

**BOARD OF ZONING & BUILDING APPEALS
CITY OF AVON
MEETING MINUTES FOR AUGUST 3, 2022**

OATH OF OFFICE

Mr. Gasior swore Kurt Schatschneider in as a new member of the Board. Mr. Ladegaard welcomed him back to the Board.

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
Staff: Jill Clements, Zoning Enforcement Officer; Pam Fechter, Planning Coordinator; John Gasior, Law Director; Duane Streator, Safety Director; Nicole Rambo-Ackerman, Planning Clerk

REVIEW & CORRECTION OF MINUTES

Mr. Miller moved, seconded by Mr. Hricovec, to dispense with the reading of the minutes of the regular meeting held on July 6, 2022 and to approve the minutes as published. The vote was: “AYES” all. The Chair declared the motion passed.

REPORTS & CORRESPONDENCE

ADDITIONS & DELETIONS

APPEALS & REQUESTS

1. Kevin & Holly Ladegaard; 3477 Jaycox Road

Representatives: None present

Proposal consists of a home addition. Proposal was tabled at the July 6, 2022 meeting.

The following variance is requested:

1. A 1 ft. variance for side yard setback, Section 1262.04(d)(3).

Mr. Bulger moved, seconded by Mr. Miller, to remove the request from the table for a variance of 1 ft. side yard setback from C.O. 1262.04(d)(3) Lot and Yard Requirements to allow the construction of an addition to the existing home located at 3477 Jaycox Road. The vote was: “AYES” all. The Chair declared the motion passed.

Mr. Ladegaard said the applicant has asked to table the appeal indefinitely.

Mr. Miller moved, seconded by Mr. Hricovec, to table the request indefinitely for a variance of 1 ft. side yard setback from C.O. 1262.04(d)(3) Lot and Yard Requirements to allow the construction of an addition to the existing home located at 3477 Jaycox. The vote was: “AYES” all. The Chair declared the motion passed.

2. American Construction Group, LLC Appeal

Representatives: None present

Proposal consists of an appeal to reinstate the City of Avon Contractor’s Registration for American

Construction Group, LLC. Proposal was tabled at the July 6, 2022 meeting.

Mr. Miller moved, seconded by Mr. Bulger, to remove the appeal from the table from American Construction Group, LLC to reinstate their Contractor's Registration with the City of Avon. The vote was: "AYES" all. The Chair declared the motion passed.

Mr. Miller moved, seconded by Mr. Hricovec, to table the appeal from American Construction Group, LLC to reinstate their Contractor's Registration with the City of Avon until the September BZBA meeting. The vote was: "AYES" all. The Chair declared the motion passed.

3. Linda Pratt; 32520 Schwartz Road; 37-22

Representatives: Linda Pratt, 4612 Bellerive Court, Avon, OH; Julie Byrne McMahon, 33649 St. Francis Drive, Avon, OH

Proposal consists of a fence. Proposal was tabled at the July 6, 2022 meeting.

The following variance is requested:

1. A 4 ft. variance for fence height; Section 1294.08(a)(3).

Mr. Miller moved, seconded by Mr. Bulger, to remove the appeal from the table for Linda Pratt; 32520 Schwartz Road; 37-22. The vote was: "AYES" all. The Chair declared the motion passed.

Mr. Gasior administered the oath to Ms. Pratt and Ms. McMahon. Ms. Pratt apologized for not being at the previous meeting because she was out of the country. She would still like to have an eight-foot tall fence in the side yard. She said the six-foot fence has been put up and Mr. Ladegaard confirmed that he saw it while visiting the property. Ms. Pratt explained that the photos submitted prior to the meeting showed the six-foot fence and what a seven-foot fence would like, even though she incorrectly told Ms. Clements that it was an eight-foot fence. Ms. McMahon said the posts shown in the photos are eight feet tall, though some are a little shorter. Ms. Pratt said the fence starts at the front of the house and they installed seven trees in the front yard along with a few trees in the back. Ms. Pratt said the house has been on the market for ten days. Ms. McMahon explained that some feedback she received from a potential buyer was that they would like more privacy and that it would be nice to have a higher fence to cover the neighbor's property. Ms. Pratt added that it would be for more privacy. She also understood the Board's concerns about not wanting to set a precedent. She explained that they went to Dr. Khouri's house at the end of Schwartz Road and believed his fence is around seven feet tall. Ms. Pratt wanted to be able to give privacy to neighbors on both sides of the fence. She did not think any other neighbors would be impacted by an eight-foot fence.

Mr. Schatschneider did not believe an eight foot fence has been approved, at least not in the 12 years that he previously served on the Board, and he did not think it was a good idea. Mr. Hricovec thought the trees that were installed looked good but thought the fence should stay six feet tall. He also did not think the neighboring property would be seen by anyone sitting on the patio and thought the trees would block more as they grew. Ms. Pratt provided three photos to the Board showing what the fence would look like from the yard, which she believed would most likely be where a future pool could be installed. She then asked for a seven-foot fence. She explained that she spent \$3,000 on ten trees and believed it would be cost prohibitive to put more in along the property line. Ms. McMahon thought the fence looked nice from both sides, especially the neighbor's side. Ms. Pratt added that the neighbor went on the record at the previous meeting that he would be alright with having a higher fence. Ms. McMahon believed a higher fence benefitted both parties.

Mr. Ladegaard suggested the Board vote on a seven-foot fence. Ms. McMahon asked if the Board could find out if Dr. Khouri's house was granted a variance. Mr. Ladegaard asked where Dr. Khouri's house is and Ms. Pratt explained that it is the house on the south side of Schwartz near the bend in the road. Mr. Ladegaard said a variance has not been granted for an eight-foot fence. Ms. Pratt asked if an eight-foot fence has ever been requested, Mr. Ladegaard did not think there has been. Ms. Pratt asked what the reasoning behind that decision was, Mr. Ladegaard thought it may be because of the precedent issue. Mr. Ladegaard further explained that every case is unique and when he visited the property, he noticed that most of the windows are ten feet off of the ground. He thought that if a six-foot tall person is on the outside of the house walking along the property line, they would be able to see over the fence, but someone inside the house could see over the fence whether it is six or eight feet tall. Ms. Pratt admitted that the vehicles cannot be seen when standing next to the fence, but they would be visible when someone is standing in the middle of the yard. Ms. McMahon thought it "was unique that the neighbor has that many vehicles in his back yard." Mr. Ladegaard thought that whoever purchased the lot would have known the vehicles were next door when they purchased it. Ms. Pratt said the lot was previously wooded so some of that was not apparent. Ms. Rambo-Ackerman confirmed that the fence would extend from the front of the house back. Mr. Gasior clarified that the agenda should have said a two-foot variance was requested and would be decreased to one foot to allow a seven foot fence.

Mr. Miller moved, seconded by Mr. Hricovec, to approve the following variance for Linda Pratt; 32520 Schwartz Road; 37-22 for a 7 ft. fence, as amended:

1. A 1 ft. variance for fence height; Section 1294.08(a)(3).

The vote was: "NAYS" all. The Chair declared the motion denied.

4. Thaeer Abusharif; 2056 Jaycox Road; 41-22

Representatives: Thaeer Abusharif, owner; Lawrence Espalante, 2021 South Hampton Lane, Avon, OH
Proposal consists of a garage addition.

The following variance is requested:

1. A 624 sq. ft. variance for accessory building square footage; Section 1262.08(a)(2).

Note: Previous variance for 329 sq. ft. was granted at the June 2, 2021 BZBA meeting.

Mr. Gasior administered the oath to Mr. Abusharif. Mr. Abusharif said the shed he requested last year has been removed because it did not look nice on the property. He talked to the builder who built his home and asked if they could add an extension to the original garage so the front could look like a home but would have an entrance on the side. Mr. Abusharif said the previous shed was Amish-built and the contractor purchased the shed back. Mr. Ladegaard reviewed the variances that were previously requested: a variance for a 30-foot by 40-foot building in 2019 and a 12-foot by 16-foot shed in 2021. He thought the previous request was at the maximum size that he would be comfortable approving a variance for. The total square footage was 1,392 square feet. Mr. Abusharif would not be able to add onto the existing garage due to the roof pitch even though he wanted a 40-foot by 40-foot building originally. Mr. Abusharif could not put a car in the previously approved shed and did not think he could do anything with a 12 foot by 16 foot shed. Mr. Bulger asked if the previous shed was big enough for the stuff the applicant wanted to store in it but if he just wanted it to be bigger and look nicer. Mr. Abusharif said he wants it to look nicer and put a car or two in it. He currently has a three-car detached garage. The attached garage is for his wife's cars, children's toys and workout equipment. The detached garage is used to store his car collection that he invests in. Mr. Miller thought the request was excessive. Mr. Abusharif knew he could use a 12-foot by 16-foot shed but he thought it looked ugly. Mr. Schatschneider asked if the applicant could use the 12-foot by 16-foot shed since he already got a variance for it. Mr. Abusharif said he built the shed and then had it removed.

Mr. Ladegaard explained that the square footage allowed by the code would allow him to add six feet to the length of the garage, totaling an additional 180 square feet, which he did not think would not be worth the cost. The previous variance expired since it has been more than a year since it was granted and the shed was removed. He would be willing to grant the same variance that was approved last time. Mr. Abusharif asked if he could propose a smaller shed. Mr. Hricovec pointed out that a typical garage door is eight feet wide so the building would probably need to be at least 12 feet wide and 16 feet deep. Mr. Abusharif said the average length of car is 15 to 16 feet so he wanted a 20-foot by 20-foot shed which would be 1,600 total square feet and would allow him to install a bathroom in the garage. Discussion about the numbers, and it was determined that the total square footage request would be for 400 square feet since the 2021 variance expired. Mr. Ladegaard noted that the applicant was now asking for 200 more square feet than he was granted previously and he was at 60% last time. Mr. Hricovec asked if the applicant would have to come back to request the previous variance if the current variance request is denied. Mr. Abusharif said he would not come back to request the 12-foot by 16-foot shed because it looks too ugly. If the Board does not approve his variance, he would just leave the garage alone since it would look too ugly.

Mr. Gasior administered the oath to Mr. Espalante. Mr. Espalante said the neighboring HOA had three concerns about the project. The property is zoned residential and they thought the size of the buildings could be used for industrial purposes and storage of heavy equipment. If the buildings are used to store heavy equipment, they would be concerned about potential noise created by pneumatic and impact tools that would be associated with a mechanic. They are also concerned about the storage of chemicals such as gasoline, diesel and oil. The fencing on the property does not go all the way around the property and he was not sure if the applicant intended to complete the fence line. He was also concerned about runoff from the additional concrete. He admitted these were concerns based on assumptions since they did not know the project details, but he asked the Board to keep them in mind when discussing the case. Mr. Abusharif said the fence was not finished because he likes the way the trees looked and he only put the fence up because of the traffic on Middleton Road. He does not work on cars and showed the Board a live photo of the garage. The only time he would have equipment is if he had to move something in the yard. He does not have water issues because the grading was well done. The garage has gutters that take water to the front of the property and the new structure would be tied in also. He has a warehouse that is used for his businesses so he would not use his personal garage for equipment storage.

Mr. Miller moved, seconded by Mr. Hricovec, to approve the following variance for Thaeer Abusharif; 2056 Jaycox Road; 41-22 for a 20 ft. by 20 ft. garage addition as amended:

1. A 400 sq. ft. variance for accessory building square footage; Section 1262.08(a)(2).

The vote was: "NAYS" all. The Chair declared the motion denied.

5. Daniel Ramos; 3309 Parkview Drive; 42-22

Representatives: None present

Proposal consists of a fence in the front yard.

The following variances are requested:

1. A 2 ft. variance for fence height; code allows 4 ft., Section 1294.08(a).
2. A variance for opacity; code requires 70% of fence must be uniformly distributed open space, Section 1294.08(a).

Mr. Hricovec moved, seconded by Mr. Miller, to table the following variance for Daniel Ramos; 3309 Parkview Drive; 42-22 for a fence in the front yard until the September BZBA meeting:

1. A 2 ft. variance for fence height; code allows 4 ft., Section 1294.08(a).

- 2. A variance for opacity; code requires 70% of fence must be uniformly distributed open space, Section 1294.08(a).**

The vote was: "AYES" all. The Chair declared the motion passed.

6. Matt Rohr; 35786 Bentley Drive; 43-22

Representative: Rebecca Rohr, owner

Proposal consists of a pavilion.

The following variance is requested:

1. A 44.4 sq. ft. variance for accessory building square footage; applicant proposes 256 sq. ft., Section 1262.08(a)(2).

Mr. Gasior administered the oath to Rebecca Rohr. Ms. Rohr said they are trying to build a patio and pavilion. They enjoy hosting parties and want to use it to protect visitors from the sun when neighborhood kids and family are over. Mr. Ladegaard said a couple neighbors sent emails in, one in support of and one against the project. Mr. Schatschneider said the proposal is only three feet wider than what would be allowed and did not think the request would make much of a difference.

Mr. Miller moved, seconded by Mr. Hricovec, to approve the following variance for Matt Rohr; 35786 Bentley Drive; 43-22 for a pavilion:

1. A 44.4 sq. ft. variance for accessory building square footage; applicant proposes 256 sq. ft., Section 1262.08(a)(2).

The vote was: "AYES" all. The Chair declared the motion passed.

7. Ryan & Jacqueline Anderson; 3891 Center Road; 44-22

Representative: Ryan Anderson, 32855 St. Anthony's Way, Avon, OH

Proposal consists of an existing barn on a lot with no primary dwelling.

The following variance is requested:

1. A variance to allow an existing barn to remain on a lot with no primary dwelling; Section 1262.08.

Mr. Gasior administered the oath to Mr. Anderson. Mr. Anderson clarified that the address is actually 3891 Center Road, not 3981 as listed on the application. He purchased the property with an existing barn on it. He intends to restore the barn and build a house on the property. The barn needs a new roof and doors and some other repairs. The lot is a little more than 12 acres and is located north of Bob-o-Link. Mr. Anderson said the lot would only have a barn and house on it and no other development. Ms. Fechter said she received a call from Mr. Fitch stating that he is excited that the barn is being restored and supported the project. Mr. Ladegaard asked if he is building the home in the near future. Mr. Anderson said he hopes to build soon and Bramhall Engineering is working on the site work now. He has already started cleaning up the property. Mr. Schatschneider suggested adding a time limit to the variance in case the owner decides to sell the land later. Mr. Anderson plans to start building in September and would like to be in the house by next school year. Mr. Gasior said the house needs to be built so he suggested a three-year time limit and the applicant could request an extension if needed. The Board settled on a two-year time limit.

Mr. Miller moved, seconded by Mr. Hricovec, to approve the following variance for Ryan & Jacqueline Anderson; 3891 Center Road; 44-22 for an existing barn on a lot with no primary dwelling, conditioned upon the primary dwelling being constructed, built and occupied within 2 years:

1. A variance to allow an existing barn to remain on a lot with no primary dwelling; Section 1262.08.

The vote was: “AYES” all. The Chair declared the motion passed.

8. Dan Levy; 2743 Fairview Drive; 45-22

Representative: Dan Levy, owner

Proposal consists of a driveway extension.

The following variance is requested:

1. A 7 ft. variance for front yard setback for a supplemental paved area for parking or outdoor storage of vehicles; code requires 20 ft., Section 1262.08(c)(2).

Mr. Gasior administered the oath to Mr. Levy. Mr. Levy said he was not aware that there was a setback requirement. He would like to install a flower bed and small tree in the area between the driveway extension and the sidewalk. He noted that his house is one of the few in the neighborhood that does not have a three-car garage, so he did not think the driveway would not look out of place.

Mr. Miller moved, seconded by Mr. Bulger, to approve the following variance for Dan Levy; 2743 Fairview Drive; 45-22 for a driveway extension:

1. A 7 ft. variance for front yard setback for a supplemental paved area for parking or outdoor storage of vehicles; code requires 20 ft., Section 1262.08(c)(2).

The vote was: “AYES” all. The Chair declared the motion passed.

9. David Sommer; 35388 Riegelsberger Road; 46-22

Representatives: None present

Proposal consists of an awning over an existing concrete pad.

The following variance is requested:

1. A 3,204.2 sq. ft. variance for accessory building square footage; code allows 1,515.8 sq. ft., applicant proposes 4,120 existing sq. ft. plus 600 additional sq. ft., Section 1262.08(a)(2).

Mr. Bulger moved, seconded by Mr. Schatschneider, to table the following variance for David Sommer; 35388 Riegelsberger Road; 46-22 for an awning over an existing concrete pad until the September BZBA meeting:

1. A 3,204.2 sq. ft. variance for accessory building square footage; code allows 1,515.8 sq. ft., applicant proposes 4,120 existing sq. ft. plus 600 additional sq. ft., Section 1262.08(a)(2).

The vote was: “AYES” all. The Chair declared the motion passed.

10. Maureen Murray; 2382 Chelsea Street

Representatives: Maureen Murray, owner; Owen Wagner, Titan Construction, 1675 Lares Lane, Brunswick, OH

Proposal consists of an existing concrete pad.

The following variance is requested:

1. A 5 ft. variance for side yard setback; code allows 5 ft., applicant proposes 0 ft., Section 1262.08(c)(3).

Mr. Gasior administered the oath to Ms. Murray and Mr. Wagner. Ms. Murray was unaware of the side yard requirement. She explained that she lost a lot of family members within a few years of each other. She had the patio installed to allow her remaining elderly and ailing family members in wheelchairs to gather together. She tries to do everything right and thought it would be a “game changer” if she is unable to gather with her family outside if she has to remove the patio. She hired Titan Construction because she heard good things about the company. Mr. Schatschneider asked what the setback is for the property since it is zoned differently. Ms. Clements said they would actually need a three foot variance

since the patio was installed up to the fence. Mr. Wagner said there is a path on the right side of the house which is the only path that is accessible. There is a gate and an existing privacy fence. The patio is pitched away from the neighbor's property and it cannot be seen from the neighboring property. Mr. Bulger asked if a wheelchair could get around the air conditioning unit that sticks out 48 inches from the house without being in the neighbor's property. Mr. Wagner explained that the wheelchairs are 36 and 42 inches wide and there is 43 inches, so the house would not be impacted. He said he has worked on a lot of houses in Avon with Our Lady of the Wayside.

Mr. Miller moved, seconded by Mr. Hricovec, to approve the following variance for Maureen Murray; 2382 Chelsea Street for an existing concrete pad, as amended:

- 1. A 3 ft. variance for side yard setback; code allows 3 ft., applicant proposes 0 ft., Section 1262.08(c)(3).**

The vote was: "AYES" all. The Chair declared the motion passed.

COMMENTS

Mr. Abusharif asked if he could request a 16-foot by 20-foot shed which would fit a car. Mr. Gasior said it was less than what was requested but the matter failed earlier in the meeting. Mr. Gasior said he could ask for a reconsideration at the next meeting but would need at least two members to make a motion to reconsider the case at the next meeting. If not, he would have to wait six months to file a new application. Ms. Fechter asked if his case is not reconsidered at the next meeting, could the applicant request the variance for the 12-foot by 16-foot shed at the meeting after that. Mr. Ladegaard said he would not be willing to approve a request higher than 200 square feet. None of the other members would be willing to entertain a higher request. Mr. Abusharif asked why none of them would not change their minds. He believed there are properties all over Avon with ugly garages. Mr. Ladegaard explained that the garage size is determined by the size of the lot and he wants to make sure everyone is treated similarly when requesting variances.

ADJOURN

Mr. Miller moved, seconded by Mr. Bulger, to adjourn the meeting at 8:10 p.m. The vote was: "AYES" all. The Chair declared the motion passed.

Mark Ladegaard, Chair

Nicole Rambo-Ackerman, Clerk

Date