

BOARD OF ZONING APPEALS MEETING

TIPP CITY, MIAMI COUNTY, OHIO

April 19, 2017

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, Isaac Buehler, Steve Stefanidis, Mark Hartman and David Cook. Others in attendance: City Planner/Zoning Administrator Matthew Spring, and Board Secretary Dawn Gross.
Citizens Signing the Registrar	Citizens attending the meeting: Lisa Anderson, Nikki Anderson, Mark Vonderhuevel, Shaunna Vonderhuevel, Gretta Kumpf, Gary Pfister and Nancy Bowman.
Board Minutes 03-15-2017	Chairman McFarland asked for discussion. There being none, Chairman McFarland moved to approve the March 15, 2017 meeting minutes as written , seconded by Mr. Cook. Motion carried. Ayes: McFarland, Cook, Hartman, Stefanidis, Buehler. Nays: None.
Citizens Comments	There were none.
Administration of Oath	Mrs. Gross 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(s) 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. 10-17 Mark Vonderhuevel – Detached Garage Variance	Case No. 10-17: Mark Vonderhuevel – 95 W. Kessler-Cowlesville Road, Tipp City, Ohio – Lot: IL 2613 – The applicant seeks a variance of 488 square feet to the maximum size of a detached garage noted in Code 154.06(A)(4)(f)(iii). Zoning District: R-1B – Neighborhood Residential Zoning District Zoning Code Section(s): Code 154.06(A)(4)(f)(iii)

Mr. Spring provided the following report:

In conjunction with the proposed construction of a ± 1,288 square foot detached garage, the applicant requests a variance of 488 square feet to the maximum size of 800 square feet for a detached garage noted in Code 154.06(A)(4)(f)(iii) for the single-family residential property located at 95 W. Kessler-Cowlesville Road.

Variance 1

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...

95 W. Kessler-Cowlesville Road is located in the R-1B Zoning District, and the proposed detached garage has an area of 1,288 square feet. Thus a variance of 488 square feet is required (1,288 – 800 = 488).

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 are no easements of record for this property.

Mr. McFarland asked for Board Member questions for Staff.

Mr. Stefanidis asked, if there have been any neighbor comments or questions? Ms. Gross responded, "Nothing from neighbors."

Mr. McFarland asked the applicant to come forward and state his name and address for the record.

Mr. Mark Vonderhuevel; 95 W. Kessler-Cowlesville Road, Tipp City, Ohio 45371.

Mr. Vonderhuevel met with his neighbor to the west side of him and he has no problem with the variance. Behind his house is an empty field and on the east side is a business, ADCO.

Mr. Stefanidis asked, what is the total acreage of the property? Mr. Vonderhuevel replied, ".773 acres."

Mr. Buehler asked, this is not a side yard setback, it's just a square footage issue? Mr. Spring answered, that is correct, if you will notice on attachment "G" the front edge of the garage and the front edge of the right side of the home are even, that front edge creates the boundary where the front yard begins.

Mr. Buehler asked if there was a certain distance he had to stay away from the structure. Mr. Spring responded, it is not a zoning requirement, it may be a Miami County Building requirement, but it is not a zoning requirement.

Mr. Bueheler asked, "how many cars are you going to be able to park in it?" Mr. Vonderhuevel replied, about 4, he will also be housing an antique tractor inside the building.

Mr. McFarland commented, there is a precedent set here, several houses down on the corner the Board granted variances for a resident to build an accessory building that houses an antique crane.

Mr. McFarland **moved to grant a variance of 488 square feet to the maximum size of a detached garage noted in Code §154.06(A)(4)(f)(iii) for the single-family residential property located at 95 W. Kessler-Cowlesville Road**, seconded by Mr. Hartman. **Motion carried.** Ayes: McFarland, Hartman, Cook, Stefanidis. Nays: Buehler.

**Case No. 11-17
Gary Pfister –
Director of
Services – Tipp
City Exempted
Village Schools –
Off-street parking
variances**

Case No. 11-17: Gary Pfister – Director of Services – Tipp City Exempted Village Schools – 35 Parkwood Drive, Tipp City, Ohio – Lot: OL: 21 – The applicant seeks the following two variances: 1. A variance of 1,117 off-street parking spaces to the total of 1,333 required off-street parking space noted in Code Table 154.10-1. 2. A variance to allow an 84% reduction in the required number of off-street parking space rather than the 50% maximum reduction without providing any additional off-street parking spaces, shared parking spaces, or land banked parking spaces as noted in Code § 154.10(C)(4)(b)(iii).

Zoning District: CD/FA – Conservation District/Flood Hazard Zoning District

Zoning Code Section(s): Code Table 154.10-1 and §154.10(C)(4)(b)(iii)

Matt Spring provided the following report:

General

Tipp City Exempted Village Schools has embarked on a plan to renovate the Tippecanoe High School athletic "football" stadium which is located at 35 Parkwood Drive. The multi-phase plan includes: an upgrade to the field surface, new home and visitors bleachers, new press box, and new locker rooms, ticket booth, restrooms, scoreboard, & concession stand.

The Tippecanoe High School athletic "football" stadium was originally constructed in the 1940's, with bleachers added in the 1960's and additional upgrades undertaken in the 1990's. The current capacity of the stadium is ± 2,000 persons. The facility is located within City Park, with the land owned by the City of Tipp City and leased to the Tipp City Exempted Village Schools. The facility has never had any dedicated off-street parking; however patrons of the stadium utilize the adjacent parking lot constructed as a part of the Tippecanoe Family Aquatic Center, which contains 216 spaces.

Unlisted Use

Staff notes that the off-street parking requirement for a high school athletic stadium is not specifically listed in Code Tables 154.10-1 thru 154.10-2. However, the Zoning Administrator has made the determination that the proposed use is substantially similar to *Commercial Recreation Facilities (Indoors and Outdoors)*, and shall be reviewed as such in this staff report. The Zoning Administrator's determination is based on Code § 154.10(C)(4)(a)(vii)(A), which states:

Upon receiving an application for a use not specifically listed in the parking schedule in Table 154.10-1, the Zoning Administrator shall apply the parking standard specified for the listed use that the Zoning Administrator deems most similar to the proposed use in regards to use, size and intensity of use.

Requests

In conjunction with the proposed renovation of the existing Tipp City Schools athletic stadium the applicant requests the following two variances:

1. A variance of 1,117 off-street parking spaces to the total of 1,333 required off-street parking spaces noted in Code Table 154.10-1
2. A variance to allow a \pm 84% reduction in the required number of off-street parking spaces rather than the 50% maximum reduction without providing any additional off-site parking spaces, shared parking spaces, or land banked parking spaces as noted in Code § 154.10(C)(4)(b)(iii)

Variance 1

Code Table 154.10-1 states that Indoor and Outdoor Commercial Recreation Facilities shall provide:

One space for each three persons at capacity.

The proposed renovated high school athletic stadium will have a capacity of 4,000. The existing site (City Park/Tippecanoe Family Aquatic Center) provides 216 spaces. Thus a variance of 1,117 off-street parking spaces is required $[(4,000 \div 3 = 1,333.33 \approx 1,333) - 216 = 1,117]$.

Variance 2

Code § 154.10(C)(4)(b)(iii) states:

Ten percent of the spaces required in this section may be reduced as of right but the remaining percentage, with a maximum reduction of 50 percent, may be permitted only if the applicant provides off-site parking spaces, shared parking spaces, or land banked parking spaces as provided for in § 154.10(C)(4)(f).

The proposed renovation of the high school athletic stadium will not provide any additional off-site parking spaces, shared parking spaces, or land banked parking spaces, and shall require 1,333 off-street

parking spaces (see calculation above). The existing site (City Park/Tippecanoe Family Aquatic Center) provides 216 spaces, which is a reduction of $\pm 84\%$ [$(216 \div 1,333 = 0.162) - 1 = 0.837 \approx 0.84 = 84\%$] of the required number of spaces. Thus a variance to allow an 84% reduction in the required number of off-street parking spaces rather than the 50% maximum reduction without providing any additional off-site parking spaces, shared parking spaces, or land banked parking spaces is required.

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

- The stadium does not encroach into the floodplain (see attachment "E").
- The applicant may seek an additional variance at a later time regarding the placement of a scoreboard/sign at this location.

Mr. McFarland asked, in your calculation of parking spaces, the Aquatic Center spaces were included, why not the other parking spaces available in City Park? Mr. Spring responded, it could be a possibility as well as the parking spaces directly on Parkwood across from the Parks Dept. storage area.

Mr. McFarland asked if the applicant was present, and if he has been sworn in.

Ms. Gross swore in Mr. Pfister.

Mr. McFarland asked applicant to state his name and address for the record.

Gary Pfister; 803 Copperfield Lane, Tipp City, Ohio.

Mr. Pfister added, this will affect the area in question for five evenings in the fall, no difference than how it is now. Mr. Pfister does not anticipate the homes surrounding the stadium to be affected any differently than they are currently.

Mr. McFarland asked if there was any thought to parking at the middle school and busing the spectators over to the stadium. Mr. Pfister responded, that has not been discussed, however it could be if there is a need for it in the future.

Mr. Buehler asked, "Are there any areas where you have talked about adding parking?" Mr. Pfister answered, "Well, we do use the grass area next to the Aquatic Center, other than that, no, sir."

Mr. Stefanidis asked, "Is it the City that wanted you to stay in the Park?" Mr. Pfister responded, "It is a combination, the School Board voted to put it there with input from City Council Members."

Mr. Cook questioned, "How much of the Aquatic Center parking is used at a high attendance game?" Mr. Pfister answered, "all of it is used at a high attendance game."

Mr. Cook asked, Are the playing fields to the north of the parking lot being utilized? Mr. Stefanidis responded, "The old baseball fields? No, they moved everything to Kyle Park because it flooded all the time."

Mr. Spring read two letters into the record.

One letter from Timothy Eggleston, City Manager as follows:

April 12, 2017

City Park - Stadium Parking Variance

To: Tipp City Board of Zoning Appeals

The current stadium is located within City Park. Since the variance runs with the land, it is appropriate to notify the BZA of the City's approval of the filing of the variance request by the Tipp City Exempted Village Schools. Per the lease agreement, once the structures are erect (unless otherwise stated in the lease agreement) they become the property of the City.

There are members in the community that prefer the stadium be located at the high school. On the reverse, there is also support by Members of Council and the School Board in keeping the stadium at its current location. Regardless of the site chosen, the School Board knew they would be faced with parking requirement issues.

Those that are currently impacted by the stadium will not notice a change. However, the outlying areas will see an impact. At this time, we cannot predict what that might be. Due to its access to the bike path at the northern most boundary of City Park, the City is currently looking at the former DAP property (which is part of the park system) in order to provide additional off-street parking for those using the bike path and attending various events in the park.

Additionally, it is the goal of the stadium committee to provide safe and suitable seating for spectators. In order to do so, the seating capacity needs to be increased to meet the needs of the Greater Western Ohio Conference (GWOC). As the project moves forward the Board will also be addressing a variance regarding the sign requirements for the new scoreboard. We ask that you weigh all the facts when making your decision regarding this unique situation.

Respectfully submitted,

Timothy Eggleston
City Manager

Cc: City Council
Zoning Administrator
School Superintendent

One letter against the variance, from Abby Bowling, resident at 861 Hawthorne Drive as follows:

April 10, 2017

Tipp City Board of Zoning Appeals
Tipp City Government Center
260 South Garber Drive
Tipp City, OH 45371

Gentlemen:

Comments to be made part of the Official Record Case Number 11-17

Really? The variance requests double the seating capacity of the stadium without providing any additional off street parking. While an approval will save the City over \$62,370, will it accomplish the Zoning Code Purpose 154.01 (A)? Where to park the 1,117 cars that won't fit in the Aqua Center parking lot may be remedied by good old American entrepreneurial spirit. Impacted residents could charge for parking spots in their driveways and lawns. Or maybe instead of kids making money with lemonade stands they could set up saw horses in parking spaces and ask for donations for their removal.

The old tradition of 5-7 events in an 1800 seat stadium is fading rapidly. The stadium is now in new and uncharted waters. Three groups are investing heavily into this project. (1) Tipp Schools are now in GWOC, a Division I league with larger crowds, hence the need for 4000 seats. They are planning on artificial turf accommodating more Tipp teams as well as Pee Wee Football and district tournaments. The band competition could also attract larger schools and followers. (2) Tipp City Council is actively involved by providing money for architectural drawings as well as pledging \$350,000 for in-kind services. In return, do they expect to have use of the stadium for community events for their efforts? (3) Tipp Pride, Inc., in an effort to raise money for the stadium renovation, may be offering corporate events at the stadium in exchange for renewable sponsorships. Stay tuned for future developments. Who decides the 5-7 events? Who decides ANY of the events and how many? Once the variance is granted is there really any restrictions?

Under the current zoning laws, the stadium can support 648 visitors with the current Aquatic Center parking lot. Any activity that surpasses 648 attendees overflows into the residential neighborhoods because of insufficient off street parking. Finding 1,117 parking spaces is a real imposition and could destroy the character and quality of residential neighborhoods.

I ask the Zoning Board of Appeals to turn down this variance.

Sincerely,

Abby Bowling
861 Hawthorne Drive

Mr. Spring also received a telephone call on April 3rd from Keith Kingery, owner of S&K Mold and Tool; 955 North Third Street. "He has no problem with the proposed variance and welcomes the new stadium project.

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

Mr. McFarland asked for Board Member comments.

Mr. Buehler asked, "Did they have to get a variance for the first stadium?"

Mr. Spring responded, "I do not know, last time there was any type of upgrade undertaken was in the 1990s, long before my tenure, and I did not find any specific records of any other variances."

Mr. Stefanidis spoke, First, he stated, how many people that will "fit" in the grand stands/bleachers will have no bearing at all as to how many people will attend the high school football games. Secondly, last year Tipp City was in the GWOK conference, there may have been a couple of games where the visitors side was ¾ full, but all the kids are down around the field. The capacity of the stadium is irrelevant as to how many people will attend the games.

Mr. McFarland added, he does not feel the parking space numbers are what they should be with all the other parking available in the park. He has not heard anyone who resides around the stadium complain about the parking, even during the mum festival.

Mr. Buehler said, "He wishes there could be some kind of compromise at least to add a little bit of parking."

Mr. Stefanidis feels there is an undue hardship, there are no places for additional parking, which would make a dent in the amount that is required by code. Also, the other factor that is not accounted for is the amount of people who walk to a game.

Mr. Cook feels this situation differs, once we approve this, there is no way at a later date to make them add additional parking.

Mr. Hartman commented, "He has a hard time with upgrading a facility but not providing the visitors to that facility an adequate place to park." "If you are going to improve it, do it, don't do it half way!"

Mr. Stefanidis added, "this stadium is in bad need, the field is really bad and dangerous." The locker room for the away team is a construction trailer and the locker room for the home team is the Roundhouse in City Park and both use a port-a-potty for restroom facilities. The facilities that we present to away guests is a real turn off for Tipp City, it is certainly not what it should be for this time period and the status of Tipp City.

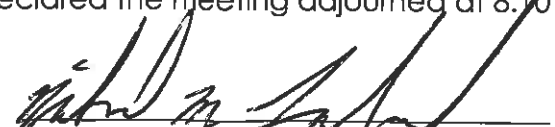
Mr. Stefanidis **moved to grant a variance of 1,117 off-street parking spaces to the total of 1,333 required off-street parking spaces noted in Code Table 154.10-1 for the proposed renovation of the Tipp City Exempted Village Schools athletic stadium which is located at 35 Parkwood Drive**, seconded by Mr. Hartman. **Motion carried.** Ayes: Stefanidis, Cook, Buehler. Nays: Hartman, McFarland.

Mr. Stefanidis **moved to grant a variance to allow an 84% reduction in the required number of off-street parking spaces rather than the 50% maximum reduction without providing any additional off-site parking spaces, shared parking spaces, or land banked parking spaces as noted in Code §154.10(C)(4)(b)(iii) for the proposed renovation of the Tipp City Exempted Village Schools athletic stadium which is located at 35 Parkwood Drive**, seconded by Mr. Hartman. **Motion carried.** Ayes: Stefanidis, Cook, Buehler. Nays: Hartman, McFarland.

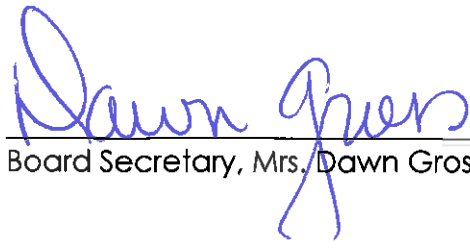
Old Business There was none.

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 8:10 p.m.


Michael McFarland, Board Chairman

Attest:


Board Secretary, Mrs. Dawn Gross