



**BOARD OF BUILDING AND ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
September 27, 2022**

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

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

DOCKETS

Docket: Glenmoira Inc. 2022-29

1016 Cahoon Rd., PP#21208007, Ward 3

Applicant appeals the decision of the Director of Inspections regarding: §1303.06 which prohibits the use of type 5 (wood) construction for the proposed use. The existing structure is an existing single-family residence and the proposed project (remodeling and addition) will cause a change of use to an R-3 use.

Mr. Maloney explained the request is not to rezone the property as this is a permitted use and the only item before the board is to consider the use of Type 5 (wood) construction. Mr. Schneider and Director of Inspections Mr. Grayem were sworn in by Mr. Maloney. Mr. Schneider explained the existing house was constructed with wood and the proposal is to remodel the house and construct an addition. They would like to use wood framing and the entire house will have a sprinkler system, fire alarm, water flow alarm and smoke detectors, which have a remote monitoring system. Mr. Grayem explained Type 5 is not permitted for this type of use in Westlake but is permitted per the state of Ohio. He supports the variance request and advised there have been multiple variance requests for this same type of material for this use, which have been approved. The use of wood material will not change the character of the house. An R3 use allows for no more than five residents and the proposal is for four residents and one staff member that is on site 24/7.

Members of the board reviewed the proposal and discussed the safety feature, wood building material, the ability of residents to exit the house in the event of an emergency, and the reason why the city does not allow Type 5 construction for this type of use. Mr. Grayem reviewed the history of the code and noted if the board were to deny the request, the applicant can still construct the addition and remodel but it would have to be with another building material other than wood. He also noted Type 5 construction is allowed throughout the state but the city has stricter guidelines. Mr. Schneider advised that the residents do have the ability to exit the structure in the event of an emergency as they have limited abilities and are mobile.

Mr. Hatgas, 1032 Cahoon, sworn in by Mr. Maloney, opposed the request as he stated they were not reliable, left trash can out, did not maintain the property and questioned the actual number of residents that will reside in the house.

Correspondence from: Susan Wolfgang, 1160 Cahoon Road – opposed to a rezoning

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 – yes
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 the use of Type 5 Construction.

ROLL CALL:

Yeas: Alfred, Basel, Nolde, Lamb, Swisher

Nays: None, motion carried

Docket: Jacob and Kelly Bowman 2022-30

24680 Hilliard Blvd., PP#21325027, Ward 1

*Requesting to install a 5’ tall wood fence in the side yard of a corner lot 10’ from the planned right-of-way line. 1211.04(b)(3): fences may be permitted along the side lot lines except on a corner lot, no fence shall be located within 25’ from the planned right-of way line; **a 15’ setback variance.***

Mr. Bowman, sworn in by Mr. Maloney, explained his property is only 77’ wide so a fence setback 25’ would reduce the amount of space in his rear yard. There is an existing row of arborvitae along the side walk and the proposed fence will be located approximately 4’-5’ off the arborvitae and will not be located between the sidewalk and the arborvitae. The fence will be located behind his house so it will not be by the intersection and will not impede the line of sight.

Members of the board reviewed the proposal noting two styles of board on board fences were submitted in the application, the setback of the arborvitae from the sidewalk and location of the fence. Mr. Bowman stated the arborvitae are approximately 5’-6’ off the sidewalk and they have not decided which style of fence to install but both are very similar board on board designs.

Correspondence from: Marty and Debbie Jones, 24660 Hilliard Blvd. – no objections

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 – yes
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 Ms. Alfred to approve a 15’ setback variance.

ROLL CALL:

Yeas: Alfred, Basel, Nolde, Lamb, Swisher

Nays: None, motion carried

Docket: Bernie Garrah 2022-31

2968 Waterfall Way, PP#21604061, Ward 6

*Requesting to install a pool 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 variance to allow a pool in the side yard.***

Mr. Garrah, sworn in by Mr. Maloney, explained due to the location of the house on the corner lot a portion of the pool is considered to be in the side yard. It will be located behind the house and there will be a fence and landscape that will screen any view of the pool area. The pool equipment will be in an alcove behind the garage by the air conditioner, which is in the rear yard so a variance is not needed. The proposed location is the only place a pool can be constructed. The house when built was setback off the street and close to the rear and side property lines so there is limited room in his rear yard. He reviewed the site plans, renderings and photos of the property.

Members of the board reviewed the proposal and advised the applicant that a variance is not being granted for the pool equipment and must remain in the rear yard as proposed.

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. Nolde to approve a variance to allow a pool in the side yard.

ROLL CALL:

Yeas: Alfred, Basel, Nolde, Lamb, Swisher

Nays: None, motion carried

Docket: David and Lasonya Hawkins 2022-32

22990 Westwood Rd., PP#21431007, Ward 1

Requesting to install a 5’ high fence in the front yard. 1211.04(b)(1): Ornamental fences shall be permitted in the front yard to a height of not more than 2.5’ above the average finished grade; 2.5’ height variance.

Mr. Hawkins and Mr. Hebble were sworn in by Mr. Maloney. Mr. Hebble reviewed the proposal for a 5’ tall fence in the front yard. He explained the applicant’s house is setback 200’ from the street and is behind the neighbor’s home that are only setback 80’ from the street. The fence will be located behind the neighbor’s homes and will start at the same point as the neighbor’s rear yard fence and extend around the driveway, across the yard and to the location of the other neighbor’s fence. They wish to have the fence to keep their children and dog in the yard and wish to enclose this area in the front yard so they will easily be seen. The property is wood and they have safety concerns in the rear yard due to wildlife. The overall height of the fence is 5’ with a lattice design at the top and the board will be spaced apart so there is some visibility between the boards and is not solid.

Members of the board discussed the fence location, the proposed gate across the driveway and fence design.

Ms. Krause, 23025 Westwood Rd., sworn in by Mr. Maloney, stated she was opposed to the style of fence and another type with more transparency should be used, she will see the fence out her front window and did not want to look at a solid fence, she was not opposed to the height or location just the type of fence proposed. Mr. Hebble stated the fence will be 118’ off the street and will weather so it will blend with its surroundings. Ms. Krause stated that it would be years before the fence would weather and was opposed to the style of fence as a more open style could be used that will keep children and pets in.

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 – 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. Nolde moved, seconded by Ms. Alfred to approve a 2.5’ height variance.

ROLL CALL:

Yeas: Alfred, Basel, Nolde, Lamb, Swisher

Nays: None, motion carried

Docket: Greg Rufus 2022-33

Hilliard Blvd., PP21625008, Ward 6

Requesting to construct a single-family home with two garage areas totaling 1,998 sf.

*1211.04(a)(2): on single family lots private garages shall be limited to one garage area, and on lots sized 40,000 sf or more the area is limited to 1,200 sf; **a variance to allow two garage areas, and a 798 sf area variance.***

Mr. Schill, sworn in by Mr. Maloney, explained the proposal for a porte cochère style garage with the total area of the two garage spaces to be 1,998 sf. He stated the lot is 250’ wide with an area of 70,387 sf (1.6 acres), which is more than three times a standard lot in Westlake. He reviewed the design, which will have garage door and entrance to the garage on the rear side and not facing the street. From the street the garage areas will look like part of the house due to the design. The house is on property adjacent to Lakewood Country Club and there are deed restrictions that prohibit accessory buildings on the property. The applicant would like a larger garage space for vehicles and the storage of yard equipment and other items, such as bikes. There will be parking behind the house in the location of garages. The garage design has an angle due to the design and placement on the lot, which is part of the increased the area. He reviewed the site plan and design.

Members of the board discussed the proposal: on a 40,000 sf lot a 1,200 sf garage is permitted; due to the size of the lot the proposed porte cochère fits the scale of the lot; the lot is unique and is almost estate size; from the street the garage areas will look like they are part of the house and not garages and there are no garage doors facing the street.

Mr. Henry, 29645 Hilliard Blvd., sworn in by Mr. Maloney, stated he lives across the street, the house is too close to the street and too big, as well as other items that were not relevant to the variances before the board. Mr. Schill advised the setback is 75’ not the standard 25’ and the size of the house complies with lot coverage.

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 due to the size of the lot
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 – yes
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 variance to allow two garage areas.

ROLL CALL:

Yeas: Alfred, Basel, Nolde, Lamb, Swisher

Nays: None, motion carried

Motion: Ms. Nolde moved, seconded by Ms. Alfred to approve a 798 sf area variance.

ROLL CALL:

Yeas: Alfred, Basel, Nolde, Lamb, Swisher

Nays: None, motion carried

MISCELLANEOUS

None

APPROVAL OF MINUTES

Motion: Ms. Alfred moved, seconded Ms. Nolde by to approve the minutes of the August 30, 2022 Board of Building and Zoning Appeals hearing.

ROLL CALL:

Yeas: Alfred, Basel, Nolde, Lamb

Abstain: Swisher

Nays: None, motion carried

ADJOURNMENT

Mr. Baesel adjourned the meeting at 8:40 P.M.

Bryan Basel, Chairman

Clerk of Commissions Nicolette Sackman, MMC

Approved: _____