

BOARD OF ZONING APPEALS MEETING
TRAINING SESSION

TIPP CITY, MIAMI COUNTY, OHIO

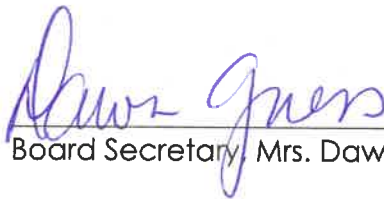
October 21, 2020

In Attendance

Board Members present: David Cook, Mark Hartman, Jerrold Dodd, and Allen Worthen. Also in attendance City Planner/Zoning Administrator Colin Carville, Community Development Director, Matt Spring, Board Secretary Dawn Gross, and Presenter Wendy Moeller of Compass Point Planning.

Ms. Moeller presented a brief training session to review the rules of Board of Zoning Appeals. How the Board should approach appeals, the importance of standards for variances, and why it is important to have a record of your decisions.

Attest:



Board Secretary, Mrs. Dawn Gross

BOARD OF ZONING APPEALS MEETING

TIPP CITY, MIAMI COUNTY, OHIO

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Meeting Due to the COVID-19 outbreak and Ohio's stay-at-home order, the Board of Zoning Appeals held its October 21, 2020 Meeting using Zoom Meetings a remote meeting platform.

Roll Call Board Members in attendance included David Cook, Mark Hartman, Jerrold Dodd and Allen Worthen. City Staff in attendance included City Planner, Colin Carville and Board Secretary Dawn Gross.

Citizens Signing the Registrar Other participants who dialed into this meeting include: Abigail Harris.

Chairman Cook called this meeting of the Tipp City Board of Zoning Appeals to order at 7:32 p.m.

Board Minutes 9-16-2020 Chairman Cook asked for discussion. Mr. Cook asked to change the minutes to reflect the tie vote and the process of adding it to the next meeting agenda. Mr. Dodd **moved to approve the amended minutes of the September 16, 2020 meeting**, seconded by Mr. Hartman. **Motion carried.** Ayes: Dodd, Hartman, Worthen, Cook. Nays: None.

Citizens Comments There were none.

Administration of Oath Mrs. Gross swore in Mr. Carville and citizens as they spoke.

Chairman's Introduction Chairman Cook 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. 11-20- Abigail Harris – 403 S 2nd Street – Setback variances **Case No. 11-20: Abigail Harris – 403 S. 2nd Street – Lot: IL 288** – The applicant is requesting the following three variances: 1. The applicant requests a variance of 4 feet to the setback requirement of 10 feet §154.06(A)(4)(f)(v) from the western property line for the installation of a detached garage at the residence of 403 S 2nd Street. 2. The applicant requests a variaince of 10 feet to the setback requirement of 10 feet §154.06(A)(4)(f)(v) from the northern property line for the installation of a detached garage at the residence of 403 S. 2nd Street. 3. A variance for a detached garage to be placed in the front yard rather than the required rear yard according to §154.06(A)(4)(f)(ii).

Zoning District: R-2 – Two Family Residential

Zoning Code Section(s): § 154.06(A)(4)(f)(ii) and § 154.06(A)(4)(f)(v)

Mr. Carville provided the following report:

Nature of requests:

- 1) The applicant requests a variance of 4 feet to the setback requirement of 10 feet § 154.06(A)(4)(f)(v) from the western property line for the installation of a detached garage at the residence of 403 S. 2nd Street.
- 2) The applicant requests a variance of 10 feet to the setback requirement of 10 feet § 154.06(A)(4)(f)(v) from the northern property line for the installation of a detached garage at the residence of 403 S. 2nd Street.
- 3) A variance for a detached garage to be placed in the front yard rather than the required rear yard according to § 154.06(A)(4)(f)(ii).

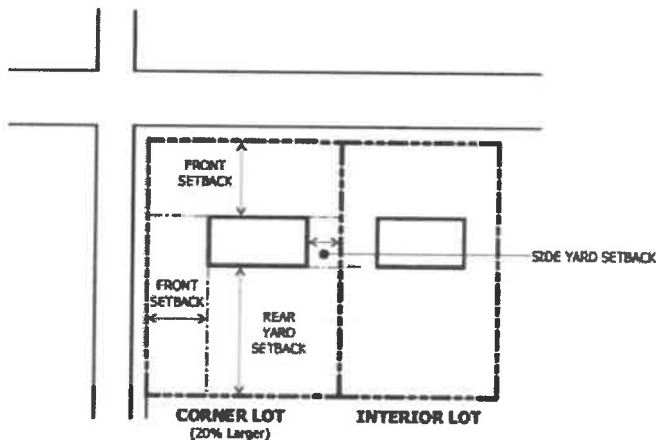
General

403 S. 2nd St is a 2-frontage corner lot, with frontages on S. 2nd Street and E. German St.

Per Code 154.04(H)(1)(d)(vi)(A):

Lots that have street frontage on two intersecting streets shall be considered a corner lot, subject to the following:

- A. The required minimum front yard setback shall be provided from each street right-of-way or, where a right-of-way is not identified, the lot line adjacent to the street. See Figure 154.04-E.



Staff Comments:

- 1) The applicant requests a 4' variance to the required minimum 10' western setback noted in Code § 154.06(A)(4)(f)(v) in conjunction with the proposed installation of a detached garage located at 403 S. 2nd St. The variance is as follows:

- A variance of 4' for the required minimum 10' minimum setback according to § 154.06(A)(4)(f)(v) for the installation of a detached garage at 403 S. 2nd Street.

Code § 154.06(A)(4)(f)(v) states:

Detached garages and carports shall be set back a minimum of 10 feet from all lot lines.

The proposed detached garage will be located 6' from the western property line. Thus a variance of 4' to the required setback of 10' (10' - 6' = 4') is needed.

- 2) The applicant requests a 10' variance to the required minimum 10' northern setback noted in Code § 154.06(A)(4)(f)(v) in conjunction with the proposed installation of a detached garage located at 403 S. 2nd St. The variance is as follows:

- A variance of 10' for the required minimum 10' minimum setback according to § 154.06(A)(4)(f)(v) for the installation of a detached garage at 403 S. 2nd Street.

Code § 154.06(A)(4)(f)(v) states:

Detached garages and carports shall be set back a minimum of 10 feet from all lot lines.

The proposed detached garage will be located 0' from the northern property line. Thus, a variance of 10' to the required setback of 10' (10' - 0' = 10') is needed.

- 3) A variance to the required rear yard placement of a detached garage noted in § 154.06(A)(4)(f)(ii) in conjunction with the proposed installation of a detached garage located at 403 S 2nd St. The variance is as follows:

- A variance for a detached garage to be placed in the front yard rather than the required rear yard according to § 154.06(A)(4)(f)(ii).

Code § 154.06(A)(4)(f)(ii) states:

Detached garages and carports shall only be permitted in the rear yard provided no portion of the structure shall be located in front of the principal building.

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 utility easements for this property.
- 403 S. 2nd St. was recently purchased by the applicant. The detached garage that was on the property was dilapidated and not able to be properly repaired. The applicant received an approved demolition permit on July 20, 2020 and the detached garage was demolished.

- Access to the garage will be from E. German St., not the alley. A driveway from the previous garage is already in place.
- There was no permit on file for the detached garage that was demolished and therefore could not be replaced like for like.
- If the requested variance is granted and prior to the commencement of construction, the applicant will be required to obtain the required Zoning Compliance Permit and pay the associated fee. If the structure is over 200 sq. feet, a Miami County Building Permit is also required.

Mr. Cook asked for questions of Staff.

Mr. Worthen asked, "The old building that was demolished, was right there by the alley?"

Mr. Carville answered, "Yes, so from my understanding the detached garage was both zero feet from the western property line as well as zero feet from the northern property line. She was willing to come in 6 feet from where it previously sat on the alley."

Mr. Dodd asked, "Is the whole fence coming down?"

Mr. Carville added, "In Attachment F-1, there is a tree already in the curb lawn, that is part of her reasoning with the 6 foot, that is the farthest she could get from the alley without encroaching on that tree is what she pointed out to us."

Mr. Dodd said, "Yes, that tree is going to be right behind that garage."

Mr. Carville said, "There are two trees, one in the rear that is not a problem. The one that is an issue for the applicant is that one in attachment F1 that is in the curb lawn up front where she is hoping to gain access from German Street."

Mr. Dodd again asked, "Going back to the fence, it is right straight along the alley is it going to be taken down and moved in as well?"

Mr. Carville responded, "I can't speak for the applicant on that."

Mr. Dodd said, "The applicant is not on the line anymore? My question is, the fence on the western side, it is right along the alley, which is a zero lot line right there. Is it going to be taken down, it is in need of repair, will that be done while the garage is being built?"

Mr. Cook directed the question to be saved for the applicant. He would like her to make her case, and then if there are remaining questions they can be asked after.

Mr. Worthen asked, "This question is for Staff, the zero variation is on the side of German Street, is that where the sidewalk starts, is that what you are saying?"

Mr. Carville answered, it will come up to one foot from where the sidewalk starts.

Mr. Cook asked Ms. Harris to plead her case.

Ms. Harris began, "I purchased this property at the end of May this year. I had a few Contractor's look at the existing garage and no one was confident in their ability to repair it. I demolished the garage and now I am looking to put a new garage in somewhat the same location, but I am hoping to move it a few feet so it is not right against the alley but to still use a portion of the foundation and pad from the other garage as well as preserving the two existing trees."

Mr. Cook asked for questions of the applicant.

Mr. Dodd asked, "The fence on the western edge of your property, it obviously needs some repair and it is right on the zero lot line there at the alley, what are you going to do with it?"

Ms. Harris asked, "I haven't thought about it, but I will bring the fence forward from where it is and have it run along the property line."

Mr. Dodd said, "I thought you might want to attach it to the side of the garage somehow."

Mr. Cook asked, "I know the old garage that was there had a second floor in it, do you plan to put a second floor in this garage?"

Ms. Harris responded, "If that affected the decision I would consider it, but I am not planning to. I was planning to have a steeple on it and definitely to keep it looking consistent with the house."

Mr. Cook asked for further comments, there were none.

Mr. Cook asked Mrs. Gross, "Did you receive any written comments from neighbors?"

Mrs. Gross responded, "No sir, I did not."

Mr. Cook asked for further questions, there were none.

Mr. Cook asked for Board discussion, there was none.

Variance #1 – Mr. Dodd **moved to grant a 4' variance to the required minimum 10' western setback noted in Code §154.06(A)(4)(f)(v) in conjunction with the proposed installation of a detached garage located at 403 S. 2nd St.**, seconded by Mr. Worthen. **Motion carried.** Ayes: Dodd, Worthen, Cook, Hartman. Nays: None.

Variance #2 – Mr. Worthen **moved to grant a 10' variance to the required minimum 10' northern setback noted in Code §154.06(A)(4)(f)(v) in conjunction with the proposed installation of a detached garage located at 403 S 2nd St.**, seconded by Mr. Dodd. **Motion carried.** Ayes: Worthen, Dodd, Hartman, Cook. Nays: None.

Mr. Cook noted, "I am familiar with that area and the existing old garage that she has torn down was probably there for 100 years. Putting it where it is, would just be improving what was already there.

Variance #3 – Mr. Dodd **moved to grant a variance for the required rear yard placement of a detached garage in the front yard located at 403 S 2nd St.**, seconded by Mr. Hartman. **Motion carried.** Ayes: Dodd, Hartman, Cok, Worthen. Nays: None.

Mr. Carville asked if the applicant for the next case was on the line, Mrs. Gross replied they were not.

Old Business

TABLED FROM SEPTEMBER 16, 2020 MEETING BY A 2-2 TIE.

Case No. 09-20 Ben Bayer – 615 Lantana Court – Fence Variances

Case No. 09-20: Ben Bayer – 615 Lantana Court – Lot: IL 2377 – The applicant is requesting the following two variances. 1. A variance of 30" to the maximum height of 42" for fences placed in the front yard or along any lot line that is adjacent to a street as noted in Code §154.06(A)(4)(i)(vi)(B) for the single-family home located at 615 Lantana Court. 2. A variance to the requirement that fences placed in the front yard shall be at least 50% transparent as noted in §154.06(A)(4)(i)(iii)(B)

Zoning District: R-1B – Neighborhood Residential

Zoning Code Section(s): 154.06(A)(4)(i)(vi)(B) and 154.06(A)(4)(i)(iii)(B)

Mr. Carville stated, "Before we proceed, it is up to the Board if they want to hear the case tonight, unfortunately the Applicant has not shown up tonight. It is up to the Board if they would like to hear and render a decision without them here. Obviously I am unclear if you would have additional questions.

For the Staff's notice, a couple of things, this Staff Report is tailored to reflect what was tabled last time. It only has the extension of the fence as well as the issue with opaqueness which was added last meeting. The variance for the shed was removed as it was defeated, and they

are no longer pursuing it anymore. I also requested the Applicant to submit a much better detailed site plan, which is Attachment B, including the dimensions from the street as well as a better visual of what it will look like. With all of that in mind it is completely up to the Board if they want to hear this case tonight or if they would rather have the Applicant on the line to ask questions."

Mr. Cook asked for the Board Member's thoughts, after a brief discussion it was decided to table to the next meeting.

Mr. Worthen **moved to table Case #09-20 to the November 18th meeting**, seconded by Mr. Hartman. **Motion carried.** Ayes: Worthen, Hartman, Cook, Dodd. Nays: None.

Miscellaneous

There was none.

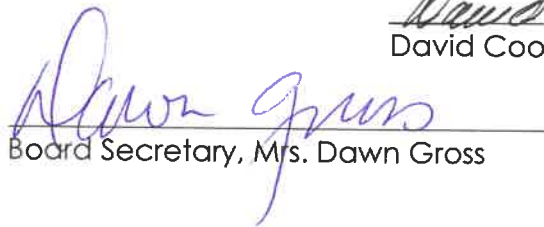
Adjournment

There being no further business, Mr. Dodd **moved to adjourn the meeting**, seconded by Mr. Hartman and unanimously approved. **Motion carried.** Chairman Cook declared the meeting adjourned at 8:16 p.m.



David Cook, Board Chairman

Attest:



Board Secretary, Mrs. Dawn Gross