

Board of Zoning Appeals Minutes
September 9, 2020 – 6:00 pm
This meeting was held electronically (remotely) pursuant to
Ohio Revised Code Section 121.221

The Board of Zoning Appeals of the City of Monroe met in regular session (Zoom Meeting) at 6:00 pm on September 9, 2020. The meeting was held at Monroe City Hall (Zoom Meeting).

Call to Order

Mr. Nerenberg called the meeting to order at 6:02pm.

Roll Call

Members present: Jonathon Nerenberg, John Robbins, Casey Walters, Lorenzo Adam and Michael Howard.

Staff members present: Kevin Chesar, Director of Development; Kameryn Jones, Planner; and Nick Baxter, Community Service Specialist.

Approval of Minutes

Mr. Adam moved to approve the minutes from February 10, 2020; seconded by Mr. Walters. Voice vote. Motion carried.

Business

Mr. Nerenberg opened the Public Hearing for Case No. 2020-2— Consideration of a variance request related to construction of a detached garage exceeding the maximum permitted square footage at 6027 Todhunter Road at 6:04 pm.

Case No. 2020-2— Consideration of a variance request related to construction of a detached garage exceeding the maximum permitted square footage at 6027 Todhunter Road

Mrs. Jones stated that Mr. Michael Etter, owner and resident of 6027 Todhunter Road, has requested a variance regarding construction of a detached garage in the rear yard of his property. Mr. Etter wishes to exceed the cumulative maximum square footage permitted for accessory structures. The applicant seeks to construct a 2,560 square foot detached storage building for purposes of storing equipment and various recreational vehicles such as a boat, trailer, and golf cart. The property is approximately 7.3 acres and is located in the R-2 Single-Family Residential zoning district.

A variance from the requirements of this code may be granted by the BZA when the BZA determines that such a variance will not be contrary to the public interest and that, due to special conditions, practical difficulty or unnecessary hardship exist that prevent strict application of this code.

To allow an increase in the maximum square footage permitted for all accessory structures from 1,137 square feet, the remaining allotment based on an existing 280 square foot shed on site, to 2,560 square feet. This represents an increase of 125% above the maximum permitted for this site.

Section 1205.01(C) outlines this requirement as the following: The cumulative total of all accessory structures shall be subject to maximum lot coverage allotments for each district as established in Table 1205-1 : Site Development Standards for Residential Zoning Districts. The cumulative footprint of all detached garages, utility/storage sheds, gazebos and above ground swimming pools shall not exceed 50% of the footprint of the principal structure.

The following factors shall be considered and weighed by BZA to determine practical difficulty. Staff's findings are listed after each criterion: whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures, or conditions. This property is unlike the majority of R-2 residential properties in the city in that it is a large 7-acre parcel. However, it is not unlike many of the properties in this area of Monroe. Outside of lot size, there are no special conditions to the lot. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. The property may yield a reasonable return and be of beneficial use without the requested variance as a single family home. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures. This variance requested is substantial as the request is a 125% increase in the maximum square footage currently permitted by code, accounting for the existing 280 square foot shed on the property. As the property is already being utilized, it is the interpretation of Staff that it is not the minimum necessary to make use of the land. The applicant has indicated that the storage is to be utilized for "storage of lawn equipment for the upkeep of the land and maintain the property. Storage for a boat, trailer, golf cart, pool supplies (equipment), garden supply materials, bobcat and accessories, log splitter and some job materials that can't be left out." Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance. Much of this area (adjacent properties and properties along Route 4) has lots much larger than the typically required R-2 lot size of 15,000 square feet (approximately 1/3 acre). Further, it appears there are some lots in the larger surrounding area that may have accessory structures that may exceed the 50% maximum. Due to the larger lot size, the proposed location and size of the accessory use do not appear to be substantially different or detrimental to the character of the neighborhood. The applicant has stated "the barn will not interfere with any surrounding neighbors/or neighborhoods" and has supplied signed petitions from neighbors indicating support for the variance. Furthermore, the applicant has indicated, "there will not be any negative impact, only positive use with/for maintaining a clean and up kept property". Whether the variance would adversely affect the delivery of governmental services such as water, sewer, and refuse pickup. The variance would not adversely affect the delivery of governmental services. Whether special conditions or circumstances exist as a result of actions of the owner. The requested variance is due to the desire of the property owner to have a larger space for storage purposes. Whether the property owner's predicament can feasibly be removed through some method other than a variance. The applicant could construct a smaller structure, or potentially construct an attached garage of the same size, which would not fall under the limitation on square footage for accessory structures. Whether the spirit and intent behind the code requirement would be observed and substantial justice done by granting a variance. The spirit and intent behind limiting the structure size to be subordinate to the principal structure (single family home) would not be observed by granting

a variance in this case. Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district. The granting of this variance would provide this applicant the ability to construct a structure much larger than is allowed in other residential areas. Staff would also note that the Board denied two similar variance requests in 2017.

Mrs. Jones stated that no departments have any comments.

Mrs. Jones stated that letters of support from neighboring property owners have been submitted by the applicant as part of their application.

Mrs. Jones stated that staff recommends denial of the variance request due to the size of the requested variance, lack hardship regarding a use of land related to the proposal, and past precedent. However, Staff recognizes that larger single-family zoned properties do typically require additional/larger equipment to maintain and this lot is much larger than the minimum single-family lot size of 15,000 square feet. Furthermore, the code prefers storage of recreational vehicles, etc. in the rear yard in order to limit visibility. The rationale for a building to contain such vehicles is understandable and warrants further discussion by the Board of Zoning Appeals regarding the minimum size needed to contain all outdoor storage. As a reminder, a variance from the requirements of this Code may be granted by the Board of Zoning Appeals when the Board determines that such a variance will not be contrary to the public interest and that, due to special conditions, practical difficulty or unnecessary hardship exist that prevent strict application of this Code. Staff's review and recommendation are based on Code interpretations as well as the potential for precedents that could affect overall enforcement of City standards and regulations. The BZA's approval, denial, or modification is not required to be based on all the above criteria being met. No single factor listed above may control and not all factors may be applicable in each case. Each case shall be determined on its own facts.

Mr. Etter stated that some of the items in the pictures that looked like rubbish were temporarily stored in the rear yard due to flooding that occurred in his house. Mr. Etter stated the proposed location for the accessory structure will not be visible for any nearby neighboring properties. Mr. Etter stated that a lot of equipment is required to maintain the property and the equipment is being destroyed because he does not have a proper way to store it.

Mr. Howard moved to accept all documents as presented; seconded by Mr. Adam. Voice vote. Motion carried.

Mr. Adam moved to close the Public Hearing at 6:45pm; seconded by Mr. Howard. Voice vote. Motion carried.

Mr. Howard stated that he is uncomfortable that Mr. Etter can't fully utilize his property size due to the current zoning code. Mr. Nerenberg and Mr. Adam were in agreement with Mr. Howard. Mr. Nerenberg stated that it is not the role of BZA members to make changes to the zoning code but he would like to see some changes to the code in the future for large residential lots similar to the one owned by Mr. Etter. Mr. Adam was in agreement with Mr. Nerenberg.

Mr. Robbins moved to approve the variance request related to construction of a detached garage exceeding the maximum permitted square footage at 6027 Todhunter Road; seconded by Mr. Walters. Roll call vote. 4 ayes, 1 nay. Motion carried.

Mr. Nerenberg opened the Public Hearing for Case No. 2020-3— Consideration of a variance request related to creation of two new panhandle lots at 6737 Hamilton Middletown Road at 6:46 pm.

Case No. 2020-3— Consideration of a variance request related to creation of two new panhandle lots at 6737 Hamilton Middletown Road

Ms. Jones stated that Mr. Matt Shaffer, property owner at 6737 Hamilton Middletown Road, has requested a variance regarding creation of two new panhandle lots. Mr. Shaffer wishes to exceed the maximum length of panhandle permitted by code, which is 300 feet. The applicant seeks to reconfigure these parcels to create two new panhandle lots with legal frontage in order to develop a single-family home on each of the two proposed lots. The developed parcel at 6737 Hamilton Middletown Road is 4.1 acres, Parcel C1800018000017 is approximately 7.6 acres, and Parcel C1800018000019 is approximately 11.4 acres. The three properties involved are approximately 23 acres total.

A variance from the requirements of this code may be granted by the BZA when the BZA determines that such a variance will not be contrary to the public interest and that, due to special conditions, practical difficulty or unnecessary hardship exist that prevent strict application of this code.

To allow an increase in the maximum length of panhandle permitted from 300 linear feet to 690 feet and 320 feet, equaling a variance request of 390 feet and 20 feet. Section 1204.05(A) outlines this requirement as the following: The panhandle shall have a minimum width of 20 feet along the entire width of the panhandle. The length of the panhandle portion of a lot shall be a maximum of 300 feet.

The following factors shall be considered and weighed by BZA to determine practical difficulty. Staff's findings are listed after each criterion: Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures, or conditions. While 6737 Hamilton Middletown Road functions as a typical lot with frontage and has a house existing, parcels C1800018000017 and C1800018000019 to the rear (west) of it are landlocked. Today's code would require lots to have legal frontage along a public road. While this is not uncommon in some of the older areas of the city, particularly along Route 4, it does make development of the lots impossible. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. While the developed property at 6737 Hamilton Middletown Road is currently of use as a single-family residence, the other two parcels would not be able to be developed on their own unless the lots were to have legal frontage. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures. This variance may be the minimum necessary to make use of the land. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance. While the character may be altered by any development occurring, the restrictions in place in the A-2 zoning district would help maintain the larger lots and small scale agricultural activities seen in this area. Current minimum lot size in the A-2 District is 2 acres and the proposed lots would exceed that criterion. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, and refuse pickup. The variance would not adversely affect the delivery of governmental services. Whether special conditions or circumstances exist as a result of actions of the owner. The current non-conforming lot(s) configuration of the property has existed in this

manner for a number of years, which are not due to the relatively new owners of the property. Whether the property owner's predicament can feasibly be removed through some method other than a variance. The property owner could combine all three lots into one large property. However, if the intent is to develop additional homes, the lots do need to be split and provided legal frontage. It should be noted that as proposed no further subdivision of lots could occur due to the minimum panhandle width requirement of 20 feet for each lot. Whether the spirit and intent behind the code requirement would be observed and substantial justice done by granting a variance. The spirit and intent of the code would be observed in order to allow development of these sites, as they would still far exceed the minimum lot size. Furthermore, when developed, the applicant will have to seek approval through Board of Zoning Appeals to appropriately locate the home(s). Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district. Due to the large size of the property and associated lots and the lack of infrastructure to further subdivide the lots, it does not appear that any special privilege would be granted.

Mrs. Jones stated that Public Works/Engineering and the Police Department do not have any comments at this time. The Fire Department reserves the right to comment during site planning and permitting. Fire requests the ability to place long lay signage along the panhandle drive of both properties for planning purposes in case of emergency.

Mrs. Jones stated that on Monday, 8/31, Mr. Jeffrey Repper of 6763 Hamilton Middletown Road, the property just north of the proposed site, spoke with Staff and expressed he was not in favor of the lot reconfiguration as he wanted to see the wooded lots remain undeveloped.

Mrs. Jones stated that staff recommends approval of the variance request as it is the minimum necessary to allow for legal development of the two landlocked parcels. As a reminder, a variance from the requirements of this Code may be granted by the Board of Zoning Appeals when the Board determines that such a variance will not be contrary to the public interest and that, due to special conditions, practical difficulty or unnecessary hardship exist that prevent strict application of this Code. Staff's review and recommendation are based on Code interpretations as well as the potential for precedents that could affect overall enforcement of City standards and regulations. The BZA's approval, denial, or modification is not required to be based on all the above criteria being met. No single factor listed above may control and not all factors may be applicable in each case. Each case shall be determined on its own facts.

Mr. Nerenberg inquired if there can be a common easement with a shared maintenance agreement. Mr. Chesar stated that is possible.

Mr. Nerenberg inquired if there are any zoning code requirements that the driveway be paved instead of gravel. Mr. Chesar stated that today's code requires paved drives for residential single family residences. Mr. Chesar stated that the properties are still zoned as agricultural and there is some leniency granted to agricultural properties in terms of paved driveways. Mr. Chesar stated that there will need to be further discussion about the paved driveway areas if the variance is approved.

Mr. Shaffer stated parcel 3 already has an easement on the south side of it that connects to the parcel to the south of parcel 3. Mr. Shaffer stated that the purpose of the panhandle is to get road access to Hamilton Middletown Road. Mr. Shaffer stated that he is unsure of where he would like to get road access to Hamilton Middletown Road at this time.

Mr. Adam moved to accept all documents as presented; seconded by Mr. Howard. Voice vote. Motion carried.

Mr. Adam moved to close the Public Hearing at 7:19pm; seconded by Mr. Howard. Voice vote. Motion carried.

Mr. Adams moved to approve the variance request related to the creation of two new panhandle lots at 6737 Hamilton Middletown Road; seconded by Mr. Howard. Roll call vote. 5 ayes. Motion carried.

Mr. Nerenberg opened the Public Hearing for Case No. 2020-4—Consideration of a variance request related to a proposed wall sign exceeding the maximum permitted area at 350 Lawton Avenue at 7:24 pm.

Case No. 2020-4—Consideration of a variance request related to a proposed wall sign exceeding the maximum permitted area at 350 Lawton Avenue.

Mrs. Jones stated that Mr. Blake Nicolas, Worthington Industries, has requested a variance regarding installation of a wall sign. Mr. Nicolas wishes to exceed the cumulative maximum square footage permitted for wall signs. The applicant seeks to install a 20' by 80' (1,600 square feet) wall sign on the east-facing wall of their facility on Lawton Avenue in order to create visibility from the I-75 highway. The Worthington facility is approximately 507,000 square feet and the property is approximately 62 acres, located in the H-1 Heavy Industrial zoning district.

A variance from the requirements of this code may be granted by the BZA when the BZA determines that such a variance will not be contrary to the public interest and that, due to special conditions, practical difficulty or unnecessary hardship exist that prevent strict application of this code.

To allow an increase in the overall maximum wall sign area permitted from 244 square feet, the remaining allotment of the 500 square foot overall maximum when accounting for an existing 256 square foot wall sign, to 1,600 square feet, representing an 555% increase over the maximum permitted at this site. Section 1204.10(C) outlines this requirement as the following: The maximum wall sign area shall be equal to eight percent of the total square footage of the front building wall facade provided the maximum square footage of wall sign area shall be 500 square feet except in the C-3 District where the maximum wall sign area shall be 100 square feet.

The following factors shall be considered and weighed by BZA to determine practical difficulty. Staff's findings are listed after each criterion: Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures, or conditions. There are no special conditions or circumstances unique to this site in the same zoning district. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. The property is currently of beneficial use without the proposed variance. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures.

The variance is substantial and it is the interpretation of Staff that is beyond the minimum necessary to make reasonable use of the property, as it is already being utilized. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance. The applicant in their submittal states the variance will not alter the character of the surrounding neighborhood and mentions a nearby building with a similarly sized wall sign. While staff cannot confirm the size of the sign and without understanding of the code allotments at that time, it does appear to have been in place for a number of years. It should also be noted that many other businesses in the same area have complied with current regulations. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, and refuse pickup. The variance would not adversely affect the delivery of governmental services. Whether special conditions or circumstances exist as a result of actions of the owner. There are no special circumstances and none existing as a result of the owner's actions. Whether the property owner's predicament can feasibly be removed through some method other than a variance. There are several existing billboard signs around the city with increased visibility the applicant could utilize for advertising purposes. Whether the spirit and intent behind the code requirement would be observed and substantial justice done by granting a variance. The intent of the code would not be observed by permitting an increase in signage allowance this large. The code is intentional in regulating the size of signage in the city for a number of reasons ranging from encouraging the general attractiveness of the community and to promote the reasonable, orderly, and effective display of signs regarding the business and industry of the City. Consistency of sign regulations provides for the orderly commercial development. Additionally, from the size perspective, a typical highway billboard sign is approximately 672 square feet. It should be noted that new billboards are prohibited in the City of Monroe and the request of 1,600 square feet over doubles the size of a typical billboard. Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district. The granting of this variance would provide the applicant with a substantial special privilege that essentially no other site in the city would have. The size of sign being requested (1,600 SF) is over three times the size of the absolute maximum (500 SF) if there were no existing wall signage on the building, and even more when accounting for the 256 square foot wall sign on the west side of the building. The applicant has stated the reasoning for this request is to advertise their business with visibility from I-75, and a sign smaller than this may not be visible from the interstate. This condition applies to the majority of businesses in the city and signage visible from the highway is not entitled. Furthermore, the steel manufacturing function of the business to attract convenience or highway traffic does not appear applicable.

Mrs. Jones stated that no departments have any comments.

Mrs. Jones stated that no public comments have been received to date.

Staff recommends denial of the variance request due to the size of the request and the lack of special circumstance or hardship. As a reminder, a variance from the requirements of this Code may be granted by the Board of Zoning Appeals when the Board determines that such a variance will not be contrary to the public interest and that, due to special conditions, practical difficulty or unnecessary hardship exist that prevent strict application of this Code. Staff's review and recommendation are based on Code interpretations as well as the potential for precedents that could affect overall enforcement of City standards and regulations. The BZA's approval, denial, or modification is not required to be based on all the above criteria being met. No single factor listed above may control and not all factors may be applicable in each case. Each case shall be determined on its own facts.

Mr. Adam inquired about the size of the sign located near the site, at Deceuninck. Mr. Chesar stated he did not know the size of the sign located at Deceuninck.

Mr. Nicolas stated the intended use of the sign is to be used as a recruiting tool by letting the presence of Worthington Industries be known to the community. Mr. Nicolas stated that the proposed sign would be a little bit larger than the Deceuninck sign that he took pictures of from I-75. Mr. Nicolas stated that the proposed sign would only be visible from I-75.

Mr. Adam moved to accept all documents as presented; seconded by Mr. Walters. Voice vote. Motion carried.

Mr. Adam moved to close the Public Hearing at 7:43pm; seconded by Mr. Howard. Voice vote. Motion carried.

Mr. Nerenberg stated this is not a sign that is can be seen from the streets in the commercial area. This is a sign that can only be seen from I-75.

Mr. Chesar inquired the reasons why Mr. Nerenberg wanted to approve the sign. Mr. Nerenberg stated that it is not a commercial sign to invite people into your business, it is an industrial sign. Mr. Nerenberg stated that it is a wall sign that is simply there for identification. Mr. Nerenberg stated that the sign will not affect the surrounding area.

Mr. Walters moved to approve the variance request related to a proposed wall sign exceeding the maximum permitted area at 350 Lawton Avenue; seconded by Mr. Howard. Roll call vote. 5 ayes. Motion carried.

Adjournment

Mr. Howard moved to adjourn the meeting; seconded by Mr. Adam. Motion carried. The board of zoning appeals meeting adjourned at 7:51pm.

Respectfully submitted by:

Nick Baxter
Community Services Specialist