

**VILLAGE OF YELLOW SPRINGS
BOARD OF ZONING APPEALS
MINUTES**

Virtual Meeting @ 6:00 P.M.

Wednesday, January 27, 2021

CALL TO ORDER

The meeting was called to order at 6:00 p.m. by Dino Pallotta, Acting Chair.

ROLL CALL

Dino Pallotta, Chair, Anthony Salmonson, Matt Reed, and Alternate Richard Zopf were present. Zoning Administrator for the Village, Denise Swinger, was present. Solicitor Breanne Parcels was also present.

REVIEW OF MINUTES

Minutes for BZA Meeting of November 18, 2020. Zopf MOVED and Salmonson SECONDED a MOTION TO ADOPT THE MINUTES AS WRITTEN. The MOTION PASSED 5-0 on a voice vote.

Zopf MOTIONED Salmonson SECONDED, Reed ABSTAINED, passed on 3-0 roll call vote

COMMUNICATIONS

There were no communications.

REVIEW OF AGENDA

There were no changes made.

PUBLIC HEARINGS

1) Variance Application – R-C, High Density Residential District – 143 E. Limestone Street - Gavin Leonard has submitted an application for a variance seeking relief from the square footage minimum requirement for an Accessory Dwelling Unit. Chapter 1262.08 Conditional Use – Specific Requirements Section (e)(1)(D); Chapter 1260 General Provisions Section 1260.01(a)(6).
Greene County Parcel ID #F19000100090025200

Salmonson asked if this is an existing structure and is grandfathered in, why it still needed a variance. Swinger clarified that the variance is on the change of use, for an Accessory Dwelling Unit. The square footage limit is 800 square feet for ADUs, and the applicant requested to use 951 square feet.

Zopf asked if the Zoning code from 1991 allowed for larger accessory structures, he noted that the addition added that year to the accessory structure put it over the limit in the current Zoning code. Without the addition, he noted the existing structure originally built in 1900 would be in compliance. Swinger stated that the Zoning code from that year was not reviewed, it was not applicable to the application as the applicant is asking for a variance on the dimensional requirement for the change of use.

Swinger summarized that the footprint of the accessory structure is 950 square feet according to Greene County. The architect, Ted Donnell of Axis Architecture indicated to Swinger that it is an incorrect measurement, and measured 1,127 square feet. Not the entire area will be used for dwelling, the porch will be left as a 3 season room, unheated, and there will be a storage area. The total square footage for the ADU would be 951 square feet, for a total variance request of 151 square feet.

Zopf asked if the entrance could be recessed and reduce the living space to meet or be closer to 800 square feet. Swinger noted that it is possible, however if they reduced to 800 square feet, by the time the remodels were complete they may have lost more square footage and come in under 800, which could also happen if they start with 951 sq. ft.

Ted Donnell summarized that Axis Architecture was commissioned to do a study on the space to determine viability and get permit approval for an ADU. No actual architectural plans have been created, to avoid committing resources in the chance that the project could not proceed.

Gavin Leonard summarized his goal for the space is to provide a habitable space to allow family to stay in for half of the year, and to rent short term on AirBnB.com for the remainder of the year. He stated when looking at the space it made sense to use the existing foot print, and noted that if they were seeking to maximize the space they'd convert the storage and 3-season room into habitable space as well. However, in the interest of getting approved for the change of use, those spaces were removed, but to make a concerted effort to reduce the living space more than that will affect the arrangement of the space negatively.

Zopf asked what constitutes as a small change or variance. Swinger stated that the Zoning code allowed up to 50% of a variance, and the variance requested in this case would be 20%. Parcels stated this will be determined by reviewing the Duncan Standards, and determined by the Board.

Ted Donnell added that while they could reduce the square footage inside to 800 square feet, it would still have no bearing on the exterior both in appearance, character, and impact on the neighborhood.

Zopf stated that the larger the dwelling is inside, the more people could occupy it, and the code is written to make ADU's smaller than the primary dwelling. Swinger stated Planning Commission determined that the ADU meets all other requirements, it is one bedroom, with a kitchen and bathroom, and there is six parking spaces available for the primary and accessory dwellings.

Pallotta stated that no communications were received and no complaints were received. Swinger pointed out that there were two letters of support from local residents, though they were not immediate neighbors. Pallotta asked if there used to be a business inside the accessory structure, Leonard confirmed there used to be a summer camp there before he purchased it.

Pallotta stated that with the TGL permit that was approved, as well as the approval for the ADU at Planning Commission, that all concerns about neighbors and the neighborhood have been reviewed and addressed, and he surmised that this application is not a significant change.

Behrens stated there was only one neighbor concern in a letter sent to PC at the November 18th meeting, and the concern was parking as the person owned a multi-family across the street, which the residents relied on street parking.

Pallotta OPENED THE PUBLIC HEARING.

There being no comment, Pallotta CLOSED THE PUBLIC HEARING.

Parcels read the Duncan Standards as follows, with some discussion of each, and called the roll on each.

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance; Pallotta; Yes, Zopf; Yes, Salmonson; Yes, Reed; Yes.
- (2) Whether the variance is substantial; Pallotta; No, Zopf; No, Salmonson; No, Reed; No.
- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance; Pallotta; No, Zopf; No, Salmonson; No, Reed; No.
- (4) Whether the variance would adversely affect the delivery of governmental services such as water distribution, sanitary sewer collection, electric distribution, storm water collection, or refuse collection; NOT APPLICABLE.
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction; Pallotta; No, Zopf; Yes, Salmonson; No, Reed; No.
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; Pallotta; No, Zopf; Yes, Salmonson; Yes, Reed; Yes.
- (7) Whether the existing conditions from which a variance is being sought were self-created; Pallotta; Yes, Zopf; Yes, Salmonson; Yes, Reed; Yes.
- (8) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Pallotta; Yes, Zopf; Yes, Salmonson; Yes, Reed; Yes.

Pallotta MOVED TO APPROVE the Variance, Reed SECONDED.

Salmonson motioned to AMEND THE MOTION to APPROVE the Variance of not more than 151 square feet, Zopf SECONDED. The MOTION to AMEND PASSED on a 4-0 ROLL CALL VOTE.

The MOTION to APPROVE the Variance AS AMENDED PASSED 5-0 on a ROLL CALL VOTE.

AGENDA PLANNING

There were no future agenda items.

ADJOURNMENT

There being no further business, Zopf MOVED, and Salmonson SECONDED a MOTION to adjourn. The MOTION PASSED 4-0. Meeting ADJOURNED at 6:29 PM.

Dino Pallotta, Chair

Attest: Raven Behrens, Deputy Clerk