

RECORD OF PROCEEDINGS

Minutes of

Meeting

Danbury Township Board of Zoning Appeals

BEAR GRAPHICS 800-325-8094 FORM NO. 10148

Held

August 18, 20 21

The Danbury Township Board of Zoning Appeals was called to order at 6:30 p.m. by the Chair, Joseph Fetzer, at the Danbury Township Hall. The Pledge of Allegiance was recited.

The roll call showed the following members present: Chair, Joseph Fetzer, Vice-Chair, Loretta Grentzer, Ms. Lisa Bauer, Ms. Sherry Roberts, and Alternate, Ms. Patty Zsigo. Mr. Clyde Shetler and Alternate, Mr. Gregory Huffman were excused. Also, present was Kathryn Dale, Zoning & Planning Administrator. Visitors present were Andy Wozniak & Peter Corrado.

Ms. Dale read the rules of order for the meeting proceedings. The Chair asked Mrs. Dale 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. Dale to introduce the first case of the evening.

Adjudication Hearing
Case BZA #2021-156
2251 Commodore Court
Fitzgerald

Request for an Area Variance from Section 3.5 to allow for a sunroom addition to encroach into the required rear-yard setback (18'2" proposed/25' required).

The Chair asked if there were any Board members who would have a conflict and wished to abstain from this hearing. There were none. Ms. Roberts moved, and Ms. Grentzer 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 the applicant is proposing to construct a 14' x 14' sunroom addition and 6' x 14' deck that will be 18'2" from the rear property line (or encroach by 6' 10"). Commodore Bay Subdivision was platted in 1989 under the current "R-3" High Density Residential zoning requirements of 25' front & rear-yard setbacks and 5' from each side-yard. The house was built on this lot around 1998 and sits slightly farther back on the lot than other homes on the same side of the street. There is currently 7' available to put an addition on and meet the setback requirements. There as only ever been one (1) rear-yard setback request made in this neighborhood which was denied for a deck in 1995. In 2012, there was a side-yard setback request made in this subdivision for a garage addition which was approved. Ms. Dale concluded by reviewing the decision criteria the Board would be considering during their deliberations.

The Chair asked if the Board Members had any questions for Ms. Dale. There were none.

Andy Wozniak, Agent on behalf of the Owner with Great Day Improvements, 700 E. Highland Road, Macedonia, Ohio was called upon, came forward and was sworn in. Mr. Wozniak reviewed the paperwork and stated it was as they had submitted. The Chair invited Mr. Wozniak to provide his testimony.

Mr. Wozniak stated he had an aerial photograph of the property showing the addition onto the house that Ms. Dale had provided them. Ms. Dale said that could be entered into the record as Exhibit 3. He also said he had four photographs of 3D perspectives on what the addition would look like. Ms. Dale said those would be entered into the record as Exhibit 4, A-D.

Mr. Wozniak said they are looking to build a sunroom for the Fitzgerald's, which will be 14' x 14' with a 6' composite deck off of it. He said it will be glass walls from floor to ceiling. He said they do not believe it would impede on any neighbor's sight lines. To the back of the property is an access road and mailboxes to the neighboring subdivision and there is no residence behind the Fitzgerald's house. He said the owner's feel this will not infringe on anyone. Mr. Wozniak commented that it will be a 3-season room.

Ms. Roberts asked Mr. Wozniak to show them his photo's he mentioned before. Mr. Wozniak said yes and asked that they pass then down.

Mr. Fetzer asked if there were any questions from Board Members. Ms. Grentzer said to confirm, that the area behind this house doesn't appear as though there will ever be a house or anything there. Mr. Wozniak said he would agree with that since it's a street into the next neighborhood.

Mr. Fetzer asked if there was anyone with standing who wished to testify. There were none.

Ms. Zsigo made a motion to close the public comment segment of the hearing, seconded by Ms. Bauer. All were in favor and the motion carried.

Ms. Roberts motioned to recess into executive session to deliberate the merits of the case. Ms. Grentzer seconded the motion, and the roll call vote was as follows: Ms. Zsigo – yes; Ms. Bauer – yes; Ms. Roberts – yes; Ms. Grentzer – yes; Mr. Fetzer – yes. The motion carried and the Board recessed at 6:45p.m.

Ms. Roberts moved, and Ms. Zsigo seconded the motion to reconvene. The roll call vote was as follows: Ms. Zsigo – yes; Ms. Bauer – yes; Ms. Roberts – yes; Ms. Grentzer – yes; Mr. Fetzer – yes. The Board reconvened at 6:57p.m.

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The Chair asked Ms. Dale to read the Findings of Fact for BZA Case #2021-156:

With regard to BZA-2021-156 being a request for an Area Variance from Section 3.5 to allow for a sunroom addition to encroach into the required rear-yard setback (18'2" proposed/25' required) for the property located at 2251 Commodore Court:

1. The property in question **will** yield a reasonable return and **can** be used beneficially without the variance because the property can continue to be used as a single-family residence and there is space available to make improvements to the home.
2. The request **is not** substantial because there is a vacant lot to the north and a 50' dedicated road right-of-way behind, or to the east of this property for the Bay Winds MHP.
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 for the same reason aforementioned in #2 above.
4. There is **no** indication the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because all utilities are available to the property.
5. The property owner states they **were** aware of the zoning restrictions at the time they purchased the property.
6. The property owner's predicament **cannot** feasibly be obviated through some method other than a variance because to make it smaller would negatively affect the functionality of the space.
7. The spirit and intent behind the zoning requirement **would be** observed and substantial justice done by granting the variance because the addition would not negatively impact surrounding properties.

Ms. Bauer 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) (6) (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 **does** support the applicants request for a variance.

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

Motion Seconded by Ms. Roberts. Roll Call Vote was as follows: Ms. Zsigo – yes; Ms. Bauer – yes; Ms. Roberts – yes; Ms. Grentzer – yes; Mr. Fetzter – yes. Vote 5-0 the motion passed. The Chair stated that the application has been approved, the Board has decided to sign the decision sheet this evening yet, so the applicant can pick up permits anytime tomorrow or thereafter.

Approval of July 21, 2021, Board of Zoning Appeals Meeting Minutes

Ms. Roberts made a motion to approve the July 21, 2021, meeting minutes as presented. Ms. Grentzer seconded the motion. All were in favor, motion carried.

Signing of Decision Sheets

Ms. Roberts motioned for approval of the decision sheet as presented. Ms. Grentzer seconded. All were in favor and the motion carried.

- a. **BZA-2021-156 2251 Commodore**. Request for an Area Variance from Section 3.5 to allow for a sunroom addition to encroach into the required rear-yard setback (18'2" proposed/25' required). **Patrick & Joan Fitzgerald, Owner/ Applicant; Great Day Improvements, Ryan Bell, Agent.**

Old Business

Ms. Grentzer asked about the garage being built on Bayshore Road and said she has received more negative comments than she ever has on a project. Ms. Bauer asked if this Board approved that? Ms. Grentzer agreed that it is big, and she thinks she was present for that hearing, but she's not sure, but she thought it was supposed to be a shed. Mr. Fetzter said he thinks she was there. Ms. Grentzer asked if they are claiming the front of their house is the water? Ms. Dale said yes. Ms. Grentzer said, so therefore the back of their house is the street side. Ms. Dale said yes. Mr. Fetzter said he had someone comment to him also how out-of-scale it looked along that road, but he said he thinks a lot of it is because of how close to the road it is. Ms. Grentzer said she thought they were giving permission for a

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shed, which this is not a shed. She asked if what they are building is what they asked for. Mr. Fetzer said yes, they were asking for a pole barn. Ms. Dale said there were two similar cases on that agenda, this property they are talking about and one across the street. The one across the street was an addition onto an existing barn that was at the rear of the barn. Both were to exceed the square footage allowance. She said placement was never an issue with this particular barn because it met the minimum requirement of 20' from the north property line. Ms. Grentzer asked how one determines that the water is the front of the house? Ms. Bauer said she was wondering too. Ms. Dale explained that setbacks are taken from property lines; how a person then decides to position that house on the property meeting those setbacks is up to them, they could build the house up-side-down if they chose too, so as long as all the setbacks are met. She said there are many instances where the front door doesn't face the street that the house is given an address to. She gave Sand Road on Catawba as an example too, where nearly all those people refer to their "front" as the water/lake-facing side, but they're accessed from the road. Ms. Grentzer said these properties should really have Sandusky Bay addresses since their 'front' faces the Bay. She said her own house faces the water, but what everyone calls their front is what faces the street. Ms. Dale said that is because she is not technically waterfront property, but that Ms. Grentzer just gave an example of what she's trying to explain. Ms. Grentzer refers to her front as the part of the house that faces the water, but her zoning front is the part that faces the road and is where her address is given. Mr. Fetzer said he's in a similar situation, where his address is given is based on one street, but that is no longer his "front" door because a sunroom was put on, so his technical front door faces another street, which is not the street his address is based on. Ms. Dale shared she doesn't even have a front door facing the street; her front door faces the side yard and the driveway.

Ms. Dale said this optional "front-yard/rear-yard" is only for waterfront properties. Corner lots have the option to call a non-street facing side of the property a "rear-yard or side-yard". Ms. Dale said another reason people call the water their front is that accessory buildings are only allowed to be placed in the side or rear yard. So, if they called the street their front, then these accessory buildings would have to be placed between the house and the water, and no one wants to block their water view. So, by calling the water their front, the street becomes the rear, and a detached building is then permitted between the street and the house, which is what every other property has done next to the one in question. Ms. Grentzer said she recalled a case where a 100-year-old barn had to get a variance so the owner could build their house behind the barn. Ms. Dale said that's correct, but where that barn was located wasn't waterfront property, so they had no choice. Ms. Grentzer commented that she thinks this one on Bayshore is a monstrosity. Ms. Dale asked if it's a monstrosity because it's over the 1,200s.f. or because of where it was placed. Members agreed because of its placement being too close to the road. Ms. Dale said it's just not set back as far as the neighboring detached buildings, so it seems very out-of-place; but it meets the minimum zoning setback requirement. The location was never an issue and did not have to receive a variance.

New Business

There was none.

Other Business

Ms. Grentzer asked if a permit was issued to a residence on S. Brooke Circle to build a shed. Ms. Dale said yes.

Ms. Dale shared that there are possibly five (5) cases for next months meeting. She said she is sharing this only because they will likely start the meeting as early as 5:00p.m. Ms. Roberts said she'd like the Board to look at what's happening with the Delta variant and Covid. Ms. Roberts said if there's going to be a lot of people here next month, she'd like to either go online, require masks or set the room up differently. Ms. Roberts said she'd really like to go back to Zoom for the winter because she doesn't see this getting any better. Ms. Dale said that was a decision she'd have present to the Trustee's because that is not a decision she alone can make. Ms. Dale said some applicants for next month likely would not be able or are not familiar with Zoom and she won't have enough time to give people a heads up about it. Ms. Roberts asked if they could do a hybrid, some on Zoom and some in person. Ms. Dale said that would be a technical nightmare for her since she needs her computer to prepare their decisions and then try to run a meeting in person and Zoom at the same time with WiFi that doesn't not reach the meeting room well. Ms. Roberts asked if they could tell people to wait in their cars until their hearing. Ms. Dale said she can't be at the table to help run the meeting and be a door bouncer. Ms. Roberts said she supposes they can't really prevent someone from coming in either since these are public hearings. Ms. Dale said that is correct.

Ms. Dale said they can space the hearings out to allow enough time between cases so there isn't a full room of people, but if we do that, the Board has to be very good about keeping things moving along, because if they take too long on one case, it messes everything up after that and then people start piling up. Ms. Roberts asked if we could ask if they've been vaccinated or require that people wear a

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mask. Ms. Dale said no since there are no mandates in place, but she can put in the notices that masks are preferred and if they're all wearing masks like they are this evening, it helps set the tone. Ms. Dale said she will also set the room up differently to help space everyone out more as well.

Reports and Communications from Members and Staff

There was none.

Adjournment

Ms. Roberts moved to adjourn the meeting and Ms. Zsigo seconded the motion. All in attendance were in favor and the motion carried.

The meeting was adjourned at 7:29p.m.

Kathryn A Dale
RECORDING SECRETARY

Lisa Bauer
Greg R. Fitch
Janetta Greenlee
Sherry Roberts

BOARD OF ZONING APPEALS