

**MINUTES OF A MEETING OF THE
AVON LAKE ZONING BOARD OF APPEALS
HELD MARCH 22, 2023**

A regular meeting of the Avon Lake Zoning Board of Appeals was called to order on March 22, 2023 at 7:00 P.M. in Council Chambers with Chairman Heine presiding.

ROLL CALL

Present for roll call were Mr. Heine, Ms. Merlone, Mr. Shook, Ms. Slivinski, Mr. Updegraff, Assistant Director of Law Graves, and Planning & Zoning Manager Page.

APPROVAL OF MINUTES

The minutes of February 2023 were approved as presented.

READING OF GENERAL COORESPONDENCE

None

COMMENTS FROM THE ASSISTANT DIRECTOR OF LAW

Assistant Law Director Graves described the procedures to be followed in the conduct of the meeting. He noted that it is the applicant's burden to establish what is called "practical difficulty" and that they are legally bound by any representations, in word or print, made to the Board.

OATH ADMINISTERED

As provided in Article IV (5)(a)(4) of the Zoning Board Rules, an oath was administered by the Assistant Director of Law to all members of the audience speaking at this meeting.

CASE 23-04

REQUEST FOR A VARIANCE AT 314 LEAR ROAD GRANTED

Assistant Director of Law Graves stated that Code Section 1224.01 (b)(11)(C) *Accessory and Temporary Use Regulations – Number and Size Requirements* permits two (2) accessory structures with a combined total square footage of 1,400. The applicant proposes to construct a detached accessory structure that would increase the combined square footage of all accessory structures to 1,684.

Valerie Moses, property owner, explained that she has two autistic children who require regular therapy sessions. The therapeutic equipment (a short trampoline, a foam crash pad and a ceiling-mounted swing) necessitates a higher than average ceiling. Her home was built in the 1800's and has very low ceilings and small rooms. The requested 1,200 square foot building is the minimum needed to house the equipment. Ms. Moses added that this lot is larger than average and the back corner of her property where the exercise building will be located is bordered by a non-residential property (Learwood School) so there will be no negative impact on the neighborhood.

Ms. Slivinski moved to grant the variance. Mr. Updegraff seconded the motion.

Ms. Slivinski stated that this is a minor variance given the circumstances and the size of the lot is conducive to the plans. The intent and spirit of the Code will not be undermined. Mr. Updegraff agreed.

Mr. Heine added that the large size and location of the lot make it unique so that the practical difficulty standard is met.

AYES: Updegraff, Heine, Slivinski, Merlone, Shook

NAYES: None

ABSENT: None

CASE 23-05

REQUEST FOR A VARIANCE AT 32280 LAKE ROAD GRANTED

Assistant Director of Law Graves stated that Code Section 1224.01 (e) *Accessory and Temporary Use Regulations – Permitted Accessory Structures* permits detached garages only in the rear yard. The applicant proposes to construct a 768 square foot detached garage in the front yard of this corner lot which is adjacent to Coveland Drive.

Alex and Lauren Janesz, property owners, cited several reasons for this variance request: (1) the current attached garage has a flat roof and is creating water intrusion issues with the dwelling; (2) a major safety concern for their children exists with cars entering into the yard from Lake Road on more than one occasion; (3) the side yard is extremely small and with the attached garage there basically is no rear yard – an increased rear yard will provide a larger safe space for their children. In addition, a two-story structure is requested because it will provide a home office for Mr. Janesz which his employment necessitates. Adding a second story to the existing garage is not structurally feasible.

Mr. Shook moved to grant the variance. Ms. Slivinski seconded the motion.

Mr. Shook stated that the safety of children creates a practical difficulty. In addition, the structural issues with the attached garage present a need for its removal.

Ms. Slivinski noted the unique nature of the lot. With the dwelling situated as it is, there is no other place to put the new garage.

AYES: Updegraff, Heine, Slivinski, Merlone, Shook

NAYES: None

ABSENT: None

CASE 23-06

REQUEST FOR A VARIANCE AT 33083 MIDSHIP DRIVE DENIED

Assistant Director of Law Graves stated that Code Section 1226.03 (d)(2) *Fences and Walls in Residential Districts* permits a maximum three (3) foot high fence in a front yard. The applicant proposes to install a four (4) foot high open-style fence in the secondary front yard of this corner lot which is adjacent to Coastal Drive.

Nathaniel Clapp, property owner, explained that he would like to maximize the play space for his children and dog. He is also concerned about the community swimming pool that is across the street from his property and ponds in the area. He does not want his children and dog to wander outside the fenced yard. Mr. Clapp added that the fence would not obstruct drivers' site line.

Ms. Slivinski moved to deny the variance. Mr. Shook seconded the motion.

Ms. Slivinski stated that simply wanting a large back yard does not constitute a practical difficulty. In addition, it would have an impact on the appearance of the neighborhood.

Mr. Shook noted that even without this variance the applicant will still have a large yard.

Mr. Heine acknowledged that a pool across the street is a concern, however a corner lot in and of itself is not a practical difficulty.

AYES: Slivinski, Shook

NAYES: Updegraff, Heine, Merlone
ABSENT: None

As the motion to deny failed,

Mr. Heine moved to grant the variance. Ms. Merlone seconded the motion.

Mr. Heine stated there are some unique factors but he is concerned about the size of the variance and setting a precedent. Mr. Heine reiterated that a corner lot is not in and of itself a practical difficulty.

Ms. Merlone noted that the fence would be 15 feet from the public sidewalk, it is a corner lot, the fence can be seen through, and the variance allows for maximizing the rear yard.

Ms. Slivinski stated that this would be a substantial variance.

AYES: Updegraff, Merlone

NAYES: Heine, Slivinski, Shook
ABSENT: None

Motion to grant failed.

(Note: Voting tallies are accurate.)

COMMENTS FROM THE AUDIENCE

None

COMMENTS FROM BOARD MEMBERS

It was confirmed that the next meeting will be on April 26, 2023.

ADJOURN

Mr. Updegraff moved to adjourn the meeting at 7:54 P.M. Ms. Slivinski seconded the motion.

AYES: Updegraff, Heine, Slivinski, Merlone, Shook

NAYES: None
ABSENT: None


Zoning Board of Appeals
Chairman Heine


Recording Secretary
Diane Reynolds