

City of Norton
BOARD OF ZONING & BUILDING APPEALS
Tuesday, May 16, 2006

The Board of Zoning & Building Appeals convened for a public hearing in Council's Chambers of the Safety Administration Building. Chairman Richard Easterling called the meeting to order at 6:00 p.m.

ROLL CALL:

PRESENT: Richard Easterling, Todd Bergstrom, Terence Judge, Nick Genis, William Helmick

ALSO PRESENT: Colene Conley, Building & Zoning Inspector

SWEARING IN:

Chairman Easterling announced that anyone from the audience wanting to speak for or against any of the applications before the Board would need to sign in. He explained that since the Board of Zoning & Building Appeals is a quasi-judicial board, anyone wanting to speak at the hearing would have to be sworn in. He asked them to stand, raise their right hand, and repeat after him, "I solemnly swear to tell the truth, the whole truth, and nothing but the truth so help me God."

PUBLIC HEARINGS:

BZA Application A6-2006
Glen & Joellen Hoffman, Owners
4162 Wadsworth Rd. PPN 4607519
Requesting a 120' Variance to Section 1266.04(b)-Area Requirements;
Minimum Lot Width of 220' in a RU-1 District
(To allow a 100' Frontage for a Future Lot Split)

Chairman Easterling convened the public hearing on BZA Application A6-2006, which was filed on Wednesday, April 19, 2006. He reported that the secretary sent notices via first-class mail at least ten days prior to the hearing as required by Section 6.03 of the Charter of the City of Norton, Ohio. He asked the applicants to step forward and present their opening statement.

Mrs. Christine Hoffman, 4 Ellsworth Ct, Hudson, Ohio 44236 & Mrs. Joellen Hoffman 4162 Wadsworth, Ohio:

Christine Hoffman introduced herself and stated that she was the daughter-in-law of Glen & Joellen Hoffman. She and her husband are requesting to build a home on the proposed property if the lot split is approved. Ms. Conley asked Christine Hoffman to also explain to the Board their proposal for the driveway to access the area in which they are proposing to build their new house. Christine Hoffman explained that the driveway was an existing farm driveway located along the western portion of the farm. (The proposed location of the new home is located along the eastern property line). Christine Hoffman explained that there would be a new drive connecting the western and eastern property line, across the farm, to access the area of the proposed construction.

Mr. Helmick inquired as to whether there was an existing gas well in the rear of the property. Mrs. Joellen Hoffman stated that the well was no longer in use and that the drive was currently used to access the back farm field.

Chairman Easterling inquired as to the condition of the driveway along the western property line. Christine Hoffman stated the driveway would need to have the crown graded down and that there would be gravel spread throughout the entire drive. Mr. Easterling asked the width of the drive. Joellen Hoffman stated that it was approximately 14', and had room for two cars to pass.

Mr. Helmick stated that if it was 14' wide, he wondered if it would sustain the width of a tanker, loaded with water to access the property.

Mr. Bergstrom asked the applicants as to whether or not they had considered making the driveway on the newly created lot. In twenty years from now if they decide to move, it may create a problem for the new buyers. Christine Hoffman stated a driveway could be installed on the property 100' if they did sell it. Mr. Bergstrom stated that the City of Norton would need to look into the future and may require a permanent easement for the drive. Mr. Bergstrom asked if there were any requirements on driveways. Ms. Conley also asked where the power company would install the power lines. Joellen Hoffman stated that there were existing power lines (Wadsworth Power) along the western property line and a transformer was available along the Quinn property. Joellen Hoffman stated that the power company will need to install another 250' of poles and then would go underground from that point to service the new construction site. Ms. Conley stated to Mr. Bergstrom that the zoning code states that every lot is required to have access to an improved roadway, and that the City does not have a code regarding the construction or condition of a driveway. Christine Hoffman told the Board that for them to construct a new driveway on the proposed property to be split would cost approximately Thirty-five Thousand (\$35,000.00).

Ms. Conley stated that an easement could be given to the new construction, however, the option of writing it in the deed that upon transfer or sale of the property, the driveway would need to be installed on the property. If there were such a restriction placed in the deed, a title company would see the driveway requirement clause upon performing the title search. Chief Calco submitted a review of his concerns on the existing use of the driveway. Ms. Conley also stated that long driveways should have a pull off section (eyebrow area) where someone could pull off in case of an emergency to let a vehicle pass.

Mr. Bergstrom asked the applicant if it was possible to build a drive in the yellow area where they are creating the lot. The applicant told them yes, however, the expense, again would be Thirty-five Thousand (\$35,000.00). Mr. Bergstrom asked if they considered building their house up closer to Wadsworth Road. Instead of using a driveway 1200' long, it could be constructed only a few hundred feet long. If the house was moved up closer to the road, they would still be able to use the farm driveway. Mr. Bergstrom explained that one of the reasons that an applicant asks for a variance is because of the hardship, and that his duty is to explore the reason for the hardship.

Mr. Genis stated that he can understand why they want to locate the new house in the back, so it would enable continued access to the back farm property.

Christine Hoffman explained to the Board that the house plans they have chosen were designed to fit the rear portion of the property, so the house could have a walk out basement.

Mr. Easterling inquired as to the Health Department approvals and how much land was actually included in the lot split.

Christine Hoffman replied that an evaluation had not yet been done and that there was approximately five acres to be split.

Mr. Genis asked how many bedrooms that the proposed dwelling had? Christine Hoffman answered three bedrooms. Mr. Genis inquired if they could just move the house over to the western portion of the property?

Mr. Bergstrom stated that the Fire Department brought up the question of the house numbering. Ms. Conley stated that Chief Calco's concern was that the house numbering might be assigned as to the placement of

the house instead of where the actual access driveway is proposed to be placed. Members of the Board agreed that if this is the case, a visible address needs to be located at that driveway to identify any future dwelling. Mr. Bergstrom inquired as to the property behind the farm driveway, if the Hoffman's owned the parcels at the end of the farm driveway. Joellen Hoffman answered yes, that they owned that back property also.

Ms. Conley brought up the fact that there was a gas meter that was asked to be removed by Chief Calco. The applicant said she could contact the name on the meter for the removal.

Chairman Easterling asked if anyone present wanted to speak for or against the application.

Chairman Easterling asked a second time if anyone present wanted to speak for or against the application.

Mr. Bergstrom inquired if the property could be created in a U-shaped parcel, so the property would be 30' along the western property line and 100' on the eastern line. He is very concerned with the Fire Department servicing the dwelling without access directly to the house. Discussion took place as to creating such a parcel. The creation of a permanent easement vs. an easement for a driveway to be placed in the deed upon the sale of the house was discussed further. Mr. Bergstrom then asked that Ms. Conley contact Law Director Lyons and ask for his opinion on the situation with the driveway. The Board was concerned with making this driveway a private road in the future and they did not want this to happen.

Mr. Easterling inquired as to whether or not the Board would agree to continuing the hearing so that they could consult with the Law Director as to specific concerns that they have, and ask for Mr. Lyons presence at the next meeting. A discussion took place concerning splitting the property differently than what was applied for on the application.

Mr. Bergstrom moved to continue the hearing for application A6-2006 until June 20, at 6:00 p.m.; seconded by Mr. Judge in order to obtain some legal advice on the situation. ROLL CALL: Easterling-Yea, Bergstrom-Yea, Judge-Yea, Genis-Yea, Helmick-Yea. The motion passed 5-0, to continue the hearing to June 20, 2006 at 6:00 p.m..

Mr. Helmick suggested that Ms. Conley speak to Mr. Lyons concerning this request before the next hearing.

**BZA Application A7-2006
4035 Brookside Court/PPN 4604275
Michelle & Donald Reed, Owners
Requesting a 144 Square Foot Variance to Section 1296.03(a)(1) Accessory Buildings;
Requesting a 7' Variance to Section 1262.04(e)(2)-Area Requirements;
Minimum 10' Side Yard Setback
[To Construct a 24' x 48' x 10' Pole Building in an R-1 District]**

Chairman Easterling convened the public hearing on BZA Application A7-2006, which was filed on Friday, May 5, 2006. He reported that the secretary sent notices via first-class mail at least ten days before the hearing as required by Section 6.03 of the Charter of the City of Norton, Ohio. He asked the applicants to step forward and present their opening statement.

Mr. Donald Reed, 4035 Brookside Court, Norton, Ohio 44203:

Mr. Reed described his need for a larger garage on his property due to storage of four wheelers, a future boat, and camper. His existing garage is a single car garage and just full of all storage items, along with what he has stored outside on his property, that is why he is requesting a larger than allowable storage building. The reason for his encroachment of seven feet (7') into the sideyard is so he will not lose his beautiful view from his back window. If he moves it within the ten (10') he will have to cut ¾ of his cement patio off and the cost he will incur will be about \$6,000.00.

Mr. Easterling ask if there were any questions.

Mr. Bergstrom asked if there was another building on the property. The applicant answered there was a single car garage that he would demo once his building was approved.

Ms. Conley asked the applicant if he was storing snowplows in the old garage for a business. Mr. Reed stated yes but the plows were for his personal use.

Mr. Genis inquired where the septic system was located in regard to the new building. Mr. Reed responded that the septic tank was in the front yard of his property.

Chairman Easterling asked for the second time if anyone wanted to speak for or against the application;

Ms. Kimberly Dockus of 4043 Brookside Court:

Ms. Dockus approached the podium and was sworn in my Chairman Easterling. Ms. Dockus was concerned with the runoff from the building because her property is much lower than the applicants. Ms. Dockus explained that there was also a drain located in the street area along Brookside Court.

Ms. Conley asked if he was planning to put gutters and downspouts on his building.

Mr. Donald Reed, 4035 Brookside Court, Norton, Ohio 44203:

Mr. Reed stated that he would put them on the building if it were necessary. Mr. Reed stated that there was a low area in the rear of his property where his drainage normally goes. He explained that his contractor had discussed this with him and that the final grade of the building would be directed into that area.

Mr. Bergstrom explained to Mr. Reed that he could place a rolled curb along the driveway to keep his water directed onto his own property and not Ms. Dockus's. Ms. Conley also told the applicant that he should find the property pins and plan on moving his driveway off Ms. Dockus's property if he is going to repave his driveway.

Ms. Conley told Mr. Reed that he should show his detail of the drainage run off on his plans. This would need to be added to his building plans when he submits them.

Mr. Genis asked Ms. Dockus if she was planning to build a pole building. Ms. Dockus stated that they already had their permits to build and that she has moved the building slightly. Ms. Conley stated to Ms. Dockus that if she has moved her building, any, she would need to come into the Building & Zoning Dept. and make an adjustment on the site plan.

Chairman Easterling asked for the third time if anyone wanted to speak for or against the application; no one spoke. He then closed the public portion of the hearing to entertain a motion.

Mr. Helmick made a motion for application A7-2006 for 4345 Brookside Court/PPN 4604275 for Michelle & Donald Reed, owners that the committee recommends to approve a 144 sq. ft. variance to section 1296.03(a)(1) Access Buildings and to deny the 7' variance to Section 1262.04(c)(2) – of the Area Requirements, Seconded by Mr. Judge, there was further discussion by Mr. Bergstrom regarding adding the requirement for the drainage plan on the site plan when presented to the Building Department. ROLL CALL: Easterling-No, Bergstrom-No, Judge-No, Genis-No, Helmick-Yes. Motion Failed 4-1.

Mr. Bergstrom made a motion to approve application A-7-2006 for 4345 Brookside Court/PPN 4604275 for Michelle & Donald Reed, to approve both requests submitted for a 144 sq. ft. variance to section 1296.03(a)(1) Access Buildings and to approve the 7' variance to Section 1262.04(c)(2) – of the Area Requirements, subject to an approved site plan by the Building & Zoning Dept.. There was no second to the motion, the motion died for a lack of a second.

Mr. Helmick made another motion to approve application A-7-2006 for 4345 Brookside Court/PPN 4604275 for Michelle & Donald Reed, to approve a 144 sq. ft. variance to section 1296.03(a)(1) Access Buildings and to deny the 7' variance to Section 1262.04(c)(2) – of the Area Requirements, subject to an approved site plan by the Building & Zoning Dept.. Seconded by Mr. Genis ROLL CALL: Easterling-Yea, Bergstrom-No, Judge-Yea, Genis-Yea, Helmick-Yea, Motion passes 4-1.

Chairman Easterling thanked the applicant and informed him to contact the Building Department in a couple days regarding his building permit.

Ms. Conley stated to Mr. Reed that his contractor would need to make the site plan for the drainage requirement on the building plan.

OLD BUSINESS

Mr. Easterling asked about posting notices on properties for the BZA hearings. Ms. Conley stated that Administration has discussed the signs. However, the type of material, who would post and other items need to be determined by the Administration. Ms. Conley has suggested that a type of small political sign be used. The applicant could be given the sign and asked to post and then return at their hearing date. She suggested that they check again with Mr. Pritchard on this issue of posting signage.

NEW BUSINESS:

Mr. Bergstrom gave a summary of the Planning and Zoning workshop in Akron, which was held on April 7, 2006. Mr. Bergstrom presented areas of conducting the BZA hearings, especially the deliberations where the Board steps away from the desk to talk amongst themselves. He felt that it might be better for the Board members to stay at the table and discuss their concerns openly while making their decision on each application. Attorney's and some of the presenters at the seminar said that it is not illegal for the BZA Board to have an executive session, but that it should be an open discussion in front of the public. Don't vote in private session. The presenters recommended that the Board discuss in front of the public and that the decision, along with the statement of facts be made clear and a part of the written record. Mr. Bergstrom also spoke about that the BZA should have a site visit to the properties of applicants, but that each member should go individually instead of a group. This would eliminate any discussion before the meeting with other members or the applicant him/herself. Ms. Conley stated that the Board must remember when making a motion to state the reason they are approving or disapproving the application. If the applicant ever takes the case to court, a statement of facts must be present in their minutes or the Judge will make his/her own interpretation and decision on an issue.

Mr. Bergstrom asked Ms. Conley to contact Mr. Todd Hunt who was a presenter at the Akron Seminar to see if the Board could get a copy of his checklist on BZA cases. There are questions that each Board member can use as a review checklist. Ms. Conley stated that the Building Department furnishes a list of the Duncan vs. Middlefield case for most applications they review. Mr. Bergstrom thought that it would help if they had the checklist along with the Building Department's list, so the BZA could review good questions to ask the applicants in the future.

CONSIDERATION OF MINUTES:

The Board reviewed the minutes of their Tuesday, March 21, 2006; meeting and Chairman Easterling called for a motion. **Mr. Bergstrom moved to approve the minutes as submitted; seconded by Mr. Helmick ROLL CALL: Easterling-Yea, Bergstrom-Yea, Judge-Yea, Genis-Yea, Helmick-Yea, Motion passed 5-0 approving the minutes as submitted. They were signed and processed accordingly.**

Chairman Easterling noted that the next meeting would be continued to the scheduled hearing on Tuesday, June 20, 2006, at 6:00 p.m. There was no further business to come before the Board, so the hearing is continued until Tuesday, June 20, 2006. The meeting adjourned at 7:50 p.m.


Board of Zoning & Building Appeals Chair/Vice-Chair


Board of Zoning & Building Appeals Vice-Chair/Member

6-20-06
Date

**RESOLUTION
BOARD OF ZONING & BUILDING APPEALS**

MAY 16, 2006

BZA RESOLUTION NO.: 05-2006

RE: BZA Application A7-2006
4035 Brookside St. PPN 4604275
Michelle & DONALD REED, OWNERS

The Board finds that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure. True False

The Board shall further make the finding that the granting of the variance will be in harmony with the general purpose and intent of the ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
 True False

In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with the ordinance as provided by Section 1254.04(c)(1F2) of the Codified Ordinances of the City of Norton, Ohio.

The following conditions and safeguards are hereby made a part of the requested variance:

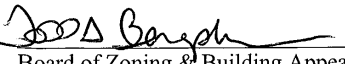
"Approved" a 144sq. Ft. VARIANCE to Sec. 1296.03(a)(1) Access Bldgs.
"DENIED" a 7' Var. To Sec. 1262.04(c)(2) - AREA REQ.
MIN 10' SET SIDE YARD Req.

Vote on Motion: FOR 4 AGAINST 1 ABSTAIN 0

Therefore BZA Resolution No. 05-2006 is hereby:

APPROVED DENIED TABLED

This resolution shall be sent to:
Administration for it's action or for it's information, and
Council for it's action or for it's information.


Board of Zoning & Building Appeals
Chair/Vice-Chair
5.16.06
Date


Board of Zoning & Building Appeals
Vice-Chair/Member

**AUDIENCE ATTENDANCE RECORD
BOARD OF ZONING & BUILDING APPEALS**

The following individuals were present at the Meeting of the Board of Zoning & Building Appeals, held on **Tuesday, May 16, 2006**

PLEASE PRINT

NOTE: PLEASE DO NOT USE A P.O. BOX FOR YOUR ADDRESS

NAME	ADDRESS	CITY	ZIP
Christine Hoffman	4162 Wadsworth Rd.	Norton	44203

The following were present but did not sign in:

Joellen Hoffman, 4162 Wadsworth Road, Norton, Ohio 44203

Donald Reed, 4035 Brookside Court, Norton, Ohio 44203

Signed Cynthia F. Hughes
Stenographer

A SIGNED ORIGINAL OF THIS DOCUMENTATION SHALL BE FILED WITH THE CLERK OF COUNCIL.

BZA.Attendance(Members & Audience)
Created: 6/00