

City of Norton
BOARD OF ZONING & BUILDING APPEALS
Tuesday, April 17, 2007

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 6:01 p.m.

I. ATTENDANCE:

PRESENT: Richard Easterling, Todd Bergstrom, Nick Genis, William Helmick,
Michael Droppleman

ALSO PRESENT: Jeff Pritchard, Director of Planning and Community Development
Pat Ryan, Building and Zoning Inspector

II. 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 (BZA) 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."

III. PUBLIC HEARINGS:

A.) BZA Application A 3-2007:
3114 Cleveland Massillon Road/PPN 4601493
Donald Goodwin, Owner
Stacy Goodwin, Agent
Requesting a 20' Variance to Section 1276.04(e)-Minimum Yards
For a 30' front yard setback in a B-2 District.
[To construct a pole building.]

Chairman Easterling convened the public hearing on BZA Application A 3-2007, which was filed on Wednesday, April 4, 2007. He reported that the secretary sent notices via first-class mail at least ten days before the original hearing as required by Section 6.03 of the Charter of the City of Norton, Ohio. He asked the applicant to step forward and present her opening statement.

Mrs. Stacy Goodwin (agent), 3114 Cleveland Massillon Road, Norton, Ohio 44203, approached the Board and stated that she and her husband, Donald Goodwin, owner, were requesting a variance because they wanted to build a garage directly behind their existing driveway. She explained that it could not be attached to the house because on one side of the house is the septic system and other side is the gas line and well. Mrs. Goodwin also explained that it could not be built in the rear yard because there is a hill that would require a large amount of fill and the leach bed is located in the rear. She then presented pictures of her property to the Board.

Chairman Easterling wondered if the four stakes on site was depicting the proposed location. Mrs. Goodwin said yes.

Chairman Easterling asked if there were any questions or comments from the Board.

Mr. Todd Bergstrom asked how far the leach bed was behind the proposed site. Mrs. Goodwin said it was 30' directly behind the septic system. Mr. Easterling added that the septic system was located between the house and the proposed structure.

Mr. Nick Genis clarified that the septic system empties to the side of the house and exits to the rear. Mrs. Goodwin agreed.

Mr. Jeff Pritchard said that typically most septic systems would be parallel. Mr. Bergstrom asked if the garage could be moved back without interference to the leach bed. Mrs. Goodwin said it is possible but it would take a large amount of fill because of the slope of the land; and it would be far from the house. Mr. Bergstrom asked if this was the main reason for choosing the location. Mrs. Goodwin said yes, but it also may interfere with the leach bed.

Mr. Easterling wondered if this was basically the only available location. Mrs. Goodwin said that it was to the best of her knowledge. She said that it could be located on the other side but it would be nearly 60' from the house to the garage because of the gas line and well. Mr. Easterling added that it seemed that location would be too close to Reimer Road and this would not be a good place for a driveway.

Mr. Genis noted that there were very few houses in that neighborhood that met the 50' front yard setback requirement. Mr. Pritchard said that some of the older homes do not. Ms. Pat Ryan noted that the applicant's house was built in 1883.

Mr. Bergstrom wondered if there were any future plans to widen Cleveland Massillon Road. Mr. Pritchard said yes, south of Interstate 76. But there are no plans for the section north of Interstate 76.

Mr. Bergstrom wondered what the additional cost would be to fill in the rear yard. Ms. Goodwin said she did not know.

Mr. Pritchard noted that there is a riparian setback on the West Side of the back edge of the property. Mr. Easterling asked for the distance of setback. Mr. Pritchard said it was a 50' riparian setback. Mr. Bergstrom said that locating the garage closer to the road would create a greater distance from the riparian setback. Mr. Pritchard said that it would also leave an area for a septic system replacement if one were ever needed.

Mr. William Helmick said that he visited the site and believed that the proposed location was the only logical choice for the garage. Mr. Pritchard said it was an unusual case because it is a large parcel but it has limited available space.

There was discussion regarding restriction being placed on the use of this property because it is a B-2 District with a nonconforming use. Mr. Pritchard said that he would not suggest placing a restriction on it.

Chairman Easterling thanked the applicant and asked if there were any further questions or comments from the Board; there were none. He then asked if anyone present wanted to speak for or against the application.

Mr. Tim Crawford, 3137 Cleveland Massillon Road, Norton, Ohio 44203, approached the Board and stated that he owned the property directly across the street from the property in question. He said the Goodwins used to live across the street from where they currently live and then they purchased their parents' house at 3114 Cleveland Massillon Road and moved into it. He commented that in 1951 a famous person was born in their house. Mr. Crawford noted that the structures around Loyal Oak area are mixed-use, so no matter what the use is, there does not need to be restrictions. Mr. Crawford said that he would personally move all the buildings back on Cleveland Massillon Road if the widening of it occurs. Because there was money and plans for the widening in 1990 and it still has not occurred, he encouraged the Board to allow the variance. He confirmed that there is a riparian setback on the West Side of Cleveland Massillon Road so the structures have to be brought forward. The property owners have the burden of maintaining the riparian setback, which makes it even more reasonable to allow the variance.

Chairman Easterling asked for a second and third time if anyone present wanted to speak for or against the application; no one spoke.

Chairman Easterling asked the Board members if they were ready for a motion or would they prefer to deliberate. They agreed to deliberate, so he closed the public portion of the hearing to entertain a motion.

Chairman Easterling reconvened the hearing and called for a motion. **Mr. Bergstrom moved to approve BZA Application A 3-2007, regarding a 20' variance to Section 1276.04(e)-Minimum Yards, for a 30' front yard setback in a B-2 District; to construct a pole building, on the property known as 3114 Cleveland Massillon Road/PPN 4601493, for the following reasons: 1.) Construction adjacent to the existing home is prohibited by an existing septic system to the south and a gas line to the north as well as the well system; and 2.) Construction of the proposed garage to the required setback of 50' would require an extensive amount of fill causing additional cost burden to the owner. In addition, the Board feels that the proposed location does not present any additional concerns to the thought of future widening, if any, to Cleveland**

Massillon Road. Finally, there is an existing riparian setback along the west side of the property which also creates a limit to how far the garage could be set back. Mr. Droppleman seconded the motion. **ROLL CALL: Mr. Bergstrom-Yea, Mr. Droppleman-Yea, Mr. Helmick-Yea, Mr. Genis-Yea, Mr. Easterling-Yea.** The motion passed 5-0, approving BZA Application A 3-2007, by BZA Resolution No. 04-2007. The resolution was sent to the Administration for it's action and to Council for it's information.

The applicant thanked the Board. Chairman Easterling informed her to contact the Building Department in a couple of days regarding her building permit.

IV. OLD BUSINESS:

A.) Public Notifications:

Mr. Easterling wondered if anything was decided by the Administration regarding public notices. Mr. Pritchard said that if there were any changes regarding public notifications, the Charter would probably have to be amended. For now, however, he was satisfied to send certified notices to adjacent property owners and standard mail notices to the 200' circumference property owners. He said the primary concern was the adjacent property owners. There was further discussion and the Board thought that the Charter should be amended in regards to this matter. The Secretary informed the Board that the Charter Review Commission discussed this issue at their last meeting. Chairman Easterling asked Mr. Pritchard if he would express their concerns on this matter to the Charter Review Commission.

B.) 2007 Planning and Zoning Commissioner Training Workshop:

Mr. Bergstrom stated that he appreciated the City sponsoring them to attend the 2007 Planning and Zoning Commissioner Training Workshop. He said that the food was good and it was educational.

V. NEW BUSINESS:

A.) Abandoned House on the Corner of Dal Drive and Flesher Drive:

Mr. Bergstrom said that there was a house on the southwest corner of Dal Drive and Flesher Drive that was abandoned. He said it was not only an eyesore, but also a safety hazard and kids are getting into the house. Ms. Pat Ryan stated that the Building Department was already looking into the cleaning up of this property. There was further discussion regarding this issue.

VI. CONSIDERATION OF MINUTES:


A.) BZA Minutes from the Thursday, March 22, 2007, meeting:

The Board reviewed the minutes of their Thursday, March 22, 2007, meeting and Chairman Easterling called for a motion. **Mr. Helmick moved to approve the minutes of Thursday, March 22, 2007, as submitted; seconded by Mr. Droppleman. ROLL CALL: Mr. Helmick-Yea, Mr. Droppleman-Yea, Mr. Genis-Yea, Mr. Bergstrom-Yea, Mr. Easterling-Yea.** The motion passed 5-0, approving the minutes as submitted. They were signed and processed accordingly.

VII. ADJOURNMENT:

Chairman Easterling announced that the next meeting was scheduled for Tuesday, May 15, 2007, at 6:00 p.m. There being no further business coming before the Board, Chairman Easterling adjourned the meeting at 6:37 p.m.


Board of Zoning & Building Appeals Chair/Vice-Chair


Board of Zoning & Building Appeals Vice-Chair/Member

6-19-07
Date

Board of Zoning & Building Appeals Approved/Signed Minutes of 04-17-07
Respectfully Submitted by Cindy Hughes, Stenographer
3 pages + attachments

RESOLUTION
BOARD OF ZONING & BUILDING APPEALS
APRIL 17, 2007

BZA RESOLUTION NO.: 04-2007

RE: BZA Application A 3-2007
3114 Cleveland Massillon Road/PPN 4601493
Donald Goodwin, Owner
Stacy Goodwin, Agent
Requesting a 20' Variance to Section 1276.04(e)-Minimum Yards
For a 30' front yard setback in a B-2 District.
[To construct a pole building.]

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. X 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. X 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:

Motion to ~~approve~~/table/deny BZA Application A 3-2007, regarding a 20' variance to Section 1276.04(e)-Minimum Yards, for a 30' front yard setback in a B-2 District; to construct a pole building, on the property known as 3114 Cleveland Massillon Road/PPN 4601493, for the following reason(s):

(See attached 'Exhibit A'.)

Vote on Motion: FOR 5 AGAINST 0 ABSTAIN 0

Therefore BZA Application A 3-2007 is hereby:

APPROVED X DENIED TABLED

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


Board of Zoning & Building Appeals Chair/Vice-Chair


Board of Zoning & Building Appeals Vice-Chair/Member

April 17, 2007
Date

Motion to approve BZA Application A 3-2007 based on the following facts presented to us by the owner:

- 1.) Construction adjacent to the existing home is prohibited by an existing septic system to the south and a gas line to the north as well as the well system; &
- 2.) Construction of the proposed garage to the required setback of 50' would require an extensive amount of fill causing additional cost burden to the owner.

In addition, the Board feels that the proposed location does not present any additional concerns to the thought of future widening, if any, to Cleveland Massillon Road. Finally, there is an existing riparian setback along the west side of the property which also creates a limit to how far the garage could be set back.

