

**CITY OF AVON BOARD OF ZONING & BUILDING APPEALS  
REGULAR MEETING MINTUES  
OCTOBER 4, 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: 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

Absent: Michael Bulger

**REVIEW & CORRECTION OF MINUTES**

Motion to dispense with the reading of the minutes of the regular meeting held on September 6, 2023, and to approve the minutes as published.

**Mr. Miller moved, seconded by Mr. Hricovec, to dispense with the reading of the minutes of the regular meeting held on September 6, 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. Todd and Alana Peters; 35410 Livingston Drive; 31-23**

Proposal consists of screened porch.

The following variance is requested:

1. To allow the pool to be closer than code allows to the proposed screened patio over deck Section C.O. 1478.03 Swimming Pool Location.

Todd and Alana Peters, 35410 Livingston Drive, Avon, Ohio 44011 were sworn in.

Mr. Peters states they are proposing to have a structure installed over their existing deck.

Mrs. Peters states that part of the request was already approved.

Mr. Peters continues to say that the structure comes close to the pool. There is a 45-degree angle, as he refers to the drawing on the screen, he continues to state that it comes close to the pool. There is a step up onto another deck before you enter the pool.

Mrs. Peters states that you need to step up to the pool and it's over 8 inches tall. It is much bigger than a regular step and the pool deck is higher. The 45-degree angle would be underneath the corner of the roofing unit. The roof unit itself would be closer to the pool, but the door from that would be back further underneath the deck. You would need to take 2 steps and then step up to get to the pool.

Mr. Ladegaard asked what is the measurement from where the doorway would be at to the actual pool?

Mr. Peters responds about 4 feet.

Mr. Ladegaard states that when he saw them, they had talked about possibly constructing a fence around the corner of the pool to stop anybody from accessing that area.

Mr. Peters states yes that is a good possibility.

Mr. Schatschneider asked Mr. Gasior if there would be any liability to the city because the distance is supposed to be 15 feet from the house, and they are asking for a 10-foot variance.

Mr. Gasior responds no liability to the city.

Mr. Hricovec asked if the door that leads to the pool would have an alarm on it if the door was left open.

Mrs. Peters states it won't be able to be left open because it will be on a hinge that would close itself. It is a screen door when you walk through it will shut.

Mrs. Clements states, she is not part of the building codes, but the door alarm, she believes is for inground pools not necessarily above ground pools. There have been several permits issued for above ground pools with no alarm requirement.

Mr. Hricovec states if you take a step up it is close to an inground pool when you are walking from your deck.

Mrs. Peters states if you are on the pool deck it is like that, but if you are going out that specific door you are going to the pool only because there is nowhere else to step. If you walk out that door, you will be going into the water. There are no other stairs leading down to the pool deck. The only reason to go out that door is to go to the pool because you can't get to the yard from that door. It would not be an accidental thing to go out that door. She states it's an odd situation the way it is set up and they have a wooded lot.

Mr. Hricovec states he would personally feel bad if he opened tomorrow's paper and saw something happened in that pool area.

Mr. Peters states he would have no problem installing an alarm on the door.

Mr. Ladegaard states, what about the gate or fence?

Mr. Peters states he will put a lock on the door of the gate as well.

**Mr. Miller moved, seconded by Mr. Hricovec, to approve the Todd and Alana Peters appeal: to allow the pool to be closer than the code allows to the proposed screened patio over deck.**

**The vote was: "AYES" by Mr. Miller, Mr. Hricovec and Mr. Ladegaard. The vote was "NAY" by Mr. Schatschneider. The Chair declared the motion passed.**

**2. Justin and Jamie Stahler; 3957 Nagel Road; 35-23**

Proposal consists of a pool house.

The following variance is requested:

1. 120 sq. ft. variance. Code allows 620 sq. ft. existing 500 sq. ft.; applicant proposes 240 sq. ft. pool house. Section C.O. 1262.08(a)(2) Maximum Area and Number of Accessory Building

Mrs. Clements states as a reminder this was a variance that was approved last year, (2022) and they did not start the project and then they ran out of time, so they need to start the process over. They are asking for the same variance that was approved prior.

Nick Musarra, North Coast Design Build, 4205 E. Lake Road, Sheffield Lake, Ohio 44054 was sworn in.

Mr. Musarra states they are seeking the same 120 sq. ft. variance for the property. There is an existing 500 sq. ft. garage, and the code allows 620 sq. ft total for the accessory structure which gives the reasoning for the 120 sq. ft. variance for the pool house. As stated, this was approved June of 2022, the project did not commence last year and is ready to move forward now and they are seeking re-approval.

**Mr. Hricovec moved, seconded by Mr. Miller, to approve the Justin and Jamie Stahler appeal: 120 sq. ft. variance. The vote was: "AYES" all. The Chair declared the motion passed.**

3. **Kevin and Holly Ladegaard; 3477 Jaycox Road; 36-23**

Proposal consists of an addition and porch.

The following variance is requested:

1. 3' side yard setback variance. Code requires 12'; applicant proposes 9' at the rear porch. Section C.O. 1262.04(d)(3) Lot and Yard Requirements- Lot Requirements- Side Yard

Mr. Ladegaard will be abstaining from the vote.

Patty Saracusa, Dover Home Remodelers, 3477 Jaycox Road, Avon, Ohio 44011 was sworn in.

Ms. Saracusa is representing Kevin and Holly Ladegaard, and they are proposing a side addition with a rear porch with the side yard setback of 12 feet. They are requesting a 3-foot side yard setback. This lot has an irregular shape to it so to keep with the symmetry of the addition and adding the porch on the rear it slightly encroaches into the side yard.

Mr. Hricovec states that the house is not parallel to the property.

Ms. Saracusa states that is correct, it is wider at the front and decreases toward the rear.

**Mr. Schatschneider moved, seconded by Mr. Hricovec, to approve the Kevin and Holly Ladegaard appeal: a 3' side yard setback variance. The vote was: "AYES" all. The Chair declared the motion passed.**

4. **Matthew and Traci Collins; 2811 Upton Court; 37-23**

Proposal consists of a detached covered patio.

The following variance is requested:

1. 136 sq. ft. variance. Code allows 2% 304 sq. ft.; applicant proposes 440 sq. ft. Section C.O. 1262.08(a)(2) Maximum Area and Number of Accessory Buildings.

Scott Doane, Doane Building Company, 1663 Harris Road, Sheffield, Ohio 44054 was sworn in.

Mr. Doane states that Mr. and Mrs. Collins are not present tonight because they had a funeral that they needed to attend. This is a detached living space. They went 1 foot wider; the structure is 18x20, but they went 1 foot wider with the concrete all the way around. They have large bases of brick on the posts. This is how they arrived at the 440 sq. ft. number. The structure itself from post to post is 18x20.

Mr. Schatschneider states in the square footage he has little bit of a problem with that, isn't that 75% more than allowed.

Mr. Doane indicated that Ms. Clements stated it was 46%.

Mr. Hricovec stated it is 25%

Mr. Schatschneider states he then has no problem with it.

**Mr. Miller moved, seconded by Mr. Hricovec, to approve the Matthew and Traci Collins appeal: a 136 sq. ft. variance. The vote was: “AYES” all. The Chair declared the motion passed.**

**5. Matthew and Linda Ferguson; 38937 Briar Lakes Drive; 34-23**

Proposal consists of an accessory building in front of home.

The following variance is requested:

1. An accessory building to be in front of the home on a corner lot compliant with 50' front yard setback. Section C.O. 1262.08(b)(2)(A) Accessory Building Setback Requirement- yard in which accessory building is permitted.

Matt Ferguson, 38937 Briar Lakes Drive, Avon, Ohio 44011 was sworn in.

Mr. Ferguson states they have a corner lot, and they are proposing a shed that sits to one side of the house and 13 feet from the front of the house. You would be able to see one end of it if he didn't have trees there, but you won't be able to see it. There is plenty of room to the other side of the street which is more than 60 feet to his fence and to the shed. He believes the spirit of zoning is not to have buildings near the street on a corner lot. This is not going to be that it will be to the rear of the house only offset by 13 feet.

Mr. Ladegaard asked if the structure was there already.

Mr. Ferguson says yes that he couldn't delay the delivery any longer.

Mr. Ladegaard states he thought he saw it there.

Mr. Ferguson said it arrived on Thursday. It is a pre-built shed.

Mr. Hricovec states if Mr. Ferguson would consider doing some landscaping possibly. He noticed through google earth that there are already some trees behind the house. He thought maybe going from the rear property, maybe 5 feet past the barn just to protect it from the other side of the front yard.

Mr. Ferguson states from the front view there is already a tree there, from the side, that is the plan to put same trees as they have in the back, which is the arborvitae row, that would be same thing down the side of the fence.

**Mr. Schatschneider moved, seconded by Mr. Hricovec, to approve the Matthew and Linda Ferguson appeal: an accessory building to be in front of the home on a corner lot compliant with 50' front yard setback. The vote was: "AYES" all. The Chair declared the motion passed.**

**6. Andrew Koscianski and Melissa Maykut; 35988 Bentley Drive; 33-23**

Proposal consists of fence within a drainage easement.

The following variance is requested:

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

Andrew Koscianski and Melissa Maykut, 35988 Bentley Drive, Avon, Ohio 44011 were sworn in.

Mr. Ladegaard asked if Tim Loeser from the Avon Streets Department responded regarding the easement issue.

Mr. Streator states he spoke with Mr. Loeser and that is a rear yard drain that goes to the retention basin. As we have done in the past with any fences, we would require the resident to speak into the record that they understand if there were any issue with that and if the HOA did not take care of it then the resident would be responsible for any costs associated with removal and/or replacement of the fence.

Mr. Ladegaard asked if they understood what Mr. Streator said.

Mr. Koscianski and Ms. Maykut said yes, they understood.

**Mr. Miller moved, seconded by Mr. Schatschneider, to approve the Andrew Koscianski and Melissa Maykut appeal: a fence to be constructed within drainage easement. The vote was: "AYES" all. The Chair declared the motion passed.**

**7. Michael and Michele Hiatt; 2575 N. Long Road; 38-23**

Proposal consists of a patio addition with covered pavilion.

The following variance is requested:

1. Allow concrete patio with drainage easement. Section C.O. 1248.19 Structures and Improvements within Utility Easement or Right of Way.

Michael and Michele Hiatt, 2575 N. Long Road, Avon, Ohio 44011 were sworn in.  
Kyle Klein of Klein Outdoors, 133 Northfield Drive, Elyria, Ohio 44035 was sworn in.

Mr. Ladegaard asked about the drainage easement issue.

Mr. Streator states we were trying to talk with Mr. Gasior because this involves the HOA and the other side of the development which shows an easement. On the plans viewed on the screen it does not show as being recorded. It says that the easement is to the HOA.

Mr. Klein states that they have obtained HOA approval. He presents the HOA approval letter to Mr. Ladegaard (a copy was made for the file).

Mr. Ladegaard states if there is an easement you would need to realize in case anything needs to be accessed you would be responsible for removing the concrete and replacing/repairing it.

Mr. Gasior asked what side of Long Road they are located.

Mr. and Mrs. Hiatt indicated it is on the east side of Long Road.

Mr. Gasior asked if there was property there that was recently sold.

Mrs. Hiatt says yes, all the property is sold.

Mr. Hiatt says right now there are only 2 lots that were sold, and they were both to the south of their lot.

Mrs. Hiatt states it is being held up right now.

Ms. Fechter says the property is owned by Mr. Beck and she spoke with him yesterday.

Mr. Hiatt says yes there is drainage behind their fence on that property. There is a swell.

Mr. Streator asked if there is a rear yard drain in your property.

Mr. Hiatt says yes and there are 2 drains in their property.

Mrs. Hiatt says one is in the middle of the yard and one is on the south side of the yard by the fence but those would not be affected. The concrete would not go over those, they would keep those accessible.

Mr. Gasior states you have HOA approval, but you still need to get a variance.

Mr. Ladegaard states again with the understanding that if the area needs to be accessed, they would be responsible for removing and replacing/repairing the concrete.

**Mr. Miller moved, seconded by Mr. Schatschneider, to approve the Michael and Michele Hiatt appeal: allow concrete patio within drainage easement. The vote was: "AYES" all. The Chair declared the motion passed.**

2. 209 sq. ft. variance, Code allows 2%-191 sq. ft.; applicant proposes 400 sq. ft.  
Section C.O. 1262.08(a)(2) Maximum Area and Number of Accessory Buildings.

Mr. Ladegaard states that variance request is high in their standards. We hold everyone to a certain standard. It is to the point where he would feel more comfortable at around 280 sq. ft. compared to 400 sq. ft. Mr. Ladegaard configured 2 different scenarios. If you wanted to keep the 20 foot you could go 20x14 or if you wanted it to be more square then the 16x18 would keep us in those numbers. The other members might have other ideas, but that is what he is proposing.

Mr. Klein states the reason they want to make it a litter larger is the neighbor to their right where the structure will be toward the right of the property if you are looking at the back. Those neighbors have a huge swimming pool, and they like their neighbors, but they have a lot of kids that are constantly playing and right next to them is their patio and pool during the summer. The Hiatt's want to be able to walk outside and enjoy their backyard. This will allow them to possibly put a screen down in the future. This is the reason they want to get a little bigger and just hoping you'll be able to understand that a little bit of privacy would be nice to have in the backyard.

Mr. Ladegaard states they hold everyone to the same set of rules as what we are dealing with here.

Mr. Klein asked if 18x18 from post to post would be acceptable.

Mr. Schatschneider states that would be 324 sq. ft.

Mr. Ladegaard states that is still high.

Mr. Hricovec asked what is the rear set back for these lots since they are not normal lots?

Mrs. Clements states 3 feet.

Mr. Hricovec states that if you attached the structure to the house then there are different rules because it is part of the dwelling, and you can build up to 3 feet from the rear set back. He doesn't know if that is an option for them. Then it gives you all the square footage you want without needing a variance of the lot.

Mr. Schatschneider asked if it's still 3 feet even if you attach it to the house.

Mr. Hricovec states yes and then you can build as big as you want.

Mrs. Hiatt states the only thing is that he had the steps come down.



Mr. Hricovec states as long as the roof attaches to it. He further states since the variance requested is excessive, this is a way for you to get what you want without the variance being excessive, which it is.

Mr. Klein asked if we went for the motion for the 16x18 and then if he figured out a way to attach it to the house to where we can build it out and then we would still have a variance that would be approved for the 16x18 but if we wanted to go bigger and attach it to the house, how does that work.

Mrs. Clements states you get the variance approved for the 16x18 free standing, that is approved and done. If Mr. Klein can creatively find a way to attach it to the house it becomes part of the structure and then you need to modify your zoning permit and you don't need a variance whatsoever as long as you stay 3 feet from the property line.

Mrs. Hiatt states that would be easily doable that way.

Mr. Hiatt said we wanted to do that anyways, it makes it look like it is not crammed in there.

Mr. Klein states if they can go for the approval for the 16x18 which is a very nice variance and then if he comes up with something here to be able to attach it to the house and then he will go through the regular permit process.

Mr. Schatschneider asked what number Mr. Ladegaard came up with the 50% variance.

Mr. Ladegaard states it would be 288 sq. ft.

Mr. Schatschneider asked what would be wrong with putting up a 6-foot fence up for privacy.

Mr. Hiatt states they did not want a fence, they wanted an area where they could put a T.V. on the wall and have more outside living space. There is a whole section of the yard where grass never grows, and the dogs are always out there.

Mrs. Hiatt states the other lot is so much higher than theirs. When they build new houses, they put them so much higher than the existing house and they get all the drainage in their yard. They are better covering it with concrete. They also have dogs so it would be better for the dogs to walk on the concrete to get into the house rather than walking on the grass area.

Mr. Ladegaard states the neighbors have a very nice pool. Mrs. Hiatt agreed.

Mr. Schatschneider asked if they tried to buy more property?

Mr. Hiatt states initially they were part of the people to buy property. It didn't work out. We were only going to buy the property because everyone else was buying property and

we didn't want to be the people holding things up. It was like a domino effect. Then another plan involving the neighbors on both sides was worked out in which they are each going to buy half of it. They bought their lot because they wanted a smaller lot. They used to have a 1-acre lot in Avon and then they bought the smaller lot because they are getting older, and they do not want the maintenance and their kids are grown and all live in Northeast Ohio, so they are staying here. That is why they wanted to make a bigger pavilion.

Mr. Ladegaard states it will be a maximum of 288 sq ft. versus 400 sq. ft.

**Mr. Miller moved, seconded by Mr. Hricovec, to approve the Michael and Michele Hiatt appeal: a 16x18 structure total of 288 sq. ft. The vote was: "AYES" by Mr. Miller, Mr. Hricovec and Mr. Ladegaard. The vote was "NAY" by Mr. Schatschneider. The Chair declared the motion passed.**

Mrs. Hiatt asked if they could have the concrete poured.

Mrs. Clements responds yes. She states she will call the concrete contractor and let him know it's approved, and they can work on that.

#### **COMMENTS**

Mr. Gasior has no comments.

Mr. Hricovec had no comments.

Mr. Miller had no comments.

Mr. Schatschneider had no comments.

Mrs. Clements states City Hall is closed Monday, October 9<sup>th</sup>.

Ms. Fechter had no comments.

Mr. Streater had no comments.

Mr. Ladegaard had no comments.

#### **ADJOURN**

**Mr. Miller moved, seconded by Mr. Hricovec, to adjourn. The vote was: "AYES" all. The Chair declared the motion passed. The meeting was adjourned at 7:32 p.m.**

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Mark Ladegaard, Chair

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Susan Pintz, Planning Commission  
& ZBA Secretary

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Date