

BOARD OF ZONING APPEALS

June 16, 2022

CALL TO ORDER: The Board of Zoning Appeals met on Thursday June 16, 2022, at 7:30 PM in Courtroom 1 of City Hall.

Chairperson Behrens asked the Secretary to call the roll. Members in attendance were Ms. Aston, Mr. Briggs, and Chairman Behrens, Mr. Bartholomew, and Mr. Dunay. Also in attendance were Assistant Law Director, Joe Gurley; City Manager Doug Lewis; City Planners Rita McMahon and Phoenix Buathier, and Secretary Tara Baumgartner.

ACTION ON MINUTES OF PREVIOUS MEETING:

Chairman Behrens indicated the Board had a set of minutes from the previous meeting that required action by the Board. Chairman Behrens asked for additions or corrections to the minutes of the Board of Zoning Appeals Meeting of April 21, 2022. Mr. Bartholomew stated that he felt a correction needed to be made to the minutes. He stated that the minutes stated that he had said that he didn't feel that on street parking was an issue. He stated that that was incorrect and that he had said that on street parking was an issue. Chairman Behrens asked for a motion. Motion by Ms. Aston, seconded by Mr. Briggs, to accept the Board of Zoning Appeals Meeting Minutes of June 16, 2022 with the correction made by Mr. Bartholomew. Chairman Behrens asked the Secretary to call the Roll. On Roll Call, Mr. Briggs, Ms. Aston, and Chairman Behrens, and Mr. Bartholomew answered "yes". Mr. Dunay abstained **Motion carried, 4-0-1.**

OLD BUSINESS: None

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 request. 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. In addition, representatives of the City Administration are present; Mr. Gurley, the City's Legal Counsel, City Manager Doug Lewis, and Ms. McMahon and Ms. Buathier the City Planners.

Chairman Behrens explained that the meeting is being recorded and informed the applicants that the results of the meeting will stand as an official public hearing. He asked the applicants if they agree to the meeting procedures. The applicants in attendance agreed with the meeting procedures.

NEW BUSINESS/PUBLIC HEARING ITEMS:

Chairman Behrens moved to the first item on the agenda. He asked the secretary to read the application for Refusal No. 2383-1.

Refusal No: 2383-1
Applicant: Matthew Caine of Ryan Homes
Owner: Jackson Newell Company LTD
Location: 201 Michael Court (15-C-030-D-00-017-0)
District: R-1; Single Family Residential District
Variance: Section 1117.01(a) Rear Setback variance

An application has been submitted by Ryan Homes requesting a variance to Section 1117.01 (a) of the Painesville Unified Development Code to allow a new home and deck to be constructed at a 26 feet setback in lieu of the 35 foot setback required. A 9 foot variance is requested.

Chairman Behrens provided a summary of the information the Board received on this request. He asked the applicant to state their name and address for the record prior to presenting their case.

Matt Caine of 87 Hazelwood Lane, North Ridgeville spoke on behalf of the request. He stated that the lots are a unique shape and that the rear setback is 35 ft, which makes two different designs of homes possible on the lot. He explained that he was trying to get a deck approved for the future home owner.

Mr. Behrens asked if it was a model home. Mr. Caine responded that it was not.

Mr. Behrens stated that Mr. Caine was in front of the Board two months ago and stated at that time that he was trying to keep the costs down, Mr. Behrens asked how building a deck would help keep costs down.

Mr. Caine responded that he wasn't going to build the deck, he was just asking permission so that the future home owner could build the deck.

Ms. McMahon clarified further by explaining that this would help the future owner of the home from having to come before the Board.

Mr. Behrens asked if after getting the variance they would have a year to build.

Ms. McMahon answered "Yes".

Mr. Bartholomew asked when construction was due to start.

Mr. Caine answered that this summer they would start clearing the lots to begin building.

Mr. Bartholomew asked if Mr. Caine had any concerns about meeting a deadline of one year.

Mr. Caine stated that he wasn't sure, but not really.

Ms. McMahon stated that if the variance was granted they would have a year to pull the permit and another year to start building, so essentially two years. She also stated that they only need to start building, not have it completed in two years.

Mr. Lewis asked what percentage of owners build a deck.

Mr. Caine stated that 65-70% of owners build decks.

Mr. Lewis stated that the granting of the variance could help sell the lot.

Mr. Bartholomew asked if they had made any efforts to buy the abutting corner property.

Mr. Caine stated that he didn't know.

Mr. Behrens stated that that would be Pro Built Homes' responsibility.

Mr. Behrens asked if there was anyone present who would like to speak against the request.

Robert Dyer of 211 Michael Court stated that he had a signed petition from the residents of Michael Court asking that the variance be denied. He stated that he felt that it would affect the overall character of the neighborhood, the traffic flow, the safety of the neighborhood, and would lower the home values. He explained that all of the existing homes are built in a straight line, which is aesthetically pleasing. He stated that having a house that stands out by being not aligned with the existing homes could be a safety hazard as it could block the view of people trying to back out of their drives. He stated that there are quite a few children in the neighborhood who play outside and ride their bikes, and could be in danger of cars coming down the road if the homes block the view. He also stated that Ryan Homes is a 270 million dollar a year business and they don't have a hardship to request a variance.

Mr. Behrens stated that the request was for a rear setback variance, not a front, and he thought maybe Mr. Dyer had misunderstood.

Ms. McMahon stated that the houses would still be built in line with the existing homes on the street that the setback request would be for the rear of the property. She explained that the existing homes sit straight on their lots, and the two proposed homes would be built on angled lots.

Mr. Briggs asked if now that Mr. Dyer understood the request was he still opposed to it.

Mr. Dyer stated that he was ok with it as explained.

Ms. McMahon explained that the lots were platted over 20 years ago and that the practical difficulty lies in the unique lot shape. She stated that it was known when it was platted that if houses were to be built on the lots, variances would be needed. She stated that the existing houses were of similar size and appearance to the proposed homes and that the City would recommend approval.

Motion by Mr. Briggs, seconded by Ms. Aston, to approve the request as written.

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

Chairman Behrens then moved on to the next item on the agenda.

Refusal No: 2383-2
Applicant: Matthew Caine of Ryan Homes
Owner: Jackson Newell Company LTD
Location: 222 Michael Court (15-C-030-D-00-011-0)
District: R-1; Single Family Residential District
Variance: Section 1117.01(a) Rear Setback variance

An application has been submitted by Ryan Homes requesting a variance to Section 1117.01 (a) of the Painesville Unified Development Code to allow a new home and deck to be constructed at a 22.49-foot setback in lieu of the 35-foot setback required. A 12.51-foot variance is requested.

Matt Caine stated that he was asking for the same thing as the previous request he made this evening. He this property needed it even more than the last property.

Mr. Behrens stated that it was the same request, just a different property.

Ms. McMahon gave a brief summary of the request and explained that without the variance a house won't fit on the property, which creates a practical difficulty. She stated that the City recommends approval.

Mr. Behrens asked if there were any requests for basements.

Mr. Caine answered that the two proposed homes would have basements, along with all but two of the new builds, which would be on slabs due to the hydrology report.

Motion by Mr. Briggs, seconded by Ms. Aston to approve the variance request as written

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

Chairman Behrens asked if there was any further business the Board should address. Ms. McMahon stated that the Planning Commission had voted to change the time of their meetings to 7:00 p.m. Motion by Mr. Bartholomew, seconded by Ms. Aston to amend the by-laws to change the start time of future Board of Zoning Appeals Meetings to 7:00 p.m. On Roll Call for the motion, Ms. Aston, Mr. Bartholomew, Mr. Briggs, Mr. Dunay and Chairman Behrens answered "yes" **Motion carried 5-0.**

ADJOURNMENT

There being no further business, the meeting was adjourned.

Tara Baumgartner, Secretary

Jim Behrens, Chairman