

**MINUTES  
BOARD OF BUILDING AND ZONING APPEALS**

**August 6, 2015**

**MEMBERS PRESENT:** Ken Suchan, Gregg McIlvaine, Doug MacMillan and Lukas Gaffey. Tate Emerson arrived at 5:52 p.m.

**MEMBERS ABSENT:** Stewart Fitz Gibbon and Adrian Eriksen

**STAFF PRESENT:** Andrew Dutton

**I. MINUTES**

Ken Suchan moved, Gregg McIlvaine seconded, to approve the Minutes of July 9, 2015 as received. Motion carried by a 4-0 vote.

**II. PUBLIC HEARINGS**

**Appeal #2015-21. Richard Dale, representing Marilyn Dale**, requesting an area variance from Planning and Zoning Code Section 1133.07(b)(1) to locate an accessory building in the corner side yard at 237 Clark Avenue in an R-T (Traditional Residential) District.

Richard Dale, 237 Clark Avenue, stated he and his wife had medical conditions which was why the carport and ramp was constructed. Mr. Dale stated there was no direct access from the driveway to the house—they had to go down stairs, out the gate, and walk around the street to get to the carport, and now there was easier access to the carport. Mr. Dale stated the carport provided them with reduced issues, especially during inclement weather. Mr. Dale stated he was requesting a variance, possibly even a short term variance. Mr. Dale stated behind the carport was a shed, and if he could relocate the shed to the rear, he could probably bring everything into zoning compliance. Mr. MacMillan questioned how long it would take to determine if the shed could be relocated. Mr. Dale stated the issue was one of economics, but he felt he could do it in a year's time.

Mr. McIlvaine questioned the dimensions of the carport. Mr. Dale stated it was 12' x 20'. Mr. McIlvaine questioned if the size could be shortened. Mr. Dale stated cost was an issue, and he would prefer to relocate it.

Mr. Gaffey questioned if moving the carport 4 ½' would bring it into compliance. Mr. Dutton stated the storage shed would have to be 5' from the property line as well, and he was not certain if there would be enough room or whether a variance would be needed. Mr. Dutton stated the carport would have to be parallel with the face (wall) of the house—not the porch. Mr. Gaffey stated by moving the carport, the ramp would be past the front of the carport. Mr. Gaffey further stated he did not feel there was enough room on the lot to meet the setbacks for both the carport and the storage shed.

Mr. Gaffey opened the hearing up for public comment.

Gregg McIlvaine moved to adjourn to Executive Session. Ken Suchan seconded the motion.

Ken Suchan voted yes.

Gregg McIlvaine voted yes.

Doug MacMillan voted yes.

Lukas Gaffey voted yes.

Motion carried by a 5-0 vote.

Gregg McIlvaine moved to come back into session. Ken Suchan seconded the motion.

Ken Suchan voted yes.

Gregg McIlvaine voted yes.

Doug MacMillan voted yes.

Lukas Gaffey voted yes.

Motion carried by a 5-0 vote.

Mr. Gaffey noted the difficulty given the size of the lot in question. Mr. Gaffey stated the Board would be willing to give him a year to figure out a workable solution and have something in compliance which would need to be completed within the year.

Gregg McIlvaine moved to approve Appeal #2015-21 with a stipulation that within a year, the applicant shall come into compliance with the Zoning Code regulations. Ken Suchan seconded the motion.

Ken Suchan voted yes.

Gregg McIlvaine voted yes. Mr. McIlvaine stated he hoped within the year he could find a plan that worked and complied.

Doug MacMillan voted yes.

Lukas Gaffey voted yes.

Motion carried by a 4-0 vote.

(At this point in the meeting, Tate Emerson arrived.)

**Appeal #2015-22. Paul Magee of Lettergraphics, representing the Locksmith Shop LLC,** requesting an area variance from Planning and Zoning Code Section 1171.05(a)(3)A.3. regarding the height of a freestanding sign, Section 1171.05(b)(5)A. regarding the frequency of changing the display of a changeable copy sign, and Section 1171.09(a)(5) regarding the internal illumination of a sign in a residential district at 146 East Bowman Street in an R-T (Traditional Residential) District.

Chris Butdorf, LetterGraphics, representing the Locksmith Shop, stated in 1987, the Locksmith Shop was zoned C-1 and at some point, the property was rezoned to a residential district. Mr. Butdorf stated the property to the west was zoned C-1. In looking at the hardship rules in evaluating an area variance, much of the hardship had to deal with the fact that the property was arbitrarily rezoned even though the property had been used as a business for many years. Mr. Butdorf noted that the Locksmith Shop proposed to reduce the size of the existing sign and improve the look of the sign. Mr. Butdorf stated Bowman Street was a “commercially traveled

thoroughfare” and noted across the street and across the alley on the same side of the street was property zoned C-1. Mr. Butdorf stated the existing sign was internally illuminated.

Mr. Dutton stated prior to 2007, the entire west side of Buckeye Street, south of Bowman, was zoned C-1 which made those homes non-conforming. The rezoning to R-T brought the homes into compliance but the Locksmith Shop then became a non-conforming commercial use in a residential district. Mr. Butdorf stated the traffic flow on Buckeye Street versus the traffic flow on Bowman Street was very different.

Mr. Emerson stated the business had “been there forever”, and everyone knew the Locksmith Shop, so there was no need to draw in business.

Mr. McIlvaine questioned how often the sign would change during the course of a day. Mr. Butdorf stated the sign would change every 15 seconds; the industry standard was 5-8 seconds.

Mr. McIlvaine noted that under the current Zoning Code regulations, all signs had to be brought into compliance by 2022, and the Board had not approved variations to signage beyond that timeframe. Mr. Butdorf stated the Locksmith Shop was trying to modernize the sign and in turn was being penalized by the Zoning Code even though the business had operated at its location for 26 years. Mr. Emerson stated he did not find the request to be a need for a variance but rather a desire for a variance. Mr. Gaffey agreed especially because of the location with no competing businesses in the area. Mr. Gaffey stated he felt there would be clear visibility if signage were erected to meet the Code.

Brad Young, Locksmith Shop, stated the zoning of the property changed without his knowledge. Mr. Young stated he did not have a problem in lowering the sign, but questioned safety issues in doing that. Mr. Young stated there were numerous accidents at the intersection, and he felt lowering the sign might block the view of traffic at the intersection. Mr. Emerson stated in one of the photographs submitted to the Board, there was a truck parked in a parking space which would be taller than the sign so any vehicle parked in that parking space next to the sign would be more of an obstacle than the sign. Mr. Young stated he would not spend the money to erect a sign 6’ off the ground and would just let the existing sign remain. Mr. Young stated he would not mind bringing the height of the sign down a little bit, but not 6’ off the ground and noted he would not give up a parking space in order to erect a sign.

Mr. Emerson stated the electronic messaging of the sign was permitted, but the message could not change more than once a day. Mr. Young questioned spending money for a changeable message sign that could only be changed once a day. Mr. Young also noted that many customers stopped at his business on impulse, so signage was important. Mr. Young further indicated that the building was set back from the road making the sign important for the business.

Mr. Gaffey opened the hearing up for public comment.

Tate Emerson moved to adjourn to Executive Session. Doug MacMillan seconded the motion.

Ken Suchan voted yes.

Gregg McIlvaine voted yes.

Tate Emerson voted yes.

Doug MacMillan voted yes.

Lukas Gaffey voted yes.

Motion carried by a 5-0 vote.

Gregg McIlvaine moved to come back into session. Tate Emerson seconded the motion.

Ken Suchan voted yes.

Gregg McIlvaine voted yes.

Tate Emerson voted yes.

Doug MacMillan voted yes.

Lukas Gaffey voted yes.

Motion carried by a 5-0 vote

Mr. McIlvaine questioned the hours of illumination of the sign. Mr. Butdorf stated from dusk to dawn. Mr. Butdorf stated the message center was needed during the daytime. Mr. McIlvaine stated the Board was concerned with the sign being illuminated at night and questioned whether the sign needed to be illuminated from 11 p.m. until 6 a.m. Mr. Young stated the sign (fixed sign at the top) had been illuminated at night until morning for 30 years. Mr. Butdorf stated Mr. Young had not received complaints regarding the illumination of the existing sign, and he was not asking to do anything different than what had been in existence for a number of years. Mr. Young stated the proposed sign was smaller than the existing sign, so the illumination would not increase.

Mr. Emerson questioned the hours of operation. Mr. Young stated business hours were from 8:30 a.m. until 5:00 p.m.

Mr. Butdorf stated there was a lot of pedestrian traffic in the area. Mr. Butdorf stated at the time Larry's Music requested a variance for signage (downtown), the concern was with vandalism with a lower (monument style) sign, and Mr. Young had that same concern.

Mr. Emerson questioned the safety issue in changing the message on the sign every 15 seconds as it was distracting to drivers especially because there was a lot of pedestrian traffic in the area with the school nearby. Mr. Butdorf stated he was not aware of any study which showed any correlation between a changeable copy sign and accidents. Mr. Emerson questioned the process for setting how often the sign message would change. Mr. Butdorf stated it was "completely customizable". Mr. Butdorf stated changing the message on the sign once a day would not be worth it and felt changing it every 15 seconds was "very reasonable".

Gregg McIlvaine moved to approve the request on the condition that the sign be brought into full compliance with the Zoning Code by 2022 and that the changeable copy message be set to change every 15 seconds.

Ken Suchan seconded the motion.

Ken Suchan voted yes.

Gregg McIlvaine voted yes.

Tate Emerson voted no.

Doug MacMillan voted yes.

Lukas Gaffey voted yes.

Motion carried by a 4-1 vote, Tate Emerson voting negatively.

Mr. Emerson questioned if the City had plans to communicate to businesses the Zoning Code requirement for signs being brought into compliance by 2022. Mr. Dutton stated the City was currently working on a survey to find out how many signs were not in compliance with height and area. Mr. Suchan stated the change to the regulations occurred in 2007 giving the businesses a 15 year amortization program.

**Appeal #2015-23. Dennis Ramseyer of Ramseyer Farms** requesting an area variance from Planning and Zoning Code Section 1171.04(d)(1)B. to allow a temporary sign to be displayed for longer than 30 consecutive days, Section 1171.04(d)(1)C. to allow a temporary sign taller than required, and to Section 1171.07(c) to allow an off-premise sign at 2033 Portage Road in a C-3 (Community Commercial) District.

Dennis Ramseyer stated Ramseyer Farms business was being affected by the SR 585 road project which had been closed all summer. Mr. Ramseyer stated it was originally scheduled to be re-opened at the end of September but with the rainy weather and other delays, it was projected to re-open in November. Mr. Ramseyer stated the State of Ohio said that by the end of August, they would have access from the north to the farm and were scheduled to lay blacktop on August 17. Mr. Ramseyer stated there was no way of getting customers to Ramseyer Farms from the south. Mr. Ramseyer stated he would like to place a temporary sign at the Hawkins Market parking lot for September and October which are the months Ramseyer Farms was open to the public. Mr. Ramseyer stated the proposed sign was 7' in height but stated he could reduce the size to 6'. Mr. Ramseyer stated a sign would be place to have vehicles turn at the stop light, and then there would be another sign on Back Orrville Road directing traffic to turn to the left (Honeytown Road) and an additional sign would be placed at Honeytown and Thompson Road to bring them back to SR 585.

Mr. McIlvaine questioned how the sign would be secured. Mr. Ramseyer stated it would be bolted onto concrete.

Mr. Ramseyer stated the sign would be removed the first week in November. Mr. Ramseyer stated he only needed the sign through October as that was when the season ended at the farm.

Mr. Gaffey opened the hearing up for public comment.

Amanda Miller-First stated she thought it was a great idea because even knowing the area, she was not certain how she would get to the farm.

Tate Emerson moved to approve the variance as requested. Ken Suchan seconded the motion.

Mr. Emerson questioned the timeframe of the approval. Mr. Suchan stated for two months—September and October. Tate Emerson voted yes.

Doug MacMillan voted yes.

Gregg McIlvaine voted yes.

Ken Suchan voted yes.

Lukas Gaffey voted yes.

Motion carried by a 5-0 vote.

**Appeal #2015-24. Carolyn Kennedy** requesting an area variance from Planning and Zoning Code Section 1133.07(b)(1) to allow a reduced side setback for an accessory structure at 336 Bardon Street in an R-T (Traditional Residential) District.

Carolyn Kennedy stated she wished to construct a garage on the opposite side of her property. Ms. Kennedy stated a garage existed on the north side of her property which was planned to be demolished due to its condition.

Mr. Emerson noted that a 0' setback was being requested from the south property line; the setback requirement was 5'. Mr. McIlvaine questioned if other options were considered as it appeared as though the garage could be moved so that the setback would not be right on the property line. Ms. Kennedy stated she was trying to place the garage on the property without having to remove an existing tree. Mr. McIlvaine stated he could not recall the Board ever granting a 0' setback. Ms. Kennedy stated there was an existing fence on the property that was right on the property line. Mr. McIlvaine questioned if they could construct the garage 2' off of the property line. Ms. Kennedy stated yes—they likely could.

Mr. Emerson questioned the size of the proposed garage. Ms. Kennedy stated 20' x 24'.

Mr. Suchan stated he was concerned that providing 2' between the fence and the garage would be a nuisance. Mr. Emerson stated if the fence were removed, the garage would then be on the property line with no setback. Mr. Emerson stated if a 0' setback were allowed, the overhang and gutters would then be on the neighbor's property. Mr. Emerson questioned how the 2' would be measured. Mr. Dutton stated it was measured from the closest point.

Mr. Gaffey opened the hearing up for public comment.

Tate Emerson moved to approve the request contingent on a minimum 2' setback from the closest point of the garage to the property line being provided. Doug MacMillan seconded the motion.

Ken Suchan voted yes.

Gregg McIlvaine voted yes.

Tate Emerson voted yes.

Doug MacMillan voted yes.

Lukas Gaffey voted yes.

Motion carried by a 5-0 vote.

**Appeal #2015-25. Jon David and Margaret Ann Vizzo** requesting an area variance from Planning and Zoning Code Section 1133.04(g)(2)A to allow a reduced side building setback at 437 College Avenue in an R-T (Traditional Residential) District.

Jon Vizzo and Margaret Vizzo were present. Mr. Vizzo stated they wished to erect a deck to the back of the house. Ms. Vizzo stated the proposed deck would be within the 5' setback. Ms. Vizzo stated the deck, when the need arose, would also include a handicapped accessible ramp to provide access to their home. Mr. Emerson questioned the distance from the edge of the house to the edge of the deck. Ms. Vizzo stated the deck would be 10' x 10', and it would be 4 1/2' from the

property line; the handicapped ramp would be provided at a later date. Mr. Emerson noted that the ramp would be what was within the required setback. Mr. McIlvaine questioned if the deck could be smaller so that there would not be a 0' setback. Ms. Vizzo stated the handicapped ramp needed to be 4' wide. Mr. Vizzo stated he would rather have a larger deck than a smaller one. Mr. Emerson noted that the Code provided for an unroofed deck to extend 3' into the required 5' setback, so that only a 2' variance was being requested. Mr. Suchan stated he felt a 10' x 10' deck was pretty much the minimum size to provide any benefit.

Mr. Emerson stated whenever the Board considered variances, you had to think about the future owners. Mr. Vizzo stated there was no other place on the property to put the handicapped accessible ramp.

Mr. Gaffey opened the hearing up for public comment.

Mr. MacMillan noted that if the Board granted the variance, the Code provided for a one year timeframe for the approval which would mean the ramp would have to be constructed within a year. Mr. Dutton stated the Board could grant an extension for construction of the handicapped ramp as part of its approval. Mr. Emerson stated the extension could be granted to the Vizzo's as the current homeowners.

Tate Emerson moved to approve the variance request with the stipulation that as long as they (the Vizzo's) owned the property, the handicapped ramp could be constructed as proposed within the required setback area.

Ken Suchan seconded the motion.

Ken Suchan voted yes.

Gregg McIlvaine voted yes.

Tate Emerson voted yes.

Doug MacMillan voted yes.

Lukas Gaffey voted yes.

Motion carried by a 5-0 vote.

**Appeal #2015-26. Larry and Elsa Miller** requesting an area variance from Planning and Zoning Code Sections 1125.08(a)(1) and 1133.07(b)(5) to locate a recreational vehicle in the front yard and within the side setback at 412 Catalina Boulevard in an R-2 (Single Family Residential) District.

Amanda Miller-First indicated her parents, Larry and Elsa Miller, owned the property in question. Ms. Miller-First stated the property in question was on a corner, and the RV was not actually located in the front yard. Ms. Miller-First stated her parents owned the home since 1988. Ms. Miller-First stated the front faced Catalina and the side/rear, garage and drive were to the rear of the home and faced Christmas Run. Ms. Miller-First stated 25+ years ago, there was space alongside the driveway for extra parking and for parking of an RV/temporary trailer. Ms. Miller-First stated the neighbor to the south (Christmas Run side) was Rhea Schmale who was not opposed to the parking of the RV in the location in question (see letter in file). Ms. Miller-First stated because the property was a corner lot, it made meeting the regulations more of a challenge as there was no true back yard. Ms. Miller-First stated the RV

could be relocated to the western side of the property, but it was not accessible unless a driveway could be created and the grade would also be an issue. Ms. Miller-First also indicated that putting in a driveway at that location would remove existing greenspace. Ms. Miller-First indicated that finding an area to store the RV off-site was not an option because of multiple disability and medical issues within the family. Ms. Miller-First stated she used the RV for when there were medical issues/for medical purposes as well. Ms. Miller-First stated the RV, while not new, was not rundown and indicated she would be willing to do something better to the existing paved area if the Board felt that was necessary.

Mr. Suchan questioned the storage building/toy shed on the property. Ms. Miller-First indicated it had been there for years—it was next to the garage and was on a graveled pad. Mr. Suchan stated there was approximately 14' from the side of the garage to the side property line, but the toy shed also occupied some of that space. Mr. Emerson stated the Zoning Code regulations were such that the RV could only be parked on the property for 72 hours and could not be located within 10' of the property line. Ms. Miller-First stated the RV was situated where traffic was not blocked or hindered.

Ms. Miller-First stated she would not have an objection to the Board putting a condition on the request that the RV be allowed only under the current ownership of the property.

Barbara Westfall, 2535 Christmas Run Boulevard, and Don Westfall, were present. Ms. Westfall stated she was very much against the approval of the request, especially since the Board would be setting a precedent for others. Ms. Westfall stated they wanted to be good neighbors, but it was “way too much”.

Bonnie Knox, 432 Catalina, stated the area was comprised of little houses, and they were very close together. Ms. Knox stated if there was a mess in one area, it affected many of the residents. Ms. Knox stated she was concerned with the Board setting a precedent which would greatly affect the neighborhood. Ms. Knox stated the RV was an eyesore and indicated there were at least two other different RV's on the property prior to the one in question. Ms. Knox stated the driveway area had also been used for storing a trailer, another vehicle, a grill, and a tent which were in the yard for months. Ms. Knox stated Larry and Elsa Miller had not lived at the property “for years”. Ms. Knox stated for the hearing, a lot of things had been moved into the back yard by the fence; the trailer was sitting out on the street. Ms. Knox stated “two years of a mess” was enough for the residents.

Amy Flessel, 422 Catalina, stated she was asked to move her camper, and she did. Ms. Flessel stated there were many campers within the City and questioned why they did not have to comply and also move them. Ms. Flessel questioned why their neighborhood was being targeted. Mr. Gaffey stated the Board had heard other similar requests and felt it was being addressed City-wide.

Mr. Emerson questioned how often the RV was used. Ms. Miller-First stated this past year, they used it a few times; they also used it when the air conditioner was not functioning in their home.

Mr. Emerson questioned how long she had the RV parked at the property. Ms. Miller-First stated for the past 2 ½ years.

Mr. Suchan questioned if the RV could be parked to the side of the garage. Ms. Miller-First stated because of the overhang of the garage, the RV would be too tall. Ms. Miller-First stated to park the RV where the overhang would not be an issue would cause it to be very close to the property line.

Tate Emerson moved to adjourn to Executive Session. Ken Suchan seconded the motion.

Ken Suchan voted yes.

Gregg McIlvaine voted yes.

Tate Emerson voted yes.

Doug MacMillan voted yes.

Lukas Gaffey voted yes.

Motion carried by a 5-0 vote.

Gregg McIlvaine moved to come back into session. Tate Emerson seconded the motion.

Ken Suchan voted yes.

Gregg McIlvaine voted yes.

Tate Emerson voted yes.

Doug MacMillan voted yes.

Lukas Gaffey voted yes.

Motion carried by a 5-0 vote.

Mr. Gaffey stated the Board recognized that Ms. Miller-First was in a tough situation because of the lot. Mr. Gaffey stated the Board, however, was in agreement that it could not stay the way it was and that she would need to find a different solution for it. Mr. Gaffey stated the Board was willing to give her to the end of the year to try and come up with a different solution which would fit more within the Code regulations for the RV. Ms. Miller-First questioned what other ideas the Board had. Mr. Gaffey suggested working with the City to come up with something that would be more amenable to the Code regulations. Mr. Suchan stated he felt she should look into parking it alongside the garage, regardless of how tight that may be. Elsa Miller questioned if the RV could be parked on gravel. Mr. Dutton stated the Code required that it be parked on concrete or asphalt (hard surface). Mr. Emerson stated the Board would like to see an alternative plan and indicated she could come back before the Board should a variance be needed for that new plan.

Tate Emerson moved to approve the variance until the end of 2015. Doug MacMillan seconded the motion.

Ken Suchan voted yes.

Gregg McIlvaine voted yes.

Doug MacMillan voted yes.

Tate Emerson voted yes.

Lukas Gaffey voted yes.

Motion carried by a 5-0 vote.

Meeting adjourned at 8:23 p.m.

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**Lukas Gaffey, Vice Chairman**

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**Laurie Hart, Administrative Assistant**