

## MINUTES OF THE MAY 24, 2022 BOARD OF ZONING APPEALS MEETING

### **I. Opening of Meeting**

Chair Weeks opened the Clayton Board of Zoning Appeals meeting that convened at 7:00 PM on Tuesday, May 24, 2022. This meeting was re-scheduled from May 3, 2022 due to not having quorum that evening.

### **II. Members in Attendance**

Ms. Jennifer Weeks, Mr. Robert McGuinness, Ms. Jessica Hunter, and Mr. Bob Madewell.

Mr. Seth Dorman, City Planner/Zoning Administrator

Ms. Weeks advised Ms. Buyers is not able to be here tonight and asked for a motion to excuse her this evening. Mr. McGuinness made a motion to excuse Ms. Buyers this evening, Ms. Hunter seconded the motion. Voting: Ms. Weeks-yes, Mr. McGuinness-yes, Ms. Hunter-yes, and Mr. Madewell. Motion passed 4-0.

### **III. Meeting Procedure and Oath**

Chair Weeks explained the meeting procedures and administered the Oath to members of the public who wish to speak on an agenda item this evening.

### **IV. Minutes of the Previous Meetings**

Ms. Weeks advised we are not able to approve the minutes of the April 5, 2022 Board of Zoning Appeals meeting as we do not have quorum of members who attended the meeting.

### **V. New Business**

#### **VAR22-03**

Chair Weeks introduced Case VAR22-03, a request for an accessory structure height variance at 4633 W. Wenger Road. The applicant has constructed a series of connected detached structures with an overall area of 1,625 square feet with the largest portion having a height of 20', which requires a variance for maximum height. The request is made by Matt Slusser, the property owner.

Mr. Dorman, City Planner, advised the applicant has built a series of accessory structures that are connected and have a total area of 1,625 square feet. At the highest point, the detached structure is 20 feet and by code the maximum height for an accessory structure in the RSD is 15 feet. The applicant is therefore asking for a height variance. We received the application on March 18, 2022, and this is for parcel ID M60 03103 0068 which is 1.99 acres. Dorman shared an aerial image of the parcel and surrounding area and the existing structures. We were notified in February that the applicant had built a

tall structure, and after looking into our records we realized that the structure had been built without a Zoning Certificate as had an above ground pool on the property. I spoke with the applicant in March and explained that we needed to issue Zoning Certificates for both the pool and accessory structure. The applicant submitted applications for both. I issued the Zoning Certificate for the existing pool but notified the applicant I would not be able to issue the Zoning Certificate for the accessory structure without a variance for the height of the structure. Surrounding the property are several residences in the RSD with agricultural style outbuildings of various sizes. These structures appear to be older and may pre-date the merge of Randolph Township with the Village of Clayton in 1998. I did speak with one of the neighbors who said he had no objection to what the applicant had built. Staff recommends approval of the height variance based on the fact there are other similar structures in the immediate area, so if the applicant was unaware of the code requirements or that a permit was needed, he may have assumed that the structure he built was not out of character for the immediate area. The applicant lives on almost two acres and given the location of the existing detached structure, the additional feet of height does not appear to be out of scale as compared to the applicant's residence or the surrounding residences and outbuildings on the neighboring lots.

Ms. Weeks asked the board members if they had any questions for Mr. Dorman.

Mr. McGuinness asked if anyone had called in with negative comments.

Mr. Dorman advised no; no negative comments have been received.

Ms. Weeks asked the applicant if they had anything to add.

Matt Slusser advised he and his wife were not aware of needing a zoning certificate.

Ms. Hunter asked if he has spoken with his immediate neighbors, did they have any issues with the building

Mr. Slusser advised he has not received any comments or issues from his neighbors.

Ms. Weeks asked for a motion to open the meeting for public comment. Motion by Ms. Hunter to open the meeting for public comments, motion was seconded by Mr. McGuinness. All yeas, motion carried.

Roger Dietsch of Wenger Road questioned the use of the building. If it was built for storage, why are all the vehicles parked outside in the yard. Mr. Dietsch submitted two pictures of his view of the property. Also, will another variance be needed if there are any additional buildings.

Ms. Hunter asked Mr. Dietsch what change would you like to see addressed at the property.

Mr. Dietsch stated there is a business being run out of the buildings in a residential neighborhood.

Mr. Dorman clarified the issue tonight is the height variance for the building being constructed. If there are other violations they will be addressed separately.

Hearing no further comments Ms. Weeks asked for a motion to close the meeting for public comment. Motion by Mr. McGuinness to close the meeting for public comments, motion was seconded by Ms. Hunter. All yeas, motion carried.

Mr. Slusser clarified that the vehicles are parked outside as he was told to stop construction until he had the variance, and the interior of the building is not complete.

### **Findings of Facts:**

Ms. Hunter read the findings of facts and after discussion the board found that all were satisfied with this height variance request.

Mr. McGuinness made a motion to approve the accessory structure height variance at 4633 W. Wenger Road, motion second by Ms. Hunter. Voting: Ms. Weeks-yes, Mr. McGuinness-yes, Ms. Hunter-yes, and Mr. Madewell. Motion passed 4-0.

### **VAR22-04**

Chair Weeks introduced Case VAR22-04, a request for an accessory structure size variance at 11155 Old Mill Road. The applicant is proposing to construct a 40' x 64' pole barn, which requires a variance for size. The request is made by Michael Podrosky, the property owner.

Mr. Dorman, City Planner, advised the applicant is proposing to build a pole barn with an area of 2,560 square feet. Based on the size of the applicant's property the applicant is entitled to the full increase of accessory structure size from 864 square feet to 1,800 square feet; but the proposed structure is larger than the maximum size permitted by the Planning and Zoning Code therefore a variance for size is being requested. We received the applicant's application on April 6, 2022, for parcel M60 03002 0019 that consists of 18.99 acres. The zoning is Rural Conservation District-2. Dorman shared images of the surrounding area and the existing site. The applicant was approved last year for a variance to allow a pole barn with an area of 2,400 square feet but is coming back seeking a new variance to allow 2,560 square feet as this larger area will better meet his needs. A pole barn is planned to house agricultural/outdoor equipment and accessories necessary to maintain the property. The pole barn is being built before the residence however, in the RCD zoning district, an accessory building can be built first per Section 1121.02(C)(1)(v). The proposed dimensions of the enclosed pole barn are 40 feet by 64 feet, but there will also be a 40 foot by 12 foot open porch on the south end of the pole barn. As the Zoning Administrator I have interpreted that open porches do not count toward the size restriction for an accessory structure, but if the porch is included the overall area of the structure is 3,040 square feet which occupies just 0.3% of the lot area. I spoke to the applicant's north neighbor who was originally concerned that the structure would be located very close to their shared property line. After speaking with myself and the applicant, the neighbor submitted a letter indicating that they are not opposed to the applicant's variance request. Staff recommends approval of the size variance for the applicant's accessory structure given the proposed pole barn will be located on the applicant's 19 acre parcel and will serve as personal storage of equipment and materials

to help the applicant prepare the land and prepare for the building of the applicant's home. Also, the proposed pole barn far exceeds the setback requirements for a principal structure in the RCD-2, let alone the minimum 5 foot setback required for a detached accessory structure.

Ms. Weeks asked the board members if they had any questions for Mr. Dorman.

Mr. McGuinness the change in size is due to the modification of the original design.

Mr. Dorman advised yes.

Mr. McGuinness stated the neighbors should have no concerns since the lot size is 18.99 acres

Ms. Weeks asked the applicant if they had anything to add.

Michael Podrosky there was an oversight on the original design. His excavator suggested a change to roof tresses that would maximize the size of the barn

Mr. McGuinness stated it would also improve the structural integrity.

Ms. Weeks asked for a motion to open the meeting for public comment. Motion by Ms. Hunter to open the meeting for public comments, motion was seconded by Mr. McGuinness. All yeas, motion carried.

No comments were heard from the public.

Ms. Weeks asked if staff received any letters or comments from the neighbors.

Mr. Dorman advised the only letter received was from the Oosthuizen's which the Board has received a copy, stating they have no objections.

Ms. Weeks asked for a motion to close the meeting for public comment. Motion by Ms. Hunter to close the meeting for public comments, motion was seconded by Mr. McGuinness. All yeas, motion carried.

#### **Findings of Facts:**

Ms. Weeks read the findings of facts and after discussion the Board found that all were satisfied with this variance request.

Mr. Madewell made a motion to approve the accessory structure size variance at 11155 Old Mill Road, motion second by Mr. McGuinness. Voting: Ms. Weeks-yes, Mr. McGuinness-yes, Ms. Hunter-yes, and Mr. Madewell. Motion passed 4-0.

#### **VAR22-05**

Chair Weeks introduced Case VAR22-05, a request for an accessory structure size variance at 448 Crestway Drive. The applicant is proposing to construct a 26 foot x 36 foot detached garage, which requires a variance for size. The request is made by Larry Cordell, property owner.

Mr. Dorman, City Planner, advised the applicant is proposing to build a detached garage with an area of 936 square feet. Based on the size of the applicant's property the

Planning and Zoning Code restricts the size of an accessory structure to 864 square feet. We received this variance request on April 12<sup>th</sup> for parcel ID M60 00302 0007 which consists of 0.51 acres. This property is zoned Residential Single-Unit District. Dorman shared images of the surrounding area and images of the existing site. The applicant is proposing to build a 26 foot by 36 foot detached garage in the rear yard. According to the submitted plan, the proposed accessory structure will be setback 5 feet from the north property line, 20 feet from the rear property line, 59 feet from the south property line, and 65 feet from the main residence. The proposed structure will have an overall height of 14 feet which falls just under the 15 foot maximum height for an accessory structure in the RSD. I have received no communication from any of the surrounding property owners concerning this variance request. Staff therefore recommends approval of the size variance for the applicant's accessory structure given the proposed garage complies with the Planning and Zoning Code as it relates to detached accessory structures in all other ways except for size; and the design of the garage is residential in character and with the height of 14 feet will not be out of character for the buildings in the existing neighborhood.

Ms. Weeks asked the board members if they had any questions for Mr. Dorman.

Mr. McGuinness asked if letters were sent to the neighbors.

Mr. Dorman advised yes, to all residents within 300' of this property.

Ms. Weeks asked the applicant if they had anything to add.

Larry Cordell advised he wants to build a garage for storage and a small workshop. The size is just 70' over code and the setback will not bother my neighbors.

Mr. McGuinness asked are you planning to put in a driveway to the new structure.

Mr. Cordell advised yes.

Mr. McGuinness asked will the design be similar compared to his home

Mr. Cordell advised yes.

Ms. Weeks asked for a motion to open the meeting for public comment. Motion by Ms. Hunter to open the meeting for public comments, motion was seconded by Mr. McGuinness. All yeas, motion carried.

Ricky George of Delay Court advised he is a neighbor and has no problem with the proposed garage, it will likely increase the value of the property.

Ms. Weeks asked for a motion to close the meeting for public comment. Motion by Mr. McGuinness to Close the meeting for public comments, motion was seconded by Mr. Madewell. All yeas, motion carried.

#### **Findings of Facts:**

Ms. Hunter read the findings of facts and after discussion the Board found that all were satisfied with this variance request.

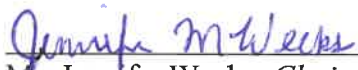
Mr. McGuinness made a motion to approve the accessory structure size variance at 448 Crestway Drive, motion second by Mr. Madewell. Voting: Ms. Weeks-yes, Mr. McGuinness-yes, Ms. Hunter-yes, and Mr. Madewell. Motion passed 4-0.

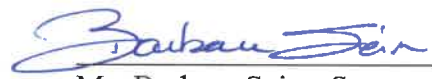
**VI. Next Meeting**

Mr. Dorman stated we do have one pending case, so we will have a meeting on Tuesday, June 7<sup>th</sup>.

**VII. End of Meeting**

There being no other business to come before the Board, Mr. Hunter moved to adjourn the meeting and Mr. McGuinness seconded the motion. Voting: Ms. Weeks-yes, Mr. McGuinness-yes, Ms. Hunter-yes, and Mr. Madewell. Motion passed 4-0. Meeting adjourned at 7:54 PM.

  
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Ms. Jennifer Weeks, *Chair*  
8/23/2022  
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Date

  
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Ms. Barbara Seim, *Secretary*  
August 23, 2022  
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Date