

Board of Zoning Appeals Minutes
July 15, 2024

Chairman Paxson called the Board of Zoning Appeals meeting to order, this Monday, July 15, 2024 at 6:00 p.m.

PRESENT: DeSouza, Dumbauld, Podany, Paxson

OTHERS PRESENT: Law Director Schneider, CBO Marty Surella, Director Bob Sepik and Clerk Allen.

Pledge of Allegiance is spoken.

Chairman Paxson: Is there a motion to approve the minutes for the meeting held June 17, 2024. Are there any additions, deletions, or any changes? Seeing none.

Dumbauld motioned; DeSouza seconded the motion to approve the minutes from June 17, 2024.

Clerk Allen: Roll Call: Aye: Dumbauld, Paxson, DeSouza
Abstain: Podany

Minutes Approved

Chairman Paxson asked Podany to read case 2024-04.

Podany read: Case 2024-04, 4. Case 2024-04, 7038 Greenbriar LLC, 7038 Greenbriar Drive, Parma Heights, Ohio 44130, PPN #474-28-013 (Chapter 1388.01 – Accessory Buildings: Service and Storage Buildings, Tool Sheds, and other Outbuildings: (e) The maximum size shall be 120 square feet (external dimensions), with no wall having a length greater than twelve feet. The maximum height shall be ten feet from the grade).

Chairman Paxson asked who is here representing the applicant.

T.J. Weyls introduced himself as the attorney for the applicants (Craig Adams and Smita Patel). Thanked the commission for their time and consideration, asked if it would be okay for them to present what they have and then I could make a few comments as well. Mr. Adams and Mrs. Patel stood alongside Mr. Weyls, everyone was sworn in.

Mr. Adams began explained that they are looking for a variance in order to build a larger outdoor building for equipment and other necessary tools that are necessary for use of the existing pool. Currently the equipment is being stored in the garage and it's packed. I'd like to get my car that is being parked out front back into the garage. A 10 X 20 is just too small for all the items I'd like to put in the building. There's a solar cover, pole real, outdoor grill, patio furniture, ext.

T.J. Weyls added that there's not a proportionality code, this lot is larger than the normal size lot and the property behind them is just a wooded area. A building the requested size will not hinder upon anybody's view. Basically, he wants to complete his project which includes this building for the purpose of storage. He's put a considerable amount of money into the property and he would like to keep it looking clean and orderly.

Ms. Patel added that we started this project back in 2020. I think it was the following year we added the swimming pool. It's depressing looking out the back window and see the pool that we haven't been able to use because we don't have a place for all the equipment. My elderly parents and brother also live a few houses down on the same street. Originally this was a project that I started for my parents to help them keep up with their daily exercise routine. We are anxious to get this done.

Chairman Paxson thanked them for the explanation of why she is interested in adding the storage space. Asked if any colleagues had any concerns.

DeSouza asked if any neighbors responded to the letters sent out, negative or otherwise?

Clerk Allen responded that a call from The Dubbs, who received a letter. Just wanting to verify what the variance was for. It was my impression that they thought the property owners were planning on going onto their property. Once I explained that it was not going on to their property, they were okay with them going forward and mentioned that can do what they want to with their property.

Chairman Paxson referred to the minutes from last year, where an application was submitted for a smaller structure and denied. You are currently asking for something larger.

Mr. Adams explained that at that time we submitted for a pavilion type of structure measuring 15 x 15. That was denied because the Dubbs showed up with their attorney and said I was lowering the property value. When I did the remodel of the addition to the back of the house, I installed a light on the side that faced their property and it seemed to be a nuisance for them. Once I pointed it out that it provides a sense of security to them as well as us, and aimed in down away from their bedroom window, we seem to be getting along much better. Do you want me to knock it down to a 15 x 15?

DeSouza asked are the same neighbors Clerk Allen spoke to and said they do not have a problem with this now.

Clerk Allen responded that's correct.

Podany asked about the plans, you show this as a detached garage, I believe you mentioned vehicle storage, is this going to be used as vehicle storage?

Mr. Adams responded, no. I have a two-car garage that is full with equipment. The equipment will be moved to this outbuilding and the vehicle will go into the garage. The door on the outbuilding will be a double man door so that I can get equipment in and out. It's basically a pool house/storage.

T.J. Weyls added that we did notice that on the plans before the meeting but didn't have time to get the architect to update that. The entrance is a double man door.

Mr. Adams stated that he needs to run a gas line or water spicket out to that concrete pad if I'm not going to allowed to have the structure. That in itself would be about \$13,000. Once I get approved, I can continue with the improvements. I can't finish the concrete deck and fence around the pool so the pool cover is being stored.

Chairman Paxson asked if other residents in your area have pools about the size of yours and they don't need a building 22 x 22. What's the difference with you guys compared to them?

Mr. Adams stated, I have the property. I'm on a pied lot behind the main house. A 10 x 12 fills up really quick. I have 8 loungers along that probably won't fit in 120 square foot area. Patio furniture is quite expensive and I plan on keeping mine for many years.

Podany asked why the structure needs to be 13' 6" high?

Mr. Adams stated that's the way the architect drew it.

T.J. Weyls drew it really for the esthetics and I think that's the pitch of the roof.

Dumbauld asked Marty if he had any comments about this?

Marty Surella responded that he didn't have an issue with this. He continued that he visited the property, talked to Mr. Adams and he's got the area. If it was a garage he'd be allowed 750 square feet. He wouldn't even need a variance, and the height for a garage is 15 feet. This is an accessory building; it puts us in a position that it appears that we're giving large variances. I have another one coming up on York Road, that's even bigger than this. Every circumstance is different. I don't see this having any negative impact on the neighbor.

Chairman Paxson asked the Law Department for input.

Director Schneider began with asking the committee to incorporate all application materials, and the minutes of May 15, 2023. Factors that you should consider are:

1. The property will yield a reasonable return or beneficial use without the variance.
2. Whether the variance is substantial
3. Whether the essential character of the neighborhood would be substantially altered and whether adjoining properties would suffer substantial detriment as a result of the variance.
4. Whether the baring's would adversely affect the delivery of governmental services.
5. Whether the property owner who purchased the property with knowledge of the zoning restrictions.
6. Whether the property owner's predicament feasibly can be au gated through some method other than the variance.
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

In addition, I understand proper notice was give to the adjoining property owners, Clerk Allen responded "yes". Other than that, one verbal response you received no other verbal or written requests, protests or a sense to this variance? Clerk Allen responded "no". The record could be made about those issues as well. The question is, if res judicata would bar a second application for a zoning permit and the courts have found that the changing for circumstances for the same property could be considered. Those are the issues for you to consider. The Board of Zoning Appeals is permitted to deliberate, if you choose to. I would conclude any evidence gathering and convene to a deliberation by motion.

Chairman Paxson stated that the application packet includes a letter of June 10th, 2024 has been entered into the record along with the minutes from the May 15, 2023 minutes in which a prior application was received and is marked as the Board of Zoning Appeals Exhibit #1 in which the applicant sot a smaller structure and was denied at that time. To my colleagues, do you have any further questions for the applicant?

Podany asked if there is anything smaller you feel could work? What is the minimum size that you can utilize?

Chairman Paxson responded that I think that the size of the structure is what I'm struggling with. This is almost tripling of what is allowed.

Ms. Patel explained that the size is due to the size of the addition that they put on the back of the house. We added an addition of 1,000 sq ft on the back of the house. For the esthetics of the yard, the architect though this was what would look the best on the property.

Chairman Paxson stated that he feels that 120 sq ft was set for a reason and if you request a small deviance from the law, it's understandable but if you request to triple that number, it's just quite much and needs further explanation.

Mr. Adams stated that the solar cover itself measures 22 ft and can't be taken apart each year. There's an aluminum cover real, it's just too much and I'm not getting any younger. I can go back down to 15 x 15 of the exact structure. I can put the real in there at a diagonal, it's going to be a pain to do. The pool is 20 x 40 so the cover measures more than 20 ft, probably 22ft. It's outside during the entire summer, and during the winter I need a place to put store it along with the rest of the other items that need to be stored during the winter.

Podany asked Mr. Surella about ariel usage of the rear yard?

Marty responded that you have to have at least 25% green space. He's 108 in the front x 109 in the back and 140 deep, it's a big parcel there. We're not talking about an area near Pearl Road.

T.J. Weyls added that he will still have a substantial portion of green space around the perimeter. Mr. Adams means as he looks out his window into the back yard, he'll be seeing concrete because he'll be looking at the pool. You can see on the plan there are still side yards, substantial green space. The lot is 3 to 4 times larger than many of the lots. It's proportionated to the house and other features. The change in the nature from the pavilion type building vs this structure is enough to overcome res judicata in terms of being precluded to the prior determination.

Chairman Paxson made a motion to deliberate for further discussion.

Clerk Allen: Roll Call: Aye: Podany, DeSouza, Dumbauld, Paxson

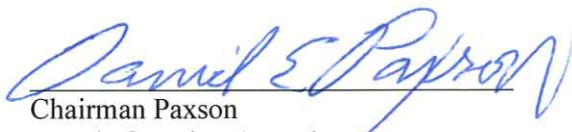
T.J. Weyls asked to interrupt and asked to withdraw the request so that we don't have a vote. We could go back to reshape the structure. We understand the concerns. Rather than being denied and having an issue, would it be too much of an imposition to withdraw the request.


Chairman Paxson responded you are certainly able to do that. That is absolutely permissible. We no longer need to call the recess and with the application withdrawn, we have nothing to vote on. I look for a motion to adjourn.

Podany motioned; seconded by Dumbauld to adjourn.

Clerk Allen: Roll call: Aye: DeSouza, Dumbauld, Podany, Paxson

The Board of Zoning Appeals meeting is adjourned at 6:40 p.m.


Chairman Paxson
Board of Zoning Appeals


Barbara Allen
Board of Zoning Appeals Clerk