

RECORD OF PROCEEDINGS

Minutes of

Danbury Township Board of Zoning Appeals

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held

May 16,

2018

The Danbury Township Board of Zoning Appeals was called to order at 6:30 p.m. by Chair, Sherry Roberts, at the Danbury Township Hall. The Pledge of Allegiance was recited. The roll call showed the following members present: Mr. Joe Fetzer, Mrs. Loretta Grentzer, Ms. Sherry Roberts, Ms. Sharon Michael, and alternate Ms. Cathy Bertovich. Mr. Brad Bauer was excused. Also present were Kathryn Dale, Zoning & Planning Administrator, Cheryl Harmsen, Administrative & Zoning Assistant. Visitors present were Peter Corrado, Richard Kracer and Mark Moore.

Ms. Dale read the rules of order for the meeting proceedings.

The Chair asked Mrs. Harmsen if all the documents relating to the case had been received and were in proper order. She indicated that they were. The Chair swore-in the Zoning and Planning Administrator, Kathryn Dale.

The Chair asked Mrs. Harmsen to introduce the first case of the evening.

Adjudication Hearing
Case BZA #2018-059
8581 Hartshorn Road

Request for an Area Variance from Section 3.1.1.D to allow for an attached garage addition to be 42' from the west, front property line where 50' is required. Mark & Denise Moore, Owner/Applicant.

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing. There were none.

Mr. Fetzer moved and Ms. Bertovich seconded the motion to open the public hearing. All were in favor and the motion carried.

The Chair asked the Zoning Administrator to give an overview of this application. Ms. Dale stated this application is to construct a 24' x 32' attached garage onto the existing single-family home. The existing property is essentially a corner lot due to the curved road and has two front-yards. According to the permit taken out in 1998 when the house was built, the house was supposed to be placed at least 70' from the west property line and was actually placed 74' from the property line. The proposed garage as shown would encroach into the west, front-yard setback by 8'. It was discussed with the applicant about possibly rotating the proposed garage so that the setback would be met, but they expressed that they do not wish to have the garage doors facing directly onto the street and want this to be a side-entry garage.

The area around this property is owned by the Quarry or are low density, sparsely developed parcels with single-family homes. The placement of the proposed garage will not impede vehicular traffic's ability to see around this curve.

The owner has indicated that the existing pole barn is used to store items from his plumbing business, thus there is not enough room in that building for his wife's vehicle and part of the reason they are looking to add this attached garage. There is no home occupation permit for this property, but the owner may use his garage as he pleases, so as long as the business is not operating from the building and property and it is not a gathering point for any employees.

Ms. Dale reviewed the decision criteria the Board would be considering.

Applicant/Owner Mark Moore came forward and was sworn in. Mr. Moore reviewed the paperwork and stated it was as he submitted. Mr. Moore shared he needed the extra 8' to store a trailer. The building would be attached.

Mrs. Grentzer stated the zoning requirements could be met if the doors faced the street. Mr. Moore stated he wants to eliminate the south driveway because currently, people are using the U-turn to turn around. Discussion centered around the orientation of the building and driveways. Mr. Moore stated the south driveway will be eliminated and the north driveway entry will remain.

Ms. Roberts asked if the variance would be denied, would he still build this garage. Mr. Moore answered it would be smaller, enough room for a truck and car. Ms. Roberts asked the location of the trailer. Mr. Moore answered outside, sitting next to the barn.

Richard Kracer, 790 S. Hartshorn came forward and was sworn in. Mr. Kracer shared he was formerly a BZA Board Member for 10 years. Mr. Kracer stated this property was originally owned by Standard Slag, then sold to one of their employees and now was purchased by the Moore's. North and east of this property is owned by Standard Slag, and he owns property to the south and west. Being 300 yards away, he is the closest neighbor. Mr. Kracer stated he has no objection to the Moore's putting a garage up. This lot is a corner lot but on the same road. An 8' intrusion is not major. Mr. Kracer stated many of the variance requests are for setbacks, maybe that could be looked at and possibly the requirements could be tweaked. Mr. Kracer indicated that there is a provision in the code

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to apply a reduced setback on one side of a corner lot. Ms. Dale stated that this property is on a continuous curve in the road, so it's not really a true corner lot, but it is similar to a corner lot.

There was no one else with standing who wished to testify.

Mr. Fetzer made a motion to close the public comment segment of the hearing, seconded by Mrs. Grentzer. All were in favor and the motion carried.

Mr. Fetzer motioned to recess into executive session to deliberate the merits of the case. Ms. Bertovich seconded the motion and the roll call vote was as follows: Ms. Bertovich – yes; Mrs. Grentzer – yes; Mr. Fetzer – yes; Ms. Roberts – yes; Ms. Michael – yes. The motion carried and the Board recessed at 6:47 pm.

Mr. Fetzer moved and Mrs. Grentzer seconded the motion to reconvene. The roll call vote was as follows: Mr. Fetzer – yes; Ms. Bertovich – yes; Ms. Roberts – yes; Mrs. Grentzer – yes; Ms. Michael – yes. The Board reconvened at 7:02 p.m.

The Chair asked Mrs. Harmsen to read the Findings of Fact for the Appeal request BZA Case #2018-059:

With regard to the request for an Area Variance to Section 3.1.1.D to allow for a 24' x 32' attached garage addition to be located 42' from the west, front property line where 50' is required for the property located at 8581 Hartshorn Road:

1. The property in question **will** yield a reasonable return or **can** be used beneficially without the variance because the property can continue to be used as a single family residence.
2. The variance is **not** substantial because the encroachment into the front yard setback impacts no one and will not impair visibility for traffic.
3. The essential character of the neighborhood **would not** be substantially altered by the variance and adjoining properties **would not** suffer a substantial detriment as a result of the variance because there are no adjoining properties.
4. The variance **would not** adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because they currently exist.
5. The property owner **did not** purchase the property with knowledge of the zoning restriction.
6. The property owner's predicament **can** feasibly be obviated through some method other than a variance because there are other options on placement.
7. The spirit and intent behind the zoning requirement **would** be observed and substantial justice done by granting the variance because it has no impact on others and the encroachment is not substantial.

Mrs. Grentzer moved that the Board adopts and makes the findings of fact as read by the recording secretary and that after considering and weighing these factors, the Board finds that Decision Standards(s) (2) (3) (7) weigh more heavily to show that:

- a. Practical difficulty is sufficient to warrant granting the Variance requested.
- b. There is a preponderance of reliable, probative and substantial testimony; and
- c. There is evidence that **supports** the applicants request for a variance.

Therefore, the Variance should be accordingly **APPROVED**.

Motion Seconded by: Mr. Fetzer. Roll Call Vote was as follows: Mr. Fetzer – yes; Ms. Michaels – yes; Mrs. Grentzer – yes; Ms. Bertovich – yes; Ms. Roberts – yes. Vote 5-0 the motion passed.

The Chair stated the application has been Approved. The appellant may pick up their permit following the approval of the meeting minutes of this case next month.

Signing of Decision Sheets

The Chair requested a motion for approval of the decision sheets. Ms. Dale stated there are 2 decision sheets for this case.

- a. **BZA-2018-022 530 Cedar.** Request for an Appeal of The Zoning Inspector's Decision in reference to Section 5.2.2.B regarding compliance with parking requirements when more than 50% of the structure is enlarged, rebuilt, or altered and Section 7.9.6 to allow for the voluntary removal, alteration and demolition of more than 75% of the reproduction value of the

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structure. Should the Appeal fail, the applicant subsequently requests an Area Variance from Section 7.9.6 to rebuild the single-family home in the same location where an additional Area Variance from Section 3.1.5.D is necessary for the south, side-yard setback (0.3' proposed/3' required). Area Variances are also requested from Section 5.2.2.B, 5.2.1.A & 5.2.4 where 2 off-street parking spaces are required as result of more than 50% of the floor area of the home being modified (0 space proposed). **John Coppeler, Esq., Agent/ Milton Lewis & Jerri Lybarger, Owner/ Applicant.**

Ms. Bertovich motioned to Approve. Mrs. Grentzer seconded. Voice Vote: All in Favor. None Opposed. Motion carried.

Approval of April 18, 2018 Board of Zoning Appeals Meeting Minutes

Mr. Fetzer made a motion to approve the April 18, 2018 meeting minutes, Ms. Michael seconded. All were in favor and the motion carried.

Old Business

There was none.

New Business

Ms. Dale stated the ZC and BZA training worksession has been scheduled for 6:00 pm May 30th.

Other Business

There was none.

Reports and Communications from Members and Staff

There was none.

Adjournment

Mr. Fetzer moved to adjourn the meeting and Ms. Bertovich seconded the motion. All in attendance were in favor and the motion carried.

The meeting was adjourned at 7:10 pm.

Cheryl Harmsen
RECORDING SECRETARY

Cathy Bertovich
S.I. Michael
Loetta Grentzer
John Coppeler

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