



MEETING MINUTES

Board of Zoning Appeals

Thursday, August 27, 2020

CALL TO ORDER

Ms. Cooper called the meeting to order at 7:00 p.m. and made the following comments:

"Good evening and welcome to the August 27 virtual meeting of the City Board of Zoning Appeals. The Ohio Legislature passed several emergency laws to address the pandemic, including the ability for public entities to have virtual meetings. We appreciate this ability to maintain our continuity of government. For the present time, we are holding our meetings online and live streaming those meetings on YouTube. You can access the livestream on the City's website. To submit any questions or comments during the meeting, please use the form under the streaming video on the City's website. These questions and comments will be relayed to the Board by the meeting moderator. We want to accommodate public participation to the greatest extent possible and welcome your comments on cases. Please use a valid name and address when submitting your comments and refrain from making any inappropriate comments. This is not a perfect system, but we will do our best in these difficult times. We appreciate your patience."

OATH OF OFFICE

Vice Mayor Cathy De Rosa administered the Oath of Office to Board of Zoning Appeals appointee, Alicia Miller.

ROLL CALL

Board Members present: Mr. Deschler, Ms. Herbert, Ms. Cooper, Mr. Nigh, Ms. Miller

Staff present: Ms. Husak, Mr. Hounshell

ACCEPTANCE OF DOCUMENTS AND APPROVAL OF MINUTES

Ms. Herbert moved, Mr. Deschler seconded to accept the documents into the record and approve the July 23, 2020 meeting minutes.

Vote on the motion: Ms. Herbert, yes; Mr. Nigh, yes; Mr. Deschler, yes; Ms. Cooper, yes; Ms. Miller.

(Motion carried 5 – 0)

The Chair briefly explained the rules and procedures of the Board of Zoning Appeals and swore in staff and any member of the public who planned to address the Board during the meeting.

CASE:

1. Bhogula Residence, 7979 Pleasant Drive, 20-128V, Non-Use (Area) Variance

Ms. Cooper stated that this is a request for approval of a Non-Use (Area) Variance to the Oak Park Development Text – Subarea A: “Park Homes” (III)(C) allowing an encroachment of an uncovered patio within the required 20-foot rear yard setback by approximately 5 feet, 7 inches.

Staff Presentation

Mr. Hounshell stated that this is a request for review and approval of a Non-Use (Area) Variance for the Bhogula Residence, located within the Oak Park subdivision, at 7979 Pleasant Drive, approximately 200 feet northwest of the intersection of Pleasant Drive and Greenland Place. Oak Park is a neighborhood located at the southwest corner of the intersection of Mitchell-Dewitt Road and Hyland-Croy Road. The applicant is requesting authorization to construct a new 721-square-foot patio located to the rear (west) of the principal structure. Although the rear yard setback within the Oak Park Development Text states that Park Homes shall maintain a 25-foot rear yard setback, at-grade patios are permitted to encroach 5 feet into the required setback per the Zoning Code. This allows for a minimum 20-foot setback for patios within this subarea. The applicant is proposing to encroach farther into the rear yard setback, to construct a patio, by 5 feet and 7 inches to a 15-foot easement that runs along the rear property line. The applicant has provided a statement explaining the reason for the request. The applicant indicates that due to the unconventional garage layout of the three-car garage, the house was pushed back on the lot, which limits the amount of usable space for a patio to the rear of the home. The applicant states that as a first-time homebuyer, he was not involved in the positioning/placing of the building on the lot and was not informed of the limitations in setbacks for the site. This has resulted in the need to request a variance to the Oak Park Development Text – Subarea A, to permit the applicant to expand beyond the rear yard setback for construction of the patio. Staff has reviewed the application against the applicable criteria and recommends disapproval of the variance, based on the fact that there is sufficient room to the rear and side of the home to construct a patio.

Board Questions

Ms. Herbert stated that the staff report references the previous 7118 Snowdrop Ct. case – the Carroll residence, which she recalls. That applicant had a similar lot layout, with the residence backing up to a preserve into which they wished to encroach 15 feet. That variance request was approved. Staff has recommended disapproval of this variance request to encroach 5 feet. Did staff review and consider that case in making this recommendation?

Mr. Hounshell responded that they did review that case; however, every case is reviewed against the applicable criteria on a case-by-case basis. Staff determined that with this home, as opposed to the 7118 Snowdrop Ct. residence, there is sufficient space on the north and south sides of the home for construction of a patio.

Mr. Nigh inquired if he is indicating that cases are considered individually; staff does not consider precedence in reviewing similar applications.

Mr. Hounshell stated that he has compiled a comparison of the two properties. [displayed slides comparing both properties.] As displayed, 7979 Pleasant Drive home has adequate sideyard buildable area for construction of a patio; the 7118 Snowdrop Ct. home did not. In addition, with the previous case, the applicant was not the original owner of the home. In this case, the applicant selected the home and garage layout that was constructed.

Ms. Herbert inquired if staff had provided this comparison to the applicant prior to this meeting for his review.

Mr. Hounshell stated they did not provide this comparison to the applicant. However, they did meet with him and discuss the basis on which staff was recommending disapproval.

Public Comment

Michael Quinn, 7995 Pleasant Drive, Dublin, Ohio, 43016:

"I live at 7995 Pleasant Drive in Dublin, two houses north of 7979 Pleasant Drive, the property of interest with the Request for Variance under consideration. I have reviewed the site map and plans submitted with the application and have talked with Mr. Bhogula concerning the matter. I have no objections to granting the variance as requested."

Applicant Presentation

JayaPrakash Bhogula, 7979 Pleasant Drive, Dublin, Ohio, 43016, stated that he is a first-time homebuyer. When he purchased the home, he was unaware of how the home would be positioned on the lot. While he chose a three-car garage option, he did not choose the 3-door layout of the garage. It is the only property in the entire community where the layout was selected by the homebuilder, not by the homebuyer. With the layout that was selected, the building was pushed farther into the rear yard resulting in the loss of six feet of space. As displayed on the screen, the homes at 7165 and 7181 Pleasant Drive are similar home models as his, also with three-car garages. The length of his garage is 36 feet; the length of the other homes' garages is 31 feet. Because he was unaware of the builder's selection that resulted in the loss of rear yard space, he is unable to build the desired outdoor living space.

Board Questions for the Applicant

Ms. Herbert inquired if, when he was purchasing the home, the builder had provided him with and obtained his approval for the plat plan for the home, which would have included the placement of the home on the lot with the setbacks.

Mr. Bhogula responded that he does not recall what was provided to him six years ago. That information could have been provided, but he was unaware of the City of Dublin's setback limitations. The builder did not inform him of that nor of the fact that he intended to build the three-car garage layout that would limit the space, potentially causing a future problem building a patio space. As a first-time homebuyer, he was unaware of the City's restrictions.

Ms. Herbert stated that the homebuilder would be aware of the setbacks; some make the homebuyer aware of them, others do not. However, he does not recall if a plat plan was provided that showed both the home layout and the setbacks.

Mr. Bhogula responded that he does not recall receiving that information.

Mr. Deschler inquired if the home was a spec home or was it designed by the applicant.

Mr. Bhogula responded that it is not a spec home.

Ms. Herbert inquired if when he built the home, the builder had not obtained permits or poured the foundation; he chose only the lot and the home design.

Mr. Bhogula responded affirmatively.

Ms. Miller stated that it was her understanding that homebuilders are required to obtain the purchaser's sign-off on the home plan and placement.

Mr. Bhogula responded that he did sign off on the plans. However, the plan did not show the 3-door garage layout.

Ms. Herbert inquired if the plan on which he signed off gave the dimensions of the home.

Mr. Bhogula responded that it may have provided the dimensions. When he became aware that the builder intended to use three individual doors, not the typical one double door and one single door, he questioned the builder. The builder admitted that it was a mistake, but indicated that the foundation was already being poured, so it was too late to correct it.

Ms. Cooper inquired if he had not requested the additional five feet in the garage area.

Mr. Bhogula responded that he did not request it.

Ms. Herbert inquired if the additional length occurred as a result of the builder using three individual garage doors as opposed to a double door and a single door.

Mr. Bhogula responded affirmatively.

Ms. Herbert inquired if the home design he selected showed three doors or the double-single combination.

Mr. Bhogula responded that it showed a double-single layout. Other than his home, the builder has built all double-single door garage layouts throughout the community. This is the only property out of 70 homes that has a 3-door garage.

Ms. Miller stated that her understanding of the City's Building Code is that the Board can approve a Non-Use Variance only when three particular criteria are met. Staff's report indicates that the first and second criteria are not met, when all three must be met.

Mr. Hounshell stated that is correct. There are two sets of criteria. Of the first set of three criteria: Special Conditions, Applicant Action/Inaction, and No Substantial Adverse Effect, all three must be met; two are not met. Of the second set of criteria, two of the four criteria must be met, and three are met. However, it is the Board's discretion to determine if they agree with staff's determination.

Ms. Miller stated that even if the Board believes that Criteria 1 concerning a Special Condition is met, all three criteria are not met. The applicant could solve the problem by utilizing the side yard for patio space.

Mr. Bhogula responded that there are no side doors to the home, so there would be no access to a sideyard patio. They would be unable to use a sideyard patio efficiently, as it would be necessary to use the front or rear entrances to access it.

Ms. Miller stated that instead of extending the patio five feet deeper, they could build the rear patio wider, thereby using the rear door for access.

Mr. Bhogula stated that would permit only a 9.3-foot deep patio, which would not be a satisfactory full family, outside-living arrangement. He would like to extend it 5 feet deeper.

Mr. Nigh stated that the applicant has met three of the four criteria in the second set of criteria, so that would not hinder the Board's approval. Of the first set of three criteria, Criterion #1, "Special Conditions" peculiar to this property, not applicable to other properties, is met; this is the only three-door garage layout out of 70 other similar homes in the community. Criterion #2 is that the condition exists due to "Applicant Action or Inaction;" the situation exists due to the builder's action, taken without the applicant's knowledge, which could not be corrected. Additionally, staff indicates that Criterion #3, "No Substantial Adverse Effect," is met. Therefore, in his view, all the criteria are met.

Mr. Deschler stated that he agrees with Mr. Nigh's assessment. The acknowledgment from the applicant that the builder gave credit as a result of the error would signify that the situation is not due to the applicant's actions, especially if the rendering provided depicted a double door-single door layout. In addition, if this is the only home in the neighborhood with three individual garage doors, that would meet the Special Conditions criterion. He believes the first three criteria are met.

Ms. Herbert stated that she agrees with the preceding evaluations. The Board approved a larger variance for the Snowdrop Ct. case, and did not factor in whether the applicant was the first or later owner of the home. At that time, the Board's unanimous determination was that the standards were met. There is value in having consistency within this subdivision.

Mr. Deschler pointed out that this home backs up to a reserve area, so this property owner would not be impeding on another property owner. No objections have been expressed by neighboring property owners; rather, he has received support.

Ms. Herbert noted that also was factored in the earlier decision of this Board – that the property backed up to a preserve.

Ms. Miller expressed agreement with fellow Board members. She does not recall seeing in the packet information that the builder acknowledged the mistake made. That would meet the additional criterion required; therefore, approval would be indicated.

Ms. Cooper stated that she concurs with other Board members. The purpose of this Board is to consider variance requests when certain circumstances and conditions have been met. She is satisfied the criteria have been met and is in support of granting the requested variance.

Mr. Nigh moved, Ms. Herbert seconded to approve a Non-Use Variance to the Oak Park Development Text – Subarea A: "Park Homes" (III)(C) permitting an encroachment of an uncovered patio within the required 20-foot rear yard setback by approximately 5 feet, 7 inches.

Vote: Mr. Deschler, yes; Ms. Cooper, yes; Ms. Herbert, yes; Mr. Nigh, yes; Ms. Miller, yes.
[Motion approved 5-0.]

COMMUNICATIONS

Ms. Cooper stated the next BZA meeting is scheduled for September 24, 2020.

ADJOURNMENT

The meeting was adjourned at 7:50 p.m.

Martha Cooper

Chair, Board of Zoning Appeals

Judith K. Beal

Deputy Clerk of Council