

**CITY OF AVON BOARD OF ZONING & BUILDING APPEALS
REGULAR MEETING MINUTES SEPTEMBER 6, 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, John Gasior, Law Director, Duane Streator, Safety Director, Susan Pintz, Planning Commission & ZBA Secretary

Absent: Jill Clements, Zoning Enforcement Officer, Pam Fechter, Econ. Dev./Planning Coordinator

REVIEW & CORRECTION OF MINUTES

Motion to dispense with the reading of the minutes of the regular meeting held on August 2, 2023, and to approve the minutes as published.

Mr. Miller moved, seconded by Mr. Schatschneider, to dispense with the reading of the minutes of the regular meeting held on August 2, 2023, and to approve the minutes as published. The vote was: “AYES” all. The Chair declared the motion passed.

REPORTS & CORRESPONDENCE

None

ADDITIONS & DELETIONS

None

APPEALS & REQUESTS

1. **Jesus Vega; 4233 Queens Gate; 23-23**
Proposal consists of roof over existing patio.

The following variance is requested:

1. 13-foot rear yard variance; code requires 15 feet; applicant proposes 2 feet. Section C.O. 1266.05(a)(4) clusters-minimum setback requirements.

Mr. Hricovec moved, seconded by Mr. Miller to un-table the Jesus Vega appeal. The vote was: “AYES” all. The Chair declared the motion passed.

Mr. Miller moved, seconded by Mr. Hricovec to delete the Jesus Vega appeal. The vote was: “AYES” all. The Chair declared the motion passed.

*Applicant was not able to receive HOA approval for his request

2. **Todd and Alana Peters; 35410 Livingston Drive; 31-23**

Proposal consists of roof over existing deck.

The following variance is requested:

1. 7-foot rear yard setback variance. Code requires 50 feet, applicant proposing 43 feet. Section C.O. 1262.04(d)(4) Lot and Yard Requirements, rear yard.

Todd and Alana Peters, 35410 Livingston Drive were sworn in.

Mrs. Peters states that they would like to install a permanent roof over their existing deck. They have a lot of bugs and rain issues on the deck. For the enjoyment of the deck, they also have a pool, and she feels it would make the area nicer. She doesn't think it affects any of the neighbors. They have spoken to the neighbors, and they have no objections. It is a private area, and a wooded lot and she doesn't think anyone can see it except for in the winter. She also stated that she doesn't believe they need to the whole 7 feet, she thinks they only need 3 feet, but she said she was told to apply for more just in case. She thinks they only really need 26 inches.

Mr. Hricovec stated there is a pool there and how does the 15 foot rule apply to the pool once the addition is put on?

Mrs. Clements was not present to answer this question. This question will be presented to her once she returns.

Mr. Hricovec states that he believes the code states 15 feet from the dwelling to the edge of the pool. He states there have been several similar situations over the years; a pool encroaching the setback from the house.

Mrs. Peters states they can clear the actual house, it just would not be from the roofline. They have 15 feet from the house, not from the extension of the roof.

Mr. Bulger asked if they have a rough idea of the footage?

Mr. Hricovec responds 5 feet, 10 feet from the property line and 15 feet from the building.

Mr. Streator states the extension would be the new roof/building only because it is attached to the house.

Mr. Gasior states that there is not the 15 feet.

Mr. Hricovec states they would need a variance.

Mr. Ladegaard states they would need a variance for the addition and another one for the distance of the pool.

Mr. Streator states yes that would be correct.

Mr. Gasior states he agrees.

Mr. Hricovec states that he thinks the addition is ok, that could be granted but then they would need to come back for the pool distance variance.

Mr. Gasior agrees that they would need to come back for the pool variance and notice would need to be sent again to the neighbor for this second variance. He further states with that in mind we could table this until next month.

Mr. Ladegaard asked if Mr. and Mrs. Peters understand what is going on. They state that yes, they understand.

Mr. Streator asked if they have any idea about what the distance would be.

Mrs. Peters states about 4-5 feet because of the way the corner will be. They plan to screen in the new roof, the pool will be outside of that. It is a unique situation that they have. If the measurement has to be from the roof, then it is not 15 feet and will not even be close to that. They are fine from the actual house now, but not with the addition.

Mr. Gasior says obviously they cannot move the pool.

Mrs. Peters states it is an above ground pool and it will not always be there. They put the pool in the year 2010.

Mr. Gasior states that then theoretically they can move the pool.

Mrs. Peters states they have no plans on moving, they are just putting this new addition on because their kids are all grown, they will probably not replace the pool when the time comes to remove it. The pool is 13 years old.

Mr. Gasior suggests to tentatively grant the variance for the structure and then we can double check when Mrs. Clements returns, who is the Zoning Enforcement Officer, if we will need to do the second variance for the distance between that new structure and the pool. He doesn't have his code book with him to look it up. If the board chooses to tentatively approve the one variance that is being requested and then if there is no need for a second variance for whatever reason then you are good to go, and we will notify you.

Mrs. Peters asked if they need another variance then we need to go into next month (October).

Mr. Gasior responds yes, and we can handle them both next month. If it turns out in our reading of the code that you don't need to worry about the distance between the structure

and the pool, then you will be good to go and then Mrs. Pintz will notify you that the variance has been granted and then you can get your building permit.

Mrs. Peters stated that they shouldn't move ahead with the builders until we get both variance approvals?

Mr. Gasior responds yes because you will just be tentatively approved if that is the vote outcome. Since we are not actually certain that you need that second variance.

Mrs. Peters states she doesn't want to give the builder a down payment and then suddenly this is not approved.

Mr. Gasior agrees that she should not give the builder any down payment yet until we get the final determination because we may see you again in October.

Mr. Ladegaard states we will proceed to vote on this. Mr. Gasior states yes but it is only tentative.

Mr. Bulger moved, seconded by Mr. Hricovec, to tentatively approve the roof over the patio for the 7-foot rear yard setback. The vote was: "AYES" all. The Chair declared the motion passed.

**Mr. Gasior states that if it turns out that we don't need the second variance for the pool then Mrs. Pintz will notify Mr. and Mrs. Peters that the variance is no longer tentative but final.

3. James and Kelly Weaver; 34400 Crown Colony Drive; 30-23

Proposal consists of roof over existing patio with privacy wall.

The following variance is requested:

1. 9-foot rear yard setback variance. Code requires 20 feet; applicant proposes 11 feet. Section C.O. 1262.05(d)(4) Lot and Yard Requirements, rear yard.

Kelly Christy, French Creek Builders, 2581 Fairfield Dr. Avon, Ohio 44011 was sworn in.

Mr. Christy is proposing a covered structure over the existing patio that Mr. and Mrs. Weaver have. Their house faces due west right where KMU's new commercial area is going in, which is off Mills Road. So, two-fold, one is for privacy, two is to help with the direct sun that they have in the afternoon, with trees that have come down its pretty brutal. Mr. Urig has been great and doing the best that he can with the retention pond but cosmetically it is still unsightly. Mr. Christy brought a picture if the board would like to see them. He is looking to improve what the Weavers have.

Mr. Ladegaard states that a couple of board member went to view the site and he agrees.

Mr. Schatschneider states that this is an area that is going to be up against manufacturing in the back yard. Residential meets the front end of it?

Mr. Ladegaard states no.

No further comments from the board.

Mr. Hricovec moved, seconded by Mr. Bulger, to approve the 9-foot rear yard setback variance The vote was: "AYES" all. The Chair declared the motion passed.

4. Juliano Morales and Isabel Paranagua Vezozzo; 2821 N. Hayes Street; 32-23
Proposal consists of installation of 4-foot fence.

The following variance is requested:

1. Allow fence to be constructed within a drainage easement. Section C.O. 1248.19 Structures and Improvements within Utility Easement or Right of Way.

Adrian Rondini, Superior Fence and Rail, 6909 Engle Road, Suite 35, Middleburg Heights, Ohio 44130 was sworn in.

Mr. Rondini states that Mr. Morales moved into this house, he obviously knew about the easement. Mr. Rondini knows how important the easement is. Mr. Morales is willing to allow access to the easement at his own cost. So, if at any time anyone needs to get access to the easement, he knows that the costs will be his responsibility. Every other house in that neighborhood, the fences all go to the same access that he is trying to go to. He further states it's aesthetically appealing and if he ever tries to move his house just having the most yard and look like everyone else would help him and help the city when it comes to value.

Mr. Ladegaard states the board went to view the site and everyone house has the same thing. As long as he knows that in case the city needs access that he will need to be responsible for the costs involved for any construction where they have to remove the fence.

Mr. Rondini states yes Mr. Morales is more than willing to accept responsibility.

Mr. Schatschneider asked if this is all written into a deed?

Mr. Gasior states he would like to know the same thing. He further states that we may need something in writing from the owner that he is in fact in agreement.

Mr. Rondini states that Mr. Morales is present if the board would like to speak with him.

Juliano Morales, 2821 N. Hayes Street, Avon, Ohio 44011 was sworn in.

Mr. Gasior confirms to Mr. Morales that he heard the discussion about the fence.

Mr. Morales indicates yes sir.

Mr. Gasior confirms that Mr. Morales is stating that if there comes a time when the city needs to access the easement that you will remove the fence at your own costs and replace it at your own costs.

Mr. Morales confirms yes.

Mr. Gasior asks the board if they are satisfied with that. They indicate yes. Mr. Gasior states this will be a part of the permanent record in the meeting minutes. So, if Mr. Morales at a later date decides he doesn't want to remove the fence we can refer to the meeting minutes to indicate that he promised to do that under oath.

Mr. Morales states that is correct.

No further comments from the board.

Mr. Miller moved, seconded by Mr. Bulger, to approve the request for the fence to be constructed within a drainage easement. The vote was: "AYES" all. The Chair declared the motion passed.

5. Millennium Holdings, LLC; 34654 Mills Road; 29-23

Proposal consists of a wall sign.

The following variance is requested:

1. 31 sq. ft. variance. Code allows 80 sq. ft.; applicant proposes 111 sq. ft. Section C.O. 1290.05(e)(1) Schedule of Maximum Sign Area-Business, identification signs attached to building.

Tricia Neman, Wagner Electric Sign Company, 7135 West Ridge Road, Elyria, Ohio 44035.

Dave Pampush, Millennium Holdings, 2828 Kingsbury Drive, Rocky River, Ohio 44116.

Mr. Pampush states the business is headquartered in Delavan, Wisconsin. Millennium is building a building in Avon. They are very pleased about this. This is a national company that provides all the services to build the internet with a focus on rural communities and municipalities. You probably know a little bit about us from the information we sent you. We are on Mills Road and the building is near finished. We hope to move in around October. He states he is new to this whole process. He has never built anything in his life. He lives in the house that he grew up in. He looked at the four reasons why he needed to respond to this appeal. The first was; reasonable use without variance. He states that in no way would Millennium be deprived if you didn't give us this variance. The fact is we do not need a road sign like McDonalds as you are driving down the highway. We are a

business-to-business organization. He further states we would not be deprived. That was kind of a fierce word in the code. However, it would allow us to maintain our corporate image and he states that some pictures were sent of some of the other buildings, which is important to us, and we think it gives the right class to the City of Avon. He thinks they would deliver a high-class position on Mills Road. Also, he doesn't believe the neighborhood would be affected, in fact it might even be improved. He knows the other industrial neighbors there are very neat and well done. Lastly, they did not have any knowledge of any zoning issue when they bought the property and that did not stop us from purchasing the property. Millennium does promote your purpose of the code which is to promote and maintain attractive high value residential, business office and industrial districts. He thinks they are doing that with the look of their building and the sign.

Ms. Neman states that from Wagner's standpoint and from a sign perspective looking at the building itself, it is a large warehouse building. The sign is proportionate to the building. She presented pictures of some different locations. She states if you see the one that they have it is very similar. In speaking of that she thinks of branding from a marketing perspective and from Millennium's perspective. If you change the sizing of the logo, spacing between letters and things like that become a change to a brand. So, to shrink it down, you have to take it in a graphic design piece and make the whole thing smaller. So, it doesn't keep that integrity as you shrink the sign down and it becomes small very quick. She thinks it is proportionate to the building. Ms. Neman further states that she thinks about the traffic, being an Avon resident herself, and knowing the building, having walked the building and the property. There is access for semi-trucks and these big trucks are going to be delivering a lot of things to the back of the building. They are used to driving nationally and they are used to seeing this logo on this building, they will know exactly where to go when they will be coming down Mills and will see it. They will know where to turn and it will be clear and concise. She thinks that is very important because it is not easy to turn around a semi-truck if you pass the building either way. She thinks about obstructing traffic and thinks of those types of things as a resident, that is why she thinks it would be beneficial for residents living here, plus aesthetically it will be a beautiful sign.

Mr. Ladegaard asked if Millennium supplies product to Spectrum?

Mr. Pampush states only by accident.

Mr. Ladegaard responds, ok, because they need some help because their internet is pretty bad.

Mr. Pampush indicates that their focus is and the resources they provide are for the businesses that don't have these resources, like AT&T, Verizon, Comcast, they are not really their clients. Their clients are small telephone companies and municipalities. They do not have these resources; they supply all kinds of resources including materials which will be stored at the building in Avon. That is sort of what we do, so we cannot help with Spectrum.

Mr. Ladegaard states regarding the signage, we are pretty close as far as the numbers. The board would like to see a little bit smaller. He has a couple of ideas. You have the measurement at 3 feet by 37 feet, I believe. That is about a 38% variance which is a little larger than what we would grant on signage. He has 2 formulas that he came up with that he would suggest. 1. If you wanted to keep the 3-foot tall then make it 32 foot wide. If you wanted to keep 37 feet then make it 32 inches high, then you would only lose 4 inches. That is the formula that they kind of go by. He asked if either of those would work for you.

Mr. Schatschneider states they are not in the habit of giving signage variances more than 10-15 % because everyone that comes into Avon wants to have the biggest sign. It is not fair to the other people to give 1 person at 31 sq ft variance and then deny someone else. That is why we try to keep it to 10-15%, maybe 20% at most.

Mr. Hricovec states that a couple of months ago someone presented an appeal for the old Westlake Auto Body, and they had a sign and now it's a franchise company and they have a logo, and the sign was more rectangular but taller standing up versus long ways. They wanted to flip it and it is a big deal to the city to always have everyone conforming. If with a pre-existing we would try to compromise, so this is always a big deal, and every business wants the biggest sign in town. So, it's something we see a lot of. Mr. Hricovec states he took the ratio because he thinks this is similar to a franchise business like McDonalds, the sign is the same in ratio proportion. From the design point he came up with a factor of .08 and so you could do 32 x 2 foot 6-3/4 and it would give you that same spacing and height to width proportion. If we did 34 x 2 foot-9 it was 92-1/2 sq ft., if we did 32 x 2 foot 6-3/4 is 81.92 square feet. So, keeping everything in proportion to length to width as to what you have now and it's similar if you went on the computer and cut it a little bit. Those are all different options.

Mr. Miller states what is proposed looks well balanced, not sure how you feel about cutting a down a little bit. I understand the use of signage.

Mr. Bulger states that Mr. Hricovec covered all that very well.

Mr. Hricovec states that he noticed they own all the property all the way up to the corner and back. Hopefully you can expand your business, so as you expand there may be the opportunity to put Millennium signs along Mills Road, which would be good and could be a huge opportunity for more signage within conforming.

Mr. Pampush states he is not certain, and he doesn't want to project anything. They like the open space on the other side.

Mr. Ladegaard states with respect to the 20% when we saw the 31 sq ft variance that is about a 38% variance for us. To keep you in a 20% that is pushing on the high side that would be 96 sq ft. with that same signage, and you can make it anyway you want it as long as it falls into the 96 sq. ft. total.

Mr. Pampush asked Ms. Neman if she could deal with 96 sq. ft. to get the same look.

Ms. Neman responds yes.

Mr. Pampush confirms that the board will allow a 20% variance. That is generous and he understands.

Mr. Ladegaard states they want to treat him like they treat everyone else.

No further comments from the board

Mr. Miller moved, seconded by Mr. Hricovec, to approve a 16-foot variance for total of 96 sq. ft. of signage space. The vote was: “AYES” all. The Chair declared the motion passed.

COMMENTS

Mr. Hricovec added with respect to the appeal that has the pool, the water level of the pool is almost the same as the deck coming out of the house. It is kind of a safety issue if you were to walk out of the house.

Mr. Streator states he thinks that they will close it.

Mr. Hricovec states he thinks there is a door on the that 45 that would go right to the pool. It is close.

Mr. Bulger, no comments

Mr. Miller, no comments

Mr. Schatschneider, no comments

Mr. Ladegaard, no comments

ADJOURN

Mr. Bulger moved, seconded by Mr. Hricovec to adjourn. The vote was: “AYES” all. The Chair declared the motion passed. Meeting adjourned at 7:32 p.m.

Mark Ladegaard, Chair

Susan Pintz, Planning Commission
& ZBA Secretary

Date