

BOARD OF ZONING APPEALS MEETING

TIPP CITY, MIAMI COUNTY, OHIO

October 19, 2016

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, Steve Stefanidis, and Isaac Buehler. Others in attendance: City Planner/Zoning Administrator Matthew Spring and Board Secretary Dawn Gross.
Absence	Mr. Buehler moved to excuse Mr. Hartman from the meeting , seconded by Mr. Stefanidis and unanimously approved. Motion carried. <i>Mr. Hartman arrived at the meeting at 7:48, he abstained from the first case.</i>
Citizens Signing the Registrar	Citizens attending the meeting: Lisa and Scott Courter, Carrie Botticher, Dave Spitzer, and Matthew Trisler.
Board Minutes 09-21-2016	Mr. McFarland asked for discussion. There being none, Mr. McFarland moved to approve the September 21, 2016 meeting minutes as written , seconded by Mr. Stefanidis. Motion carried. Ayes: McFarland, Buehler, and Stefanidis. Nays: None.
Citizens Comments	There were no citizen comments.
Administration of Oath	Mrs. Gross swore in citizens and Mr. Spring.
Chairman's Introduction	Mr. 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. 12-16 Matthew Trisler	Case No. 12-16: Matthew Trisler – 26 Pueblo Court – Lot: IL 1924 – The applicant is requesting the following variances: <ol style="list-style-type: none">1. A variance of 2.5' to the maximum height of 3.5' for fences located in front yards and corner side yards within residential zoning districts noted in Code § 154.06(A)(4)(i)(vi)(B).2. A variance to Code § 154.06(A)(4)(i)(iii)(B) to allow fencing in the front yard to be 0% transparent rather than 50% transparent.3. A variance to Code § 154.06(A)(4)(g)(i) to allow the placement of a utility shed in the front yard.
Variances for fence height, front yard fencing and front yard utility shed	

Zoning District: R-1C – Urban Residential Zoning District.
Zoning Code Section(s): 154.06(A)(4)(g)(i); 154.06(A)(4)(i)(iii)(B);
154.06(A)(4)(i)(vi)(B)

Mr. Spring provided the following report:

General

26 Pueblo Court is a corner lot with frontages (front yards) on Bellaire Drive and Pueblo Court. The applicant seeks the following three variances in association with the proposed installation of ± 60 linear feet of 6' tall vinyl privacy fencing in the front yard (corner side yard), and the associated relocation of an existing ± 10' x 12' utility shed to the front yard (corner side yard) bounded by the area created by said fencing installation.

Variance 1

In association with the installation of fencing around the northwest section of the lot, the applicant seeks a variance of 2.5' to the maximum height of 3.5' for fences located in front yards and corner side yards within residential zoning districts noted in Code § 154.06(A)(4)(i)(vi)(B). The applicant proposes the installation of ± 60 linear feet of 6' tall vinyl privacy fence within the corner side yard. The proposed fencing would project 20' into the front yard and/or corner side yard.

Code § 154.06(A)(4)(i)(vi)(B) states:

The following shall apply to fencing, walls, and hedges in residential zoning districts and the CD District:

B. Fences, walls, and hedges shall not exceed 42 inches (3.5') in the front yard or along any lot line that is adjacent to a street. For double frontage lots, fencing in the rear yard may exceed 42 inches if the fencing is set back a minimum of 50 feet from the right-of-way but in no case shall it exceed six feet in height.

The applicant proposes the installation of ± 60 linear feet of 6' tall vinyl privacy fence within the corner side yard, therefore a variance of 2.5 feet is required ($6 - 3.5 = 2.5$).

Variance 2

In association with the installation of fencing around the northwest section of the lot, the applicant seeks a variance to Code § 154.06(A)(4)(i)(iii)(B) to allow fencing in the front yard to be 0% transparent rather than 50% transparent. The applicant proposes the installation of ± 60 linear feet of 6' tall vinyl privacy fence (0% transparent) within the front yard (corner side yard). The proposed fencing would project 20' into the front yard and/or corner side yard.

Code §154.06(A)(4)(i)(iii)(B) states:

Fencing in the front yard shall be at least 50 percent transparent as determined by viewing the primary face of the fence or wall. The ratio of solid fencing to open areas in the fence shall not exceed a one-to-one ratio.

The applicant proposes the installation of ± 60 linear feet of 6' tall vinyl privacy fence within the corner side yard that is 0% transparent rather than the required 50% transparent, therefore a variance to Code §154.06(A)(4)(i)(iii)(B) is required.

Variance 3

The applicant proposes the relocation of an existing ± 10' x 12' shed to the front yard (corner side yard). Code §154.06(A)(4)(g)(i) states:

Detached storage/utility sheds, gazebos, and other similar structures are permitted as an accessory structure but shall only be permitted in the rear yard.

The applicant proposes the relocation of an existing ± 10' x 12' shed to the front yard (corner side yard). Therefore a variance to Code §154.06(A)(4)(g)(i) 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.

Additional Notes

- There is an existing 5' utility and drainage easement along the northern property line. The proposed shed would be required to be located outside of this easement. The proposed fencing can be placed within the easement, with the caveat that the fencing can be removed by utility crews (at the owners cost) if work needs to be done in the easement.
- If the requested variances are granted, the applicant will be required to obtain an approved Zoning Compliance Permit.

Mr. McFarland asked if there were any neighbor comments. Mrs. Gross responded, No, there have been no comments.

Mr. McFarland asked if there were any questions for staff, there were none.

Mr. McFarland invited the applicant to step forward and state his name and address.

Mr. Matthew Trisler, 26 Pueblo Court, Tipp City, Ohio 45371.

Mr. Trisler indicated the main reason for seeking this variance is to put in a pool. The current location of his shed hinders him from installing a pool. He is asking to move his shed to the back corner of his lot to make room for a pool.

Mr. Spring interjected, he stated that just for the record the pool has not been formally proposed.

Mr. Trisler shared pictures of what the fence would look like. His neighbor has the same fence.

Mr. Buehler asked Mr. Spring if the neighboring fences met code. Mr. Spring responded, he is not sure what he is referring to.

Mr. Buehler asked about moving the shed. He was curious as to location. Mr. Trisler said the choice was due to simplicity and the location of the trees.

Mr. Stefanidis asked "What is the shed made of?" Mr. Trisler responded, "Wood".

Mr. McFarland asked, What is the distance from the proposed fence to the sidewalk? Mr. Trisler answered, "14 feet from the edge of the sidewalk".

Mr. Stefanidis asked, "Why are you doing everything separate?" You could do the pool in conjunction with everything else, is the pool 100% going to happen? Mr. Trisler said, it depends on the cost. He has not priced everything out as a whole yet, he is taking it one step at a time.

Mr. Stefanidis asked Mr. Trisler if he built the existing shed or if it was there when he purchased the property? Mr. Trisler responded, it was there when they purchased it.

Mr. Trisler said the shed is 20 years old. Mr. Buehler asked if it was an eyesore, he said no, it is just old. Mr. Buehler asked if the fence would cover the shed. Yes, you will only be able to see the shingles.

Mr. McFarland asked for any other questions of the applicant, there were none.

Mr. McFarland asked for Board Member discussion.

Mr. Stefanidis pointed out that there is a precedent already set in this neighborhood and if it weren't for this being a corner lot, there would be no reason for this discussion.

Mr. Buehler **moves to grant a variance of 2.5' to the maximum height of 3.5' for fences located in front yards and corner side yards within residential zoning districts noted in Code §154.06(A)(4)(I)(vi)(B) for the single-family residential home located at 26 Pueblo Court** seconded by Mr. Stefanidis. **Motion carried.** Ayes: Buehler, Stefanidis, and McFarland. Nays: None. Abstain: Hartman.

Mr. McFarland moves to grant a variance to Code §154.06(A)(4)(i)(iii)(B) to allow fencing in the front yard to be 0% transparent rather than 50% transparent for the single-family residential home located at 26 Pueblo Court seconded by Mr. Buehler. **Motion carried.** Ayes: McFarland, Buehler, and Stefanidis. Nays: None. Abstain: Hartman.

Mr. Stefanidis moves to grant a variance to Code §154.06(A)(4)(g)(I) to allow the placement of a utility shed in the front yard for the single-family residential home located at 26 Pueblo Court seconded by Mr. Buehler. **Motion carried.** Ayes: Stefanidis, Buehler, and McFarland. Nays: None. Abstain: Hartman.

**Case #13-16
Dave Spitzer, All
Season
Remodeling for
Scott and Lisa
Courter, Owners**

Case No. 13-16: Dave Spitzer, All Season Remodeling for Scott and Lisa Courter, Owners – 820 Oak Lea Drive - Lot: IL 3030 – The applicant seeks a variance of 6.9' to Code Table 154.04-7 to the minimum side yard setback of 15' for the single-family home located at 820 Oak Lea Drive. **Zoning District:** R-1A – Suburban Residential Zoning District **Zoning Code Section(s):** Table 154.04-7

**Variance for side
yard setback**

Mr. Spring provided the following report:

In conjunction with the proposed construction of a ± 13' x 29' 8" attached garage addition, the applicant requests a variance of 6.9' to Code Table 154.04-7 to the minimum side yard setback of 15' for the single-family home located at 820 Oak Lea Drive.

Variance 1

Code Table 154.04-7 indicates that a 15' minimum side yard setback is required within the R-1A – Suburban Residential Zoning District. The proposed covered garage addition will be 8.1' from the side property line, therefore a variance of 6.9' is required (15 – 8.1 = 6.9).

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.

Additional Notes

- A pre-existing 10' utility and drainage easement along the side (north) property line is in the process of being vacated in conjunction with this request.
- There are additional 10' utility and drainage easements along the east and south property lines, and a 5' utility and drainage easement along the west property line. The proposed garage addition would not encroach into these easements.

Mr. McFarland asked for questions of staff. Mr. Stefanidis asked if there were any neighbor comments?

Mr. Spring received an email dated October 18th, it specifically states, "Because of a medical procedure my wife had we will be unable to attend the public meeting. Should you have any questions related to

the attached file or any problems opening the file please call me and it provides his phone number."

The letter states:

"We, as the closest and most immediately impacted by the proposed variance located adjacent to the property at 774 Oak Lea Drive, are writing you today to voice our concern about Zoning Board of Appeals Application Case No. 13-16. If approved this would provide a variance of 6.9' to the Code Table 154.04-7 to minimum side yard setback of 15' for the single family home located at 820 Oak Lea Drive.

If approved, the variance will create a setback circumstance detrimental to our homes spacing which will be both off-putting in appearance as well as create a circumstance of home spacing not characteristic to the neighborhood. Along with the spacing concern our home, which was built to the standard setbacks, has architectural features that will be visually impacted by this variance and subsequently will create a hardship in value should we marked the property for sale.

Furthermore, the area between the two properties is very challenged land due to its low elevation and its inability to properly drain off rain water or snow melt. The additional roof surface and its run off stand to worsen this condition as there is no real way, due to elevation and drop to the street, to properly drain off the water run-off between our homes. Should the variance be considered, at a minimum we would request Tipp City Zoning to review the drainage issues that both of our home are affected by and consider in conjunction with this project some type of variance that would allow for a storm sewer or alternative method between our properties to allow for proper drainage.

Obviously these requests for variances are deeply conflicted with the good neighbor, bad neighbor scenarios and because of this request, in good faith, we shared with Scott and Lisa Courter our feelings directly, that beyond the valid fundamental concerns we highlight above one of the primary aspects that brought us to buy this home in 2004 was the privacy and spacing of the executive lots on Oak Lea Drive. In supporting their request, we will be jeopardizing a primary reason we purchased the property initially. Oak Lea Drive and its values are very challenged in the current market, a recent sale on Oak Lea Drive will close at roughly 50% of the actual construction cost. Anything that takes away from the value and uniqueness of our neighborhood truly has a long lasting effect.

Thank you for your consideration,

Joe & Michelle Minneman, 774 Oak Lea Drive"

Mr. McFarland asked, "Is the utility department aware of the drainage issues or is this something all new?"

Mr. Spring replied, "As I mentioned they are in the process of vacating the easement that is directly in play with this particular setback."

Mr. Buehler, asked, are they willing to do that?

Mr. Spring answered, Yes, it has already been signed off by the Tipp City Utility Department.

Mr. McFarland asked the applicant to step forward and state his name and address.

Mr. Dave Spitzer, owner of All Season Remodeling, 4761 Old Salem Road, Englewood, Ohio. He has been a contractor for over 44 years.

What they are proposing is a garage addition onto the house. Everything being proposed is a match to the existing home. This will be a total brick construction, with a matching garage door. Everything will be setback about a foot.

Mr. Stefanidis added, he doesn't think this is an aesthetic issue. He feels there is more of a drainage issue, by increasing the amount of an impervious surface.

Mr. Spitzer said there is already an impervious surface on the building now.

Mr. Stefanidis asked the width of the driveway now.

Mr. Spitzer responded 12.5 feet. We are not adding anymore concrete surface, they just propose to add on top of the existing surface.

Mrs. Lisa Courter asked to speak.

Mr. Buehler invited her to come forward.

Lisa Courter; 820 Oak Lea Drive, Tipp City, Ohio.

Mrs. Courter added, when she purchased the home they had a privacy fence and swimming pool put in the yard, at the time they had the yard re-graded and a tile system was installed as to make sure not to force additional water over to the neighboring properties.

Mr. Buehler asked, "What is the need for this third car garage?"

Mr. Spitzer commented, a third car. Most of the homes in the neighborhood already have 3 or 4 car garages.

Mrs. Courter added, Last year they met with a realtor to discuss listing the home for sale. The realtor stated, with the size of the house most potential buyers will be expecting a larger garage.

Mr. Buehler then asked, "Are you planning on selling after the construction of the new garage?"

Mrs. Courter, said No, they were looking at purchasing a home with a larger garage, but instead decided to build a larger garage.

Mr. McFarland asked for Board Member discussion:

Mr. Buehler is curious to see the street scape.

Mr. Spring offered to get a copy of the google street map for the board to review. Mr. Buehler said that would be a help.

Mr. Buehler's concern is the closeness of the neighbors to the proposed garage addition.

After Board Member discussion, Mr. McFarland asked for a motion.

Mr. Hartman **moves to grant a variance of 6.9' to Code Table 154.04-7 to the minimum side yard setback of 15' for the single-family home located at 820 Oak Lea Drive** seconded by Mr. Buehler. ~~Motion to be carried over to next meeting.~~ Ayes: Hartman and Buehler. Nays: Stefanidis and McFarland.

Mr. Spring announced, since this vote ended in a tie, it will become an agenda item next month and it will continue to be an agenda item until the tie is resolved.

Mr. Stefanidis added, he did not drive by the home to look at it. He will make it a priority to drive by and look before the next meeting.

**Case #14-16
Carrie Botticher**

**Variance for total
lot area squarer
footage**

Case No. 14-16: Carrie Botticher 533 W. Main Street – Lot: IL 2151 – The applicant seeks a variance of 0.79% (±58 sq. ft.) to the maximum aggregated square footage of 7% of the total lot area for accessory buildings and structures noted in Code §154.06(A)(2)(h)(i).
Zoning District: R-2 – Two-Family Residential
Zoning Code Section(s): 154.06(A)(2)(h)(i)

Mr. Spring provided the following report:

In association with the proposed construction of a ± 12' x 8' shed (accessory structure) on the single-family property located at 533 W. Main Street, the applicant seeks the following variance:

1. A variance of 0.79 % (± 58 sq. ft) to Code § 154.06(A)(2)(h)(i) to the maximum aggregate square footage of 7% of the total lot area for accessory buildings and structures.

Code § 154.06(A)(2)(h)(i) states:

For residential districts, the aggregate square footage of the following accessory buildings and structures shall not exceed more than seven percent of the total lot area on which they are located:

- A. Detached garages and carports;
- B. Detached storage/utility sheds, gazebos, and other similar structures;
- C. Porches and decks
- D. Ground-mounted solar energy systems;
- E. Swimming pools, hot tubs, and spas; and
- F. Other accessory buildings similar in nature to the above mentioned structures, as determined by the Zoning Administrator.

Staff notes that there is an existing 430 square foot deck and a 42 square foot pergola on the lot. There is also an existing 24 square foot shed that would be removed if the proposed variance under consideration this evening is approved. The existing lot has an area of 7,290 square feet (± 54' x 135'). The proposed shed would have an area of 96 square feet.

Thus a variance of 0.79% is required $[(430 + 42 + 96 = 568) \div 7,290 \approx .0779] - .07 = .0079 = 0.79\%$.

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.

Additional Notes

- The lot has no easements of record.

Mr. McFarland asked for neighbor comments.

Mrs. Gross replied, Mr. and Mrs. Ullery of 539 West Main stopped in the office to inquire about the letter, after explanation they were fine with the variance.

Mr. McFarland asked for questions of staff, there were none.

Mr. McFarland asked the applicant to step forward and give her name and address for the record.

Carrie Botticher, 533 W. Main Street, Tipp City, Ohio.

Ms. Botticher is asking for a larger shed for several reasons. First, she would like to remove the existing shed because it is too small. It only fits a small lawn mower and 2 bicycles. She is currently in the process of purchasing a handicap accessible van for her daughter, and she will need to be able to remove one of the seats occasionally so that she will be able to get in and out of the van. The larger shed would then house the extra seat to keep it safe from the outdoor elements. She does not have a garage or other space to store the seat.

Mr. Stefanidis asked if she had a fence going around her property, she indicated she did not. She does have a portion of privacy fence along the rear of her property to separate her yard from the apartment complex that is directly behind her.

There were no further questions for the applicant.

Mr. Stefanidis **moves to grant a variance of 0.79% (\pm 58 sq. ft.) to the maximum aggregate square footage of 7% of the total lot area for accessory buildings and structures note in Code §154.06(A)(2)(h)(i) for the property located at 533 W. Main Street** seconded by Mr. Buehler. **Motion carried.** Ayes: Stefanidis, Buehler, Hartman, and McFarland. Nays: None.

Old Business

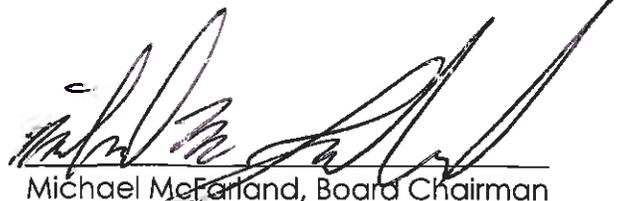
There was none.

Miscellaneous

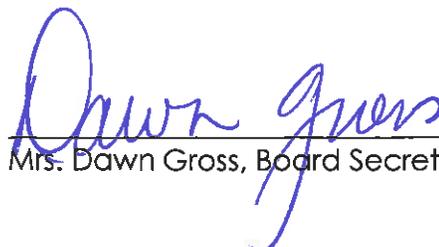
There was none.

Adjournment

There being no further business, Mr. McFarland **moved to adjourn the meeting**, seconded by Mr. Buehler and unanimously approved. **Motion carried.** Chairman McFarland declared the meeting adjourned at 8:27 p.m.



Michael McFarland, Board Chairman

Attest: 
Mrs. Dawn Gross, Board Secretary