

BOARD OF ZONING APPEALS MEETING

TIPP CITY, MIAMI COUNTY, OHIO

March 19, 2014

Meeting Chairman McFarland called this meeting of the Tipp City Board of Zoning Appeals to order at 7:30 p.m. which was held at the Tipp City Government Center, 260 S. Garber Drive, Tipp City, Ohio.

Roll Call Roll call showed the following Board Members present: Mike McFarland, David Berrett, Matt Crawford, and Mark Browning. Others in attendance: City Planner/Zoning Administrator Matthew Spring, and Board Secretary Kimberly Patterson.

Absence Mr. Berrett **moved to excuse Mr. Isaac Buehler from the meeting**, seconded by Mr. Browning and unanimously approved. **Motion carried.**

Citizens signing the registrar Citizens attending the meeting: Andy McGraw.

Board Minutes 02-19-2013 Chairman McFarland asked for discussion. There being none, Mr. Berrett **moved to approve the February 19, 2014 meeting minutes as written**, seconded by Mr. Browning. **Motion carried.** Ayes: Berrett, Browning, McFarland and Crawford. Nays: None.

Citizens Comments There was none.

Administration of Oath Mrs. Patterson swore in citizens and Mr. Spring.

Chairman's Introduction Chairman McFarland explained the guidelines and procedures for the meeting and public hearings. He advised the applicant that a decision of the Board could be appealed to City Council within 10 days. If the Board granted the applicant's request, the applicant may file the appropriate permits after the 10-day waiting period has expired.

New Business There was none.

Old Business **Case No. 02-14: Andy McGraw - 201 Greensward Drive Tipp City - IL 3178** – Applicant requested two variances to Zoning Code Section(s): §154.059(D)(10)(b)
Zoning Districts: R-1C – Urban Residential Zoning District

Case No. 02-14 McGraw Two Variance Requests
History
Mr. Spring stated that at the February 19, 2014 Board of Zoning Appeals meeting, the BZA Members tabled the above request to allow the applicant to make a final determination as to the proposed size of the swimming pool and associated setbacks.

Upon further consideration, the applicant had modified his original request from the originally requested 16' x 38' in-ground swimming pool to an 18' x 36' in-ground swimming pool. The setback of the swimming pool from the home would remain at 6', and the setback from the side property line would increase from 10' to 13', thus reducing the required variance for this parameter.

Modified Variance Requests

Mr. Spring stated that the applicant requested two separate variances in conjunction with the proposed construction of an 18' x 36' in-ground swimming pool at the single-family residence located at 201 Greensward Drive.

Variance 1

Mr. Spring noted that a variance of 2' to Code §154.059(D)(10)(b) to the required 15' setback, from side or rear property line, for a swimming pool. Code §154.059(D)(10)(b) (Ord. 18-10) states:

The pool may not be located closer than 15 feet to any property line or 10 feet from the primary structure, and such location shall be in accordance with all pertinent provisions of § 154.061 and shall be measured from the water line. Accessory buildings shall maintain the minimum side yard required. Any walks or paved areas adjacent to the pools shall be considered as patios for the purpose of this chapter and shall conform to the provisions of this section.

Mr. Spring also noted that if approved, the proposed swimming pool (water line) would have a setback of 13' from the side property line. Therefore, a variance of 2' was needed ($15 - 13 = 2$).

Variance 2

Mr. Spring noted that a variance of 4' to Code §154.059(D)(10)(b) to the required 10' setback, from the primary structure, for a swimming pool. Code §154.059(D)(10)(b) (Ord. 18-10) states:

The pool may not be located closer than 15 feet to any property line or 10 feet from the primary structure, and such location shall be in accordance with all pertinent provisions of § 154.061 and shall be measured from the water line. Accessory buildings shall maintain the minimum side yard required. Any walks or paved areas adjacent to the pools shall be considered as patios for the purpose of this chapter and shall conform to the provisions of this section.

Mr. Spring also noted that if approved, the proposed swimming pool (water line) would have a setback of 6' from the primary structure (home). Therefore, a variance of 4' was needed ($10 - 6 = 4$).

Mr. Spring stated that the Board of Zoning Appeals had jurisdiction in this case to grant both variances as noted above per Code §154.175(E)(1):

- E. *"The Board may grant variances only in the following instances and no others:*
1. *To permit any yard or setback less than a yard or setback required by the applicable regulations.*

Staff noted the following procedural requirements that must be met regarding the granting of variances as noted in Zoning Code Section(s) §154.175(C):

"The Board shall make written findings of fact, based on the particular evidence presented to it, that each and every one of the following standards for a variance are met by the application:

- (1) The particular physical surroundings, shape, or topographical condition of the specific property would cause particular and extraordinary hardship to the owner if the literal provisions of the zoning code were followed;*
- (2) The alleged hardship has not been created by the applicant for the variance after the adoption of the zoning code;*
- (3) The granting of a variance will not be materially detrimental to the public health, safety, convenience, or general welfare or injurious to other property or improvements in the vicinity;*
- (4) The granting of a variance will not constitute a grant of a special privilege, denied by this chapter to other property in the same zoning district, or permit a use not expressly allowed by this chapter, or permit a use prohibited expressly or by implication to other property in the same district. No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the granting of a variance."*

Also the requirement of Zoning Code Section(s) §154.175(D), which states:

"The Board shall further make a written finding that the reasons set forth in the application justify the granting of a variance, and that the variance is the minimum variance that will make possible the reasonable use of the property. When a variance is denied, a written statement shall set forth the reason(s) therefore.

Mr. Spring noted the following:

- The home was situated on a corner lot of Greensward Drive & Chevington Chase. As such the property's front, rear and side lot lines and setbacks were delineated by Code §154.004 which defines a "front," "rear," and "side" lot lines.

- On February 11, 2014, the Tipp City Planning Board approved a replat of Inlot 3078 whereby an existing ± 33' x 36' (± 1,083 sq. ft.) section of existing storm sewer, detention basin, and utility easement was vacated in order to facilitate the proposed construction of the swimming pool.
- The property included the following additional easements: The proposed swimming pool would not encroach into these easements.
 - A 10' utility easement along the two front property lines of Greensward Drive and Chevington Chase.
 - A 5' utility easement along the west side property line.
 - A variable width storm sewer, detention basin, and utility easement along the east side property line.

Mr. Spring noted that if the requested variance was approved, the applicant would be required to obtain an approved zoning and building permits prior to the start of any proposed construction.

Chairman McFarland asked if there were any further questions for Mr. Spring. There were none.

Mr. Berrett inquired if there were any neighbor's comments received. There were none.

Mr. Andy McGraw, 201 Greensward Drive, approached the dais. Mr. McGraw stated that the contractor had confirmed all measurements and the initial error was his own on the original request.

Chairman McFarland asked if there were any further questions for Mr. McGraw. There were none.

Chairman McFarland asked if there was anyone present who wished to speak in favor. There were none.

Chairman McFarland asked if there was anyone present who wished to speak in opposition of the request. There was none.

Variance 1

Chairman McFarland asked for further discussion. There being no further discussion, Mr. Browning **moved to grant a variance of 2' to Code §154.059(D)(10)(b) to the required 15' setback from side or rear property line for a swimming pool located at 201 Greensward Drive**, seconded by Mr. Berrett. **Motion carried.** Ayes: Berrett, Browning, McFarland, and Crawford. Nays: None.

Variance 2

Chairman McFarland asked for further discussion. There being no further discussion, Mr. Berrett **moved to grant a variance of 4' to Code**

§154.059(D)(10)(b) to the required 10' setback from the primary structure for a swimming pool located at 201 Greensward Drive, seconded by Mr. Browning. **Motion carried.** Ayes: Berrett, Browning, Crawford, and McFarland. Nays: None.

Mr. Spring reminded the applicant that there was a ten day period where any aggrieved party could appeal decisions to City Council and that there was a ten day waiting period for the applicant to take out any permits if required.

Miscellaneous

Chairman McFarland mentioned that Council adopted new Zoning Code. Mr. Spring stated that the next BZA meeting in April would be under the current Zoning Code. Mr. Spring anticipated a training session with all Board Members prior to the meeting in May assuming there were agenda items for that month.

Adjournment

There being no further business, Mr. Berrett **moved to adjourn the meeting**, seconded by Mr. Browning and unanimously approved. **Motion carried.** Chairman McFarland declared the meeting adjourned at 7:37 p.m.


Board Chairman, Mike McFarland 4/16/14

Attest: 
Mrs. Kimberly Patterson, Board Secretary