

BOARD OF ZONING APPEALS

May 10, 2021

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

APPROVAL OF MINUTES

Mr. Vela moved to approve the minutes of the April 12, 2021 meeting as written. Seconded by Mr. Duricek. Ayes: Duricek, Vela, and Wolfinger (3). Nays: (0). Abstain: Elmer (1).

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

APPLICATION 13-21 – Scot Kreienkamp is requesting a zoning variance to construct a deck addition. The property is located at 1103 Running Brook Drive 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 variance to build an addition onto the existing deck. The addition will be twenty (20) feet off of the front property line.

Recommendation:

1. The Deputy Administrator recommends approval of the variance of the zoning variance based on meeting the criteria for variances B, C, D, and F of Chapter 1275.02(c)(3). The deck addition will not extend any further toward the property than the deck that currently exists.

Mr. Easterling reviewed Application 13-21, and noted that the zoning for this property should read "R-3" instead of "R-1". He read the R-3 Dimensional Standards to the Board, and noted that this application should be reviewed as a zoning exception instead of a variance. Scot Kreienkamp was present, and added that the new deck addition will be farther away from the property line compared to the existing deck. Mr. Vela asked if any comments had been received from nearby neighbors, and Mr. Easterling confirmed that none had been received. There were no further questions or concerns from the Board, nor the public.

Mr. Vela moved to approve the zoning exception for Application 13-21. Seconded by Mr. Duricek. Ayes: (4). Nays: (0).

APPLICATION 14-21 – Chad & Courtney Wagner are requesting a zoning variance to construct a shed. The property is located at 25643 Wood Creek Road and is zoned R-1 (Single Family Residential).

NOTE: 1250.61(a) 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.

1. The applicants are requesting a zoning variance to build a shed that extends approximately six (6) feet into the front yard.

Recommendation:

1. The Deputy Administrator recommends approval of the variance of the zoning variance based on meeting the criteria for variances B, C, D, and F of Chapter 1275.02(c)(3). The applicant's home is a corner lot with mostly front yard and the shed is mostly located in the rear yard. In addition, the easements on the property would prevent them from placing the structure in other locations within the yard.

Mr. Grodi reviewed Application 14-21. Courtney and Chad Wagner were present and added that the pool mock-up from November 2020 also included the placement of the shed, so they were under the impression that the shed was also permitted in its current location when the pool permit was pulled. Ms. Wagner said that they realized it was not in compliance when they later pulled the shed permit, and added that the shed will be sixty-eight (68) feet from the street and fifty-six (56) feet from the sidewalk. Mr. Vela asked if any comments had been received from nearby neighbors, and Mr. Grodi confirmed that none had been received. There were no further questions or concerns from the Board, nor the public.

Mr. Elmer moved to approve Application 14-21, and finding B, C, D, and F of Chapter 1275.02(c)(3) to be true. Seconded by Ms. Wolfinger. Ayes: (4). Nays: (0).

APPLICATION 15-21 – The City of Perrysburg Fire Division is requesting a zoning variance to install a privacy fence. The property is located at 26100 Ft. Meigs Road and is zoned INS (Institutional Uses).

NOTE:

	Location & Maximum Height								
Zoning District	Front Yard			Side Yard			Rear Yard		
	4'	6'	8'	4'	6'	8'	4'	6'	8'
INS	P	Z	*	P	Z	*	P	P	Z

1. The applicant is requesting a zoning variance to build a six (6) foot fence past the midpoint of the primary building.

Recommendation:

1. No recommendation provided.

Mr. Grodi reviewed Application 15-21, and Mr. Easterling said that he can speak on behalf of the Fire Division. Mr. Easterling added that this fence request is to screen the garbage cans from public view on the north side of the building. Mr. Vela asked if any comments had been received

from nearby neighbors, and Mr. Grodi confirmed that none had been received. There were no further questions or concerns from the Board, nor the public.

Mr. Duricek moved to approve Application 15-21, and finding B, C, D, and G of Chapter 1275.02(c)(3) to be true. Seconded by Mr. Vela. Ayes: (4). Nays: (0).

APPLICATION 16-21 – Ashley Balester is requesting a zoning variance to construct a pergola. The property is located at 310 Elm Street and is zoned C-2 (Central Business).

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 zoning variance to build a pergola that would be placed at approximately six (6) inches from the property line.

Recommendation:

1. The Deputy Administrator recommends approval of the variance of the zoning variance based on meeting the criteria for variances A, C, D, and e of Chapter 1275.02(c)(3). The applicant's property is zoned C-2 which has no setbacks; therefore, it does not setback any further than the primary structure or the neighboring building. Also, this patio addition will allow for the business (Local Roots) to operate and meet State mandated COVID restrictions.

Mr. Grodi reviewed Application 16-21. The applicant was not present, and Mr. Easterling stated that he would try to answer questions that the Board may have. Mr. Easterling clarified that Ms. Balester owns both properties at 310 and 306 Elm Street. He noted that these properties serve a dual function within the C-2 Zoning District. Mr. Vela confirmed that the existing patio is an open air concept, and asked if any comments had been received from neighboring property owners. Mr. Grodi added that one neighbor had called to inquire about the project and asked that the noise be limited with future use from the business. There were no further questions or concerns from the Board, nor the public.

Mr. Elmer moved to approve Application 16-21, and finding A, B, C, and D of Chapter 1275.02(c)(3) to be true. Seconded by Ms. Wolfinger. Ayes: (4). Nays: (0).

APPLICATION 17-21 – Curtis Carpenter is requesting a zoning variance to install a privacy fence. The property is located at 2209 Coe Court and is zoned R-3 (Single Family Residential).

NOTE: .

Zoning District	Location & Maximum Height								
	Front Yard			Side Yard			Rear Yard		
	4'	6'	8'	4'	6'	8'	4'	6'	8'
R-1-R-5	P	Z	*	P	Z	*	P	P	*
RM	P	*	*	P	P	*	P	P	Z

1. The applicant is requesting a zoning variance to build a six (6) foot fence past the midpoint of the primary building.

Recommendation:

1. The Deputy Administrator recommends approval of the variance of the zoning variance based on meeting the criteria for variances B, C, D, and F of Chapter 1275.02(c)(3). The request is not substantial and would allow for the yard to be fenced in a manner that would allow for their dog not to jump the fence.

Mr. Grodi reviewed Application 17-21. Curtis Carpenter was present, and added that the six (6) foot fence is needed to keep their dog in their yard along with safety for their pool. Mr. Vela asked how far the fence comes towards the front property line, and Mr. Easterling stated that it's eight (8) feet forward. Mr. Easterling noted that a neighbor across the street is also in favor of their fence as they have seen the Carpenter's dog jump the current fence. Mr. Vela confirmed that there are a few neighbors with fences that close. There were no further questions or concerns from the Board, nor the public.

Mr. Duricek moved to approve Application 17-21, and finding A, B, C, and D of Chapter 1275.02(c)(3) to be true. Seconded by Mr. Vela. Ayes: (4). Nays: (0).

APPLICATION 18-21 – Christopher Jones is requesting a zoning variance to build an addition on to his shed. The property is located at 422 East Indiana Avenue 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 applicant is requesting a zoning variance to build an addition onto an existing shed that is closer than five (5) feet to the property line.

Recommendation:

1. The Deputy Administrator recommends approval of the variance of the zoning variance based on meeting the criteria for variances A, C, D, and e of Chapter 1275.02(c)(3). The additional portion of the shed would not be in violation; therefore, the shed would not be moving any closer to the property line than what is already existing. There are no safety or visibility concerns.

Mr. Grodi reviewed Application 18-21. Christopher Jones was present, and added that they are angling the shed addition farther away from the property line. Mr. Vela asked if any comments had been received from nearby neighbors, and Mr. Grodi said that Mary Bahnsen, 426 E. Indiana Avenue, called stating that she was in favor of the variance request. Mr. Grodi added that the neighbor at James Worden, 425 E. Fifth Street, also called stating that he has no problem with the shed. There were no further questions or concerns from the Board, nor the public.

Mr. Elmer moved to approve Application 18-21, and finding A, B, C, and D of Chapter 1275.02(c)(3) to be true. Seconded by Ms. Decker. Ayes: (4). Nays: (0).

APPLICATION 19-21 – Betty J. Overton is requesting a zoning exception to construct a deck. The property is located at 221 Pine 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 to build a deck in the side yard within the required side yard setback. The deck would be approximately five (5) feet from the property line.

Recommendation:

1. The Deputy Administrator recommends approval. The deck as it stand is no closer to the property line than the previously constructed patio. The location has no visibility or safety concerns, and allows for enough space for continued maintenance.

Mr. Grodi reviewed Application 19-21. The applicant was not present, and Mr. Grodi added that he would try to answer questions that the Board may have. He said that Lowe's was hired to install the deck and pull the permit for the deck, the latter of which Lowe's did not follow through on. Mr. Vela confirmed that the deck has already been installed. There were no further questions or concerns from the Board, nor the public.

Mr. Vela moved to approve the zoning exception for Application 19-21. Seconded by Ms. Wolfinger. Ayes: (4). Nays: (0).

APPLICATION 20-21 – Sean Nester, on behalf of Sean Patrick Builders LLC, is 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 applicant is 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

Mr. Easterling reviewed Application 20-21. Sean Nester, Sean Patrick Builders, Todd Kime, Kime Design, and Dean Frederick, D.R. Frederick & Associates, were present on behalf of the application. Mr. Kime said that he does not agree with the interpretation of the Code, and added that he has provided the architectural service for this high end estate style type home. He added that he is present to clarify the use of the structure, and that the intention for this structure is so that the owner's mom can live out her life at the property. Mr. Kime stated that a future use for this structure is a cabana-like space to be used in conjunction with the pool. He said that the structure has been designed to be connected to the main living structure by an open breezeway and an underground tunnel, and added that the deed restrictions call-out single-family use. There was a brief discussion about the second story reference to said accessory buildings in the Agenda, and Mr. Easterling clarified that a portion of Chapter 1250.061(e) states that "no part of such building shall be made habitable" as it pertains to accessory structures. Mr. Easterling noted that deed restrictions are outside the scope of the Planning and Zoning Division. There was a brief discussion about the definition of an accessory structure and current use versus future use. Mr. Nester noted that there are pool houses nearby, and that this structure has no attached garage nor a sidewalk leading to it. Mr. Easterling clarified that those pool house structures have outlets that are rated solely for that purpose and use. There was a brief discussion about general concerns from residents related to Airbnb's throughout the City, and Mr. Easterling added that the Planning and Zoning Division is tasked with determining the current and future use of said accessory structures and properties. Mr. Elmer noted that there is a breezeway connecting the accessory structure to the house, and asked if the design were to be altered if it would change the use. Mr. Easterling suggested if the proposed accessory structure were smaller without a kitchen (nor rated for a kitchen), and solely encompass a bedroom and a bathroom then it would still be dependent upon the main structure. He reiterated that the accessory structure needs to be dependent upon the main structure or else the property becomes a multi-family use with both structures as currently designed. Mr. Easterling added that residents do have the ability to request that the Code be re-written through a process with City Council. There was a brief discussion about nearby pool house accessory structures. Mr. Duricek confirmed that the full-functioning kitchen is the issue with the use of the proposed accessory structure.

Property owners Nadeem and Nadia Moghal, 4005 McCallister, were present. Mr. Moghal clarified that if the kitchen appliances were removed then the plans would be approved, and Mr. Easterling confirmed that if the kitchen is not rated for a range or a stove then it means that the accessory structure is still relying upon the main structure. Mr. Moghal asked if an agreement would be allowed stating the current and future use of the accessory structure, and Mr. Easterling stated that the Planning and Zoning Division does not have the authority to approve said agreement. Mr. Elmer clarified that the Board is not sharing their personal opinions but rather they are referencing the Code as it is written. Mr. Easterling noted that there needs to be documentation stating that the proposed accessory structure is completely dependent upon the main structure. There was a brief discussion about the process for the Code to be changed to accommodate kitchen facilities within an accessory structure.

Rusheeth Thummalapally, 4498 Turtle Creek Drive, was present and added that the interpretation and justification cannot be enforced, and that residents are being penalized for having an extended family. He added that the justification sounds absurd because they are already limited by so much. Mr. Easterling added that the Code cannot be written in a way to accommodate every single option, and he referenced Chapter 1215.02(64)(A) One-Family Dwelling and Chapter 1215.02(64)(B) Two-Family Dwelling. Ms. Wolfinger reiterated that this property is zoned for Single Family Residential, and that it's not intended to have multiple families living on the same lot, which is the purpose of the Code. Mr. Nester said that they will remove the range and resubmit the plans, and Mr. Kime said that they will design the accessory structure to not be independent to the main structure. There were no further questions or concerns from the Board, nor the public.

Mr. Vela moved to uphold the interpretation and application of the Code based upon the denial of a zoning permit from the Planning and Zoning Division, and to deny the Appeal of Application 20-21. Seconded by Mr. Duricek. Ayes: (4). Nays: (0).

There being no further business, the meeting adjourned at 6:32 p.m.

Respectfully submitted,

Heather Alfaro