BOARD OF ZONING APPEALS MEETING MINUTES

Tuesday, April 13, 2021 at 4:30 pm

BZA 21-01 – Variance to Property Setback – 12 Bauman Place

PRESENT

Board Members Tom Mack-Chair, David Dill, Lynn Rausch, Steve Small
City Staff Kevin Schultheis-Code Enforcement/Zoning Administrator

Clerk of Council Roxanne Dietrich

Others News media via WebEx

ABSENT

Board Member Larry Vocke

CALL TO ORDER

Chairman Mack called the Board of Zoning Appeals Order at 4:30 pm

ROLL CALL

Roll call was taken with the Chair noting a quorum was present.

APPROVAL OF MINUTES

Hearing no correction or objections, the minutes from the October 13, 2020 meeting were approved as presented.

NEW BUSINESS

BZA 21-01 -Variance to Property Setback at 12 Bauman Place

Mack read the background on BZA 21-01. An application for Public Hearing has been filed by Daphne Cole, 12 Bauman Place, Napoleon, Ohio. The applicant is requesting approval of a Variance to Section 1147 regarding the Building Setbacks in an R-1 Suburban Residential District. The applicant is requesting a Variance to the North portion of the driveway to build an onsite 36' x 56' Post Frame Building.

RESEARCH AND FINDINGS

Schultheis presented his research and findings.

A variance is needed to allow the post frame building to move inside the setback requirement of ten feet (10') of the property line. The move would create a better space and clearance from a steep drop to VanHyning creek. This is an R-1 District, the side setbacks are ten feet (10'). The Cole's are asking to move a few feet inside of that. After a hearing, the Board may grant a variation from the regulations of the City's Planning and Zoning Code but only when such variation is in harmony with the general purpose and intent of the Planning and Zoning Code and the Board finds all of the following:

- That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to the other property or use in the same vicinity or district:
- That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity or district but which is denied the property in question;
- That granting such variance will not be materially detrimental to the public welfare or injurious to the property of improvement in the vicinity or district in which the property is located
- That granting such variance will not alter the land used characteristics of the vicinity or district, diminish the value of the adjacent land and improvements, or increase the congestion in the public street.

Schultheis noted all these conditions are met and will not vastly stop preservation or enjoyment of the area. It is back at the end of Bauman Lake and they have enough property for the extra building.

VanHyning Creek abuts right up behind there and it is a steep drop-off and they would like to keep away from that and closer to their driveway. There is a cul-de-sac in the back in a wooded area. Schultheis stated he has no objections and believes the building will fit in. Mack confirmed notifications were sent out to everyone and asked if any responses were received. Schultheis said notices were sent with no responses being received. Dill asked what does the dotted line nearest to the property represent? Schultheis replied the property line is one and the setback rule of 30' is that radius. Dill confirmed the setback is where it should be and how much off of that is he, 40'? Schultheis responded it is close to that. They had to position it there because of the creek drop-off. They tried to get as far to the west as they could. I have checked with the City Engineer, there are no utilities in the area and he has no objection to this. Small stated it is encroaching 10' down at the top right corner, is that where we are approving the variance? Schultheis responded yes, right at the circle area. Mack asked going back to Dill's question on the red dotted line that is going along the cul-de-sac, that is not the setback? Schultheis said that would be the setback for the house. Dill asked the biggest radius is the actual setback that is required? Schultheis-yes but, mostly for the home. Accessory buildings are less, they have to stay outside the 10' area. If it is a side area, it is a 10-foot setback. He does encroach it quite a bit but his property line runs clear up to the cul-de-sac itself. Mack confirmed the building size is okay as far as the size of lot goes? Schultheis-yes. Small asked are there still a lot of bushes and trees that run from the mailbox at the end of the driveway back to the first house? It doesn't look like much of this building will be visible from the road if those trees are still there. Mack stated he doesn't have a problem with this if the neighbors are fine with it. I'm not sure about the rationale, that a house has to meet a setback but an accessory building does not have to. Schultheis said I would say an accessory building would have to meet the setback but, the wording is vague in there because it says an accessory building side setbacks are ten feet. It says from the front it is 45', do we take it from the front or the side? Mack asked if the building will have a cement floor? Mr. Cole said yes. Small pointed out his new building is not going to be that much closer to the cul-de-sac than what 10 Bauman Place's house is. The cul-de-sac is not the big circle, his driveway runs to the cul-de-sac that is the smaller circle there. Mack said he has no problem with the project, his concern is later down the road that you can be closer to the road with an accessory building than you can with your regular house. Schultheis said that is the question that he had, it is off to the side. Mack agreed with Small the building will be tucked away and will not be an issue my concern is for future reference how that interpretation would fly. Small noted if we are saying that red dotted line is the setback for the front, did that not apply to 7 and 10 Bauman because they are not that far from the culde-sac. Mack said I do not think that is what that red line is. Rausch said he believes the houses are close to 30' off the road. Small asked Mr. Cole if any of the neighbors have said anything to him about the project? Mr. Cole replied "no". Dill asked what is the reason for having dormers on the one side? Mr. Cole said that is to be a 12' x 36' patio. Dill restated the three dormers on top of the building, is that aesthetic? There is not going to be an apartment in there? Mr. Cole –it is basically to match the side of the house. There will not be enough of a pitch to even think about an apartment.

Motion: Dill Second: Rausch

to approve BZA 21-01 Variance to Property Setback at 12 Bauman Place

Roll call vote on the above motion: Yea-Mack, Small, Rausch, Dill

Nay-

Yea-4, Nay-0. Motion Passed.

ADJOURN

Motion: Small Second: Dill to adjourn the Board of Zoning Appeals meeting at 4:46 pm

Roll call vote on the above motion: Yea-Mack, Small, Rausch, Dill Nay-

Yea-4, Nay-0. Motion Passed.

Approved	Α	pp	orc	οv	ed
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May 11, 2021 _____

Tom Mack - Chair

