

**BOARD OF ZONING & BUILDING APPEALS,
CITY OF AVON, MEETING MINUTES FOR MAY 3, 2023, 7:00 P.M.**

ROLL CALL

The meeting was called to order by Chairman Ladegaard at 7:00 p.m. in Council Chambers. Present Michael Bulger, Bill Hricovec, Mark Ladegaard, Chauncey Miller, Kurt Schatschneider, Jill Clements, Zoning Enforcement Officer, Pam Fechter, Econ. Dev./Planning Coordinator John Gasior, Law Director, Duane Streater, Safety Director, Susan Pintz, Planning Commission & ZBA Secretary

REVIEW & CORRECTION OF MINUTES

Mr. Miller moved, seconded by Mr. Bulger, to dispense with the reading of the minutes of the regular meeting held on April 5, 2023, and to approve the minutes as published. The vote was: “AYES” all. The Chair declared the motion passed.

REPORTS & CORRESPONDENCE

ADDITIONS & DELETIONS

None

APPEALS & REQUESTS

1. Eddie Estep; 4311 St. Raymond Way; 18-23

Proposal consists of walkway.

A 1' side yard setback variance requested; code requires 3 feet; applicant proposes 2' feet. Section 1262.05(a)(4) Minimum Setback Requirements.

Mr. Eddie Estep was sworn in. Mr. Estep is requesting to put a concrete walkway from the driveway to the man door, on the side of the garage, of the 5 feet they are trying to use 36 inches of that. They will use it for 30 inches of the walking and then a 6-inch bed. Mr. Schatschneider says there isn't much room to work with. No other questions.

Mr. Miller moved, seconded by Mr. Bulger to approve a 1' side yard setback variance. The vote was: “AYES” all. The Chair declared the motion passed.

2. Rebecca Arcaro; 38610 Thorton Lane; 16-23

Proposal consists of a driveway extension.

1. A 2' side yard setback variance requested; code requires 5 feet; applicant proposes 2 feet. Section 1262.08(c)(2) Minimum Yard Requirements for Accessory Structures.
2. A 10' front yard setback variance requested; code requires 10'; applicant proposes 0 feet. Section 1262.08(c)(2) Minimum Yard Requirements for Accessory Structures.

Mr. Patrick Arcaro was sworn in. Mr. Arcaro is requesting to extend the driveway to add a third car pad. He is asking for 10 feet off the existing driveway and then will cut it back in at a 45-degree angle to the city sidewalk and 30 inches in from there. He is also requesting to extend the apron allowing a clear path to the new extension. Mr. Ladegaard and Mr. Schatschneider noticed that between the house and lot line there is 13.25 feet and if you are coming out 10 feet you probably only need a 2-foot variance. Instead of asking for 3 feet you would only need 2 feet. Mr. Arcaro agrees and confirms it's a 5-foot setback and it's 13.25 feet off the house. Mr. Ladegaard says that is what it says on the drawings. Mr. Arcaro says his driveway is about 1-foot between where the driveway ends and the end of the house. Mr. Ladegaard says they will call it a 2-foot side yard setback instead of 3 feet. Mr. Schatschneider asked, if the addition by the road, is a separate request or is this all one request. Mr. Ladegaard says this is 2 requests for a variance. Mrs. Clements says no curb will be cut. He will need to replace the sidewalk in that 30-inch section. Whoever does this work will cut out the 30 inches and then go up and angle out. Mr. Arcaro agrees that has been discussed with the contractor. No further questions.

Mr. Miller moved, seconded by Mr. Bulger to approve a 2-foot side yard setback variance. The vote was: "AYES" all. The Chair declared the motion passed.

Mr. Miller moved, seconded by Mr. Hricovec to approve a 10-foot front yard setback. The vote was: "AYES" all. The Chair declared the motion passed.

3. Annie and Mark Heideloff; 2145 Lake Point Drive; 19-23

Proposal consists of patio roof.

A 6' rear yard setback variance requested; code requires 50 feet; applicant proposes 44 feet. Section 1262.04(d)(4) Lot and Yard Requirements.

Mr. Mark Heideloff was sworn in. Mr. Heideloff is requesting to build a roof over a portion of their patio. They need shade and umbrellas do not work because of constant winds. He would like to get the roof attached because it will keep the patio dryer and he would like to put a television on the wall and the roof would keep the television out of the elements. No other comments.

Mr. Miller moved, seconded by Mr. Hricovec to approve a 6-foot rear yard setback. The vote was: "AYES" all. The Chair declared the motion passed.

4. Michael Kramer; 2422 Pendleton Ct; 13-23

Proposal consists of 20' x 30' pavilion over existing patio.

A 236 sq. ft. variance requested; code allows 636 sq. ft.; applicant proposes 600 sq. ft. Section 1262.08(a)(2) Maximum Area and Number of Accessory Buildings.

Note: Code allows 2% of lot size for accessory structure square footage. Existing 200 sq. ft. structure on parcel.

Mr. Michael Kramer was sworn in. Mr. Kramer states they have a patio that was put in a few years ago and they would like to put a pavilion on top of it. Since it's against the house and not attached it is considered an accessory structure. They have a shed, so they are considered over what is permitted. They are requesting a variance to be able to build the pavilion. Mr. Ladagaard stated they did some different configurations and the amount of the variance before was 236 feet, but it's going to be 164 square feet. It will be a lesser amount than what was previously thought. Mr. Kramer calculated the lot size and then calculated 2%. Mr. Ladagaard says it's 164 square feet which will be better for you. No further comments.

Mr. Miller moved, seconded by Mr. Hricovec to approve the Michael Kramer variance. The vote was: "AYES" all. The Chair declared the motion passed.

5. Mark Durdak; 39351 Detroit Road; 14-23

Proposal consists of 24'x 32' pole barn with 8'x 32' lean to.

A 266 sq. ft. variance requested; code allows 758 sq. ft.; applicant proposes 1024 sq. ft. Section 1262.08(a)(2) Maximum Area and Number of Accessory Buildings.

Note: Code allows 2% of lot size for accessory structure square footage. Existing structure to be removed.

Mr. Mark Durdak was sworn in. Mr. Durdak is requesting to put up a pole barn with garage and seeking to add a porch so he can get some shade and put some rocking chairs there to enhance the look of the property. Architecturally he stated it should fit in there well along with the historical aspect of Avon. Mr. Ladagaard asked if the shed located there now will be removed. Mr. Durdak responded yes. No further comments.

Mr. Miller moved, seconded by Mr. Hricovec to a pole barn with garage. The vote was: "AYES" all. The Chair declared the motion passed.

6. Thaeer Abusharif; 2056 Jaycox Road; 17-23

Proposal consists of 22'x 20' garage addition

A 440 sq. ft. variance requested; Section 1262.08(a)(2) Maximum Area and Number of Accessory Buildings.

Note: 329 sq. ft. variance granted on June 2, 2021

Mr. Thaeer Abusharif was sworn in. Mr. Abusharif would like to build an extension to his current garage. Mr. Ladagaard stated he appeared before the Board last year for the same issue. Mr. Abusharif stated he was told he could appear again in 6 months. He tried to purchase land or other property in Avon and somethings didn't work out. He started looking at commercial

property which was out of his price range. He wants be in Avon and does not want to move to any other city. He thought there would be a storage facility to be built on Jaycox. He had reserved all the spaces he could, but that facility could not get approval and was not built. He currently uses two blow up garages, but he doesn't like the way they look and wants to get rid of them.

Mr. Ladagaard stated his position is the same as it was last August. Mr. Abusharif says he did reduce the square footage of the proposed garage. He was trying to figure out what would work best because of the length of the cars that he owns and determined he would need the garage to be 22x20. The year before he was approved for 200 square feet which was a shed at the time. He thinks this new structure would look better on the property. He understands that there are ordinances so that things don't look out of place. He is trying to make sure that this will look nice. He presented other properties that have garages or accessory buildings but those are older and were farms and the land was sold off to developers and those structures stayed on the land. He thinks this new proposed garage will look better than what the farms structures have.

Mr. Ladagaard indicated his property is very nice. Any decision has to be kept within certain parameters because if this is approved to you then we have to approve that to everyone. Mr. Abusharif respects that.

Mr. Schatschneider said that a variance was already granted in 2001 for 329 sq ft and another 1240 which would give him almost an 800 sq ft variance which is excessive. Mr. Ladagaard said that would be close to 90 percent.

Mr. Hricovec asked if the garage was primarily for cars. Mr. Abusharif indicated yes. Mr. Hricovec asked is it possible to put a second story on it and do a lift so that the cars can be stacked. Mr. Abusharif indicated that the cars are already stacked on a lift and the roof is as high as it can go. He thought about going underground but he doesn't want to go to that extent. The requested extension would not be for storage, it would be to work out of it. He also wanted to put a restroom on the second level. He suggested that this could be contingent on the approval of the architectural drawings. It's not just going to be a garage it can look pleasing to the neighbors as well.

Mr. Abusharif was asked about possibly adding a bay onto the garage then you wouldn't need a variance. He called Schaffer Builders about that, and they said it would need to be approved by the city. He thought about adding onto his house which does not require a variance but that will not work either. He thought about doing a walkway and put a garage there, but he doesn't want it to look out of place. He likes the way the house looks now. He just wanted to try again to get approval, but he will respect the decision of the Board.

Mr. Miller thinks it is excessive and said some of the other properties are grandfathered in.

Mr. Bulger stated Mr. Abusharif had 12x16 shed at one time but took it down which is what we went through last time, he asked, wasn't that big enough? Mr. Abusharif said that he didn't like the way that looked. He is particular about how things look around his house. His goal is to get rid of the blow-up garages as they are also expensive.

Mr. Ladagaard asked if he wanted to rebuild the 12x16? Mr. Abusharif said no plus it would too expensive.

Mr. Vincente Poblete 2034 Jaycox Road, Avon, Ohio 4401. Mr. Poblete was sworn in. Mr. Poblete says presently there are 3 accessory structures on the property. Is what you are proposing to replace the 2 smaller structures? Yes by Mr. Abusharif. Mr. Poblete says the present large permanent structure that is there is around 1200 square feet. I think the zoning law calls for 2% maximum of the total lot area. In a 1 acres property that is around 4500 square feet, so you are looking at around 871 square feet. As of now we are already in excess, and the prior variance was granted. Mr. Poblete understand Mr. Abusharif's concerns but would like to point out: not granting the variance will not cause undue hardship, next, if this is granted and he is going to see 2 large structures in the back right next to his property, he thinks that is too much. He understands that this will be voted on. He would like some consideration so if this is granted it should be stipulated that Mr. Abusharif builds a tree line between the two properties such that the structures that will be placed would not be visible from Mr. Poblete's property. He did not object to the first variance, but now to put up a second permanent structure right next to his property is too much in his opinion.

Mr. Abusharif says he is confused because the extension is not close to the property line at all. It is about 90 feet away from the property line. It would be attached to the current structure.

Mr. Bulger moved, seconded by Mr. Schatschneider to approve a 440 square foot variance for a 22x20 garage. The vote was: "NAY" by all. The Chair declared the motion denied.

7. Sharon Zilka, 4827 Stoney Ridge Road; 15-23

Proposal consists of 30'x 50' pole barn.

1. A front yard setback variance requested; code doesn't allow in front yard. Section 1262.08(b)(2)(A) Accessory Building Setback Requirements
2. A variance requested from Section 1262.08(a)(3); code allows 3 accessory buildings; applicant proposing 4.

Sharon Zilka-same address. Derek Zilka, 5655 Richmond Road, Spencer, Ohio. Sharon Zilka and Derek Zilka were both sworn in. Mrs. Zilka is requesting to build a barn/garage on her property. She stated her other son appeared before the board previously. She said she didn't know what the details were at that time. Derek Zilka indicated there were 2 issues last year when his brother appeared. The first issue ended up getting canceled in court. The other was having 3 outdoor building. They tore down an old animal barn in the back so that is no longer an issue.

Mr. Ladagaard clarified that only 1 of the 2 variances is needed, which Derek Zilka indicated that was correct. They would like to keep the proposed garage on the front of the property as to utilize as much of the property as possible and there is no chance of a house being built on the corner. Mrs. Zilka said there is a small shed on the property that she plans to remove soon. Mr. Ladagaard indicated that is fine because 3 total is permitted. Since you live on a corner, the city considers it as Mills and Stoney would each be a front yard. The rules state that you can have a barn in your

front yard if you have more than 5 acres and it's 100 feet from the right of way. Your property does not meet that requirement. Your property is large enough that you can push it back onto the side yard. Mrs. Clements indicated it would need to go behind that house from Mills as well.

Derek Zilka said they have a leach bed; the septic is on the edge of the house and the leach bed goes back pretty far. He also stated they do not want to put a barn right by the VFW. He stated the side with the one garage, at some point, they might want to sub-divide that back lot, so they do not want to lose that by putting a barn there. They thought the location at the front of the house would be the best spot.

Mr. Ladagaard said they don't allow barns in the front yard, especially being on a corner and the possibility of a roundabout being constructed and at some point, part of the road will get widened.

Bill Hricovec will be abstaining from this vote.

Mr. Miller asked if the leach bed is on the south side of the home. Derek Zilka responds there is a septic tank that runs to the farthest south point of the house. He then points at the picture on the screen to show the board the locations.

Derek Zilka says they are trying to utilize the space because eventually his brother or himself would like to build a house where the pine trees are located. That is why they are not using 2 lots to put 1 house and the shop, and the corner is not large enough to put a house.

Mr. Schatschneider asked about possibility of putting the garage/barn on the north side of the house? Derek Zilka says they did not want to use that corner section by the VFW. They eventually wanted to put a house on the side of Mills Road. Mr. Ladagaard said if you had a 60 feet easement coming off Stoney to that back lot you would still have plenty of room to keep it on the north side of that house. Ms. Fechter says she thinks he is thinking of a flag lot. Derek Zilka says that back part is over 1 acre.

Mr. Ladagaard says he doesn't think putting the garage/barn in the front yard is a good idea. The options would be the north side of the house as long as it's 100 feet off Stoney Ridge or the south side of the house as long as it's 100 feet off Stoney Ridge and 100 feet off Mills, north of the pine tree.

Derek Zilka says he thinks the property is enough for 3 lots to split eventually not counting the corner. He wants to keep the garage/barn on the corner but move it back 100 feet and asks if that will work or would it still need to be behind the house? We just want to utilize the corner more. Mr. Ladagaard says it needs to be 100 feet off Stoney and behind the house.

Mr. Schatschneider says now that you know the parameters you can reconfigure the location using these numbers.

Mr. Ladagaard says we will vote on the front yard, but it doesn't look like it will be too favorable.

Mrs. Clements said one of the neighbors to the north called and she has some concerns about it being in the front yard and blocking the line of site for traffic at the corner of the intersection. She doesn't feel it's a good fit and there is a lot of property that and it could be moved somewhere else. Mrs. Clements says she has some concerns about that back parcel because of the distance between the 2 lot lines. She doesn't know if even creating a flag lot would allow you to get back to that area.

Mrs. Zilka asked if they need to come in at a different time if they decide to move the barn elsewhere. Mr. Ladagaard says we can table this. Mr. Gasior says if we call a vote, it doesn't look like it will pass. The Board is asking you to reconsider the location and table this matter for another 1-3 months and come back with a different layout and then see if there is a variance that is still required and take that variance up again. He proceeds to say it is problematic because we always need to notify your neighbors in the event they are impacted. Although it might be better if the matter goes forward with the vote. Then you can think about things in the next few months and then maybe come back in 6 months to ask for a different layout. Mrs. Zilka says 6 months is a long time. Derek Zilka says they will move forward with the vote.

Mr. Gasior says he knows the City of North Ridgeville is working on that intersection and the present map does not depict what is the right of way currently. He believe they have gone to court, and they have already sought to acquire a piece of your property on the corner, is that correct? Derek Zilka says they lost but Mr. Gasior says it's currently in court. This happens in court where there is a need to acquire someone's property to install a sewer or extend the road. He understands the current process and what stage it is in at the court presently. That corner on the map doesn't depict where that corner and property line is currently. Mr. Gasior says when you come back in front of the board show a current map so the board can determine what the 100 feet from the right of way is. He understands this is currently in court and you will at some point get paid damages for some of your land being acquired. However, this is the new right of way. The remaining court case is to determine how much money you will receive for the city acquiring your land. Derek Zilka says he understands.

Mr. Gasior says the board will need to see a current map with current dimensions to make a decision. Your attorneys would have copies of those maps that they can give to you. It will be easier for the board to understand what you are trying to propose.

Derek Zilka says they want to move forward with the vote and put the barn on the corner. Mr. Gasior says he knows the case has been filed, money has been deposited, to his understanding there a new right of way there. He doesn't believe the plan that has been submitted reflects the new right of way and therefore he doesn't think you can vote on this without seeing the new right of way currently. One of the reasons this body did not act previously is because that whole situation was up in the air. It's no long up in the air, there is a new right of way in a peanut shape.

Mrs. Zilka says she planned on dividing up her lots and that was going to mess up everything. Mr. Gasior says that is part of your court case. This body needs to see the current right of right and what you are proposing to do. One of the reasons the codified ordinances talk about 2 front yards is when you are on a corner because of the obstruction of views. That is why the code requires 100 feet.

Mr. Gasior says he is not sure how the roundabout is being put in sometimes they lean to the east or west. This one, he believes, favors the east. We don't have the most accurate dimensions at this point for this request. The bottom line is the city is entitled to take the property.

Request 1:

Mr. Miller moved, seconded by Mr. Bulger to approve a front yard setback variance The vote was: "NAY" by all. The Chair declared the motion denied. Mr. Hricovec abstained from the vote.

Request 2: removed.

8. Brian & Amy Koziara; PPN 0400001101011 Detroit Road;11-23

Proposal consists of a new home.

The following variances are requested:

1. A 6.3' side yard setback variance; code requires 12 ft.; applicant proposes 5.97 ft. west side. Section 1262.04(d).
2. A 4.67' side yard setback variance; code requires 12 ft.; applicant proposes 7.33 ft. east side. Section 1262.04(d).
3. A 42' front yard setback variance; applicant proposes 50' from center line with house starting at right of way; Section 1262.04(d)(1)(A).
4. A 15' lot width variance; code requires not less than 100' at the building line; applicant proposes 85' at building line; Section 1262.04(c)(1)(B).

Mrs. Clements indicated that the Applicant has withdrawn their request.

Mr. Miller moved, seconded by Mr. Bulger to grant Applicant's request to withdraw Brian and Amy Koziara appeal. The vote was: "AYES" all. The Chair declared the motion passed.

COMMENTS

Mr. Ladegaard, we have a birthday in the month of May, May 10, 2023, Mr. Duane Streator. Everyone wished Mr. Streator a happy birthday.

ADJOURN

Mr. Bulger moved, seconded by Mr. Hricovec to approve to Adjourn. The vote was "AYES" all. The Chair declared the motion passed. Meeting adjourned at 8:02

Mark Ladegaard, Chair

Susan Pintz, Planning Commission
& ZBA Secretary

Date