

**YELLOW SPRINGS BOARD OF ZONING APPEALS  
MINUTES**

**In Council Chambers**

**March 24, 2004**

**CALL TO ORDER**

Chairperson Huntington called the meeting to order at 7:02 p.m.

**ROLL CALL**

Lee Huntington, John Butz, Ted Donnell, Deborah Wilson and Andrew Brouard were present. The Zoning Administrator Phil Hawkey was also present.

**REVIEW OF AGENDA**

There were no changes to the agenda.

**PUBLIC HEARINGS**

(1). Hawkey's memo stated the following: "Benjamin Boose, 118 Marshall Street, requests a variance to the maximum size limitation for accessory buildings on residential lots. His plan shows a 768 square foot detached garage. Otherwise he would be limited to 600 square feet. The property, parcel F19000100080029600, is a Residence "B" District. Code reference – Sections 1242.06(d) and 1278.02 (d)."

Hawkey explained that after receiving a high price estimate and reevaluation of his project, Boose has withdrawn his request.

(2) Hawkey's memo stated the following: "Roy Eastman requests a special exception to permit the one-time enlargement of an existing nonconforming building at 708 S. High Street. The plan shows a 25 by 21.5 foot existing slab at the southwest corner of the building enclosed. The property, parcel f19000100080035400, 35300 & 35200, is in a Residence "B" District. Code reference – Sections 1242.06(e)(1)(E), 1266.03(e) and 1266.07 (c)."

Eastman would remove the existing greenhouse and plant bushes along the High Street side of the parking area to improve off street parking. Eastman has owned the property for the last twenty years.

Huntington questioned the language in 1242.06(e)(1)(E) regarding the ownership of the property. Hawkey explained that at the time the building became nonconforming, the property where the addition would be built was part of the parcel and owned by Eastman. He added that the property was not two separate parcels but one larger piece.

Butz stated that he did not have a problem with Eastman's request.

Resident Bruce Rickenbach stated that he had been mailed a notice regarding the Boose property. He went on to say that the letter instructed residents to come to Council Chambers to review a complete copy of Boose's application from the Clerk. He stated that he was aware the Clerk was out of the office because of health issues but felt that this should not impeded the access to the information by the public. He felt that the BZA should be aware of this. Hawkey explained that if Rickenbach had come to him we would have given him the information. Rickenbach stated that he knew that but that was not the issue. He added that the information might be available from the Planner's office but that was not what the notice had said.

Wilson hopes that this is not the case and that if it is, it would be corrected. Hawkey explained that the Clerk would be creating the minutes from the tape and would be aware of this discussion.

Huntington asked if anyone would like to make a motion regarding the special exception on the Eastman property?

Butz MOVED that the special exception request be granted. Donnell  
SECONDED.

Wilson believes that this would be an improvement on the property and supports the request.

Eastman stated that he liked the location and has intentions to remain in that location. He might reconsider relocating if and when the commerce park is developed. The roll was called on the motion. The MOTION PASSED UNANIMOUSLY.

(3) Hawkey's memo stated the following: "Gil and Pat Stempfily request a variance to the minimum rear yard requirement at 890 Wright Street to connect the new home they are building to a detached garage 13 feet 10 inches from the rear (west) property line. Otherwise all structures connected to the main building would need to be set back 30 feet. The property, parcel F19000100050005100, is in a Residence "B" District. Code reference – Sections 1240.09(1), 1242.06(d), 1250.02 and 1278.02 (a)."

The connection would be a 4' x 15' connecting hall. The hall would be of the same construction as the main building.

Hawkey stated that he was unable to give approval for this request because by attaching the hall to the garage it would become one structure and then would be subject to the 30' rear yard requirement.

Butz stated that he could not tell how far it would encroach the set back on the map. Hawkey the set back requirement is 30' and they would be at 19-1/2'.

The neighbors have made no complaint or show any concern about the request.

Huntington asked what happened that changed this from the original drawing? Hawkey explained that they are moving it further away from the property line. Huntington asked if they could make the garage smaller. Hawkey stated "not really". He suggested that the Stempfily's explain the changes and the reasons why they have chosen this revised plan.

Gil Stempfily stated that the tree they would like to save was measured at 91' on the original plan but when it was measured again it was 94'. Stempfily added that in order to accommodate the tree the building had to be moved and the garage is as close to the tree as possible, which is about 7-1/2'. This is as close as the garage can safely be placed without causing harm to the tree. The garage was redesigned somewhat smaller.

Wilson asked if placing the garage so close to the tree would cause damage in the future. Pat Stempfily stated they have had the Tree Committee out to look at all of the trees and this was the only way they could accommodate the tree and have a garage.

Huntington suggested that the house could be moved closer to Wright Street. Hawkey added that if the house were moved closer to Wright St. the Stempfily's would have an additional ten feet.

Pat Stempfily explained that because they also planned to develop a labyrinth they want the house placed as it is on the plan. There was also cement footprint where the original house stood and some of the slab also has been removed. If the house were moved further east it would minimize the size of the labyrinth. A fire prior to the Stempfily's purchasing the property destroyed the original house.

Audience member Bruce Rickenbach citing that this was a corner lot, what is the front versus the side set backs? Hawkey explained the lot is sealed off by row of green hedge along South College St.

Huntington asked were there any special conditions that have to be met that the Board would want addressed.

The Board further discussed the placement of the labyrinth, the trees, the placement of the proposed house and the connector from the house to the garage.

Hawkey suggested that if the Board approves this request he would make a recommendation that conditions be added to the approval. Hawkey recommended that no additional building onto the property be permitted.

Huntington remarked that the Stempfily's had made a well intention plan.

Brouard stated that if they want to save the tree there could be another way to configure the garage. Since this structure has not been built, possibility of repositioning the structure could be considered.

The Board briefly discussed the definition of the corridor and what if any guidelines exist regarding this type of structure. Donnell explained that it would open Pandora's box to call this corridor a structure. He added that a trellis could be called a

structure. Donnell further added from an architect's point of view this is not a livable space it is simply a walkway.

Huntington agreed that if approved that conditions or a caveat should be added.

Butz MOVED that the Stempfly's request for the passageway is approved. Wilson SECONDED the MOTION. Hawkey offered an amendment to the MOTION. His amendment asked that not be identified as living space or increased in anyway beyond 5'. Butz accepted the amendment to his MOTION. The MOTION PASSED, 4-1 with Brouard giving a no vote.

#### **REVIEW OF MINUTES**

**March 20, 2003.** The minutes were approved by consensus as amended.

**January 7, 2004** The minutes were approved by consensus as amended.

#### **SCHEDULING OF MEETINGS**

The Board agreed to hold their hearings on the third Wednesday of the month.

The Board also agreed that they would like to continue to receive copies of the Planning Commission minutes.

#### **ADJOURNMENT**

Butz MOVED and Brouard SECONDED a MOTION to ADJOURN. The MOTION PASSED UNANIMOUSLY.

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Lee Huntington, Chairperson

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Deborah Benning, Recorder

**A full and complete set of these minutes is available for review electronically by audio. These tapes are kept permanently and can be requested by referencing the date of the Board of Zoning Appeal hearing.**