

BOARD OF ZONING APPEALS
Meeting Minutes
Wednesday, January 16, 2013

Call to Order

The January 16, 2013 Board of Zoning Appeals' meeting was called to order at 7:31 p.m.

Those members present: Paul Brady, Prue Dana, Todd Hollenbaugh, John Barnhart, and Gary Meyer.

Those members excused: None.

Staff members present: Sam Perry, Jung-Han Chen, and Amy Blankenship.

Staff members excused: None.

Executive Session

Mr. Barnhart made motion to approve the agenda with the deletion of the Executive Session. Ms. Dana seconded the motion. All were in favor.

Election of Officers

Mr. Hollenbaugh opened the meeting to the election of officers. Mr. Hollenbaugh reminded everyone that the current Chair and Vice Chair terms would be ending in June, 2013. Discussion followed regarding the exact term end date for Gary Meyer, as the roster stated 2014. Staff to review and provide an update. Mr. Hollenbaugh continued saying that Ms. Dana and Mr. Barnhart's current terms would be ending in June, 2013 but that they could continue on the Board for another term.

Mr. Barnhart made motion to elect Mr. Paul Brady as Chair, BZA. Ms. Dana seconded the motion. All were in favor.

Mr. Barnhart made motion to elect Ms. Prue Dana as Vice-Chair, BZA. Mr. Meyer seconded the motion. All were in favor.

Mr. Todd Hollenbaugh made motion to elect Mr. John Barnhart as Secretary, BZA. Mr. Brady seconded the motion. All were in favor.

Mr. Brady then presided over the rest of the BZA meeting.

Adjudication Hearing(s)

BZA-01-2013 15 N. Poplar, variance to Section 1141.01(c)(4)B1 fence height in the Uptown District, Tom Kachos, Applicant (Withdrawn)

Mr. Perry shared that this case was withdrawn due to the fact that the fence request could be approved without a variance, per the City Code of Oxford Codified Ordinance Section 1141.01(C).

BZA-02-2013 [28 Gardenia, variance to Section 1149.04\(b\)\(6\)driveway width at the right-of-way, Ashford Homes, LLC, Applicant, Agent](#)

Mr. Hollenbaugh made motion to adjourn to BZA-02-2013. Mr. Barnhart seconded the motion. All were in favor.

Mr. Perry provided an overview of this case. Mr. Perry stated that a new home at 28 Gardenia Drive was built during the summer, 2012. The zoning code for a driveway width requires that a residential driveway be no more than 18 feet at the right-of-way line. Mr. Perry stated that the approved site plan showed a 16 foot wide driveway; however, a 19-foot, 11-inch driveway was installed. Mr. Perry explained what had occurred; that two separate garage doors were installed, along with a 3 foot, 11 inch architectural separation in the structure thus creating a wider driveway. Due to the builder not realizing the zoning code guidelines, the driveway was poured. Mr. Perry stated this caused an 11% increase in driveway width. Mr. Perry noted that the increase would be barely noticeable to a casual observer. Mr. Perry stated that the Applicant could, in order to comply with the zoning code, taper the driveway using a concrete saw, or demolish and completely re-pour the driveway. Mr. Perry stated that no public comments were received. Mr. Perry reviewed the Decision Standards. The driveway would not alter the essential character of the neighborhood and that it could be obviated through other means (narrowed or repoured). Mr. Perry concluded by saying that if the BZA determines that there was sufficient evidence to find practical difficulty, which would warrant the approval of the variance request, staff recommended that the BZA cite the specific evidence and approves the variance request.

Mr. Brady swore in the Applicant. Mr. Jack Rupp, 7791 Joan Drive, West Chester, Ohio, explained the difference in widths of a two car garage door versus a single car garage door. Mr. Rupp stated he just didn't realize Oxford's zoning code. Mr. Rupp stated that the home in question was unique, having two garage doors, along with 3'11" between doors and architectural setback design. Mr. Rupp continued saying that tapering the driveway would create difficulty for the owners to back out of their driveway, as they would back into the yard.

Ms. Dana inquired if the Applicant had built other homes in Oxford. Mr. Rupp stated he had built other homes in Oxford. He told his employees to pour as he thought the drawings showed 18', but it was 16'.

Mr. Rhoton owner of the property, was sworn in by Mr. Brady. Mr. Rhoton explained why he picked a two car garage door design. Mr. Rhoton expressed that he felt it unfortunate what happened. Mr. Rhoton described that he had about 4" on either side of his car mirrors for the garage doorway opening, and if the driveway was tapered he would end up in the yard.

Ms. Kathleen Zien, a member of the audience spoke. Her thinking was that Mr. Rupp had stated he had built houses before in Oxford and that he should have known the zoning code.

Mr. Hollenbaugh made motion to reconvene to regular meeting. Mr. Barnhart seconded the motion. All were in favor.

Mr. Brady stated that he intended to grant this request as he knew why the code was originally designed - to deter having more than two cars parked in the front yard. Mr. Brady stated that the additional size didn't stand out visually. Mr. Brady further stated that the driveway conformed to the garage. Mr. Barnhart agreed with the homeowner about backing out of the garage. Ms. Dana agreed as well. All were in agreement that because of the design, the concrete edges were appropriate coming up to the edge of the doors and that the owner and Applicant had provided an adequate explanation of how it happened.

The Decision Standards were reviewed.

- a) The property in question will yield reasonable return and can be any beneficial use of the property without the variance;
- b) The variance is not substantial (it is not observable)
- c) The essential character of the neighborhood would not be substantially altered or whether adjoining properties and would not suffer a substantial detriment as a result of the variance;
- d) The variance would not adversely affect the delivery of governmental services (i.e., water, sewer, garbage);
- e) Whether the property owner purchased the property with knowledge of the zoning restriction (is not applicable)
- f) The property owners' predicament feasibly can be obviated through some method other than a variance; (could be but should not be)
- g) The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance;
- h) No other factors

Todd Hollenbaugh moved to approve BZA-02-2013 28 Gardenia, variance to Section 1149.04(b)(6) driveway width at the right-of-way. John Barnhart seconded. The motion passed with the following roll call:

AYE: Paul Brady, Prue Dana, Todd Hollenbaugh, John Barnhart, Gary Meyer (5)

NAY: None (0)

ABS: None (0)

Approval of Minutes of the September 19, 2012 Regular Meeting

Ms. Dana made motion to approve the September 19, 2012 minutes as written. Mr. Hollenbaugh seconded the motion. All were in favor.

Old Business

There was no old business.

New Business

- 2012 Year End Summary Report

The BZA inquired about open legal cases filed in 2012. Ms. Blankenship stated that the two cases were still active.

Staff stated that the department had not received a building permit application for Miami Village.

The BZA thanked staff for the 2012 year in review document. Mr. Perry thanked the board members for their hard work for the year.

Adjournment

Ms. Dana made motion to adjourn the meeting. Mr. Barnhart seconded the motion. The meeting was adjourned at 8:05 p.m.