

BOARD OF ZONING APPEALS

July 16, 2020

CALL TO ORDER: The Board of Zoning Appeals met on Thursday, July 16, 2020, at 7:30 PM via video conference and modified remote/"in-person" meeting for their regular meeting.

Chairman Behrens called the meeting to order at 7:30 p.m. and asked the Secretary to call the roll. Members in attendance were Ms. Rene Aston, Mr. Brian Dunay, Mr. James Bartholomew, Mr. Ryan Briggs, and Chairman James Behrens. Also in attendance were Assistant Law Director Jim Lyons; and City Planner/Secretary Lynn White.

ACTION ON MINUTES OF PREVIOUS MEETING:

Chairman Behrens asked for additions or corrections to the minutes of the Board of Zoning Appeals Meeting of June 18, 2020. There being no comments, Chairman Behrens asked for a motion. Motion by Mr. Briggs, seconded by Mr. Dunay, to accept the Board of Zoning Appeals Meeting Minutes of June 18, 2020. Chairman Behrens asked the Secretary to call the Roll. On Roll Call, Mr. Dunay, Mr. Bartholomew, Mr. Briggs, Ms. Aston, and Chairman Behrens answered "yes". **Motion carried, 5-0.**

MEETING PROCEDURE AND SWEARING IN:

Chairman Behrens explained the procedures for the meeting, and then swore in those who planned on speaking for or against the variance requests. Additionally, Chairman Behrens explained that the Board of Zoning Appeals has the right to adjourn the meeting to deliberate, if needed, and then return to resume the meeting.

Chairman Behrens also explained that the meeting is being recorded via Zoom and informed the applicants that the results of the meeting will stand as an official public hearing. He asked the applicants appearing via Zoom if they agree to the meeting being held in this matter. Mr. and Mrs. Long, representatives for Refusal No. 2352, indicated they agree with the meeting procedure.

Chairman Behrens moved onto the first item on the agenda. He asked the secretary to read the application for Refusal No. 2351.

NEW BUSINESS/PUBLIC HEARING ITEM(S):

Refusal No: 2351
Applicant/Owner: Steven McGuire
Location: 804 North St. Clair Street (15-A-024-0-00-005-0)
District: R-1; Single Family Residential District
Variance: 1125.03 (a)(2) Parking and Loading; General Requirements

An application has been submitted by Steven McGuire of 804 North St. Clair Street requesting a variance to Section 1125.03 (a) (2) of the Painesville Unified Development Code. Section 1125.03 (a) (2) states the following; Each dwelling unit shall have a minimum of two (2) enclosed parking spaces with such space not less than 12 feet by 22 feet in area and having a parking pad that consists of an approved impervious material. The applicant states, "the house sits back 50' farther than the adjacent properties creating an issue for the construction of a garage in the rear and front yard." The proposal is to build a shed in lieu of the required garage.

Chairman Behrens presented the various documents that were sent to the Board on this request. He asked the applicant to state their name and address for the record, and if they had additional information to provide to the Board. Mr. McGuire, 804 North St. Clair Street, Painesville OH stated that he recently purchased this property and was made aware that there were outstanding vacant property fees as well as the requirement for the enclosed parking space. He stated that the house sits fifty feet farther back than the neighboring houses. The rear lot line is approximately six feet away from the home which limits his ability to construct a garage in this location. Additionally, the front yard has large trees which prohibit the construction in the front yard as well. Mr. McGuire stated that he has placed a 6 x 8 or 48 s.f. shed on the property for storage of his lawn equipment. He would like to construct a larger shed as this size is not sufficient to store the items he needs in the shed. Mr. McGuire reiterated to the Board the lack of room in the rear yard and the various site issues with the front yard in relation to the trees and current driveway location.

Chairman Behrens asked if there were any questions from members of the Board on this matter. Due to technical difficulties with the sound, Ms. Aston asked for a clarification. She inquired if there was previously a garage on this property. The response was no, there is no record of a garage at this location.

Mr. Briggs asked if the applicant stated that he built a shed while the application was pending before the Board. Mr. McGuire replied, yes, that is correct. Mr. Behrens indicated the applicant is considering the

construction of a larger shed, more in line with the size the City recommends. Mr. Briggs asked about the size of the shed that was constructed. The response was a 6-foot by 8-foot shed.

Mr. Lyons asked the applicant if he was aware of the requirement for the garage. Mr. McGuire responded no, it was not on the listing for the house. He indicated there was an issue with the vacant property fees that totaled \$7,500, which the bank took care of eventually. The listing agent apparently knew about the garage and the vacancy fees. Mr. McGuire indicated that he would be more than happy to put up a 12' x 12' or a 12' x 16' shed on the property. Chairman Behrens asked if this would cause an issue for zoning. Ms. White stated the code allows for two accessory structures on a residential lot. One structure is permitted up to 768 square feet, the other is permitted up to 300 square feet. This should be fine provided the proposed shed meets the setback requirements of five feet from the side yard and three feet from the rear yard. Based on the presented site plan, this should not cause an issue.

Mr. Bartholomew questioned the statement in the Staff Report provided on this matter that a *"garage is feasible in the rear yard"*. Ms. White replied the statement is based off the rear yard area calculated from the Lake County GIS system. The measurement from that system shows the house having a 36-foot setback from the rear property line; the applicant indicated the setback at 21-feet. The GIS is assumed to be accurate, however, a property survey should be done to verify the area of the lot in relation to the placement of the dwelling unit. Ms. White presented the GIS documentation to the Board for an explanation of the Staff Report. Discussion continued between the members of the Board and the applicant regarding the current situation of the property and location of the driveway trees.

Mr. Briggs stated that he noticed when viewing the subject property, the property to the south does not have a garage. He asked if the difference was the loss of the grandfathering for this property. The response was that is correct, the garage requirement is only an issue for properties that have been vacant for over twelve months.

Chairman Behrens asked if there were any other comments from members of the Board. There being none, it was noted there were no attendees for the public hearing on this matter. Chairman Behrens asked if there had been any correspondence on this request. Ms. White indicated no correspondence had been received.

Chairman Behrens asked for comments or questions from Assistant Law Director Lyons. Mr. Lyons indicated that he had no comments.

Chairman Behrens asked the City Planner for additional comments. Ms. White indicated she did not have any additional comments other than what was written in the Staff Report. She stated that Mr. McGuire's comments provided a better understanding of the hardships presented with the property. There being no further discussion, Chairman Behrens asked for a motion.

Motion by Mr. Bartholomew, seconded by Mr. Briggs to approve Refusal 2351. On Roll for the motion, Mr. Bartholomew, Mr. Briggs, Ms. Aston, Mr. Dunay, and Chairman Behrens answered "yes". **Motion carried, 5-0.**

Due to a public request to attend the meeting via Zoom, the order of the Agenda was modified. Chairman Behrens moved to the last item on the agenda. He asked the secretary to read the application for Refusal No. 2353.

NEW BUSINESS/PUBLIC HEARING ITEM(S):

Refusal No: 2353
 Applicant/Owner: Greg Pillar/ Pillar Andrew J & Elda A
 Location: 616 North St. Clair Street (15-A-023-0-00-011-0)
 District: R-1; Single Family Residential District
 Variance: 1121.04 (b) Nonconforming Structures and 1119.04 (b) Detached Structures

An application has been submitted by Greg Pillar requesting a variance to Sections 1121.04 (b) and 1119.04 (b) of the Painesville Unified Development Code. Section 1121.04 (b) states the following; *A nonconforming structure ...may be expanded provided that the building footprint or height after the expansion does not exceed 110% of the existing footprint or height. Any such structure may be altered to decrease its nonconformity.* and Section 1119.04 (b) states the following; *On a lot in a residential or commercial district one accessory structure shall not exceed 768 square feet and the other structure shall not exceed 300 square feet.* The applicant wishes to expand the existing 400 square foot nonconforming accessory structure at the current 3-foot side yard setback an additional 875 square feet. The accessory structure would exceed the allowable square footage requiring a variance of 507 square feet and a 2-foot variance for the expansion at the 3-foot setback.

Chairman Behrens presented the information provided to the Board on this request. He asked the applicant to state their name and address for the record, and if they had additional information to provide to the Board. Mr. Greg Pillar, 616 North St. Clair Street, Painesville OH, explained the reason for the variance is for an addition to the existing garage so he can have more room and space.

Chairman Behrens commented the existing garage is fairly large and asked what the additional space is needed for particularly in a residential neighborhood. Mr. Pillar replied the additional space would be for his cars and motorcycles and the addition of a work space for tools. Chairman Behrens asked if the existing garage would be rebuilt or if there was another plan. Mr. Pillar commented that this is still unknown. He has a contractor looking at the situation for the existing garage due to the type of roof. The style of the existing roof makes it difficult to add on to; the plan may be to remove the roof, add onto the main portion of the structure and re-roof the new footprint. He explained that he is considering demolishing the existing garage while leaving the foundation and then adding onto the foundation to create the size stated in the application. Chairman Behrens commented the information submitted for this request shows an Option #2. He asked the applicant to explain this Option. Mr. Pillar commented the existing layout has a 3-foot setback between the existing garage and the corner of the house. Option 2 moves the garage an additional 5-feet, giving an 8-foot separation between the house and garage.

Chairman Behrens asked the City Planner about the second part of the application request; the variance is required for the side yard setback. It was explained the current location of the accessory structure at 3-feet is nonconforming; the proposal is to keep the 3-foot setback from the side yard rather than move the accessory structure to the permitted 5-foot side yard setback.

Mr. Pillar stated that the driveway lines up to the garage doors at the 3-foot setback. He would like to maintain that existing setback so the foundation of the existing garage does not have to be removed and rebuilt.

Chairman Behrens asked if there were any comments from members of the Board. Mr. Bartholomew indicated the garage size seems rather large. Mr. Pillar stated that he will be using the space to house his vehicles, motorcycles, and lawn equipment as well as his tools.

Chairman Behrens asked the applicant if he was agreeable to the stipulations presented by the City on this request. Mr. Pillar responded that he had no objections to the stipulations. Chairman Behrens asked about the Affidavit of Fact filing and if those stay with the property. Mr. Lyons responded they are placed on the property and would transfer from owner to owner in the future.

Chairman Behrens asked if there were any other comments from members of the Board. There being none, it was noted there were no attendees for the public hearing on this matter.

Chairman Behrens asked for comments or questions from Assistant Law Director Lyons. Mr. Lyons asked the applicant to explain which option he is requesting approval from the Board. Mr. Pillar stated he prefers Option 2 if acceptable. Mr. Lyons questioned the applicant on the reasoning for not moving the garage to meet the 5-foot side yard setback. Mr. Pillar reiterated that he would like to keep the existing foundation of the garage so the expense of removing and rebuilding would not have to occur. Mr. Lyons stated that it seems the variance request is based on the expense of removing the foundation. Mr. Pillar stated that is correct. Mr. Lyons asked the applicant how many cars and motorcycles would be stored in the garage. Mr. Pillar replied, 3 cars and 5 motorcycles. Mr. Lyons commented that the applicant is willing to spend money on cars and motorcycles, and for the expansion of the structure but not on the foundation. Mr. Lyons stated he has no other comments.

Chairman Behrens asked the City Planner for additional comments. Ms. White indicated she did receive an email from Roger and Michelle Carson, 622 North Saint Clair Street, Painesville, stating, "We are neighbor to Greg Pillar on 616 North Saint Clair St. Painesville; This letter serves as a consent to let Greg Pillar build an extension to his garage and it will not disrupt our view from our house so we allow him to go ahead and start the building."

The Board asked about the other neighbor. Mr. Pillar indicated he spoke with the other neighbor who stated he mailed a letter on Tuesday evening. It was noted that the neighbor at 600 North St. Clair Street did send an email indicating there were no issues with the request.

There being no further discussion, Chairman Behrens asked for a motion.

Motion by Mr. Briggs, seconded by Ms. Aston to approve Refusal 2353 as presented for Option #2 with the following stipulations:

1. Require the removal of the existing shed on the property;
2. Prohibit any additional accessory buildings on the applicant's property;
3. Prohibit a business from operating from the accessory building and/or any accessory use utilizing equipment or a process which creates noise, vibration, glare, fumes, odors, or electrical

interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuation on the voltage off the premises;

4. City will file and Affidavit of Fact with the Lake County Recorder's office, spelling out the stipulations of the granting of the variance.

On Roll Call for the motion, Mr. Bartholomew, Mr. Briggs, Ms. Aston, Mr. Dunay, and Chairman Behrens answered "yes". **Motion carried, 5-0.**

Chairman Behrens asked the secretary to read the application for Refusal No. **2352.**

NEW BUSINESS/PUBLIC HEARING ITEM(S):

Refusal No: 2352
Applicant/Owner: Terry Long and Christine Spikes Long
Location: 2001 S. Ashwood Lane (35-A-005-A-00-511-0)
District: R-2; Multi Family Residential District
Variance: 1119.14 (c) Private Swimming Pools

An application has been submitted by Terry Long and Christine Spikes Long requesting a variance to Section 1119.14 (c) of the Painesville Unified Development Code. Section 1119.14 (c) states the following: *The pool and/or structures accessory thereto shall be located a minimum of 20 feet from a property line in a multi-family district, except for those single-family lots permitted and constructed under the R-2, Multi-Family District regulations, in which case pools and/or accessory structures shall be located a minimum of ten feet from a property line.* The applicant wishes to locate a 24-foot round pool in the rear yard with a two-foot setback from the side and rear property lines. A variance of eight-feet for both setbacks is being requested.

Chairman Behrens presented the information provided to the Board. He asked the applicant to state their name and address for the record, and if they had additional information to provide to the Board. Mr. Long, 2001 S. Ashwood Lane, Painesville OH, indicated they initially looked at the placement of a pool for their backyard in regards to the best placement. The ten foot setback for both the rear and side yards creates an issue with the mantrap and sump pump in the back yard. This would cause extra expense that they did not want to incur at this time. The variance request is for two-feet, however, it may be three or four feet from the property line. They wanted to be sure they had the extra space along the property line in case they needed that for the installation.

Chairman Behrens indicated the Staff Memorandum recommendation is the pool should have a minimum of a three-foot clearance to provide an adequate pathway between the pool and the fence on the two sides adjacent to the fence. Ms. White clarified that was her recommendation for this request. The applicant indicated that they are fine with the three-foot setback; the ten-foot setback was the biggest concern.

Chairman Behrens asked if there were any questions or comments from members of the Board on the information presented. Mr. Briggs asked if the three foot variance were granted, would the applicant consider placing the pool farther away from the side and rear yards if feasible. Mr. and Mrs. Long indicated they would consider alternate placement if feasible.

Chairman Behrens asked if there were any other comments from members of the Board. There being none, Chairman Behrens asked if there were any comments from members of the audience. Mr. Alan Machurey asked which side the pool was being placed since he is an adjacent neighbor to this property. It was noted that the pool would be on the side next to Mr. Machurey's property.

Chairman Behrens asked for comments or questions from Assistant Law Director Lyons. Mr. Lyons asked the applicant if the 24-feet the diameter of the pool or the circumference of the pool. The applicant responded the pool is 24-feet in diameter.

Chairman Behrens asked if there were any other comments. There being no further discussion, Chairman Behrens asked for a motion.

Motion by Ms. Aston, seconded by Mr. Dunay to approve Refusal 2352 with the following stipulations:

1. That the applicant obtain all required permits (building/electrical) to meet the Ohio Building Code;
2. The applicant is required to fill out an easement letter as the pool will be located within the drainage easement area per the City Engineer;
3. The setback of the pool shall be no closer than three (3) feet from the fence on the side and rear yards.

On Roll Call for the motion, Mr. Briggs, Ms. Aston, Mr. Dunay, Mr. Bartholomew, and Chairman Behrens answered "yes". **Motion carried, 5-0.**

BUSINESS OR ANY OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE BOARD OF ZONING APPEALS:

There were no other matters to properly come before the Board.

ADJOURNMENT:

There being no further business, motion by Mr. Bartholomew and seconded by Ms. Aston to adjourn. All members present said "aye". The meeting was adjourned at **8:28 p.m.**

Lynn M. White, Secretary

Jim Behrens, Chairman