a zoning exception to reduce the required rear yard setback. The exception would permit the rear yard setback to be reduced to

twenty-four (24) feet, rather than the required thirty (30) feet. The exception would allow for the applicant to keep the recently installed patio.

Recommendation:

1. The Deputy Administrator recommends approval of the exception. The installation of the patio is not substantial, does not encroach upon neighboring property lines, and is of great quality.

Mr. Easterling reviewed Application 29-17. Tom Current, 760 Little Creek Drive was present. Mr. Current apologized for the reactive nature of the request. He said that a contractor was hired for the project, and they were told and it was stated in the contract that all necessary permits would be obtained to perform the installation of the patio. It was found out later that those permits were not pulled. Mr. Current admitted that he understands that it is ultimately the homeowner's responsibility and so he is not making excuses. He added that he did put in a shed himself prior to the patio and called the City to follow the proper procedures before the installation. Mr. Vela asked if they knew about the setback rule before, and Mr. Current said that he did not. Mr. Vela asked how they found out about the setback, and Mr. Current said that his rear neighbor was putting in a deck. Mr. Current thought that during the inspection of his neighbor's deck, that the Current's patio was noticed. Mr. Current said that they called in to get their permit and spoke with Mr. Easterling and it was discovered that they would need a variance for their patio. Mr. Bade said that they appear to be six (6) feet over the required thirty (30) foot setback, and Mr. Current confirmed. Mr. Vela asked if they are just pavers, and Mr. Current said yes they are. Mr. Pickerel asked if there was any intention to go vertical, and Mr. Current said that there was not.

Mr. Bade moved to approve Application 29-17 as submitted. Mr. Pickerel seconded and it was unanimously approved.

APPLICATION 30-17 – Todd Friesner is requesting two zoning variances to permit a driveway to be constructed. The property is located 417 East Front Street and is zoned R-1 (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 a driveway with two curb cuts to be reinstalled.
2. The applicant is requesting a zoning variance that would allow for his driveway to occupy fifty-one percent (51%) of his front yard.

Recommendation:

1. The Deputy Administrator recommends denial of the variance as it does not meet enough of the conditions needed to grant a variance. A curb cut could be removed and a turn-around driveway could be installed to bring the driveway

further into compliance. There are methods available that may resolve the issue outside of receiving a variance.

2. The Deputy Administrator recommends denial of the variance as it does not meet enough of the conditions needed to grant a variance. The amount of concrete can be further reduced to and achieve the same results to create a safe ingress and egress to the property.

Mr. Easterling reviewed Application 30-17. Todd Friesner, 417 East Front Street was present. Mr. Friesner said that they had purchased their home in 1999 and have been making renovations since then, and now they are ready to update their driveway. The current driveway was pre-existing back in 1999 along with a new two car garage. Mr. Friesner said that he brought a driveway proposal to the zoning office a year ago, but that it was denied due to the multiple curb cuts and the code at that time. He said that during the time of his request, the driveway code was in the process of being revised by the City, and now that it has been updated appeals are able to be made to the BZA for variances such as his. Mr. Friesner said with his proposal that they would be improving the width of the approaches to ten feet and reducing the impervious area in the front yard down to fifty-one (51) percent. Mr. Friesner added that Front Street is a very busy street and so it has always been a challenge when pulling out. He said that they will be adding drainage to the front yard, which has already been approved by Mark Dunsmoor at Public Utilities.

Donna Friesner, 417 East Front Street and a local realtor spoke about the resale ability of their property. Ms. Friesner said that they would not have purchased their home without the half circle driveway with the current two curb cut driveway due to the fact that Front Street is a very busy street, that they would not want to back out onto. She mentioned that a turnaround would not be feasible with more than two cars. Ms. Friesner said that the new driveway that they are proposing will make a big difference when it comes to resale. She also added that she has shown many homes on Front Street and that clients tend to change their minds when they notice that they would have to back out of their driveway onto Front Street.

Mike Barthold, an architect is most familiar with the Rayport's home at 409 E. Front Street, which is next door to the Friesner's. He said that he is standing up for the historic homes that have a need for extra special consideration. Mr. Barthold believes that these homes need to be applied in a situation by situation basis.

Robert Seyfang, 424 East Front Street, lives across the street from the Friesner's. He said that he is fortunate enough to have an alley to pull into and out of to access his property. He said that the Friesner's home is a nice lot with a hedge, where the driveway is barely even noticeable from the street. Mr. Seyfang said that the turnaround is difficult, as he drove around the driveway himself. Mr. Seyfang said that he strongly supports what the Friesner's are proposing.

Mr. Friesner addressed the seven points that have to be considered when approving or denying a request for a variance, found in Chapter 1275.02(c)(3). He understands that the Code allows him to put back exactly what is currently there, but that they want to improve what is already there. By reducing the impervious surface and bringing to Code the two approaches that approach the house. There was discussion between Ms.

Decker and Mr. Friesner about what was remaining the same and the changes that Mr. Friesner is proposing. Mr. Vela questioned Mr. Friesner's calculations, and asked for clarifications. Mr. Vela asked whether crushed concrete was considered an impervious surface, and Mr. Easterling said that it would be considered the same thing as the concrete. Mr. Easterling clarified the current pervious surface is being turned into impervious surface. Mr. Vela noted that some of Mr. Friesner's calculations are incorrect, and Mr. Friesner concluded that the new fifty-one (51) percent calculation is still accurate. There was discussion about other means of getting a driveway, other than stone, and Mr. Easterling added that pavers are allowed, just as long as they are not in the right of way. Mr. Vela asked if this application would be able to be approved separately, and Mr. Easterling confirmed. Mr. Bade said that he has concerns with the amount of concrete being used, and if paver bricks had been a considered use with Mr. Friesner's driveway. Mr. Friesner said that they are intending on putting back asphalt. Mr. Bade confirmed that the bushes and screening will be removed and replaced, as noted on the diagram. Mr. Pickerel stated that many residents only have one curb cut, and he asked Mr. Friesner what a safe solution may be if they were only allowed to have one curb cut. Mr. Friesner said that they would have to demolish the garage and move it back. There was discussion of the narrow lot that the Friesner's have and the challenges that encompasses with parking. Ms. Decker said that she lives on Front Street and that they only have one curb cut and that they make it work.

Dan Judson, 139, 147 and 203 Front Street said that he agrees that driveways along Front Street are challenging, and that all three of his properties are along the river, so there is no alley or rear access. Mr. Easterling added that the properties along Front Street on the river have no back access that these lots should be a case by case situation because they have unique standpoints. Mr. Judson said that he understands what the Friesner's are doing and for safety's sake it makes sense.

Lane Williamson, council for the Friesner's noted that there has been a question of if alternative materials are acceptable. Mr. Easterling noted that since this application is being brought to the Board of Zoning Appeals that this driveway proposal is to now be considered a new driveway, looking at it as it was non-existing.

Mr. Bade added that it's important for the Board to understand that the Code does not address what surface the driveway needs to be, whether pervious or impervious, it's really not an item for the Board to discuss. Mr. Easterling confirmed that is correct. Mr. Bade stated that after looking at the drawing that he would not want the driveway entrances to go to the lot line, and Mr. Friesner confirmed that the two (2) feet that is gaining on the width will go to the inside of the driveway.

Mr. Vela moved to approve Application 30-17, Item 1 finding B, C, D and E of Section 1275.02(c)(3) to be true. Seconded by Ms. Decker and it was unanimously approved.

Mr. Bade moved to approve Application 30-17, Item 2 finding C, D, E and G of Section 1275.02(c)(3) to be true. Seconded by Ms. Decker and it was unanimously approved.

APPLICATION 31-17 – Jerry Abair is requesting one zoning variance to permit parking relief. The properties are identified as parcel numbers Q61-000-901205003000, Q61-

000-901205004000, Q61-000-901205004001, Q61-000-901205005000, Q61-000-901205006000 (located along Water Street), and are zoned P Parks.

NOTE: *Chapter 1250.02(r) General Parking Requirements:* The number of off-street parking spaces required for the uses located in and permitted in C-

1, C-3, C-4 and INS districts may be reduced up to thirty-three percent (33%) of the total required, provided that the following conditions are met:

- (1) The number of off-street parking spaces required for the use or uses exceed fifteen (15).
- (2) The applicant shall submit an acceptable site plan showing that an adequate reserve of land is set aside for additional parking spaces, so that the total depicted on the plan is adequate to meet the requirements under 1250.03 of this Chapter. The plan shall indicate the reserve area so that all dimensional requirements as to spaces, aisles and other applicable requirements of this Chapter can be met. The reserve area shall not be used for water retention, for required greenbelts or as the location for replacement trees or other deciduous or evergreen trees required by this Chapter. The landscape plan submitted for the site shall include a plan for the reserve area.
- (3) The City has determined that the applicant has submitted substantial evidence showing that the parking needs of the specific occupant will be less than would be required by this Chapter.
- (4) The property owner shall execute an agreement prepared by the City Law Director requiring the construction of the additional spaces within one hundred and eighty (180) days of notification that the City has determined a need exists for such spaces. The agreement shall run with the land, be binding upon successors and assigns and shall be recorded with the County Recorder.
- (5) A permit for change of occupancy shall not be issued until the City has reevaluated the need for parking by the new occupant relative to the number of spaces required by this Chapter.

NOTE: *Chapter 1250.03(b)(g) Private clubs or lodge halls:* One (1) for each seventy-five (75) square feet of usable floor area.

NOTE: *Chapter 1215.02(81) Floor Area, Usable:* For the purposes of computing off-street parking requirements, that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area that is used or intended to be used principally for the storage or processing of merchandise, for hallways or for utilities or sanitary facilities, shall be excluded from this computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal area of the several floors of the building, measured from the exterior faces of the exterior walls.

1. The applicant is requesting a zoning variance to reduce the required amount of parking on the northern properties which would reduce the required parking from 14 spaces to 0 spaces.

Recommendation:

1. The Deputy Administrator recommends approval of the zoning variance based on meeting the criteria for variances A, C, D, and F of Ch. 1275.02(3). The uniqueness of the lot does not provide adequate space to provide the standard 10'x20' parking spaces as the land begins to descend three (3) feet beyond the property line.

Mr. Easterling reviewed Application 31-17. Jerry Abair, Perrysburg Boat Club stated that nothing has changed from a year ago, that they are making progress on challenges and still have abutting neighbor support. Mr. Vela confirmed that the Boat Club is back because their permit ran out. There was discussion about the Boat Club helping to pay for the parking lot that the City is proposing, as City tax payers will be paying for the parking lot that the Boat Club members will also be using. Mr. Pickerel noted that the previous application a year ago was a denial recommendation. Mr. Easterling said that there was clarification out of the Planning & Zoning Division with regards to this application to currently support an approval recommendation. Mr. Vela asked about a timeline. Mr. Abair said that the Boat Club has received preliminary approvals from the various commissions and now the money is being spent towards the detailed building plans, which is estimated to be 90 days. Mr. Abair said that cost estimates are running between \$300,000 and \$400,000 including the foundations; about \$100 per square foot.

Mr. Vela moved to Approve 31-17 finding A, C, D and F of Section 1275.02(c)(3) to be true. Seconded by Ms. Decker. Ayes: (3). Nays: (1).

APPLICATION 32-17 – Jerry Abair is requesting one zoning variance to permit front yard setback relief. The properties are identified as parcel numbers Q61-000-901205003000, Q61-000-901205004000, Q61-000-901205004001, Q61-000-901205005000, Q61-000-901205006000 (located along Water Street), and are zoned “P” (Parks). The requested variance would permit the applicant to construct a structure within the required setback from the front yard property line. *(Note: Application variances were previously approved by City Council 8/11/16 and has since expired. There were no changes made to this application)*

NOTE: Chapter 1230.01 Intensity and Dimensional Standards:

P Zoning:

Front Yard = 50'

Rear Yard = 75'

Side Yard Min = 20'

Side Yard Total = 50'

1. The applicant is requesting a zoning variance to reduce the required front yard setback. The variance would permit the front yard setback to be reduced to three (3) feet, rather than the required fifty (50) feet. *(Previously approved)*

Recommendation:

1. The Deputy Administrator recommends approval of the zoning variance based on meeting the criteria for variances A, C, D, and F of Ch. 1275.02(3). The side setbacks do not infringe on neighboring properties, nor city properties or the city right of way. The setbacks would not interfere with access to the multi-use path.

Mr. Easterling reviewed Application 32-17. Jerry Abair, Perrysburg Boat Club was present. Mr. Abair admitted that last year the Boat Club came before the Board for a similar detailed application and that they were not prepared with their presentation. Mr. Vela asked if the Board is looking at new plans with this application. Kate MacPherson, AIA, MacPherson Architects said that it would be pretty much the same.

Mr. Vela moved to approve Application 32-17 finding A, C, E and F of Section 1275.02(c)(3) to be true. Seconded by Ms. Decker and it was unanimously approved.

APPLICATION 33-17 – Jerry Abair is requesting one zoning variance to permit front yard setback relief. The properties are identified as parcel numbers Q61-000-901206004001 and Q61-000-901206005001 (located along Water Street), and are zoned “C-1” (Neighborhood Commercial). *(Note: Application variances were previously approved by BZA 7/11/16 and has since expired. There were no changes made to this application)*

NOTE: Chapter 1230.01 Intensity and Dimensional Standards:

C-1 Zoning:

Front Yard = 30’

Rear Yard = 25’

Side Yard Min = 0’

Side Yard Total = 0’.

1. The applicant is requesting a zoning variance to reduce the required front yard setback. The variance would permit the front yard setback to be reduced to fifteen (15) feet, rather than the required thirty (30) feet. *(Previously approved)*

Recommendation:

1. The Deputy Administrator recommends approval of the zoning variance based on meeting the criteria for variances A, C, D, and F of Ch. 1275.02(3). The side setbacks do not infringe on neighboring properties, nor city properties or the city right of way. The setbacks would not interfere with access to the multi-use path.

Mr. Easterling reviewed Application 33-17. Jerry Abair, Perrysburg Boat Club was present. There were no comments or questions from the Board or the public.

Mr. Vela moved Application 33-17 finding A, C, D and F of Section 1275.02(c)(3) to be true. Seconded by Ms. Decker and it was unanimously approved.

There being no further business, the meeting adjourned at 7:02 p.m.

Respectfully submitted,

Heather Alfaro