

BOARD OF ZONING APPEALS MEETING

TIPP CITY, MIAMI COUNTY, OHIO

May 20, 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, Steve Stefanidis, and Isaac Buehler. Others in attendance: City Planner/Zoning Administrator Matthew Spring, and Board Secretary Kimberly Patterson.
Citizens signing the registrar	Citizens attending the meeting: Kathryn Keel, Donald Keel, Claire Keel, John Elder, Jr Elder, and Jay Lopez.
Board Minutes 04-15-2015	Chairman McFarland asked for discussion. There being none, Chairman McFarland moved to approve the April 15, 2015 meeting minutes as written , seconded by Ms. Arblaster. Motion carried. Ayes: McFarland, Arblaster, Buehler, and Stefanidis. 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. 07-15 Donald Keel Three Variance Requests	Case No. 07-15: Donald Keel, 445 Burnside Drive - Lot: IL 4008 – The applicant requests three variances as follows: 1. A variance of 14' 9" to the maximum height of detached garages noted in Code §154.06(A)(2)(g)(ii) 2. A variance of 1000 square feet to the aggregate square footage of accessory structures noted in Code §154.06(A)(2)(h)(ii) 3. A variance of 2,200 square feet to the maximum size of a detached garage noted in Code 154.06(A)(4)(f)(iii) Zoning District: R-1A – Suburban Residential Zoning District Zoning Code Section(s): 154.06(A)(2)(g)(ii), 154.06(A)(2)(h)(ii), 154.06(A)(4)(f)(iii) Mr. Spring stated that in association with the proposed construction of a 50' x 60' detached garage (accessory structure) on the single-family

property located at 445 Burnside Drive, the applicant requested the following three variances:

1. A variance of 14' 9" to the maximum height of detached garages noted in Code §154.06(A)(2)(g)(ii)
2. A variance of 1,000 square feet to the aggregate square footage of accessory structures noted in Code §154.06(A)(2)(h)(ii)
3. A variance of 2,200 square feet to the maximum size of a detached garage noted in Code §154.06(A)(4)(f)(iii)

Variance 1

Code §154.06(A)(2)(g)(ii) states:

Detached garages shall not exceed 18 feet unless the structure includes an accessory dwelling unit above the garage in which case the garage structure shall not exceed 24 feet.

The proposed detached garage will not contain an accessory dwelling unit and have a height of 32' 9". Thus a variance of 14' 9" is required ($32.75 - 18 = 14.75$ (14' 9")).

Variance 2

Code §154.06(A)(2)(h)(ii) states:

In no case shall the aggregate square footage of the accessory structures listed above exceed 2,000 square feet.

The proposed detached garage will be the only accessory structure on the property. Therefore, the aggregate square footage of all accessory structures at 445 Burnside will be 3,000 square feet. Thus a variance of 1,000 square feet is required ($3,000 - 2,000 = 1,000$).

Variance 3

Code §154.06(A)(4)(f)(iii) states:

The maximum size of a detached garage or carport in an R-1A, R-1B, R-1C, or CD District shall be 800 feet...

445 Burnside Drive is located in the R-1A Zoning District, and the proposed detached garage has an area of 3,000 square feet. Thus a variance of 2,200 square feet is required ($3,000 - 800 = 2,200$).

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 applicant is not the property owner, but was seeking the proposed variances in conjunction with the proposed purchase of 445 Burnside Drive.
- 445 Burnside has an area of ± 2.257 acres.
- The total area of the structure was 3,000 square feet, which included a 40' x 60' (2,400 sq. ft.) enclosed area and a 10' x 60' (600 sq. ft.) covered porch.
- The existing accessory structure on site a children's playhouse will be removed upon the sale of the home.

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

Mr. Donald Keel, 7033 Peters Pike, Dayton, Ohio 45414, future homeowner of 445 Burnside Drive, approached the dais. Mr. Keel stated

that he had a total of seven collector cars, a boat and a lawn mower trailer and did not want these items sitting outside at a property of this stature. Mr. Keel also stated that he was a retired carpenter and still did a little woodworking and would like to have a wood shop in the back. Mr. Keel stated that he did not want to put on an addition to the rear of the home because that would be closer to the street and more noticeable and that there was a good spot for the detached structure by the swimming pool. Mr. Keel also stated that he would like to install a driveway to the detached garage to avoid having cars parked on the street when having company. Mr. Keel also mentioned that the potential sale of the home depends on the granting of the variance.

Board members found the following: building would look like the existing house; reasoning for the large peak requested was to match the look of the home; Home Owners Association had been contacted and all requests were fine; no right-of-way infringements; neighbors and home owners association pleased with proposal

Ms. Arblaster asked if any of the neighbors had been approached regarding the request. Jay Lopez, 430 Burnside approached the dais. Mr. Lopez stated that he lived directly adjacent to the property and was more curious to the location of the structure and his only concern was with water runoff. Mr. Lopez reviewed the applicant's site plan and discussed the runoff.

Mr. Lopez expressed that he was in favor of the addition.

Chairman McFarland expressed his concern with the size of the accessory structure and the zoning code and could see granting a small variance but these requests were large and did not want to set a precedence.

Sue Elder, owner of 445 Burnside Drive approached the dais. Mrs. Elder stated that in passing spoke to the neighbors regarding the sale of the home. Neighbors were glad to hear that the new buyers were willing to invest in the home and neighborhood that would increase their property values. Mrs. Elder also stated that all the larger lots on the street backed up against Monroe Township and those lots were all over three acres. Mrs. Elder also stated that 445 Burnside backs up directly to lots with buildings larger than what the applicant was proposing.

Mr. Stefanidis stated that perhaps the zoning code should be more relevant to the size of the lot and finished space. Mr. Stefanidis noted that the property taxes would increase due to the addition which was good for the community and did not think that the request was outrageous or out of line.

Mrs. Elder noted that the pitch on her home was extremely steep and the attached garage roof line was over 30' and for the proposed addition to complement and look like the home Mr. Keel would need to be given a good pitch on his roof or will look out of place.

Mr. Stefanidis stated that the final rendering would have to go before the home owners association for final approval and for fitting in the neighborhood he didn't think that would present a challenge.

Mr. Spring noted one section of code for the Board that was omitted from the Staff Report because it did not require a variance.

Zoning Code Section(s) 154.06(A)(2)(H)(1)

The aggregate square footage shall not exceed more than 7%.

Mr. Spring noted that 7% of the lot would have allowed the home owner to build a 6,800 square foot accessory building. Mr. Spring also noted that a lot could be crowded but still be legal.

Mr. Keel stated that the height of the peak depending upon what the architect presents may not be as high as the request and instead of coming to a point may and wanted a 16' high ceiling to allow for a lift for cars. Mr. Spring stated that the request was the absolute maximum.

Mr. Stefanidis noted in regards to variance three that there was not any way to come close to the maximum area covered by the 7%.

Mr. Buehler stated that from an architectural standpoint if the structure was built squatty would not add value but would have to draw it out to see how the elevations worked together and the applicant would have to invest in someone to design. Mr. Buehler also noted that he would like to see a design with gable hip offset not just one with modulation like the existing home.

Chairman McFarland asked if the applicants would require a letter from the home owner association. Mr. Spring stated the approval letter would be submitted with the zoning application.

Mr. Keel explained to the Board that the photographs of the different buildings were collected by him and his wife to attempt to show the Board their ideas.

Variance 1

Chairman McFarland asked for further discussion. There being none, Mr. Stefanidis **move to grant (or deny) a variance of 14' 9" to the maximum height of detached garages noted in Code §154.06(A)(2)(g)(ii) for the property located at 445 Burnside Drive**, seconded by Ms. Arblaster. **Motion carried.** Ayes: Stefanidis, Arblaster, and Buehler. Nays: McFarland.

Variance 2

Chairman McFarland asked for further discussion. There being none, Mr. Buehler **move to grant (or deny) a variance of 1,000 square feet to the aggregate square footage of accessory structures noted in Code §154.06(A)(2)(h)(ii) for the property located at 445 Burnside Drive**, seconded by Mr. Stefanidis. **Motion carried.** Ayes: Buehler, Stefanidis, McFarland, and Arblaster. Nays: None.

Variance 3

Chairman McFarland asked for further discussion. There being none, Ms. Arblaster **move to grant (or deny) a variance of 2,200 square feet to the maximum size of a detached garage noted in Code §154.06(A)(4)(f)(iii) for the property located at 445 Burnside Drive**, seconded by Mr. Stefanidis. **Motion carried.** Ayes: Arblaster, Stefanidis, McFarland, and Buehler. Nays: None.

Old Business

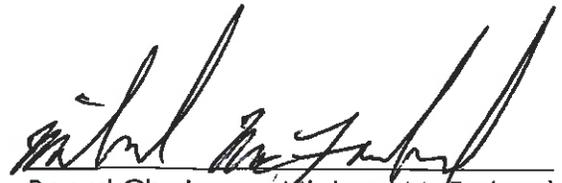
There was none.

Miscellaneous

There was none.

Adjournment

There being no further business, Chairman McFarland **moved to adjourn the meeting**, seconded by Mr. Stefanidis and unanimously approved. **Motion carried.** Chairman McFarland declared the meeting adjourned at 8:02 p.m.


Board Chairman, Michael McFarland

Attest: 
Mrs. Kimberly Patterson, Board Secretary