

BOARD OF ZONING APPEALS MEETING

TIPP CITY, MIAMI COUNTY, OHIO

March 16, 2022

Meeting Chairman Hartman 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: Mark Hartman, Allen Worthen, Greg Bulgin, and William Schindler. City Staff in attendance included City Planner, Colin Carville and Board Secretary Dawn Gross.

Absence Mr. Worthen **moved to excuse Mr. Andringa from the meeting**, seconded by Mr. Schindler and unanimously approved. Motion carried.

Other participants who were in attendance included: Nate Gudorf, Steve Thomas and Patty Thomas.

**Board Minutes
01-19-2022** Chairman Hartman asked for discussion. There being none, Mr. Worthen **moved to approve the January 19, 2022 meeting minutes as written**, seconded by Mr. Bulgin. **Motion carried.** Ayes: Worthen, Bulgin, Schindler, and Hartman. Nays: None.

**Citizens
Comments** There were none.

**Administration of
Oath** Mrs. Gross swore in citizens and Mr. Carville.

**Chairman's
Introduction** Chairman Hartman 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. 02-22
Nate Gudorf – 541
Cider Mill Way –
Rear Yard
Setback variance** **Case No. 02-22: Troy Walker – 541 Cider Mill Way – Lot: IL 3804** – The applicant is requesting a variance of 5' to the required rear yard setback 25' noted for the Curry Branch Planned Development Subdivision.
Zoning District: PD – Planned Development
Zoning Code Section(s): 154.04 (E)(13)

Mr. Carville presented the following report:

The applicant is proposing the construction of a new patio roof to cover the existing 15.5' x 20' concrete patio. The roof will connect to the home, which then forces the setback rule to apply.

1) The applicant requests a variance of 5' from the northern (rear) property line for the required front yard setback of 25' noted for the Curry Branch Planned Development Subdivision development notes.

PD – Planned Developments were created to allow for flexible development design balances with the protection of natural resources, efficient infrastructure and utility design, and the creation of unique open spaces. The intent of the district is to accommodate unified planning and development that is consistent with established land use patterns in Tipp City and that are consistent with the purposes of this code. The City of Tipp City no longer creates Planned Developments

The proposed addition will be located 20' from the northern (rear) property line. Thus, a variance of 5' to the required setback of 25' (25' - 20' = 5') 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

- The property has 5' utility easements on the side and a 10' easement in the rear. The home addition will not encroach in either of the easements.
- The home backs up to HOA owner and maintained green space.

Mr. Worthen asked, "Are there any other homes in the area that have similar things put in place?"

Mr. Carville responded, "Not to my knowledge. We have not received a ton of variance requests, obviously some people might put additions in without notifying the city, but to our knowledge in the general vicinity there hasn't been any kind of variance requests like that. I do remember working on a couple in the first phase of the subdivision there are a couple of pools that asked for variances that were encroaching into easements and things like that, but nothing like a home addition."

Mr. Bulgin asked, "So because the roof is touching the home, it is considered a home addition? It wouldn't be a pergola?"

Mr. Carville answered, "That is correct. If it was a pergola it wouldn't apply."

Mr. Hartman asked if the applicant would like to add anything.

Nate Gudorf; 704 Sherwood Drive, Troy, Ohio 45373

Mr. Gudorf began, "I am the contractor that the home owners are using to complete the addition that is being proposed. We are just trying to get the

extra 5 feet so that we can put a cover over the existing patio that is already there. Obviously the homeowner would love to attach it to the house and be able to put shingles and a permanent roof over top of that to get out of the weather, a pergola doesn't really serve that purpose. That is our hope to make that happen."

Mr. Hartman asked for questions from the Board, there were none.

Mr. Carville added, "We did not receive any input from neighbors that were notified, other than the HOA approval."

Mr. Worthen **moved to grant a variance of 5' to the required (northern rear) setback of 25' with the construction of a new patio roof at 541 Cider Mill Way**, seconded by Mr. Bulgin. **Motion carried.** Ayes: Worthen, Bulgin, Hartman, Schindler. Nays: None.

Old Business

There was none.

Miscellaneous

There was none.

Adjournment

There being no further business, Mr. Schindler **moved to adjourn the meeting**, seconded by Mr. Worthen and unanimously approved. **Motion carried.** Chairman Hartman declared the meeting adjourned at 7:41 p.m.


Mark Hartman, Board Chairman

Attest: 
Board Secretary, Mrs. Dawn Gross