

CITY OF AURORA
BOARD OF ZONING APPEALS
MEETING MINUTES
August 14, 2019

The Aurora Board of Zoning Appeals met in a regularly scheduled meeting Wednesday, August 14, 2019, in the Council Chambers at City Hall. Chairman Terese Fennell called the meeting to order at 6:30 p.m.

ROLL CALL:

Present: Tom Carr
Terese Fennell, Chairman
Kevin Krane, Alternate
Jeff Iammarino, Vice Chairman
Steven Greenberger **arrived at 6:40

Absent: Tony Gramm

Also Present: Matt Vazzana
Denise Januska, Director, Planning, Zoning & Bldg. Division
Christine Gruttadauria, Secretary, Pro Tem

Mr. Vazzana swore in those in attendance who wished to speak this evening.

AMENDMENTS TO THE AGENDA:

Motion: To accept for consideration a photo regarding 780 E. Homestead Drive.

Mr. Iammarino moved; Ms. Fennell seconded and the motion carried on a 4-0 roll call vote.

Yeas: Mr. Iammarino, Ms. Fennell, Mr. Carr, Mr. Krane

Nays: None

Motion: To accept for consideration an Email from the Yorkshire Estates Homeowners Association regarding 90 Yorkshire Drive.

Mr. Krane moved; Mr. Iammarino seconded and the motion carried on a 4-0 roll call vote.

Yeas: Mr. Krane, Mr. Iammarino, Ms. Fennell, Mr. Carr

Nays: None

Motion: To accept for consideration three separate letters of support from the surrounding neighbors of 780 E. Homestead Drive.

Mr. Carr moved; Mr. Greenberger seconded and the motion carried on a 5-0 roll call vote.

Yeas: Mr. Carr, Mr. Greenberger, Ms. Fennell, Mr. Iammarino, Mr. Krane

Nays: None

Motion: To accept for consideration a drawing explaining drainage patterns at 90 Yorkshire Drive.

Mr. Carr moved; Mr. Greenberger seconded and the motion carried on a 5-0 roll call vote.

Yeas: Mr. Carr, Mr. Greenberger, Ms. Fennell, Mr. Iammarino, Mr. Krane

Nays: None

APPROVAL OF MINUTES:

Motion: To approve the meeting minutes of April 10, 2019, as submitted.

Mr. Iammarino moved; Mr. Greenberger seconded and the motion carried on a 3-0-2, voice vote.

Yeas: Mr. Iammarino, Mr. Greenberger, Ms. Fennell

Nays: None

Abstentions: Mr. Carr, Mr. Krane

Motion: To approve the meeting minutes of June 12, 2019, as submitted.

Mr. Iammarino moved; Mr. Carr seconded and the motion carried on a 3-0-1, voice vote.

Yeas: Mr. Iammarino, Mr. Carr, Ms. Fennell

Nays: None

Abstentions: Mr. Krane

Motion: To approve the meeting minutes of July 10, 2019, as submitted.

Mr. Carr moved; Mr. Krane seconded and the motion carried on a 3-0-1, voice vote.

Yeas: Mr. Carr, Mr. Krane, Ms. Fennell

Nays: None

Abstentions: Mr. Iammarino

OLD BUSINESS:

Lord Properties LLC – 300 N Bissell Rd. – Side Yard Setback Variances for a New Residence (1906015)

MOTION: To remove Lord Properties from the agenda. The applicant has withdrawn her request for a variance.

Mr. Carr moved; Mr. Iammarino seconded, and the motion carried on a 4-0 roll call vote.

Yeas: Mr. Carr, Mr. Iammarino, Ms. Fennell, Mr. Krane

Nays: None

NEW BUSINESS:

Joseph Stenger, 675 Deepwoods Drive – Height Variance for an Accessory Structure (1907018)

Joseph Stenger of 675 Deepwoods Drive attended the meeting to answer questions. Mr. Stenger is requesting a variance for the height of his proposed garage. He is requesting an additional six feet over the allowed fifteen feet. Mr. Stenger stated that he is requesting the variance so that his new garage has a visually aesthetic appearance to the existing home and garage. The existing garage is 19 feet tall and 22 feet wide. The proposed structure will be 28 feet wide. The applicant stated the additional height would complement his home as well. He is concerned that if he built the structure to conform to the code, it would cheapen the appearance. Mr. Stenger also stated that he would use the additional height for upper level storage. Ms. Fennell questioned the purpose of the structure. Mr. Stenger stated he would use the structure to store cars. She confirmed the applicant would not be running a business out of the new garage. Mr. Carr questioned if the doors would face the street. Mr. Stenger stated the overhead garage doors would face the backyard. Mr. Stenger further commented that his lot is mostly wooded and it would be difficult to see from the street.

Ms. Fennell opened the floor for public comment.

Jane Herbst of 619 Deepwoods Drive was present to make comments. Ms. Herbst stated that she walks by the property two to three times per day. She stated the structure would be partially obscured by existing trees, and that she is definitely in favor of the variance. Ms. Fennell asked if she had any concerns regarding the proposed Height. Ms. Herbst answered no.

Hearing no further public comment, Ms. Fennel closed the discussion to the public.

** Mr. Greenberger joined the meeting at 6:40pm.

The Board members discussed the application. Mr. Carr agreed with the staff comments and agrees that the variance is not substantial. He stated the essential character of the neighborhood would not be substantially altered. Mr. Iammarino agreed, as did Mr. Krane. Mr. Krane added that the garage would look better with the additional height. Ms. Fennel stated that she thought approving the variance would allow the garage to match the existing house. She stated that building a shorter garage would cause the applicant to lose the upper level storage. Mr. Iammarino verified that the Board was not aware of any neighbors against the variance.

MOTION: To grant the variance request that would allow a 21-foot tall accessory structure where the code states the maximum height shall be 15 feet.

Mr. Carr moved; Mr. Krane seconded, and the motion carried, 5-0, on a roll call vote.

Yeas: Mr. Carr, Mr. Krane, Ms. Fennell, Mr. Iammarino, Mr. Greenberger

Nays: None

Stephen Good – 780 E. Homestead Drive. – Accessory structure less than 15 feet from the principal structure (1907019)

Before hearing the applicant, Ms. Fennell questioned whether the applicant had the approval of the Homeowners Association. She explained that generally the Board requires HOA Approval before hearing any requests. She stated that it was up to the Board if they wanted to hear the request without the approval. She said it was possible to hear the variance request and possibly approve with conditions. The other option would be for the applicant to table the project until he could provide the HOA Approval. Mr. Vazzana confirmed the request could be heard but the vote would be contingent on HOA approval before the city could issue a permit. Mr. Carr confirmed that the approval given by the Board would have to be given with no conditions except the approval of the HOA. The applicant opted to move forward with his variance request.

Joe Bosze from Northfield Fireplace, 63 E. Aurora Rd., Northfield, OH 44067 attended the meeting to present the project and answer questions. Mr. Bosze is proposing to construct an outdoor pavilion, which would be located about 33 inches from the existing deck. Mr. Bosze stated that without the variance the proposed structure would be 3 feet long. It would be visually unappealing and would not be a usable space. Ms. Fennell asked if the pavilion could be relocated to an alternate space. Mr. Bosze stated that the fireplace is existing and the homeowner is looking to incorporate the fireplace into the proposed pavilion. Mr. lammarino confirmed the fireplace was existing. Mr. lammarino asked if there were any letters of support or opposition. The applicant stated he had three letters of support. The Board voted the letters into the record (see amendments). Mr. Carr asked if the fire department has viewed the plans and if the fire department has any concerns. Ms. Januska answered that the plans have not been shared with the fire department. The applicant stated that the existing fireplace is a gas fireplace, which produces lower temperatures. Mr. Carr stated that was helpful to know. Mr. Krane asked if there was a reason that the project had not received the approval of the HOA. Mr. Bosze stated that there was a miscommunication regarding the timeline for approval. In summary, Mr. Bosze stated that several homes in the area had similar structures and the structure would be custom built to complement the existing fireplace and patio. Mr. lammarino asked if the variance was required because of the distance to the house or to the existing deck. Ms. Januska stated that it was from the deck. The deck is attached to the home and is therefore considered part of the house.

There was no one present at the meeting to make public comment.

The Board members discussed the application. Mr. lammarino agreed with the staff report. He does not consider the variance substantial. Mr. Greenberger agreed with Mr. lammarino. Ms. Fennell stated the lot appeared large and noted that because of the existing fireplace, the construction of the pavilion without a variance would not be feasible. She agreed the variance did not seem substantial. Mr. Carr agrees with the other members. He noted that from a safety standpoint a gas fireplace is much safer. Mr. Krane agrees as well.

MOTION: To grant the variance to allow an accessory structure 3 feet from the

primary structure where the code states the minimum setback shall be 15 feet. Also, with the condition of Homeowner Association approval.

Mr. Iammarino moved; Mr. Krane seconded, and the motion carried, 5-0, on a roll call vote.

Yeas: Mr. Iammarino, Mr. Krane, Ms. Fennell, Mr. Carr, Mr. Greenberger

Nays: None

Marcis Liepins – 90 Yorkshire Drive – Side Yard Setback Variance for an Accessory Structure (1907020)

Marcis Liepins, homeowner was on hand to answer questions. Stacy Ogwin of 252 S. Main Street, Hudson also attended the meeting. Ms. Fennell explained to the applicant that his project also requires the approval of his homeowners association. Ms. Fennell gave the applicant the option to move forward and have the Board vote with a condition, or postpone the project until the HOA has given approval. Mr. Liepins elected to move forward and present his project to the Board.

The applicant is seeking two variances, it was determined the variances would be discussed together and voted on separately. Mr. Liepins is seeking approval for a side-yard setback on the west side of the house. Mr. Liepins is requesting a 5-foot variance to accommodate a planned accessory structure and a swimming pool. The applicant stated that without the variance he would be left with approximately 9 feet of space. This is not enough space to accommodate his accessory structure and a future fireplace. The second variance is in regards to the placement of the planned swimming pool. The applicant is requesting the pool to be located closer to the house than the 15 feet that the code allows. Ms. Fennell asked if the applicant considered a smaller pool or accessory structure. Mr. Liepins stated that the accessory structure would be the width of the house, and will provide shade. The proposed pool is 50 feet. Mr. Liepins stated that he plans to install a diving board, as well as other items for games. Shortening the pool would deprive the Liepins family of the full enjoyment of the pool. Mr. Carr questioned which neighbor was in support of the variance. Mr. Liepins stated it was the adjacent neighbor to the west. Mr. Iammarino questioned how drainage in the backyard would be effected. Mr. Liepins provided a drawing, explaining drainage patterns. The drawing was voted into the record (see amendments). The applicant stated that he currently has drainage issues in the back and by installing a swimming pool; he would solve his drainage issues. Mr. Liepins further stated that he is willing to work with his HOA to address their concerns and compromise if necessary. Ms. Fennell clarified that the cultured stone requirement and the fencing requirement are not issues the Board would consider. Mr. Iammarino noted that the letter that was received from the HOA does not look good for the applicant. Ms. Fennell reminded the applicant that if the variance requests were allowed, the applicant would still need HOA approval before he could begin his project. Mr. Liepins stated that he understood.

Ms. Fennell opened the floor for public comment.

Dennis Okuley of 59 Yorkshire was on hand to make public comment. Mr. Okuley is the president of the Yorkshire HOA. Mr. Okuley stated that the HOA has no objection to the

location of the pool. The association takes issue with the side yard setback. Ms. Fennell clarified point number one of the letter received from the HOA. She stated the letter indicated in the first point that the HOA would not support any variances regarding setbacks. She explained that the pool location would in fact require a setback. Mr. Okuley stated that their guidelines refer to side and rear setbacks. He further stated that based on the current information the HOA is not in favor of the side setback. He worries about setting a precedence. Mr. Okuley stated that the neighborhood consists of open spaces and does not want to see neighbors encroaching on each other. Without a solid reason for the variance request, he maintains that the HOA is not in favor. Mr. Carr clarified which setbacks the HOA had an issue with, and if the HOA considered the opinion of the neighbors. Ms. Fennell read a letter of support that Mr. Okuley had not yet seen. Mr. Iammarino noted that the applicant could remove the need for the side yard setback if he made the patio area smaller.

Missy Maxwell of 36 Lexington Way attended the meeting to provide public comment. Ms. Maxwell is the Vice President of the HOA. Ms. Maxwell stated that the homeowner on the other side of the applicant is not in favor of the variance. Ms. Fennell clarified if the neighbor was in attendance this evening, or if they had provided any documentation stating their position. Ms. Maxwell replied no to both questions. Ms. Fennell explained that the vote would take place this evening and that they could not consider information they did not have. Ms. Maxwell stated that her main concern is the size of the project as well as drainage. Ms. Fennell asked if Ms. Maxwell had seen the drainage proposal. The answer was no.

Hearing no further public comment, Ms. Fennell closed the discussion to the public.

Mr. Liepins stated that if he goes shorter, he would be left with a 6-foot area that would be unusable. He stated that the builder caused the drainage issue. He maintains that the installation of the pool will improve the drainage issue and enhance his property. Ms. Fennell asked if there had been any study done which would show if Mr. Liepins house is the cause of the drainage issue. Mr. Liepins stated that his understanding was the initial drainage issue with the neighbor came from a low driveway. The neighbor has rectified the majority of his drainage issues.

The board discussed the application. Ms. Fennell stated that the Board would discuss the side-yard setback first and then the location of the pool. Mr. Iammarino stated that he takes the opinion of the existing neighbors in to account for his decisions. He stated that if neighbors have negative opinions, it is their responsibility to convey that information to the Board. Lastly, he considers the opinions of the staff report. He agrees that the variance request is not substantial. He stated the project is large, but fits with the scale of the houses in the neighborhood. Mr. Krane agrees with Mr. Iammarino. He stated that the support of the neighbor carries a lot of weight with him. Ms. Fennell stated that the HOA email does not coincide with what they said during the meeting. She agreed that the approval of the neighbor that is most effected by the variance weighs heavily with her. She further stated that the proposed structure was designed to provide shade. If the structure were made smaller, it would not provide the desired shade, and would be pointless. She noted that the character of the neighborhood would not be substantially

altered by granting the variance.

Ms. Fennell stated that the second variance, which speaks to the location of the pool, does not seem substantial. She stated that the proposed location only effects the homeowner. Mr. Iammarino questioned if a fence is required. Ms. Januska confirmed and noted that the fence could go on the property line.

MOTION: To grant the variance request to allow a residential addition with a 10-foot side yard setback, where the code states the minimum side yard setback shall be 15 feet. Also, with the condition of Homeowner Association approval.

Mr. Krane moved; Mr. Iammarino seconded, and the motion carried, 5-0, on a roll call vote.

Yeas: Mr. Krane, Mr. Iammarino, Ms. Fennell, Mr. Carr, Mr. Greenberger

Nays: None

MOTION: To grant the variance request that would allow an accessory structure 9 feet from a primary structure, where the code states the minimum setback shall be 15 feet. Also, with the condition of Homeowner Association approval.

Mr. Carr moved; Mr. Greenberger seconded, and the motion carried, 5-0, on a roll call vote.

Yeas: Mr. Carr, Mr. Greenberger, Ms. Fennell, Mr. Iammarino, Mr. Krane

Nays: None

RP Gatta – 435 Gentry Drive – Side Yard Setback Variance for an Accessory Structure (1906017)

Bob Ready of Curtis Layer Design 340 Harris Drive, Aurora, attended the meeting to present the project and answer questions. Mr. Ready is requesting two variances. The applicant stated that they are planning an addition to current office space and production area. Mr. Ready is requesting a side yard setback to allow for parking. Mr. Ready explained that a right-of-way was included in the original development plan. He stated that the development did not pan out. He stated that the right-of-way in question is a space a road will never go.

Mr. Ready explained the second variance is for a rear yard setback. He stated that when the building was originally constructed, the setback requirement was ten feet. He is requesting the variance to keep the rear yard flush with the existing building. It was determined the variances would be discussed together and voted on separately.

Ms. Fennell asked if the addition were constructed smaller, would it be able to accommodate the needs of R.P. Gatta. Mr. Ready replied that the company needs all the space they can get and already have plans for a future addition. Mr. Iammarino asked if the parking setback were approved would the trees have to be removed. Mr. Ready stated that they are investigating the possibility of relocating the trees. Ms. Januska noted that the Planning Commission has accepted the plans for study. She stated that this includes

a landscape plan. Ms. Januska also noted that there was an error on the staff report. She stated that the department had meant to say that the variance could **not** be feasibly solved through another method other than granting the variance.

There was no one present at the meeting to make public comment.

The board discussed the application. Ms. Fennell stated that the property is located in the Industrial area. She did not think the variances were substantial. She stated that the addition would look out of place if the rear yard variance were not granted. Mr. Greenberger stated that the variance did not seem substantial. He stated that the building appeared to be in line with other structures in the Industrial area. He also stated that he liked the revenue the company generates for the city. Mr. lammarino agreed with the comments of Ms. Fennell. Mr. Krane agreed as well.

MOTION: To grant the variance to allow off street parking 16 feet from the public right-of-way, where the code states the minimum parking set back is 35 feet.

Mr. Carr moved; Mr. Greenberger seconded, and the motion carried, 5-0, on a roll call vote.

Yeas: Mr. Carr, Mr. Greenberger, Ms. Fennell, Mr. lammarino, Mr. Krane

Nays: None

MOTION: To grant the variance to allow a 10-foot rear yard setback, where the code states the minimum rear yard setback shall be 29 feet.

Mr. lammarino moved; Mr. Greenberger seconded, and the motion carried, 5-0, on a roll call vote.

Yeas: Mr. lammarino, Mr. Greenberger, Ms. Fennell, Mr. Carr, Mr. Krane

Nays: None

ILPEA Industries – 1300 Danner Drive – (1907021)

Bob Ready of Curtis Layer Design 340 Harris Drive, Aurora, attended the meeting to present the project and answer questions. Mr. Ready is requesting three variances. The applicant is proposing a 32,000 square foot warehouse addition, on the south side of the building. Six loading docks and a small parking area are also being proposed. Mr. Ready stated the loading docks would face the street and trucks would need to use Danner Drive to back in for loading and unloading. Ms. Fennell questioned if allowing the variance for trucks to use the right-of-way would cause a safety issue for employees. Mr. Ready stated that the majority of employees do not park near that area. He also stated that trucks currently use the road to maneuver in to the loading docks. Ms. Fennell asked if the employees would have cause to walk near this area, or if this is where a smoking area would be located. Mr. Ready stated there are sidewalks present and the smoking area is located away from the loading docks. Mr. Carr stated that he had a hard time determining exactly where the addition would be located. He requested additional information for future projects. Ms. Januska stated that in the future, the Building Department could provide additional information as they typically have the full plan for Planning Commission.

Ms. Fennell opened the floor for public comment.

Mike Orazen of 1205 Danner Drive was on hand to make public comment. Mr. Orazen stated that he owns two properties near the applicant. He stated that the industrial park was well planned and well maintained. He noted that the requested variance would have a negative effect on the area. He also stated that the proposed location of the six loading docks is a safety issue. He is not in favor of the variances.

Hearing no further public comment, Ms. Fennel closed the discussion to the public.

The board discussed the application. Ms. Fennell stated each variance would be discussed separately. The first variance, the off-street parking located in the setback along the north property line was discussed. Ms. Fennell stated that the variance did not seem substantial. The other members agreed with her comment.

The second variance addresses the request for six loading docks, where two are permitted. Mr. lammarino asked how the city determined that two docks were allowed. Ms. Januska stated the code was initiated in 2000. She was unaware of the reasoning. She further stated that part of the reason the loading docks need to face the street is because the property is adjacent to a flood plain. Ms. Januska stated that technically the applicant could apply for a flood plain variance, but typically, they are not granted if there is another variance that could be granted. She noted that the information has been forwarded to both the fire chief and the police chief for comments. She has not received any feedback to date. Ms. Fennell asked if the six loading docks would be permitted if they were not facing the street. Ms. Januska confirmed, and noted that the six loading docks would be required due to the square footage of the building and proposed addition.

Daniel Graves of 3799 Webb Road, Ravenna Township, was sworn in, and commented on the loading docks. Mr. Graves attended the meeting to represent ILPEA Industries. Ms. Fennell questioned why the operation needed six loading docks. Mr. Graves stated that the company currently has four loading docks and with the expansion of the business, the extra loading docks are necessary. Mr. Graves gave a brief overview of the business and the project. Ms. Fennell asked for his thoughts on the safety issues associated with the trucks backing into the street. Mr. Graves noted that he understood the concerns, but did not see an alternate solution to accommodating the delivery trucks. He stated that some trucks currently use the right-of-way to maneuver into the docks. Mr. Ready noted that the loading docks would be located 130 feet from the road.

Mr. Carr stated that he does not see an alternate solution without obtaining a wetland variance. The third variance, which requests the use of the public right-of-way for backing trucks into a loading dock, goes hand in hand with the second variance. Ms. Fennell stated that she understood the safety concerns of the neighbor. She further stated that because of the location of the wetlands, it made it difficult to relocate the loading docks. She noted that if the variance was not granted the business would still have two existing loading docks that face the street. Mr. lammarino stated that he appreciates the comments from the neighbor, and factors those concerns into his decision. He further noted that the industrial area is important to the city and he would weigh that as a factor

as well. Ms. Fennell asked Mr. Vazzana to read the variances.

MOTION: To grant the variance to allow a parking area 14 feet from the public right-of-way, where the code states the minimum setback shall be 35 feet.

Mr. Krane moved; Mr. Greenberger seconded, and the motion carried, 5-0, on a roll call vote.

Yeas: Mr. Krane, Mr. Greenberger, Ms. Fennell, Mr. Carr, Mr. Iammarino

Nays: None

MOTION: To grant the variance to allow six dock doors facing a right-of-way, where the code states the maximum allowed is two.

Mr. Iammarino moved; Mr. Greenberger seconded, and the motion carried, 5-0, on a roll call vote.

Yeas: Mr. Iammarino, Mr. Greenberger, Ms. Fennell, Mr. Carr, Mr. Krane

Nays: None

MOTION: To grant the variance to allow the use of a public right-of-way when backing into a loading dock, where the code states that truck loading and unloading shall not interfere with the public convenience.

Mr. Greenberger moved; Mr. Iammarino seconded, and the motion carried, 4-1, on a roll call vote.

Yeas: Mr. Greenberger, Mr. Iammarino, Ms. Fennell, Mr. Krane

Nays: Mr. Carr

MISCELLANEOUS:

None

ADJOURNMENT:

Ms. Fennell called for a voice vote to adjourn at 7:51 p.m. All members were in favor of adjournment.

Terese Fennell - Chairman

Chris Gruttadauria – Secretary, Pro Tem