

MINUTES OF MEETING  
BOARD OF ZONING AND BUILDING APPEALS  
JANUARY 11, 2024

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Members Present: Farrell, Christ, Martinez, Wright, Harpster

Presence Noted: Raymond Reich, Building Commissioner  
Kate Straub, Planning and Zoning Coordinator

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Mr. Farrell opened the January 11, 2024 meeting of the Board of Zoning and Building Appeals at 7:00 p.m. He explained the meeting protocol and said that the Board has had the opportunity to visit the sites and review the applications.

Mr. Harpster moved to approve the Board of Zoning and Building Appeals meeting minutes from December 14, 2023 as presented. Mr. Wright seconded.

5 Ayes – 0 Nays  
Passed

**1. ANN AND TERRY COYNE – 21215 Avalon Dr. – PUBLIC HEARING – Variance to install a circular driveway with a portion of the width at 18’ vs. 12’ total maximum width permitted (Section 1153.15(1)(4)D.3.** Ms. Abby McConaughy of Aristotle Design Group came forward to present the variance request.

Secretary Christ introduced the variance request and Mr. Farrell swore the applicant in. Ms. McConaughy explained that the Coyne’s are currently constructing a new home with the original driveway width of 12’ and expanded to 22’, and they have now revised it to be an 18’ wide x 32’ long “landing court,” which will provide just enough room for delivery trucks, construction trucks, and vehicles to park for easy access to the front door. The rest of the driveway is Code compliant. They are proposing a 6’ variance for ease of maneuvering around construction vehicles that may be parked there so they don’t have to back out onto Avalon Dr. The sidewalk is very busy with pedestrians, kids riding their bikes on the sidewalk and in the street. She explained the topography of the neighborhood with the curve and elevation of the street and how it affects them. It will be much safer not to have to back out of the driveway onto the street because of all the factors she explained. She supplied photos showing other similar situations in the neighborhood.

Mr. Harpster said he is surprised that the applicant said that the property is narrow but it is very wide. The applicant responded that there is 7’ of grade change between their driveway and the neighbors to the east. Using that area would cause them to have to back out and the corridor is narrow to back out of that garage area. He said that this was probably designed prior to the change in the Code regarding width of driveways at the turn-around and the Applicant confirmed that. The rest of the Board members had no questions.

Mr. Christ moved to close the public hearing. Mr. Wright seconded.

5 Ayes – 0 Nays  
Passed

Mr. Christ reviewed the practical difficulties test aloud. Regarding whether special conditions or circumstances exist which are peculiar to the land or structure involved, the applicant has indicated the topography, curve of the road, difficulty with sight lines and safety are all factors leading to the need for this driveway. Regarding whether the property in question will yield a reasonable return, he does not believe that applies in this case. The variance is not substantial and is the minimum necessary because the only extra width is at a planned drop-off area at the front door. He does not think that the essential character of the neighborhood will be substantially altered. The delivery of government services will not be adversely affected. Whether the owner purchased the property with knowledge of the zoning restrictions, he does not believe that to be the case. He does not believe that special conditions exist as a result of actions of the owner. He does not believe that the predicament feasibly can be obviated through a method other than a variance. He believes that the spirit and intent of the Code will be observed, and substantial justice will be done by granting the variance without conferring any special privilege on the applicant. He believes that a literal interpretation of the provisions of the Code will deprive the applicant of rights commonly enjoyed by other properties. The other Board members agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance to Ann and Terry Coyne, 20215 Avalon Dr., to install a circular driveway with a portion of the width at 18' vs. 12' total maximum width permitted. The applicant has indicated the practical difficulties with providing sufficient observation and facilitation of entering and existing their property. Mr. Harpster seconded.

5 Ayes – 0 Nays  
GRANTED

**2. JUDIT SZUCS – 3330 Fairhill Dr. – PUBLIC HEARING – Variance to retain a 6' tall privacy fence in the rear yard vs. Only fences that are 25% transparent regardless of the angle at which the transparency is viewed are permitted in the rear yard. Any portion over 5' in height must be 50 transparent when viewed perpendicular to the fence (Section 1153.15(j)(3)).** Mrs. Judit Szucs, homeowner, came forward with her husband, Zoltan Onodi. Also present are the rear yard neighbors, David Lombardi and Natalie Thomas, 3325 Nelson Park Dr.

Secretary Christ introduced the variance request and Mr. Farrell swore the parties in. Ms. Szucs explained that the reason for the fence is that her mother lives with them since her dad passed away, and she has dementia. The purpose of the fence is to keep her safe because when she goes out to the back yard, if she sees something in another yard, she will attempt to go there. They need to keep her safe and without the ability to see across the fence. They moved to Rocky River from Broadview Heights where they had this same fence and they had no issues with it, so they thought they would be able to construct it here. It was her mistake not to check with the City first but their main consideration is to make sure that her mother will be safe. She called the neighbors who are here and explained why they need the fence and she thought they understood. They constructed the fence with the help of some friends.

Building Commissioner Reich said that the fence was brought to the department's attention and due to the medical condition of her mother, Mr. Reich allowed her to finish the fence that had already been started.

Mr. Lombardi said that they would like the fence to comply with the ordinance. Before the fence went up, they were not sure what the finished fence would look like, but the finished fence is more of a wall than a fence. It is a nice-looking wall, but it still feels like a high wall. He said that this line of fence only goes across half of their yard, and he thinks there is room for compromise. While they have their own preference for fencing, they would like to put a fence in front of this fence that spans their entire property line. Being that this fence is 6' tall, they would have to build to that height to make it look right, which would require a variance. He wonders if they can ask the neighbor to compromise and lower their new fence to 5' tall so that when they put up their fence, their neighbor's fence will not show over it. He wants to be neighborly and does not want to ask them to tear down the entire structure, so if they reduce the height to 5' tall, they would be satisfied. Ms. Szuch added that there is a chain link fence along their side property with hedges growing through it and blocking the view.

Discussion was had about how the applicants' yard and the neighbor's yard line up. Mr. Farrell said that it looks like it can be reduced to 5' in height without difficulty. Ms. Szucs said that they can lower the fence to 5' tall. Discussion was had relating to what type of 6' fence is permitted and ways to make the fence the neighbor would build more compatible. Mr. Farrell said that there was an anonymous letter included in their packets that he believes they should ignore because it is anonymous. Ms. Martinez suggested that the neighbor construct a 5' fence that is within Code with the 1' of lattice on top and it would be the same height as this fence is.

After further discussion and questions by the Board, the applicant agreed to reduce the height of the existing fence by removing the top 2 boards of the fence for a result that is very close to 5' tall. The vertical posts will be reduced to 5' tall with the caps on top, as well.

Mr. Wright moved to close the public hearing. Mrs. Martinez seconded.

5 Ayes – 0 Nays  
Passed

Mr. Christ reviewed the practical difficulties test aloud. Regarding whether special conditions or circumstances exist which are peculiar to the land or structure involved, he said that the applicants have indicated their special circumstance relative to medical issues that are part of this Board's consideration. He does not believe that there is anything special about the land itself that applies here. Whether the property in question will yield a reasonable return, he does not believe that applies here. Based on the proposed variance, it will not be substantial because it will bring the fence to the proper height for the main body of the fence. The essential character of the neighborhood will not be altered because a board-on-board fence and this fence would be reasonably similar relating to how it is viewed from a distance. The

delivery of government services will not be adversely affected. Regarding whether the owner purchased the property with knowledge of the zoning restrictions, Mr. Christ does not think that applies. Whether the special conditions and circumstances exist as a result of the actions of the owner applies only in the sense that the fence was partially built prior to receiving a variance. He does not believe that the predicament feasibly can be obviated through a method other than a variance. He believes that the spirit and intent of the Code will be observed, and substantial justice will be done by granting the variance, based on their discussions, the board and all homeowners agree with a solution that will meet their requirements. The height of the fence will not confer any special privilege on the applicant because the maximum height of the fence will not be violated. He believes that a literal interpretation of the provisions of the Code will deprive the applicant of rights commonly enjoyed by others. The other Board members agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance Judit Szucs, 3330 Fairhill Dr., to modify the fence that they have built to result in taking off 2 boards to be within 5' +/- for the fence and it will be allowed to be maintained as a solid fence from that part down. The posts will be cut to match and caps can be slightly higher. The Building Department will verify that the finished fence will satisfy this Board's intent. The applicants have indicated their practical difficulties and the neighbors have voiced their opinion relative to an accommodating fence. Mr. Harpster seconded.

5 Ayes – 0 Nays  
GRANTED

Mr. Farrell thanked the parties for their ability to reach a compromise and hopes that nothing that was said this evening will affect their neighborly relationship.

**3. ELECTION OF OFFICERS.** Mr. Wright moved to elect Patrick Farrell as Chairman and Richard Christ as Secretary to the Board of Zoning and Building Appeals. Mrs. Martinez seconded.

5 Ayes – 0 Nays  
Passed

The meeting adjourned at 7:55 pm.

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Patrick Farrell, Vice Chairman

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Richard Christ, Secretary

Date: \_\_\_\_\_