

LIBERTY TOWNSHIP BOARD OF ZONING APPEALS

June 12, 2018

6:00 PM

MEETING MINUTES

The Board of Zoning Appeals was called to order at 6400 Princeton Road, at approximately 6:00 P.M. by Mr. Andrew Schweier, Chairman. The Pledge of Allegiance was recited.

Upon call of the roll, members in attendance were: Mr. Robert Bertsch, Mr. Richard McKinney, Mr. Andrew Schweier, Mr. Robert Rogers and Mrs. Brienne Fey. Also in attendance was Bryan Behrmann, Director of Planning and Zoning and Karla Chaney, Zoning Specialist.

Mr. Schweier reviewed the hearing procedures and performed a group swearing in.

Mr. Schweier called for the first case.

Mr. Behrmann presented the staff report and PowerPoint Presentation for case **BZA#18-011**, Robert and Cynthia Lagory, 5111 Maud Hughes Road, requesting a reduced front yard building setback for a new residence.

Mr. Behrmann explained that on July 12, 2016 a front yard setback variance was approved by the Board of Zoning Appeals, but pursuant to Section 3.7.5(2) of the Liberty Township Zoning Resolution the variance becomes null and void if a zoning certificate is not obtained for the improvement. Therefore, the variance that was approved in 2016 is expired. The applicant, who is a new property owner, requested approval for a reduced front yard building setback from the required 100' minimum setback to 105' from the east property line (75' from the right-of-way) and 70' from the north property line (40' from the right-of-way). The proposed setback to the east is 45' greater than what was approved in 2016, and the proposed setback to the north is 10' greater than what was approved in 2016. Therefore, the applicant was requesting less of a variance to both property lines than what was approved in 2016.

Mr. Schweier asked if there were any questions for staff.

Mr. Bertsch remembered the 2016 case and recalled there was some question on how the septic system would work. Mr. Behrmann explained that the case was tabled in 2016 for this reason but the applicant had come back with approval of their septic system. The current applicant does have approval for the septic system from the Butler County Health Department.

Mr. Rogers asked for clarification on the changes from the approved 2016 variance as to what the new owner was requesting. Mr. Behrmann explained that the house moved further West out of the required setback and therefore they would no longer need a variance for this side and the only variance they need was the North property line. The requirement is 100' and they requested 70'. The previous was 60' so they moved it 10' further away from the property line.

Mr. Schweier asked to hear from the applicant.

Bob Lagory (5111 Maud Hughes Road, Liberty Township) explained that they were building a comparable house to the surrounding area and that the house would look nice sitting on the corner.

Mr. Schweier asked if anyone would like to speak in favor of the variance. There were none.

Mr. Schweier asked if anyone would like to speak in opposition of the variance. There were none.

Mr. Schweier **CLOSED THE PUBLIC HEARING** for BZA#18-011 and the Board began their deliberations.

Mr. Schweier said for him it was pretty simple. Most of us were on the Board when the original variance was presented. The property has very limited means due the setbacks. He said this is less of variance than in 2016 and he did not have any objections to it then.

Mrs. Fey did not recall being present for the original case so this was a new case for her. She believed that Board in 2016 did take everything into consideration. She did not foresee any problems.

Mr. Rogers said he thought the hardship was the nature of the property itself in relationship to the road.

Mr. McKinney made a motion for BZA#18-011 to **APPROVE** the variance request for the reduced front yard setbacks with staff's recommended conditions. Mr. Schweier second the motion. Upon call of roll: Mr. McKinney – yes; Mr. Schweier – yes; Mr. Rogers – yes; Mrs. Fey – yes; Mr. Bertsch – yes. The motion passed and the request was approved.

Mr. Schweier called for the next case.

Mr. Behrmann called the second case **BZA#18-012**, 5530 Horseshoe Bend Road, the applicant was not present.

Mr. Schweier recommend that the case be tabled to allow the applicant the opportunity to return next month.

Mr. Behrmann recommended that the Board move the case to the end of the meeting to allow the applicant more time to appear and if the applicant still wasn't present, then they could table it.

Mr. Behrmann presented the staff report and PowerPoint Presentation for case **BZA#18-013**. Matthew Moubray, 7122 Lesourdsville West Chester Road for an accessory structure that exceeds the maximum 960 square feet on a 1.6470-acre lot, and also exceeds the maximum 16' height allowed.

Mr. Behrmann explained that applicant was proposing a 32'x34' detached garage with the height of 20' in the rear yard which is 1,223 square feet in size and therefore, the applicant was requesting a 263 square foot variance and a 4' height variance.

Mr. Schweier asked if there were any questions for the staff.

Mr. Rogers asked if the buffer was part of the adjacent development or was it on the applicant's property. Mr. Behrmann explained that most of the buffer was the applicant's property. Mr. Rogers wanted to know if the subdivision had a buffer requirement. Mr. Behrmann explained that the subdivision was zoned straight residential and there were no buffer requirements. Mr. Behrmann suggested that if the variance is approved, a condition be included that reads as follow: "The use of the detached garage shall be for personal use only. At no time shall it be permitted for business use, nor for the storage of any business related equipment".

Mr. Schweier asked to hear from the applicant.

Matt Moubray (7122 Lesourdsville West Chester Road) explained that the building would have a brick front to match the existing home and the sides and rear would be concrete hardi-plank to match the trim on the home. The doors would be fiberglass or steel with a woodgrain finish. Mr. Moubray had spoken with his neighbors. The driveway would be extended approximately 40'. The building was designed to match the home by adding dormers. He did take into consideration other locations on his property. The building is to store his boat and other personal vehicles. He currently stores his boat at the Butler County Fairgrounds and it's not very secure. He had no desire to run a business from his home.

Mr. Schweier asked applicant how far building would be from the rear of his home to the front of the building. Mr. Moubray stated that the drive extends 3 feet from the rear of the home therefore the front of the building would be approximately 37 feet. Mr. Schweier asked the applicant if he had spoken with Butler County in regards to pouring concrete over the easement. Mr. Moubray spoke with Butler County and was told there is nothing in place to prohibit him from pouring the concrete. Mr. Moubray is aware of the risk of replacing the driveway if the easement ever needed to be disturbed.

Mr. Rogers asked what the hardship was in the size and height of the proposed building. Mr. Moubray stated that the depth was needed to accommodate the size of the boat on its trailer. The remaining design was to match the pitch of the house.

Mr. Schweier asked what the height of the garage door was. Mr. Moubray stated the door is 12 foot tall. Mr. Schweier asked if the drawing to scale. Mr. Moubray said no.

Mr. Bertsch asked if the applicant spoke to the adjacent homeowners. Mr. Moubray said he had spoken to all homeowner except one, however that homeowner was completely obscured by a dense tree line.

Mr. McKinney had a question for the staff. Did letters go out to all the neighbors? Mr. Behrmann said yes.

Mr. Rogers wanted to clarify the reason why there was a need for the additional square footage and height. The height was needed to get the boat in building but the added square footage was needed to make it more aesthetic.

Mr. Schweier asked if anyone would like to speak in favor of the variance. There were none.

Mr. Schweier asked if anyone would like to speak in opposition of the variance. There were none.

Mr. Schweier **CLOSED THE PUBLIC HEARING** for BZA#18-013 and the Board began their deliberations.

Mr. Schweier did not hear a hardship in general for the additional size garage but did see the easement as a potential hardship. Without the easement hardship Mr. Moubray would have been able to build a breezeway which would allow him to build any size of a garage.

Mr. Bertsch noted that the building could be built to the square footage requirements but that it would be less aesthetic to the community.

Mr. McKinney agreed that the hardship is the easement. Without the easement he would have been able to build the breezeway to attach the garage.

Mrs. Fey asked with the breezeway could the applicant build any size garage. Mr. Behrmann stated as long as it met the setbacks for a principle structure.

Mr. Schweier made a motion for BZA#18-013 to **APPROVE** the variance request with staff's recommended conditions for a detached garage that exceeds the maximum height of 16' and 960 square feet on a 1.6470 acre lot. Mr. McKinney seconded the motion. Upon call of roll: Mr. Schweier – yes; Mr. McKinney – yes; Mr. Bertsch – yes; Mr. Rogers – yes; Mrs. Fey –yes. The motion passed and was approved.

Mr. Schweier called for the next case.

Mr. Behrmann presented the staff report and PowerPoint Presentation for case **BZA#18-012**, Sam David, on behalf of Daoud Real Estate, who was requesting a variance for a reduced 50' parking lot setback requirement to 10' along the northern property line and 25' along the southern property line, and a second variance to reduce the 50' buffer requirement to 10' along the northern property line and 25' along the southern property line. This variance also included a reduction in the required mounding and landscaping.

Mr. Behrmann explained that on December 8, 2015, the Board of Zoning Appeals granted the same two proposed variances, but pursuant to Section 3.7.5(2) of the Liberty Township Zoning

Resolution, the variance becomes null and void if a zoning certificate is not obtained for the improvement. Therefore, the variances that were approved in 2015 are expired.

Mr. Schweier asked if there were any questions for staff.

Mr. Rogers asked what the previous hardship was. Mr. Behrmann stated the property was very narrow.

Mr. Schweier asked to hear from the applicant.

Sam David (4363 Hamilton Middletown Road Liberty Township OH 45011) stated that he was with Daoud Real Estate and LaRosas. Mr. David acknowledged they had received approval in 2015 and that they did not move forward because they thought they could alleviate some pressure off the Liberty Twp. location by using another store but realized that did not work. Mr. David was requesting the exact same variances that he requested before so he could move forward and eventually expand the building to add an additional pizza station. The hardship was the narrowness of the property and its odd shape.

Mr. Schweier asked if the board had any questions for the applicant.

Mr. Bertsch wanted to know if they have a plan for the remaining portion of the land. Mr. David said not at this time most likely green space. Mr. Bertsch asked if the parking lot was going to have lights. Mr. David said yes. Mr. Bertsch was concerned about distance from the residential neighbors. Mr. David said they were more willing to work with the zoning office to reach an agreement.

Mr. Schweier did not call for anyone in favor or opposition because there was no one in the audience.

Mr. Schweier **CLOSED THE PUBLIC HEARING** for BZA#18-012 and the Board began their deliberations.

Mr. Schweier asked Mr. Bertsch if he had any preferences on the wording for the lighting condition. Mr. Bertsch said no, refer it back to the staff. Mr. Schweier agreed to let the staff refer back to the original case and make the lighting determinations.

Mr. Schweier stated his was on the Board when the original case was heard. He has no issues.

Mrs. Fey stated agreed that the dimension and residential property on the north edge was the hardship.

Mrs. Fey made a motion for BZA#18-013 to **APPROVE** the requested variances with staff's recommended conditions and one additional item to require the parking lot lighting to be approved the same way as in 2015. Mr. Bertsch seconded the motion. Upon call of roll: Mrs. Fey – yes; Mr. Bertsch – yes; Mr. McKinney – yes; Mr. Rogers – yes; Mr. Schweier – yes.

Mr. Schweier made a motion to **APPROVE** the Notices of Decision from the May 8, 2018 meeting as provided by the staff. Mr. McKinney seconded the motion. Upon call of roll: Mr. Schweier – yes; Mr. McKinney – yes; Mr. Rogers – yes; Mrs. Fey – yes; Mr. Bertsch –abstain.

Mr. Schweier made a motion to adjourn. Upon call of the roll, the motion passed unanimously and the **BOARD OF ZONING APPEALS MEETING ADJOURNED.**

Respectfully submitted,

Andrew Schweier, Chairman

Bryan Behrmann, Secretary