

**MINUTES OF A MEETING OF THE
AVON LAKE ZONING BOARD OF APPEALS
HELD APRIL 26, 2023**

A regular meeting of the Avon Lake Zoning Board of Appeals was called to order on April 26, 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, Mr. Updegraff, Assistant Director of Law Graves, and Planning & Zoning Manager Page. Ms. Slivinski's absence was excused.

APPROVAL OF MINUTES

The minutes of March, 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 23-07

REQUEST FOR A VARIANCE AT 146 MULL AVENUE GRANTED

Code Section 1226.03 (d)(2) *Fences and Walls in Residential Districts* (Table 1226-8) permits a maximum height of four (4) feet for a chain link fence in a rear yard. The applicant proposes to install a six (6) foot tall chain link fence along the northern side property line in the rear yard only.

Marie Carlson, property owner, explained that the rear lot line of her property abuts a commercial lot that has a six (6) foot high chain link fence. She shared that she adopted a rescue dog that can jump over a four (4) foot high fence. For economical and visual continuity purposes, a six (6) foot high fence is the best alternative. Ms. Carlson noted that the proposed fence would only be two (2) feet higher than the existing fence and her neighbor supports the proposal.

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

Mr. Shook stated that considering the factors presented by the applicant, this would be a minor variance. Ms. Merlone added that the proposed fence would be pragmatically useful.

AYES: Shook, Updegraff, Heine, Merlone

NAYES: None

ABSENT: Slivinski

CASE 23-08

REQUEST FOR A RE-HEARING FOR VARIANCE AT 33083 MIDSHIP DRIVE GRANTED

Per Code Section 1214.01 (o) & (p), the ZBA determined that the applicant had made a significant amendment to his original variance request of March 2023 to grant a re-hearing.

Mr. Heine moved to grant the re-hearing. Mr. Updegraff seconded the motion.

AYES: Shook, Updegraff, Heine, Merlone

NAYES: None

ABSENT: Slivinski

REQUEST FOR A VARIANCE AT 33083 MIDSHIP DRIVE GRANTED

Code Section 1226.03 (d)(2) *Fences and Walls in Residential Districts* (Table 1226-8) permits a maximum height of three (3) feet for a fence in a front yard. The applicant proposes to install a \pm 90 foot section of four (4) foot tall black ornamental aluminum fencing in the secondary front yard of this corner lot along Coastal Drive. This fencing would encroach \pm eight (8) feet into the secondary front yard.

Nathaniel & Mariah Clapp, property owners, asserted several factors in support of their variance request:

- There is a large slope in the backyard that collects water creating a smaller usable play space for their children;
- A patio may be added in the future further minimizing green space in the rear yard;
- The property is directly across the street from the neighborhood community swimming pool;
- There are retention ponds in the area with no fences; and,
- There is a significant safety concern for their children and dog with regard to vehicular traffic.

Mr. Page confirmed that the fence would not impede the sight line of the right-of-way.

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

Ms. Merlone stated that safety of children is paramount and noted the variance would not change the nature of the neighborhood. Mr. Heine stated that the location across from a swimming pool, the safety of children, and the grade of the land, when considered together, constitute practical difficulty.

AYES: Shook, Updegraff, Heine, Merlone

NAYES: None

ABSENT: Slivinski

CASE 23-09

REQUEST FOR A VARIANCE AT 33625 PIN OAK PARKWAY GRANTED

Code Section 1234.14 *Number of Parking Spaces Required* (Table 1234-4) requires warehouses to have one (1) parking space per 1,000 square feet of the gross floor area. The applicant proposes constructing a 200,000 square foot addition for truck docks and bays that would require 200 additional parking spaces on the site. The site currently has 72 parking spaces for 35 employees and the expansion will add 15 more – totaling 50 employees for 72 parking spaces – hence, the applicant requests not to add any additional parking spaces.

Craig Sanders of Freeman Building Systems represented the applicant All Pro Freight Systems, Inc. Mr. Sanders stated that the applicant's business is strictly warehousing and explained that it does not have as many employees as other types of businesses. He noted that having fewer than the required number of parking spaces will not adversely affect other property owners and if more spaces were needed in the future there is ample room. It was also explained that the 50 employees work over the course of three (3) shifts, not all at one time.

Mr. Shook moved to grant the variance. Mr. Updegraff seconded the motion.

Mr. Shook stated that the practical difficulty arises because the Code requires the installation of unused parking spaces. Mr. Updegraff stated the variance is reasonable when considering the number of employees. Mr. Heine stated that considering the use of the property, i.e. warehousing, the requirement of the Code in this instance is not reasonable.

AYES: Shook, Updegraff, Heine, Merlone

NAYES: None

ABSENT: Slivinski

COMMENTS FROM THE AUDIENCE

None

COMMENTS FROM BOARD MEMBERS

All present anticipate being available for the May meeting.

ADJOURN

Mr. Updegraff moved to adjourn the meeting at 7:35 P.M. Ms. Merlone seconded the motion.

AYES: Shook, Updegraff, Heine, Merlone

NAYES: None

ABSENT: Slivinski



Zoning Board of Appeals
Chairman Heine



Recording Secretary
Diane Reynolds

