

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

A regular meeting of the Avon Lake Zoning Board of Appeals was called to order on July 26, 2023 at 7:00 P.M. in Council Chambers with Chairman Heine presiding.

**ROLL CALL**

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

**APPROVAL OF MINUTES**

The minutes of June 28, 2023 were approved as amended.

**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**

This case was tabled at the June 28<sup>th</sup> meeting due to a tied vote.

Mr. Heine moved to untable the case. Mr. Updegraff seconded the motion.

AYES: Slivinski, Shook, Updegraff, Heine

NAYES: None

ABSENT: Merlone

At the request of the applicant, the case was tabled again. Ms. Duffy did not want to give her presentation again with the possibility of another tied vote. The case will be on the August agenda.

Mr. Heine moved to table the case and Ms. Slivinski seconded the motion. Mr. Heine stated that there is no guarantee that a tied vote will not happen in August as well.

AYES: Slivinski, Shook, Updegraff, Heine

NAYES: None

ABSENT: Merlone

## **CASE 23-14**

### **REQUEST FOR A VARIANCE AT 139 MOORE ROAD GRANTED**

Douglas Feikema, property owner, requested an area variance to Code Section 1226.03 (d)(2) *Fences and Walls in Residential Districts*. The applicant proposes installing a six foot high fence extending into the southern side yard. The Code permits a maximum height of four feet in side yards.

Mr. Feikema addressed the factors used to determine practical difficulty of an area variance:

- A. There is essentially no backyard; the driveway adjacent to the south side of his property services two other residences, one of which includes a lawn service company with trucks; the neighbor to the south has a patio so there is no privacy when he and his neighbor are both on their patios; he had to remove trees and hedges which diminished privacy; neighbors have cameras that are invading his personal space (into the yard and possibly into his house, the police will not do anything about it
- B. The fence will benefit all the neighbors as well as him
- C. This is not a substantial variance because the fence will not be connected to the house; a fenced in yard will be attractive to future owners
- D. The fence will have a positive impact on the neighbors
- E. This variance will not affect government services
- F. He was not aware of the fence code restrictions when he purchased the property
- G. He did not create the need for a fence
- H. He has been advised by several people that a fence is the best solution because plants did not work before
- I. The spirit and intent of the code will be observed by installing a fence that provides privacy, security, and safety; a fence will reduce friction between neighbors
- J. Fences are highly desired to provide privacy, security, and safety

Mr. Feikema provided a brief history as to how the unusual configuration of his and the two adjoining parcels with the shared driveway came to be.

In response to questions from Board members, Mr. Feikema provided the following:

- He removed a number of trees and shrubs along the south property line because he had complaints from the neighbors about rotted and leaning trees
- He does not want shrubs just around the patio because he wants to enjoy his whole yard
- Planting shrubs again along the south property line will result in the same problem because there will not be adequate light
- Installing a patio on the other side of the property is not feasible due to the location of doors
- He does not want the fence to only extend to the patio because he wants to enjoy his whole yard
- A four foot high fence is not adequate because it will not provide the desired privacy from seeing his neighbors on their patio or seeing trucks going in and out of the adjacent driveway

In response to a resident's question/request, Mr. Feikema explained that, to the best of his knowledge, his trees will be inside the fenced area. Also, a large tree that straddles the property line will remain because it is outside of the proposed fenced-in area.

Mr. Feikema stated he may come back to the Board to request a seven foot high fence.

Mr. Page stated that the packet information indicates that the variance request is for approximately 78 feet when it is actually for approximately for 100 feet.

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

Mr. Shook stated that the driveway used by two neighbors presents a safety and privacy issue. Mr. Heine stated that the property is unique due to several factors: position of the patios; commercial trucks using the adjacent driveway and being parked on the eastern neighboring property; and, an incredibly small rear yard. He also noted that prior attempts at growing shrubs failed. Ms. Slivinski voiced concern regarding the size of the variance and believes there are other possible solutions.

AYES: Shook, Updegraff, Heine

NAYES: Slivinski

ABSENT: Merlone

#### **COMMENTS FROM THE AUDIENCE**

None

#### **COMMENTS FROM BOARD MEMBERS**

None

#### **ADJOURN**

Ms. Slivinski moved to adjourn the meeting at 8:09 P.M. Mr. Updegraff seconded the motion.

AYES: Slivinski, Shook, Updegraff, Heine

NAYES: None

ABSENT: Merlone

  
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Zoning Board of Appeals  
Chairman Heine

  
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Recording Secretary  
Diane Reynolds