

**Minutes of the Board of Zoning Appeals
August 4, 2021
City of Huber Heights**

- I. Vice Chair Eva Newby called the Meeting of the City of Huber Heights Board of Zoning Appeals to order at 6:30 p.m.

- II. Roll call was taken. Present were Mr. Davidson, Mr. Deam, Mr. Mach, and Ms. Newby.

Members Absent: Mr. Stewart.

Staff present for this meeting: Don Millard, Code Enforcement Administrator, and Geri Hoskins, Planning & Zoning Administrative Secretary.

III. Approval of Agenda

Motion made by Mr. Davidson to approve the agenda. No roll call needed for approval of agenda.

IV. Swearing of Witnesses

Ms. Newby explained the proceedings for tonight's meeting and swore in all applicants and persons wishing to speak tonight. All present responded in the affirmative.

V. Old Business

1. None

VI. New Business

1. BZA Case 21-09

The applicant, Jean Weaver, is requesting a variance from Section 1191.01 – Accessory Building Location for an accessory structure. Property is located at 4894 Fishburg Road.

Mr. Millard stated that the applicant is requesting a variance of the City of Huber Heights Zoning Code pertaining to the **location of a non-permitted, existing accessory building.**

Section 1191.01 of the Huber Heights Code requires location of an accessory building in a rear yard not within 5-feet of a property line or any other building.

The applicant has installed a storage building in the west side yard and against the west property line. The building was installed without the Zoning Department's knowledge as no zoning certificate was applied for. Upon observing an unfamiliar building in place, a Code Enforcement officer initiated a violation. The property owner became aware of the unacceptable location and the need to obtain a permit after the violation notice was received from the City. At that time Ms. Weaver came to City Hall to find out what her

options are. She stated having recently relocated from another area she was unaware of a need to obtain a permit for the building.

The property has an extremely shallow rear yard since the house sits at an angle to the street, so placement in the rear yard would have been a challenge. There are houses throughout the City's earliest built plats that are placed in the same fashion and who would have the same challenges. It's likely the building would have encroached into the same easement and within the required 5-foot separation from the house and the property lines, had it been placed in the rear yard.

The applicant therefore requires a variance from section 1191.01.

The Zoning Dept. has no issues with the granting of this variance.

Staff Analysis

Lot: The lot is approximately .25 acres.

Easement: The current placement is within a 10-foot easement however no City utilities are located within the easement

Structure: Storage building.

Placement: West side yard at property line.

Engineering: The Engineering Department did not have comments on this variance request.

Board Discussion

Mr. Mach asked if it was too close to the fence. Mr. Millard responded no, not an issue. Mr. Davidson asked about being 10 ft to house and Mr. Millard stated only need 5 ft. Mr. Davidson also stated that most shed sellers tell you to be sure and get a permit. Board then discussed where else it would fit on property and the size of the shed. Mr. Millard also stated that the applicant is aware of the need for a permit. He advised not to apply until variance was approved.

Action

Mr. Davidson moved to approve the requested variance. Seconded by Mr. Mach. Roll call showed: YEAS: Mr. Davidson, Mr. Deam, Mr. Mach, and Ms. Newby. NAYS: None. Motion to approve carried 4-0.

Variance Standards

A. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. Answer: Yes.

B. Whether the variance is substantial. Answer: No.

C. 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. Answer: No.

D. Whether the variance would adversely affect the delivery of governmental services such as water, sanitary sewer, or garbage removal. Answer: No.

E. Whether the property owner purchased the property with the knowledge of the zoning restriction. Answer: No.

F. Whether the property owner's predicament feasibly can be obviated through some method other than a variance. Answer: No.

G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Answer: Yes.

2. BZA Case 21-10

The applicant, Stephanie Lawson, is requesting a variance from Section 1181.11(b) – to locate a pool in secondary front yard. Property is located at 6091 Jennagate Lane.

Mr. Millard stated that The property owner is requesting a variance of the City of Huber Heights Zoning Code pertaining to the **location of a swimming pool on a corner property.**

Section 1181.11 (b) states: The pool shall be located in the rear yard and not be located closer than ten feet to any property line. Such distance shall be measured from the edge of the pool..."

Section 920.01 states: *Front Yard, Rear Yard and Side Yard* shall have the same definition as set forth in [Chapter 1123](#) of the Huber Heights Codified Ordinances. **Provided, however, in the event a lot is on a corner such that both a front yard and side yard abut a street, the side yard that abuts a street shall also be considered a front yard for purposes of this chapter.**

The applicant wishes to install a swimming pool that **will encroach into their secondary frontage on Charlesgate Rd.**

The applicant therefore requires a variance from section 1181.11(b).

The Zoning Dept. has no issues with the granting of this variance.

Staff Analysis

Lot: The lot is approximately .26 acres and occupies the corner.

Easements: A 15-foot easement with a city utility south of the sidewalk on Charlesgate and a 10-foot easement along the west property line will be impacted by this project.

Structure: Swimming Pool.

Placement: Proposed for rear and secondary front yard.

Engineering: There is a 15-foot City utility easement on the south side of the sidewalk of Charlesgate wherein lies an 8-inch sanitary main. The attached aerial map shows the sanitary sewer main as a green line with a manhole at the west edge of the property. The Engineering Department has no issue with this proposal since the pool stays well outside the easements.

Board Discussion

Mr. Davidson asked about the distance between pool and fence and Mr. Millard stated no regulation.

Ms. Stephanie Lawson asked if there were any questions for her.

Action

Mr. Deam moved to approve the requested variance. Seconded by Mr. Davidson. Roll call showed: YEAS: Mr. Davidson, Mr. Deam, Mr. Mach, and Ms. Newby. NAYS: None. Motion to approve carried 4-0.

Variance Standards

- A. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. Answer: Yes.
- B. Whether the variance is substantial. Answer: No.
- C. 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. Answer: No.
- D. Whether the variance would adversely affect the delivery of governmental services such as water, sanitary sewer, or garbage removal. Answer: No.
- E. Whether the property owner purchased the property with the knowledge of the zoning restriction. Answer: No.
- F. Whether the property owner's predicament feasibly can be obviated through some method other than a variance. Answer: No.
- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Answer: Yes.

VII. Additional Business

None.

VIII. Approval of the Minutes

Without objection, the minutes of the July 7, 2021, BZA meeting are approved.

IX. Upcoming Meetings

September 1, 2021

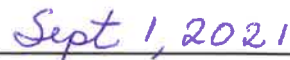
October 6, 2021

X. Adjournment


There being no further business to come before the Board, the meeting was adjourned at approximately 6:55 p.m.




Eva Newby, Vice Chair



Date



Geri Hoskins, Administrative Assistant



Date