

Joint Town/Village of Lima Zoning Board of Appeals Meeting

November 20, 2017

MEMBERS PRESENT:

John Bailey; Chairman, Jim Van Dick; Vice Chairman, Dennis Neenan, Duane Fuller, Steve Werner, Andy Matthews,

MEMBERS EXCUSED:

Duane Thompson.

ATTENDEES:

Charlie Johnson; Code Enforcement Officer, Cathy Gardner; Town Board Liaison.

GUESTS:

Joan Dodgson, Barbara Johnston, Cindy Depuy, Carol Edwards, Jonathon Grasso, Cathy Garelous, Gerald Donaght, Jeneane Sonoga, Jimmy Milne.

The meeting of the Joint Town/Village of Lima Zoning Board (The Board) was called to order at 7 pm on Monday, November 20, 2017 and opened with the Pledge of Allegiance.

OLD BUSINESS

Minutes

J. VanDICK made a motion to accept the minutes as submitted for the April meeting. D. Fuller seconded and all were in favor. Motion carried.

NEW BUSINESS

1519 Rochester Rd. – Joan Dodgson

Applicant reviewed her variance request with the Board stating that the accessory building had been there a long time and she wants to open a collectable shop with her sister. Parking will be provided behind the structure with enter/exit signs to be placed on the "U" shaped drive. She stated the neighborhood has commercial zoning across the street and this request will not change the neighborhood character. No changes are proposed to the building. She also stated that agri-businesses are allowed and functionally this would be similar.

Jim asked about the building's current status and was this request planned when purchased. Applicant stated that the building is vacant and she had no plans for the building at time of purchase.

Duane asked how long building has been vacant. 4 years was mentioned as a minimum.

Steve asked about location of parking. Applicant stated that parking would be behind the building.

Duane asked about parking on the street. Applicant stated that they will be vigilant about making people not park on the street. She also said that only about 2-3 people ever shopped at one time.

Steve asked if the property assessment would increase with a commercial use. If so taxes would likely go up and thereby reduce the income from the proposed business.

John Bailey opened the meeting to public comment.

Jeneane Sonoga asked about parking on the street with school kids close by and if this request were approved would it affect nearby properties.

Carol Edwards has no problem with this property being zoned commercial again and believes that parking concerns can be resolved.

Steve asked if applicant would rent to other vendors. She responded no.

Duane is concerned that granting variance would effectively create spot zoning.

John stated that variances go with the land and not applicant so the Board has to consider all potential commercial uses.

Dennis stated that applicant is not being denied use of her property as a residence.

The 5 balancing questions used in the variance process (and contained in the application) were discussed and input was specifically solicited from the applicant. As the Board continued discussion of these questions they found issues on three questions.

Question #1 asks if the current zoning denies the applicant reasonable return on their investment. Board found that there are other properties with accessory buildings. The single family residence is permitted and an agri-business is also permitted. Therefore zoning does not deny applicant of a reasonable return.

Question #2 asks if the hardship is unique to this property. Board found that there are other properties with existing accessory buildings that could have similar variance requests made. Therefore this property is not unique.

Question #4 asks if the hardship was self created. The Board found that the request was self created as the allowed uses were the same at time of purchase as today.

Various Board members expressed frustration at this application's proposed use being appropriate for this site but that the balancing criteria had not been satisfactorily met and the Board's hands were tied.

Applicant asked if she had any recourse. Steve suggested renting the building to an agri-business.

At 7:45 the Chairman closed the Public Hearing. The audience remained to witness the discussion and the vote.

D. Fuller made a motion to deny the variance based on the fact that the criteria have not been met. A. Matthews seconded the motion. The vote was all in favor. The motion to deny the variance passed.

1737 Parkside Place – Jonathan Grasso

Applicant reviewed his variance request to place an above ground pool too close to the rear yard property line. He stated that there was no location on his property for a pool that would not require a variance. He stated that due to the open space land behind his property the pool would not be visible.

Board asked about ownership of open space land and reviewed tax maps.

John noted that a pool is not a permanent structure.

Board reviewed placement of pool on the property to meet side yard setback and 10' behind rear wall of house as house has two rear walls.

Dennis stated that he does not believe that the smaller lot size, typical in the subdivision, is a basis for a variance request, but applicant is making a reasonable request.

The 5 balancing questions used in the variance process (and contained in the application) were discussed.

Question 1: considering that the side yard set back is met and the property has open space land in the rear the neighborhood character is not negatively affected.

Question 2: There are no feasible alternatives

Question 3: Based on a percentage the request is substantial (3' instead of 10') but in reality the request is not substantial.

Question 4: An above ground pool will not have any adverse impacts on the environment.

Question 5: The variance request is self created as the applicant purchased the property knowing the property dimensions.

John Bailey opened the meeting to public comment. Hearing none he closed the public hearing at 8:15.

J. Van Dick made a motion to approve the variance as requested with the condition that all other rules and regulations would be adhered to. S. Werner seconded the motion. The vote was all in favor. The motion to approve the variance passed.

OTHER BUSINESS

None

At 8:37 John Bailey adjourned the meeting.

Charlie Johnson; Secretary.