

**Minutes of the Board of Zoning Appeals
September 1, 2021
City of Huber Heights**

- I. Chair Don Stewart 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, Ms. Newby, and Mr. Stewart.

Members Absent: None.

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

Mr. Stewart 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 21-11

The applicant, Shawn Whittemore, is requesting a variance from Section 1191.01 – Accessory Building Location for an accessory structure in the side yard. Property is located at 4574 Pimlico Place.

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 newly permitted 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 of his property.

A Zoning application for the structure was applied for and issued based on the application sketch showing the proposed shed being located in the rear yard; you have a copy of that original paperwork in your packet.

Upon expiration of the permit, Officer Seagraves drove to the property and observed a building placed in the side yard. As a result, contact was made with the owner who was then advised the location was not satisfactory and not as illustrated on the permit application. Relocation to the rear yard is required to be compliant with code and then receive final approval.

The owner wishes to have the building remain in the side yard.

The applicant therefore requires a variance from section 1191.01.

Lot: The lot is approximately .25 acres.

Easement: A 6-inch water main is installed along the west property line. A 10-foot easement exists with 5-feet extending onto this property.

Structure: Storage building.

Placement: West side yard.

Engineering: The Engineering Department requires any structure to remain outside of a City easement.

Board Discussion

Mr. Stewart asked about the drainage to the north corner, yard is sloped. Will this prevent moving the shed? Mr. Millard stated that the Engineer does not want it to block any drainage.

Mr. Shawn Whittemore stated when he applied for the Accessory Building permit, his yard was not represented in the package. He did believe that from the corner of his house straight back was his backyard. He has already poured concrete in the middle of the yard. He doesn't agree with the City's backyard ordinance. Mr. Millard then read the ordinance 1123.119, Rear lot line & foundation line of building. Mr. Whittemore then said he has an irregular lot, house not square on the lot, he thought this was in his backyard. Ms. Newby asked didn't you come back and revise when you saw the permit request. Mr. Millard explained the permit had expired. Mr. Whittemore said he didn't know about the final inspection. Mr. Davidson brought up the application discrepancy. Mr. Whittemore said he misinterpreted what he was looking at. Ms. Newby asked about calling for inspection with the concrete and Mr. Millard said that was not necessary on-premise concrete.

Action

Mr. Mach moved to approve the requested variance. Seconded by Ms. Newby. Roll call showed: YEAS: None. NAYS: Mr. Davidson, Mr. Deam, Mr. Mach, Ms. Newby, and Mr. Stewart. Motion to approve failed 5-0.

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

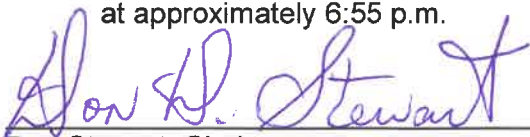
Without objection, the minutes of the August 4, 2021, BZA meeting are approved.

IX. Upcoming Meetings

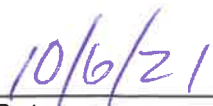
October 6, 2021

X. Adjournment


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



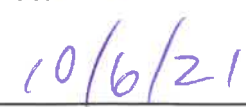
Don Stewart, Chair



Date



Geri Hoskins, Administrative Assistant



Date