

COLERAIN TOWNSHIP BOARD OF ZONING APPEALS

Regular Meeting Minutes

4200 Springdale Road - Cincinnati, Ohio 45251

Wednesday, August 23, 2017 – 6:30 p.m.

Meeting called to order: 6:30 p.m.

Pledge of Allegiance was led by Mr. Roberto.

The Explanation of Procedures was presented by Mr. Roberto.

Roll Call: Mr. Bartolt – aye, Ms. Wilson – aye, Mr. Price – aye, Mr. Reininger – aye, Mr. Roberto - aye.

Also present were alternate Sam Hill and staff Jenna LeCount and Marty Kohler.

Swearing in: Mr. Roberto swore in the appellants, attorneys and all speakers in the cases.

Hearing of Appeals:

Case No.: BZA2017-11 - Variance request from Section 10.2.1(A)(4) which requires that accessory buildings be located on the same lot as the principal use which it serves; Section 10.2.1(A)(8) which requires that no accessory building occupy more of the lot area than the footprint of the principal building; Section 10.2.3(B) which restricts the height of residential accessory buildings to 15 feet; Section 12.2.1(B)(3) which specifies that the height of a building with a gable roof is measured at the mean height of the eaves and ridge of the roof.

Location: 11873 Stone Mill Road

Applicant/Owner: Dale and Sheri Lutz

Ms. LeCount said that this case was first presented at the June meeting and is continued to this meeting to give the applicant time to work on the consolidation of the two parcels of the property which would eliminate the need for one of the variance requests. The property is located on the north end of the Township. Ms. LeCount showed maps and photos of the property including the existing barn to be removed. The variance requests are for the additional height and size of the proposed garage. The proposed garage exceeds the maximum height by four feet and the maximum size by over 1,200 square feet based on the size of the house. Since the last meeting the applicant has provided a drawing comparing the size of the house to the size of the

proposed garage. The applicant also provided a diagram of the layout of the garage with the items to be stored in the garage drawn in. Staff is still recommending for denial of the request based on the findings presented at the June meeting.

With no questions for staff, Mr. Roberto opened the public hearing.

Dale Lutz, having been sworn, said that he understands the need for zoning but there needs to be some consideration for the neighborhood. This is not in a subdivision. They have almost 12 acres and they have lived there for 17 years. There are other large barns in the neighborhood. This not a typical neighborhood. There was a concern that there are two lots and the barn would be on a separate lot. This is not an area where they would sell a lot with just the barn. They have called numerous surveyors and the cost is high. They have a survey and it just needs to be filed with the County. There was a concern about the size of the barn compared to the house but the house is taller than the barn and it would be located behind the house so that it would not be seen. This is for current storage needs. It does not take up that much space on the property. It would not be seen by the neighbors. They have made many improvements to the property but the barn is in bad shape. It would look better to have their vehicles and equipment stored on the inside of the building rather than outside.

With no further people to speak in favor or against the proposal, a motion was made by Mr. Reininger and seconded by Mr. Price to close the public hearing.

Roll Call: Mr. Price - aye, Mr. Reininger - aye, Mr. Bartolt - aye, Ms. Wilson - aye, Mr. Roberto - aye.

Mr. Bartolt asked if the property owner could have multiple buildings on the property. Ms. LeCount said that there could be multiple buildings as long as the total size of all buildings does not exceed the footprint of the house. Mr. Bartolt noted that the code does not have a distinction between accessory buildings in subdivision verses in the country. He has no problem with the request so long as the two tracts are combined.

Mr. Reininger said that he appreciated the applicant's additional drawings and efforts to combine the parcels. He is concerned about the extent of the variances and that the factors usually consider things outside to the owner's control. The proposed building is much larger than the house.

Mr. Roberto asked staff about large horse barns that are in the Township. Ms. LeCount said that they are typically built with agricultural exemptions. Mr. Roberto asked the applicant if the building was going to be used for agricultural purposes. Mr. Lutz said that they do not use the property for commercial agricultural purposes. They have cars, property maintenance and recreation equipment. They also have some shop equipment.

With no further discussion a motion was made by Mr. Price and seconded by Mr. Bartolt to approve the variance requests with the exception of the variance for the separate parcel.

Roll Call: Mr. Price - aye, Mr. Reininger - nay, Mr. Bartolt - aye, Ms. Wilson - nay, Mr. Roberto - nay. The variance is denied.

Case No.: BZA2017-15 – request for variance from: Section 7.3.1 which requires that all new construction adhere to the setback standards outlined in Table 7.3.1; Table 7-2 which requires a minimum of a 30-foot front yard setback for new construction measured from the street right of way in the R-6 zoning district; Section 12.3.3 which allows unenclosed porches to extend up to 10 feet into the minimum required setback which would be 20 feet from the Pottinger Rd. right-of-way.

Location: 10426 Pottinger Road, Cincinnati, Ohio 45251

Applicant/Owner: David Meyer, Owner

Ms. LeCount said that the property is less than a half acre in size and contains a primary structure that was built in 1915 well before zoning was established. An accessory structure was constructed in 2005 with a variance to allow it to exceed the size of the primary structure. The proposal is to construct a covered porch on the front of the house and an addition to the rear of the house. A majority of the structure is located within the required front yard on the Pottinger Road side of the house. Ms. LeCount showed photos and maps of the property indicating the required setbacks. Covered porches are permitted to extend up to 10 feet into the required front yard, however the proposed porch extends five feet into the required setback. This is requested because of the need to cover the front door. The room addition is also mostly within the front yard setback, however it does not go further into the setback than the existing house. Other houses in the neighborhood comply with the setback standards but are much newer.

Staff Findings are as follows:

1. The property in question would likely yield a reasonable return without the variance. The property can reasonably be used as a single family dwelling within the limits of the zoning regulations.
2. The setback variances requested are substantial since the proposed building extends into the minimum side yard setback by about 47%.
3. The granting of the variances would grant a consideration that is not available to other property owners in the neighborhood.
4. The granting of the variances would probably not have a negative impact on neighboring property but would create a precedent to allow for additions if requested by neighboring property owners.
5. Approval of the setback variances would not affect the delivery of government services.
6. There are no topographic issues related to this property that would constrain the reasonable application of the setback regulations without additional expenses.
7. By taking into consideration the benefit to the applicant if the variance is granted, as weighed against the potential detriment to the health, safety and welfare of the neighborhood and broader community, staff finds that substantial justice would be done by granting the variances for setback of the proposed rear room addition and covered front porch.

Staff Recommendation is for approval of the variances as requested.

With no questions for staff, Mr. Roberto opened the public hearing.

David Myer, having been sworn, said that he has replaced a concrete porch on the front of the house. He wants to expand the previous rear addition by 18 feet. The neighbors do not object. The only reason he needs the variance is the house is old.

With no others to speak in favor or against the proposal, a motion was made by Mr. Price and seconded by Mr. Reininger to close the public hearing.

Roll Call: Mr. Price - aye, Mr. Reininger - aye, Mr. Bartolt - aye, Ms. Wilson - aye, Mr. Roberto - aye.

Mr. Reininger said that there is nothing that the owner can do to the house that is in compliance with the Zoning Resolution. The house was there before the neighborhood.

With no further discussion a motion was made by Mr. Price and seconded by Mr. Bartolt to approve the variances as requested.

Roll Call: Mr. Price - aye, Mr. Reininger - aye, Mr. Bartolt - aye, Ms. Wilson - aye, Mr. Roberto - aye. The variances are granted.

Case No.: BZA2017-16 – Change in Non-Conforming Use from Storage & Equipment to Machine Shop

Location: 3354 Galbraith Road

Applicant/Owner: Darrell Stahley / Stahley Family Limited Partnership

Ms. LeCount said that this is a request for a change of non-conforming use in an area that is surrounded by other non-conforming uses. The property is zoned R-7 multi-family residential and contains about 19 acres. There is a non-conforming mobile home park, convenience store and maintenance building on the property. The subject building has been used as a beverage bottling plant, gymnastics instruction center and storage. A portion of the building is a social center for the mobile home park that is proposed to be unchanged. The BZA approved a change to machine shop for the building in 2002 but the use was never established and has since expired. The previous conditions for approval of the machine shop were as follows:

1. That the use be limited to the proposed use and that any change in the use not be undertaken without the consent of the Colerain Township Board of Zoning Appeals.
2. That the use complies with the regulations and recommendations of the applicable development review agencies.
3. That outdoor storage be prohibited.
4. That hours of operation be from 6:00 am to 6:00 pm, Monday through Friday, and weekends on emergency basis only.

The proposed use and existing use are permitted in the B-3 and I-1 zones. Ms. LeCount showed photos and maps of the property. The building has sufficient parking for a machine shop. Staff findings are as follows:

1. The non-conforming use change requested is substantial since machine shops tends to be a more intensive use than storage and possibly gymnastics instruction.

2. The granting of the non-conforming certificate would not be likely to have a more adverse impact on the surrounding neighborhood than the previous business since apparently no complaints were received regarding that business.
3. The property in question would likely yield a reasonable return without the change of non-conforming use, however there is some practical difficulty using the property for the single family purpose for which it is zoned.
4. The building size is not being increased, however, the volume of business may be expected to increase.
5. Approval of the change would not affect the delivery of government services.
6. By taking into consideration the benefit to the applicant if the change is granted, as weighed against the potential detriment to the health, safety and welfare of the neighborhood and broader community, staff finds that substantial justice would be done by allowing the change of use.

Staff Recommendation is for approval of the change of the non-conforming use subject to the following conditions:

1. That the use be limited to the proposed use and that any change in the use not be undertaken without the consent of the Colerain Township Board of Zoning Appeals.
2. That the use complies with the regulations and recommendations of the applicable development review agencies.
3. That outdoor storage be prohibited.
4. That hours of operation be from 6:00 am to 6:00 pm, Monday through Friday, and weekends on emergency basis only.
5. That noise generated from the operations not be audible from adjacent properties.

With no questions for staff Mr. Roberto opened the public hearing.

Mr. Darrell Stahley, having been sworn, said that he had nothing to add to the staff presentation.

With no further people to speak in favor or against the proposal, a motion was made by Mr. Price and seconded by Mr. Bartolt to close the public hearing.

Roll Call: Mr. Price - aye, Mr. Reininger - aye, Mr. Bartolt - aye, Ms. Wilson - aye, Mr. Roberto - aye.

Ms. Wilson asked if there would be any modification of the building. Mr. Stahley said that there be no changes to the outside of the building.

Mr. Price asked why the machine shop was not done 15 years ago. Mr. Stahley said that his brother obtained the approval and then decided not to open due to his age. They want to make small machine parts that can be carried by hand and there would not be a crane in the facility. Mr. Price asked if there would be any solvents or hazardous materials stored on the property. Mr. Stahley said there will be no outside storage and inside solvents are biodegradable and contained units and there would be no painting.

Mr. Bartolt asked if there would be any exterior signs. Mr. Stahley said there would not be any signs because orders would be done through vendors that they know.

Mr. Reininger asked if there would be an exterior garbage disposal. Mr. Stahley said that they would use the dumpster for the mobile home park and that metal scraps would be recycled.

Mr. Roberto noted that he met Mr. Stahley on the site while taking pictures but there was no conversation regarding the use request. Mr. Roberto asked about the boat being stored on the property. Mr. Stahley said that it would be removed to comply with the outdoor storage requirement. Mr. Roberto asked about the possibility of oil spills into the site drains. Mr. Stahley said that the oil is contained within the machine.

With no further discussion a motion was made by Mr. Bartolt and seconded by Ms. Wilson to approve the change of non-conforming use subject to the conditions recommended by staff:

Roll Call: Mr. Price - aye, Mr. Reininger - aye, Mr. Bartolt - aye, Ms. Wilson - aye, Mr. Roberto - aye. The change of non-conforming use is approved subject to the recommendations by staff.

Approval of the minutes:

A motion was made by Mr. Reininger and seconded by Ms. Wilson to approve the minutes of the July 26, 2017 meeting.

Roll Call: Mr. Price - aye, Mr. Bartolt - aye, Ms. Wilson - aye, Mr. Reininger - aye, Mr. Roberto - Aye.

Unfinished Business: None

Next Meeting: Staff noted that there is a scheduling conflict for the September 27 meeting and that they would like to re-schedule the meeting for September 26. A motion was made by Ms. Wilson and seconded by Mr. Bartolt to re-schedule the meeting to September 26, 2017.

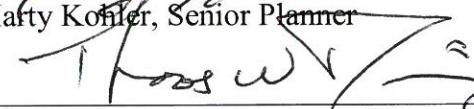
Roll Call: Mr. Price - aye, Mr. Bartolt - aye, Ms. Wilson - aye, Mr. Reininger - aye, Mr. Roberto - Aye.

With no further business the meeting was adjourned by Mr. Roberto at 7:22 pm.

Respectfully Submitted:



Marty Kohler, Senior Planner

Secretary:


Timothy A. Price, Secretary


Thomas W. Reininger

Accepted by:


Ronald J. Roberto, Chairman