

BOARD OF ZONING APPEALS
Regular Meeting
May 18, 2021 at 6:30pm Via Videoconference

The meeting was called to order by Mr. Swank at 6:35pm.

Roll call:

Present - Brad Swank, Michael Terry, Janika Adler

Absent - Tom Jaskiewicz, Diana McCoy

Also present: Taylor Brill (Zoning Official), Haley Lupton (Clerk), Paul LaFayette (Solicitor), Peyton Kaman (Code Enforcement Officer)

Visitors: Shane Hammond (Applicant)

Approval of Meeting Minutes

Mr. Terry motioned to table the April 27, 2021 Meeting Minutes until the next BZA meeting due to lack of a quorum, Mr. Swank seconded.

Reading of Allowance to hold video conference HB 197.

Swearing in of Speakers

Mr. LaFayette swore in the applicant, Mr. Shane Hammond. The applicant did not have objections to the procedure.

Communications:

Zoning (Ms. Brill)

- Busy season has started. There has been an influx of zoning permits received by the Village.
- Peyton Kaman is the new Code Enforcement Officer.
- Ms. Brill is still working with OHM on the Zoning Code rewrite.
- There may be an extension of the allowance for Virtual Meetings in the Ohio House Budget Bill. Staff will keep the board informed.

Old Business:

None.

New Business:

412 Main Street: A Variance from Code Section 1183.05, which limits accessory structures to twenty-five percent (25%) or less of the gross floor area of the principal use or structure.

Ms. Brill verified that all proper notices were made.

Ms. Brill gave a presentation on the applicant's case. The applicant would like to install a pole barn in his backyard that is more than 25% of the gross floor area of the principal use or structure. The current structure will be demolished, and the garage will be installed in its place. The applicant has proposed a detached garage that will be 30x36 feet (1080 sq ft) or 45% of the gross floor area. The garage meets all setback requirements. Staff recommends approval of the area variance, due to the fact that it matches the character of the area. Ms. Brill noted that area municipalities are allowing for up to 50% of the gross floor area to be approved in their zoning code.

Mr. Terry asked if 406 W Main had an existing garage structure in a similar size. Ms. Brill has measured similar structures in the area. They were not as large as the proposed garage, but they are close in size.

The applicant, Mr. Hammond, responded that his neighbor has a two and a half car garage, and another neighbor has a similar structure as well.

Mr. Swank asked if, at any point, does this structure need to go to the Design Review Board? Ms. Brill responded that, since this house is not in the "Uptown" area, they do not need to go to the Design Review Board. Ms. Brill was notified of the plans when a permit was requested for the structure.

The size of the main structure is 2400 square foot. Under current regulations, the applicant would only be allowed to have a 600 square foot accessory structure.

There were no further questions from Board members.

The Board proceeded to compare the structure to the applicable Village Ordinances 1138.05(c)(3) for variances for accessory structures.

1138.05(C)(3)(A) - *That said area variance will not be contrary to the public interest.* - The Board agreed the structure is not contrary to public interest.

Ord. 1138.05(C)(3)(B) - *That said area variance is justified due to special conditions.* - Mr. Swank noted that, since the Zoning Code needs to be updated to match similar communities, the variance is justified. The Board agreed.

1138.05(C)(3)(C) - *That the literal enforcement of the Zoning Ordinance will result in practical difficulties. The factors to be considered and weighed in determining whether practical difficulties have been encountered shall include, but not be limited to the following:*

1. *Whether there can be any beneficial use of the property without the variance* - Yes, there is a beneficial use without the variance, per the Board, since a garage was already on the property. The applicant mentioned that the previous garage was very small.

2. *Whether the variance is substantial* - Mr. Terry noted that the 45% is bigger than 25%, however, the 25% does not match current market trends.

3. *Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance* - Mr. Terry responded that he does not see an issue since there are similar buildings in the area, and noted that neighbors are not in attendance at the board meeting to state further issues. The Board agreed.

4. *Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage)*- Ms. Brill confirmed that this will not be an issue. The Board agreed.

5. *Whether the property owner purchased the property with knowledge of the zoning restriction* - Mr. Hammond confirmed he did not know about the zoning restriction when he purchased the property. He has been in the area since 2004.

6. *Whether the property owner's predicament feasibly can be obviated through some method other than a variance.* The Board agreed that there are no other methods.

D. *That the spirit of the Zoning Ordinance will be observed, and substantial justice done if the area variance is granted* -. Mr. Terry repeated that there are similar structures in the area. This structure would not be out of character for the neighborhood. The Board agreed.

E. *That the variance is based on need not convenience or profit.* - The applicant confirmed he will not be renting out the structure.

There are no further comments from the members.

Mr. Swank asked if the Board could vote on the issue tonight. Mr. LaFayette noted that he would prefer to wait for a decision at the Finding of Fact meeting to ensure that procedures are followed, and all applicants are treated the same. The applicant responded that this delay will not be an issue for his construction. Mr. Terry agreed that consistency is important and agrees that the vote should take place next week. The board will meet next Tuesday, May 25.

Mr. Swank asked, since we have received at least two of these variance requests, what is the Village doing to update the code? Ms. Brill responded that the Zoning Code rewrite is underway, and first drafts should be done at the end of the year. The changes will undergo a public hearing process. Currently, there is a Steering Committee, and then the Planning Commission will have input. Ms. Brill has been noting things that aren't working in the Codified Ordinances and is working with an experienced consultant to develop a code that is consistent with the market and is Plain City specific. This will hopefully allow for less variances on things like the accessory structures. However, some things like signage may also be necessary for BZA approval. Mr. Terry added that Mr. Jaskiewicz is on the Steering Committee and will be taking the BZA input to the committee. Mr. Lafayette also added that, 10 years ago the code matched other municipality codes, but there are changes needed now that are market driven.

The procedures of the board were explained to the applicant.

Meeting adjourned at 7:06pm.