

**MINUTES OF A MEETING OF THE
AVON LAKE ZONING BOARD OF APPEALS
HELD JUNE 28, 2023**

A regular meeting of the Avon Lake Zoning Board of Appeals was called to order on June 28, 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 May, 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 23-11

REQUEST FOR A VARIANCE AT 286 CHESTNUT COURT TABLED

Planning & Zoning Manager Page provided an overview of the case. The owners of the property, Joseph Gaydosh and Lauralyn Duff, request an area variance to Code Section 1224.01 (e) Accessory and Temporary Use Regulations – *Accessory Uses and Structures* to permit an existing carport in the northern side yard.

Mr. Gaydosh stated that he owns a 1966 classic Ford Galaxie automobile that he hopes to hand down to his sons. He explained that the carport is temporary until his sons are in a position to take the car. He does not want to add a garage to the property because it would reduce the green space in the neighborhood and require the removal of three trees. Mr. Gaydosh added that the existing carport does not affect the immediate neighbor because that house has no windows on that side.

When questioned Mr. Gaydosh provided additional information including: by "temporary" he meant five to seven years; there are already two vehicles that are not put in the garage because the garage is his workshop; building a garage would be expensive; and, he would prefer not to store the Ford off-site.

A resident living on the adjacent street spoke in favor of granting the variance. Assistant Law Director read a letter into the record opposing the granting of the variance. Multiple signed

documents titled “Neighbor’s Acknowledgment for a Temporary Variance” were submitted by the applicant.

Mr. Shook moved to grant the variance with the condition that the carport be removed within one year. Ms. Merlone seconded the motion.

Mr. Shook stated that a practical difficulty existed in that the applicant is limited as to options for keeping the Ford on his property. Granting the variance would provide time to make other arrangements. Ms. Merlone agreed.

Mr. Heine stated that: there is no practical difficulty; there is no peculiarity of the land; the applicant does have a garage; one year does not meet the applicant’s need; an alternative could be found now; the structure does change the nature of the neighborhood; and, five to seven years is not “temporary”.

AYES: Shook, Merlone

NAYES: Updegraff, Heine

ABSENT: Slivinski

With no affirmative vote to grant or deny the variance request, the case was tabled.

CASE 23-12

REQUEST FOR A VARIANCE AT 32522 LAKE ROAD GRANTED

Planning & Zoning Manager Page provided an overview of the case. The owners of the property, Robert and Therese Warren, request an area variance to Code Section 1226.01 (e)(11)(B) *Lot and Principal Building Regulations*. The Code allows a fireplace to encroach 2 feet into the side yard setback without any waivers, but only when the primary structure adheres to the 10 foot setback. The existing western side yard setback is approximately 5 feet. The applicant is proposing a fireplace off the northwestern side of the home that would extend an additional 2.6 feet into the side yard setback. With the addition of the fireplace, the setback would be reduced to 2.4 feet

Jim Taylor, attorney for the property owners, and Geralyn Rice, Stonehenge Architectural Art, contractor/builder for the chimney, represented the Warrens. Mr. Taylor asserted that there had been numerous meetings with, and attempts to discuss the project with, the City’s Building and Zoning Department representatives before construction was begun but were never given clear answers as to what is permitted with regard to the fireplace and chimney. Ms. Rice concurred and with the lack of feedback from the City believed it was permissible to proceed with the plans. She explained that when a stop-work notice was issued they immediately complied. Ms. Rice noted that existing “bump-outs” of the house encroach the side setback even more than the fireplace would. She also pointed out that numerous other properties in the area have similar distances of fireplaces. Mr. Taylor added that all the factors used to determine practical difficulty were met except the “beneficial use of the property” factor.

Mr. Warren stated that that Avon Lake Fire Inspector had approved the chimney. Mr. Graves read into the record an email conveying such opinion.

Julie Schneider represented the Schneider family, owners of the neighboring property. She summarized the family’s objections and submitted a written list of issues and photographs in opposition to granting the variance. They included: the lack of proper permits for the fireplace; the

risk of property damage to the Schneider home and foliage; and, potential health risks to her mother-in-law. She asserted that a fireplace is a pleasure item, not a necessity.

When asked, Ms. Warren stated they wanted a wood-burning fireplace, not a gas one.

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

Mr. Heine stated that a fireplace is a permitted use and it would not encroach the setback as much as other bump-outs on the house. He noted that the chimney would be approximately 20 feet from the Schneider home and will not change the nature of the neighborhood.

AYES: Shook, Merlone, Updegraff, Hine

NAYES: None

ABSENT: Slivinski

CASE 23-13

REQUEST FOR A VARIANCE AT 32652 LAKE ROAD GRANTED

Planning & Zoning Manager Page provided an overview of the case. Code Section 1226.01 (e)(11)(B) *Lot and Principal Building Regulations* states that the minimum side yard setback in an R-1A Zoning District is 10 feet. The owners of the property, Jeff and Shuijun Coble, are proposing a new home that would reduce the 10 foot east side yard setback to 7.5 feet.

Mr. Coble explained that the existing house was built in the 1800s and all that he wants is to maintain the existing east setback. Ms. Coble shared that her mother-in-law is elderly and cannot go up or down stairs, hence the need for an expanded first floor.

Tony Ponikver, contractor with Alair Homes Hudson, explained that the existing structure has foundation issues including a leaky basement. Also, remodeling and updating the existing structure would be more costly than rebuilding.

Ms. Merlone moved to grant the variance permitting a 7.5 foot east side yard setback and a minimum 10 foot western side yard setback for the primary dwelling, not including the garage. Mr. Updegraff seconded the motion.

Ms. Merlone stated that the proposed dwelling fits the neighborhood and basically has the same footprint as the existing house. Mr. Heine noted that the property is very narrow which is a peculiarity of the lot.

AYES: Shook, Merlone, Updegraff, Hine

NAYES: None

ABSENT: Slivinski

COMMENTS FROM THE AUDIENCE

None

COMMENTS FROM BOARD MEMBERS

All plan to attend the July meeting.

ADJOURN

Mr. Updegraff moved to adjourn the meeting at 8:25 P.M. Ms. Merlone seconded the motion.

AYES: Shook, Merlone, Updegraff, Heine

NAYES: None

ABSENT: Slivinski

A handwritten signature in black ink, appearing to read "John Heine", written over a horizontal line.

Zoning Board of Appeals
Chairman Heine

A handwritten signature in blue ink, appearing to read "Diane Reynolds", written over a horizontal line.

Recording Secretary
Diane Reynolds