

BOARD OF ZONING APPEALS MEETING

TIPP CITY, MIAMI COUNTY, OHIO

April 15, 2015

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: Michael McFarland, Carrie Arblaster, and Isaac Buehler. Others in attendance: City Planner/Zoning Administrator Matthew Spring, and Board Secretary Kimberly Patterson.
Absence	Mr. Buehler moved to excuse Steve Stefanidis from the meeting , seconded by Ms. Arblaster and unanimously approved. Motion carried.
Citizens signing the registrar	Citizens attending the meeting: Douglas Dudis and John Foy.
Board Minutes 03-18-2015	Chairman McFarland asked for discussion. There being none, Chairman McFarland moved to approve the March 18, 2015 meeting minutes as written , seconded by Mr. Buehler. Motion carried. Ayes: McFarland, Buehler, and Arblaster. 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 any person or entity claiming to be injured or aggrieved by any final action of the BZA shall have the right to appeal the decision to the court of common pleas as provided in ORC Chapters 2505 and 2506.
New Business Case No. 05-15 Douglas Dudis Solar Panels/Roof	Case No. 05-15: Doug Dudis, 840 Charrington Way - Lot: IL 2900 – The applicant requests a variance to Code §154.06(A)(4)(t)(iv)(A) to allow for the non-flush-mounted installation of 36 photovoltaics (solar panels) on the single-family residence. Zoning District: R-1C – Urban Residential Zoning District Zoning Code Section(s): 154.06(A)(4)(t)(iv)(A) Mr. Spring stated that the applicant requested a variance to Code §154.06(A)(4)(t)(iv)(A) to allow for the non-flush-mounted installation of 36 photovoltaics (solar panels) on the roof of the single-family residence located at 840 Charrington Way.

Variance

Code §154.06(A)(4)(t)(iv)(A) states:

Roof-mounted solar panels that are integrated with the surface layer of the roof structure or are mounted flush with the roof structure may be permitted on any roof surface of a principal building or accessory building.

Mr. Spring also stated that the applicant proposed the installation of the photovoltaics (solar panels) ± 8" above and parallel to the roof rather than integrated with or flush to the roof surface. Therefore a variance to Code §154.06(A)(4)(t)(iv)(A) is needed.

Review Criteria §154.03(K)(4)

(4) Review Criteria

Decisions on variance applications shall be based on consideration of the following criteria:

(a) Where an applicant seeks a variance, said applicant shall be required to supply evidence that demonstrates that the literal enforcement of this code will result in practical difficulty for an area/dimensional variance as further defined below.

(b) The following factors shall be considered and weighed by the BZA to determine practical difficulty:

(i) 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;

(ii) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

(iii) Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;

(iv) 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;

(v) Whether the variance would adversely affect the delivery of governmental services such as water, sewer, electric, refuse pickup, or other vital services;

(vi) Whether special conditions or circumstances exist as a result of actions of the owner;

(vii) Whether the property owner's predicament can feasibly be obviated through some method other than a variance;

(viii) Whether the spirit and intent behind the code requirement would be observed and substantial justice done by granting a variance; and/or

(ix) 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.

(c) 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. Spring noted the following:

- The proposed photovoltaics (solar panels) would be installed on the rear (southern) roof on the home only.
- The area of each photovoltaic (solar panel) was ± 6.6 square feet ($\pm 40'' \times 60''$), thus the total area of the photovoltaics (solar panel) array would be ± 600 square feet of roof area.
- The photovoltaic (solar panel) array would be arranged with the panels oriented in a landscape position with three rows of twelve panels each.

Chairman McFarland asked if there were any further questions for Staff. There was none.

Mr. Douglas Dudis, 840 Charrington Way, approached the dais. Mr. Dudis presented the Board with a presentation from his lap top that reviewed the photovoltaic solar panels. Mr. Dudis also submitted surrounding neighbor letters in support of his project.

Board members found the following: to generate electricity the photovoltaic solar panels must be raised to allow air flow beneath; 36 panels total; area to be 6-10' and was parallel with the roof.

Board Members noted that the current code was not keeping up with the times and an updated revision was recommended to be forwarded to Council.

Mr. Buehler stated that it was his opinion that the solar panels were unattractive, but would approve of them being on the back of the home and understood was the only way to keep up with the times.

Ms. Arblaster stated that the project makes sense.

Chairman McFarland stated that after his research he found that every indication found that solar panels that generate electricity they have to have air flow underneath and with the way technology was today did not match the existing code requirements that were based on past solar panel installations.

Chairman McFarland asked for further discussion. There being none, Chairman McFarland **move to grant a variance to Code §154.06(A)(4)(t)(iv)(A) to allow for the non-flush-mounted installation of 36 photovoltaics (solar panels) on the roof of the single-family residence located at 840 Charrington Way**, seconded by Ms. Arblaster. **Motion carried.** Ayes: McFarland, Arblaster, and Buehler. Nays: None.

**Case No. 06-15
John Foy
Driveway**

Case No. 06-15: John Foy – All Size Buildings for Mark Elrod – Owner, 31 W. Walnut St. - Lot: Pt. IL 211 – The applicant requests a variance of 12' to Code §154.10(F)(4)(d)(ii)(B) to allow for a 36' wide driveway for a two-lane garage for the single-family residence.
Zoning District: R-2 – Two Family Residential Zoning District
Zoning Code Section(s): 154.10(F)(4)(d)(ii)(B)

Mr. Spring stated that the applicant requested a variance of 12' to Code §154.10(F)(4)(d)(ii)(B) to allow for a 36' wide driveway at the right-of-way line for a two-lane garage for the single-family residence located at 31 W. Walnut Street.

Variance

Code §154.06(A)(4)(t)(iv)(A) states:

A driveway for a single-family or two-family dwelling shall have a minimum width of eight feet for single lane and a minimum of 16 feet for a two lane. The driveway shall have a minimum depth of 20 feet as measured from the right-of-way line to the back of the driveway. The maximum width for a single lane driveway shall not exceed 16 feet and the maximum width for a two lane shall not exceed 24 feet at the right-of-way line.

Mr. Spring also stated that 31 W. Walnut Street contained a detached two-car garage. The applicant proposed the installation of a 36' wide driveway at the right-of-way line. Therefore a variance of 12' was needed.

Review Criteria §154.03(K)(4)

(4) Review Criteria

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(b) The following factors shall be considered and weighed by the BZA to determine practical difficulty:

(i) 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;

(ii) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

(iii) Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;

(iv) 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;

(v) Whether the variance would adversely affect the delivery of governmental services such as water, sewer, electric, refuse pickup, or other vital services;

(vi) Whether special conditions or circumstances exist as a result of actions of the owner;

(vii) Whether the property owner's predicament can feasibly be obviated through some method other than a variance;

(viii) Whether the spirit and intent behind the code requirement would be observed and substantial justice done by granting a variance; and/or

(ix) 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.

(c) 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. Spring noted the following:

- The original Zoning Permit issued 1/22/15 for the detached garage noted a concrete driveway with a width of 20'.
- The expanded driveway had already been installed.

Chairman McFarland asked if there were any further questions for Staff. Chairman McFarland inquired if the driveway was noted at 20' and if the applicant understood that requirement. Mr. Spring stated yes.

Mr. John Foy, All Size Buildings, 4127 Dayton, Ohio, approached the dais. Mr. Foy stated that originally the 20' driveway was poured to specs and there was a section of yard that was nothing but mud so he poured that area in concrete not knowing he was breaking the variance. Mr. Foy

stated that the area was not technically part of the driveway and was off to the left side.

Board members found the following: a car would not fit on the section of concrete added; most of the concrete was existing and only 16' was added; abuts the alley to the north and the sidewalk to the west and from the garage to the south; the alley was currently asphalt turning into gravel. The concrete pad next to the garage was there with the previous garage that was demolished to build the new one to match the new home.

Chairman McFarland asked for further discussion. There being none, Mr. Buehler **move to grant a variance of 12' to Code §154.10(F)(4)(d)(ii)(B) to allow for a 36' wide driveway for a two-lane garage for the single-family residence located at 31 W. Walnut Street**, seconded by Ms. Arblaster. **Motion carried.** Ayes: Buehler, Arblaster, and McFarland. Nays: None.

Old Business

There was none.

Miscellaneous

Mr. Dudis will prepare and submit specifications for the newly developed solar panels to be adopted into code as a future revision to Mr. Spring.

Adjournment

There being no further business, Chairman McFarland **moved to adjourn the meeting**, seconded by Mr. Buehler and unanimously approved. **Motion carried.** Chairman McFarland declared the meeting adjourned at 7:55 p.m.


Board Chairman, Michael McFarland

Attest: 
Mrs. Kimberly Patterson, Board Secretary