



BOARD OF ZONING APPEALS MEETING

MINUTES

Wednesday, September 23, 2020 – 6:00 p.m.
(Meeting conducted via Zoom)

CALL TO ORDER: Mr. Lorenzon called the meeting to order at 6:00 p.m.

ROLL CALL: Jason Lorenzon, Tim Ochwat, Pete Schueler, Tracy Schwotzer, and Jim Turk were present.

OTHERS PRESENT: Planning and Zoning Director Brian Frantz.

AGENDA REQUEST: None.

OLD BUSINESS: None.

NEW BUSINESS:

1) Case No. 05-2020

Applicant: Norbert and Amberly Flores
Location: 3236 Southern Road
Zoning District: R-1 Single Family Residential
Code Section: 1124.07 (c)

The Zoning Code requires a setback of 25 feet for accessory buildings. This request is to maintain an existing pool and platform in their present location. The pool is approximately 20' 8" from the property line which requires a variance of 4' 4". The platform deck is located approximately 14' 6" from the property line.

Mr. Frantz explained that this issue began as a property maintenance complaint in the beginning of May 2020. After reviewing the complaint it was found that several structures on the property were without a permit so those were also cited in a violation letter dated May 22, 2020.

To bring the property into compliance, the Flores's removed two of their six chickens immediately and worked to remove the remaining chickens as they were unable to meet the housing requirements for poultry. They moved a skid steer inside their barn and obtained a license for the previously unlicensed vehicle. All property maintenance issues were mitigated by the end of July. In mid July, the applicant completed an application to relocate the 10x12 shed, install a new chain link fence, and for the pool and platform. The exact location of the south property line was still in question and Mr. Frantz stated the Flores's would need a surveyor to mark that property line. Once marked, the shed seemed to be about a foot from the property line and the Flores's had it relocated to 30' from the property line. The pool and platform setback issue remain outstanding.

Mr. Frantz provided the board with aerial photos from the Summit County GIS website showing the location of the pool beginning in 1994 and its eventual removal and reconstruction. He also provided the board with pictures of the existing pool and platform, as well as the rear yard including the shed and chain link fence.

Mr. Schueler asked if the lot was created prior to the establishment of the Village and if the lot was nonconforming. Mr. Frantz agreed with both of Mr. Schueler's statements. The setbacks were imposed after the lot was created and the home was built. Mr. Schueler didn't believe the pool deck was closer to the property line than the existing garage and Mr. Frantz agreed and said the garage was approximately 10' from the line. Mr. Frantz said he received two phone calls and three letters supporting the variance. The letters were read into the record.

Mr. Ochwat asked if the violations on the property had been corrected and Mr. Frantz said the chicken coop and chickens were removed, the shed was relocated, the skid steer was removed from the side yard, and the unlicensed motor vehicle was removed from the south property line and placed in front of the existing barn and was licensed. The only remaining violation is the pool and platform. If the variance is denied, the applicant can relocate them, remove them completely, or file an appeal with the Summit County Court of Common Pleas. Mr. Ochwat thanked the applicant for continuing the process forward in a timely matter.

Mr. and Mrs. Bert and Amber Flores stated they were unaware a variance would be needed as there was already an existing pool and platform which they replaced. They explained the home was foreclosed and they have tried to improve it since purchasing the property in 2005. Mrs. Flores mentioned that there are no fire hydrants on the street and if there were a fire, the Fire Department would take water from their pool. She also stated their pool sits lower than the surrounding properties.

Mrs. Pamela Narus of 3222 Southern Road felt she was the most affected by the variance request. She stated that she approached Mr. Flores about the shed in 2016 and she was told it was a temporary building which could be located wherever he wanted. She said she has no problem with them having a pool but it extends 53' from their home, is 5' high at the end of the deck, and the shed is elevated. Mrs. Narus said she has a problem with the height of the deck and her lack of privacy. Mrs. Schwotzer asked when Mrs. Narus moved into her home and Mrs. Narus said 1987 and she was familiar with the previous pool.

Mr. Frantz added that the platform is an average of 4' off the ground and the tallest point of the shed is about 11' off the ground. Accessory structures cannot exceed the main building or 26', so the height complies with the code. He mentioned that if the location of the pool and platform were in compliance, the exact same view would be seen from Mrs. Narus's property. He suggested the board could consider the addition of landscaping along the property line if they felt so inclined, and added that the growth rate of an arborvitae is 12-24 inches per year.

Mrs. Narus argued that she was given incorrect information by Mr. Frantz prior to the meeting. Mr. Frantz explained that he initially believed the platform fell under Section 1181.09 – Projections Into Yards. This section allows projections into a sideyard up to two feet from the property line, but if the structure extends more than 3'; above grade this section would not apply. He believed this to be the case until true measurements were taken and he found the platform is just under 4' above grade.

Mr. Ochwat asked if they planned to complete the railing and skirting of the deck. Mr. Flores said they are waiting for the materials to be delivered and planned to have it before the end of the month. He also noted he had ordered \$1,500 worth of arborvitae which will not be delivered until October. He was concerned about maintaining them on the south side of the fence line and would like something with a fast growing rate but something that will also be manageable and not grow onto Mrs. Narus's property. In addition to the 70 arborvitae he has ordered, he also plans to extend his existing shadowbox gate along the south property line once he is able to obtain lumber. Mr. Flores will remove 80' of the chain link fence and replace it with a 6' high shadowbox fence.

Mr. Frantz asked Mr. Flores if he contacted the Summit County Building Department regarding his pool. Mr. Flores said he is prepared to take action with the Building Department but cannot until her receives a zoning permit. He has his application and plans ready to be submitted. The County is aware that Mr. Flores will be submitting to them and Mr. Flores stated he intends to submit to the Building Department as soon as he receives approval from the Village and once the railings are installed. Mrs. Narus disagreed and said his shed needs a building permit since it is on a platform.

Mr. Lorenzon felt that although he would like to see neighbors get along, after seeing reports from other neighbors and the history of the property he was in favor of the variance with the addition of arborvitae or screening of some sort.

MOTION: TO GRANT THE VARIANCE FOR CASE 05-2020 AS STATED TO ALLOW THE 4' 8" OF VARIANCE FOR THE PLATFORM DECK. BASED ON THE SIDYARD SETBACK, A LANDSCAPE PLAN IS TO BE SUBMITTED FOR REVIEW BY THE ZONING DEPARTMENT.

Moved by Mr. Ochwat, seconded by Mr. Schueler.

Before the roll was called, Mr. Frantz suggested the Village's Landscape Architect review the plans since Mrs. Narus had previously mentioned her displeasure with how Mr. Frantz has handled this situation thus far. He felt utilizing the Landscape Architect would provide an opinion from a professional who has not been involved in this case. Mr. Ochwat amended his motion.

MOTION: TO GRANT THE VARIANCE AND PERMIT THE EXISTING POOL AT APPROXIMATELY 20' 8" AND THE DECK AT APPROXIMATELY 14' 6" IN ITS CURRENT LOCATION AS PRESENTED BY THE APPLICANT THIS EVENING. THE VILLAGES LANDSCAPE ARCHITECT WILL REVIEW A LANDSCAPE PLAN ALONG THE SOUTH PROPERTY LINE, BEGINNING AT THE EDGE OF THE HOME DOWN THE PROPERTY LINE TO THE REAR OF THE SHED. THE ARBORVITAE ARE TO REACH A HEIGHT OF TEN FEET.

Moved by Mr. Ochwat, seconded by Mr. Schueler. Upon roll call, motion passed unanimously.

MOTION: TO ALLOW THE VILLAGE LAW DIRECTOR/ATTORNEY REPRESENTATIVE TO PREPARE FINDINGS OF FACT AND CONCLUSIONS OF LAW.

Moved by Mr. Schueler, seconded by Mr. Ochwat.

After a short discussion of the Board, it was decided that since the variance was granted, Findings of Fact and Conclusions of Law would not be necessary. Mr. Schueler withdrew his motion.

APPROVAL OF THE JULY 8, 2020 MINUTES:

MOTION: TO APPROVE THE JULY 8, 2020 MINUTES AS SUBMITTED

Moved by Mr. Turk, seconded by Mr. Ochwat. Upon roll call, motion passed unanimously.

DIRECTOR OF PLANNING AND ZONING REPORT: Mr. Frantz reported the following:

- The Briarwood project continues to move forward.
- The Cleveland Water project is moving forward and it is anticipated that water will be in the center of town in March of 2021. This news has caused real estate in the center of town to sell quickly.
- Richfield continues to move forward strongly during the pandemic thanks to the multitudes of uses within the Village.

COMMENTS FROM THE PUBLIC: None.

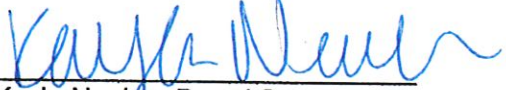
UNFINISHED BUSINESS: None.

ADJOURNMENT:

MOTION: TO ADJOURN THE JULY 8, 2020 BOARD OF ZONING APPEALS MEETING

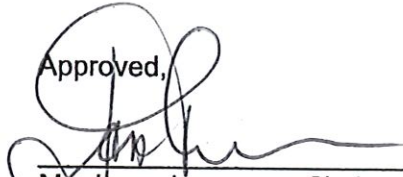
Moved by Mr. Lorenzon, seconded by Mr. Turk. Upon roll call, motion passed unanimously. Mr. Schueler adjourned the meeting at 8:00 p.m.

Respectfully submitted,



Kayla Nealon, Board Secretary
Board of Zoning Appeals

Approved,



Mr. Jason Lorenzon, Chairman
Board of Zoning Appeals