



**BOARD OF BUILDING AND ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
March 29, 2022**

The hearing was called to order at 7:30 P.M. by Chairman Baesel

PRESENT: Bryan Baesel, Karen Alfred, Robert Swisher, Cynthia Nolde, Brad Lamb
ALSO PRESENT: Clerk of Commissions Nicolette Sackman and Westlake Law Director
Michael Maloney

DOCKET

Docket: William Campana 2022-04
31200 Hilliard Blvd., PP#21701001, Ward 6
Requesting to construct an 18' tall detached garage. 1211.04(2): A detached private garage shall not exceed 15' in height from the average grade line to the peak of the gable; **a 3' height variance.**

Mr. Campana, sworn in by Mr. Maloney, explained he would like to build a new garage behind his house. His existing garage is 5' off the property line at the side of his house and will be removed. He is asking for extra height as he will have an automobile lift in his garage to work on his cars. There is a chance the garage could be set deeper into the ground so it would only be 16' above grade but he is asking for 18' above grade as that is the height it would be at if constructed at grade. He felt the proposed location was a better place for the garage compared to placing it in the same location as the existing garage in the side yard as it will be hidden by the house.

Discussion ensued regarding the proposal, removal of existing building, heights and setbacks. The new garage will be 20' from the rear of the house and 10' from the north lot line.

Carol Andrews, 3651 Parson Pond Circle, sworn in by Mr. Maloney, lives behind the applicant and inquired how many bat the garage will have and the setbacks from the property.

Debrah Munshower, 3629 Parson Pond Circle, sworn in by Mr. Maloney, asked is the woods along her property line will remain and how will the garage be from her yard.

Mr. Campana advised the garage will be a two bay and will be located 20' behind his house and not along the rear property line. He is not removing any of the trees at the rear of his property as the garage is not in that location.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance – yes
2. Whether the variance is substantial – no

3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance – no
4. Whether the variance would adversely affect the delivery of governmental services – no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a
6. Whether the property owner’s predicament feasibly can be obviated through some other method other than a variance –no
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance – yes

Motion: Ms. Alfred moved, seconded by Mr. Swisher to approve a 3’ height variance.

ROLL CALL:

Yeas: Baesel, Alfred, Swisher, Nolde, Lamb

Nays: None, motion carried

Docket: Barb Gallucci 2022-05

802 Dover Center Rd., PP#21204013, Ward 3

Requesting to construct a 4’ tall ornamental fence in the side yard of this corner lot, 2’ from the planned right-of-way line. 1211.04(b)(3): fences, walls or hedges may be permitted along the side or rear lot lines except that on a corner lot, no fence shall be located within 25’ from the planned right-of way line; **a 23’ setback variance.**

Mr. Batista (contractor), sworn in by Mr. Maloney, explained there is an existing chain link fence located against the sidewalk that is dilapidated and needs replaced. The proposal is for a 4’ tall black ornamental aluminum fence setback off the sidewalk so it is 2’ from the planned right-of-way. The property owner is requesting the variance so they do not lose the use of a portion of the yard that they have been using based on the location of the current fence. He showed photos of the property, existing fence and proposed fence.

Members of the board discussed the fence design and visibility. They requested that the connection of the fence at the corner by the driveway be redesigned to be at a 45° angle. Mr. Batista advised that could be done.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance – no
2. Whether the variance is substantial – yes but the proposal is better than the existing conditions.
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance – no
4. Whether the variance would adversely affect the delivery of governmental services – no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a

6. Whether the property owner's predicament feasibly can be obviated through some other method other than a variance – no
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance – yes

Motion: Mr. Swisher moved, seconded by Ms. Nolde to approve a 23' setback variance with the condition the fence connect to the corner of the house and extend on an 45° angle to the sidewalk
ROLL CALL:

Yeas: Baesel, Alfred, Swisher, Nolde, Lamb

Nays: None, motion carried

Docket: Paul and Sandra Daher 2022-06
30420 Hilliard Ct., PP#21608075, Ward 6

Requesting to construct two structures for a combined total of 1,608 sf of outdoor structures, a 168 sf gazebo and a 1,440 sf pavilion with 410 sf of this pavilion to be enclosed and used for storage purposes. 1211.04(O): outdoor structures shall be located in the rear yard and on lots from 20,000 to under 40,000 sf the total maximum unenclosed structure is 300 sf, **a 1,308 sf area variance**. 1211.04(O): freestanding open air structures, roofed or unroofed for non-storage purposes shall be permitted, **a variance for enclosing an open air structure and using it for storage purposes**.

Mr. Liggett (architect), Mr. and Mrs. Daher were sworn in by Mr. Maloney. Mr. Liggett presented a letter signed from some of the surrounding neighbors in support of the Daher's request. He explained they have already installed the pool and the variances are for the surrounding structures. The yard will be fenced in and will include a pool, hot-tub (gazebo) and a pavilion. The pavilion will consist of a kitchen and gathering area as well as a storage room. The pool equipment is planned to be behind the pavilion's storage room. The storage room will be for the patio and pool furniture as well as the yard equipment. The property is on a cul-de-sac and has neighboring homes on the eastern and southern side of the backyard. The northern property is a wooded backyard for the home on Bradley Road and will probably never be developed. The proposal is for: a detached gazebo (12' x 14') over the hot tub, a detached pavilion (30' X 48'), and an enclosed storage room within the pavilion structure (9' x 48'). They would like to position the pavilion in the eastern corner of the irregular shaped property. The proposed location will allow nice privacy for their yard as well as the neighborhood surrounding their backyard. Mr. Liggett stated The pavilion could be relocated and attached to their home and a variance(s) would not be required for that location. The pavilion would have to be included in the overall lot coverage of 20% per the codified ordinances of the City of Westlake. However, the pavilion will block off the backyard from the driveway area a bit more than desired. The back eastern portion of the property will be more exposed to the eastern neighbors. He reviewed the site plan.

Members of the board discussed the proposal, reviewed the site and layout, and if the lot coverage will comply due to the large size of the structures and hardscape. Mr. Liggett advised 51% is the maximum and the proposal is at 50%. It was questioned if all the neighbors signed the letter as when the subdivision was proposed Ms. Puchmeyer expressed numerous concerns with the development of the property. Mr. Daher stated a couple of the neighbors were not comfortable signing the letter (Miller and Puchmeyer) but supported the request. He would like to have privacy based on the proposed location as if it were attached to the house it would be

more visible to all in the neighborhood. Landscape will be provided around the yard for screening. Mr. Maloney discussed what is being proposed is a substantial variance, approximately 500% over what is allowed per the code, and the board needs to consider legal factors pertaining to variance requests. Drainage was discussed with the board expressing the applicant needs to review all drainage with the city's engineering department.

Mr. Joel Tomkalski, 3341 Bradley Road, sworn in by Mr. Maloney expressed the following: he owns the wooded property to the north; the proposal was not discussed with him and he was not notified; concerns with impact to his property; drainage concerns, 20' drainage easement to be maintained, and number of yard drains; the grade on the applicant's property was raised; liability concerns; a large amount of structures is being proposed; and does not want the proposal to impact him. The board advised that drainage and grading are addressed by the city's engineering department and this board doesn't not make rulings for drainage. Ms. Sackman clarified that Mr. Tomkalski did receive notification from the city, which he stated he did but the applicant did not notify him of their proposal.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance – yes
2. Whether the variance is substantial – yes
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance – yes
4. Whether the variance would adversely affect the delivery of governmental services – no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – yes
6. Whether the property owner's predicament feasibly can be obviated through some other method other than a variance –yes
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance – no

Motion: Mr. Swisher moved, seconded by Ms. Alfred to approve a 1,308 sf area variance.

ROLL CALL:

Yeas: None, motion carried

Nays: Baesel, Alfred, Swisher, Nolde, Lamb, motion failed

Motion: Mr. Swisher moved, seconded by Ms. Alfred to approve a variance for enclosing an open air structure and using it for storage purposes.

ROLL CALL:

Yeas: Baesel, Alfred, Swisher

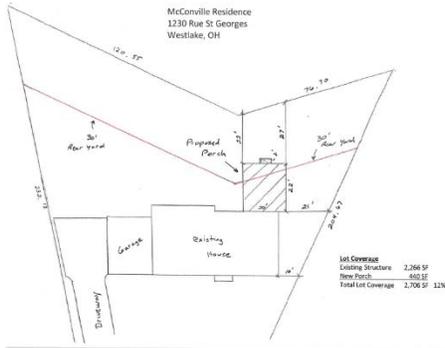
Nays: Nolde, Lamb, motion carried

Docket: Robert McConville 2022-07

1230 Rue St. George, PP#21404097, Ward 1

Requesting to install an attached pavilion addition 22' off the rear property line. 1211.09: the minimum rear yard setback is 30', **an 8' setback variance**.

Mr. Kinzel (Contractor), sworn in by Mr. Maloney, explained the request is so the applicant can construct an attached open air pavilion in the rear yard. The lot is a very unique V shape and the



pavilion needs to go in the proposed location due to the interior floor plan of the house and doors. The porch will be used for seating and fireplace. He advised there is a tree line at the property line, which screens the property. The adjacent property to the rear is a commercial property.

Members of the board agreed the lot is a unique shape that creates a practical difficulty. They did not have any issues as the proposed location was the best location for the structure.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance – no
2. Whether the variance is substantial – no
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance – no
4. Whether the variance would adversely affect the delivery of governmental services – no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a
6. Whether the property owner’s predicament feasibly can be obviated through some other method other than a variance –no
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance – yes

Motion: Mr. Swisher moved, seconded by Ms. Alfred to approve an 8’ setback variance.

ROLL CALL:

Yeas: Baesel, Alfred, Swisher, Nolde, Lamb

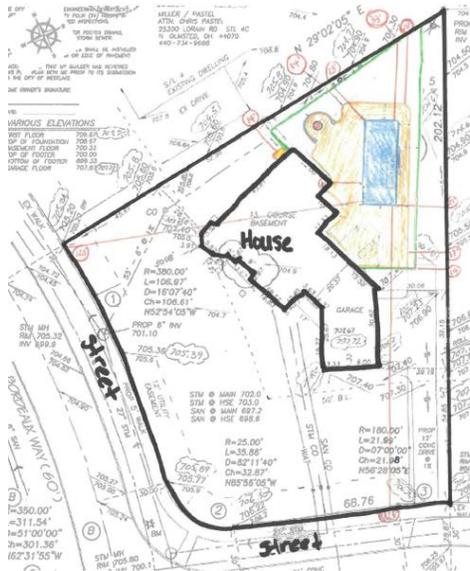
Nays: None, motion carried

Docket: Gina and Cip Beredo 2022-08

27830 Sonoma Court, PP21225027, Ward 4

Requesting to construct a swimming pool and equipment in the side yard of the property. 1211.04(g)(2)(B): the pool and all mechanical equipment used in conjunction therewith is to be located in the rear yard, **a location variance for the pool and pool equipment from the rear to the side yard.**

Mr. Kennedy, Mr. Beredo and Mrs. Bereso were sworn in Mr. Maloney. Mr. Kennedy explained the applicant is seeking a variance due to the shape of their lot. While the pool will be behind their house a portion of the pool is considered to be located the side yard based on lot to depth ratio for a corner lot. The pool equipment is also considered to be in the side yard. Due to the location of the house the proposed location is the only place for the pool. Mrs. Beredo stated that based on the shape and location of their house they do not have much of a backyard. There will



be a fence around the rear yard as well as landscape screening.

Members of the board discussed the layout of the yard, limited rear yard space and setback off the property line. Discussion ensued that there will be a fence around the yard as well as landscape to screen the year and pool. The fence is not on the property line as there is a swale in that location so the fence is offset to not interfere with drainage and the swale. The applicant maintains that area and will continue to do so. They will also be installing a retaining wall, which should help with any existing drainage issues.

Mr. and Mrs. Lamorgese, 27826 Sonoma Ct., were sworn in by Mr. Maloney. They discussed with the board and the applicant the location of the retaining wall, fence and

drainage as they wanted clarification on the locations. Mrs. Beredo also advised that the existing wooded area will remain.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance – no
2. Whether the variance is substantial – no
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance – no
4. Whether the variance would adversely affect the delivery of governmental services – no
5. Whether the property owner purchased the property with the knowledge of the zoning restriction – n/a
6. Whether the property owner’s predicament feasibly can be obviated through some other method other than a variance –no
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance – yes

Motion: Mr. Lamb moved, seconded by Mr. Swisher to approve a location variance for the pool and pool equipment from the rear to the side yard.

ROLL CALL:

Yeas: Baesel, Alfred, Swisher, Nolde, Lamb

Nays: None, motion carried

MISCELLANEOUS

None

APPROVAL OF MINUTES

Motion: Ms. Alfred moved, seconded by Mr. Swisher to approve the minutes of the February 22, 2022 Board of Building and Zoning Appeals meeting.

ROLL CALL:

Yeas: Baesel, Alfred, Swisher, Nolde

Abstain: Lamb

Nays: None, motion carried

ADJOURNMENT

Mr. Baesel adjourned the meeting at 9:00 P.M.

Bryan Baesel, Chairman

Clerk of Commissions Nicolette Sackman, MMC

Approved: _____