



Board of Zoning & Building Appeals

Memorandum

To: Karla Richards, Clerk of Council

From: Rebecca Lukats, Admin. Ofc. Mgr./Boards & Commissions Secretary Desk *RSL*

Date: 11/29/07

Re: Approved/Signed Board of Zoning & Building Appeals Minutes:
Thursday, October 18, 2007

Attached you will find a copy of the approved/signed minutes from the Board of Zoning & Building Appeals meeting held on Thursday, October 18, 2007.

Please note that the original approved/signed minutes have been forwarded to, and will be on file with, the Clerk of Council.

E-mail: Mayor (per Admin. Asst.)
Administrative Officer
Finance Director
Office Manager
Law Director
Interim Fire Chief
President of Council/Council (6)
Board of Zoning & Building Appeals (4)
Ed Wood, Env. Sanitarian, BHD
Capital One Realty
Ryan Homes
Builder's Exchange

CC: Superintendent of Building and Zoning
Building and Zoning Inspector
Director of Planning & Community Development
Municipal Engineer
Richard Easterling (BZA)
Tom Jones (Council)
BZA File/Posting

City of Norton
BOARD OF ZONING & BUILDING APPEALS
Thursday, October 18, 2007

The Board of Zoning & Building Appeals (BZA) convened for a public hearing in Council's Chambers of the Safety Administration Building. Chairperson Richard Easterling called the meeting to order at 6:05 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:

Chairperson 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 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 A14-2007:

3762 Lee Ann Drive/PPN 4604100

Gery & Patricia Gillespie, Owners

Requesting a variance to Section 1296.03(a)-Accessory Building;

No accessory building shall be erected in any required yard, other than a rear yard.

[To construct an accessory building in the side yard.]

Chairperson Easterling convened the public hearing on BZA Application A14-2007, which was filed on Tuesday, October 2, 2007. 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 then asked the applicant to step forward and present his opening statement.

Mr. Gery Gillespie (owner), 3762 Lee Ann Drive, Norton, Ohio 44203, approached the Board and stated that he was requesting a variance to build a garage in his side yard because the septic system was located in the rear yard.

Mr. Easterling said that he visited the site and it was not staked. Mr. Gillespie explained that he staked it that morning after Mr. Ed Wood from the Barberton Health District visited the site and advised him on the location of the septic system. Mr. Michael Droppleman wondered if the proposed location had changed from what was depicted in the submitted drawing. Mr. Gillespie said yes; it was moved toward the front yard. He then presented a revised plan to the BZA and Mr. Pritchard made copies.

Mr. Genis wondered if the original location was selected due to more level ground in that area. Mr. Gillespie said yes, and for zoning purposes. He added that there had to be at least a 10' setback from the property lines and he had proposed 15' setbacks.

Mr. Easterling noted that the original drawing depicted the building in the rear yard. Mr. Gillespie said yes, but because of the angle of the house with the rear yard, the building protrudes into the side yard. Ms. Pat Ryan explained that since the house is parallel to the road and the road is on a curve, the back line of the house angles back to the northwest corner. For this reason, the majority of the building is to be located in the side yard. She further explained that the drawing shows the lot as being more rectangular but the aerial view shows the odd shape of the property.

Mr. Easterling asked for the location of the leach field. Mr. Gillespie said that the original proposed location would be directly above the leach field.

Mr. Easterling asked if the revised location was still in compliance with the required side yard setbacks. Ms. Ryan said that she received an e-mail from Mr. Wood late that day recommending that the building be completely in the side yard due to the existing septic system and the need for a replacement location. She said she did not have time to completely review the revised plans to make that determination. Mr. Bergstrom asked if the revised location was closer to the road. Mr. Pritchard said the rear of the building should be in line with the rear of the house, so in his opinion, it would have to be closer to the road. Mr. Easterling asked if the front stakes would be in line with the front of the house. Mr. Gillespie said it was a 30' x 30' building and the house was 20' x 40'. Ms. Ryan said that the building would probably extend into the front yard about 6'. She commented that the minimum front yard setback in an R-1 District is 60' from the right-of-way. Mr. Easterling asked Ms. Ryan if the revised location was in compliance with the required front yard setback. Ms. Ryan said she could not make that determination at this time because she was just handed the revised plans. There was discussion that the dimensions of the building could be decreased to keep it out of the front yard, and if decreased it could be attached to the house and would not need a variance. If the building has to be moved forward and protrudes past the front of the house, an amended application for a front yard variance with an additional \$50.00 fee would be needed. Mr. Pritchard recommended that the Board not make a decision until further review of the revised plan.

Mr. Bergstrom questioned the proposed use of the garage. Mr. Gillespie said that he and his son work on cars together and he needed additional storage. Mr. Bergstrom asked if it would be utilized for a business. Mr. Gillespie said that was his original thought; but after he talked to his accountant that became non-feasible.

Chairperson Easterling thanked the applicant and asked if anyone present wanted to speak for or against the application.

Mr. Don Gross, 3775 Lee Ann Drive, Norton, Ohio 44203, approached the Board and stated that he lived down the street from the applicant and was concerned that the proposed building would dwarf his property and lower his property value. He added that he was concerned about cars being repaired there.

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

Ms. Linda Thayer, 3735 Pamdon Drive, Norton, Ohio 44203, approached the Board and stated that she was also concerned about the neighboring property values decreasing if this building is allowed. She explained that her deck overlooks the proposed location and a roof with steel sides would not be the best view. Ms. Thayer said she was not in favor of it being so large because it will be close to the street. She said that she pays a large amount of taxes and does not want her property value to decrease.

Mr. Greg Bracken, 3743 Pamdon Drive, Norton, Ohio 44203, approached the Board and stated that he would have the worst view of the proposed building. His main concerns were the size of the building, his view of it and the effect of the property value. He said that his house was for sale and he recently lowered the price hoping to get a bite on it

before the construction of the building. Mr. Bracken said that he was not against a normal size garage. He said the size of this one, however, would be an eyesore and not seen as aesthetic by a potential buyer for his house.

Mr. Gillespie said that it was only 20' tall and he understood from zoning that 21' was permissible. He said he just wanted a garage like his neighbors. He said his son is a mortgage banker and he said that it would not effect property values. Mr. Gillespie said his son checked the market value of Mr. Bracken's house and even after lowering the asking price, it is still Six Thousand Dollars (\$6,000.00) above the market value. He believes that realtors lower the prices of houses to get them sold. Mr. Gillespie said he would be willing to decrease the size, but he does need a garage. Ms. Ryan presented the building plans to the BZA for their review.

Ms. Thayer said she wanted a copy of the revised site plan. Mr. Pritchard presented her with one.

Mr. Bergstrom asked the applicant if he would consider a lower profile building. Mr. Gillespie said that it would only have a 1-12" pitch on it for taller sides because he wanted a lift installed to work on his cars. Mr. Droppelman asked if the primary purpose of the building was for storage or automotive repair. Mr. Gillespie said it was a combination of both.

Chairperson Easterling asked for the third time if anyone wanted to speak for or against the application; no one spoke. He asked for any further questions or comments from the Board; there were none. Chairperson 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.

Chairperson Easterling reconvened the hearing and called for a motion. **Mr. Bergstrom moved to table BZA Application A14-2007, regarding a variance to Section 1296.03(a)-Accessory Building; to construct an accessory building in the side yard, on the property known as 3762 Lee Ann Drive/PPN 4604100, for the following reason(s): 1.) The exact dimensions of the proposed garage, along with an acceptable option not to encroach on the required front yard setback, be submitted two weeks prior to the next BZA meeting; and 2.) Onsite staking of the proposed area will also be necessary two weeks prior to the meeting. Mr. William Helmick seconded the motion. ROLL CALL: Mr. Bergstrom-Yea, Mr. Helmick-Yea, Mr. Droppelman-Yea, Mr. Genis-Yea, Mr. Easterling-Yea. The motion passed 5-0, tabling BZA Application A14-2007, by BZA Resolution No. 16-2007. The resolution was sent to the Administration and to Council for their information.**

The Board explained the resolution to the applicant and asked that he consider the statements from his neighbors as he prepared the revised drawing for the next meeting.

Chairperson Easterling recognized Ms. Amy Addis, former Norton Mayor, and asked if there was anything she wished to address. She said that she was there for moral support of Ms. Thayer who is a friend of hers. Ms. Addis commented that the BZA handled the application well and all the people involved left happy and willing to work with each other.

IV. OLD BUSINESS:

A.) Information regarding the Proposed Skill-based Machines Regulations:

Chairperson Easterling asked for information regarding the proposed Skill-based Machines Regulations. Ms. Ryan said it would be receiving a second reading at the next Council meeting. She further explained that a public hearing would be held for the conditional portion at it's third reading. Mr. Chairperson asked if the State was involved with this issue. Ms. Ryan said the State has been quiet regarding this issue since the last ruling of no monetary gifts and any voucher or certificate, etc. would be less than ten dollars. Ms. Ryan said that when she started her research on these regulations in May, 2007, there were only a few regulations in Ohio; now there are many. Mr. Bergstrom wondered how many of these facilities were already in the City. Mr. Pritchard said three.

B.) Corner of Flesher Road and Dal Drive:

Mr. Bergstrom asked for a status report regarding the maintenance issues with the house on the corner of Flesher Road and Dal Drive. Ms. Ryan said they have not been able to contact the owner.

V. NEW BUSINESS:

None.

VI. CONSIDERATION OF MINUTES:

A.) BZA Minutes from the Tuesday, September 18, 2007, meeting:

The Board reviewed the minutes of their Tuesday, September 18, 2007, meeting and Chairperson Easterling called for a motion. **Mr. Bergstrom moved to approve the minutes of Tuesday, September 18, 2007, as submitted; seconded by Mr. Helmick. ROLL CALL: Mr. Bergstrom-Yea, Mr. Helmick-Yea, Mr. Genis-Yea, Mr. Droppleman-Yea, Mr. Easterling-Yea. The motion passed 5-0, approving the minutes as submitted. They were signed and processed accordingly.**

VII. ADJOURNMENT:

Chairperson Easterling announced that the next meeting was scheduled for Tuesday, November 20, 2007, at 6:00 p.m. There being no further business coming before the Board, Chairman Easterling adjourned the meeting at 6:51 p.m.


Board of Zoning & Building Appeals Chair/Vice-Chair


Board of Zoning & Building Appeals Vice-Chair/Member

11-20-2007
Date

RESOLUTION
BOARD OF ZONING & BUILDING APPEALS
October 18, 2007

BZA RESOLUTION NO.: 16-2007

RE: BZA Application A14-2007
3762 Lee Ann Drive/PPN 4604100
Gery & Patricia Gillespie, Owners
Requesting a variance to Section 1296.03(a)-Accessory Building:
No accessory building shall be erected in any required yard, other than a rear yard.
[To construct an accessory building in the side yard.]

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:

Motion to ~~approve~~/table/deny BZA Application A14-2007, regarding a variance to Section 1296.03(a)-Accessory Building; to construct an accessory building in the side yard, on the property known as 3762 Lee Ann Drive/PPN 4604100, for the following reason(s):

(See attached 'Exhibit A'.)

Vote on Motion: FOR 5 AGAINST 0 ABSTAIN 0

Therefore BZA Application A14-2007 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

Board of Zoning & Building Appeals Vice-Chair/Member

10.18.07
Date

- 1.) The exact dimensions of the proposed garage, along with an acceptable option not to encroach on the required front yard setback, be submitted two weeks prior to the next BZA meeting; and
- 2.) Onsite staking of the proposed area will also be necessary two weeks prior to the meeting.

