

**Minutes of the Board of Zoning Appeals
June 7, 2023
City of Huber Heights**

- I. Chair Eva Newby called the Meeting of the City of Huber Heights Board of Zoning Appeals to order at 6:00 p.m.
- II. Roll call was taken. Present were Mr. Davidson, Mr. Mach, Mr. Schaeffer, and Ms. Newby.

Members Absent: Mr. Deam.

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

III. Approval of the Minutes

Without objection, the minutes of the April 5, 2023, BZA meeting are approved.

IV. Approval of Agenda

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

V. 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.

VI. Old Business

1. BZA Case 23-04

The applicant, Dan Cross, is requesting a variance from Section 1191.01 – Location/height. Property is located at 8489 Betal Court.

Mr. Millard stated that the applicant did go before Planning Commission to have a lot combination. That was approved, now here for the height variance.

Action

Mr. Schaeffer moved to approve the request by the applicant, Dan Cross, for a variance from Section 1191.01 – Location/height. Property is located at 8489 Betal Court. Seconded by Mr. Mach.

Roll call showed: YEAS: Mr. Davidson, Mr. Mach, Mr. Schaeffer, and Ms. Newby.
NAYS: None. Motion to approve carried 4-0.

VII. New Business

1. BZA Case 23-05

The applicant, John Greene, is requesting a variance from Section 1191.01 – Accessory Structure Location. Property is located at 5892 Red Oak Court.

Mr. Millard stated that the owner is requesting a variance to allow a storage building to remain within the 5-foot setback from the rear property line. The building was observed by a Code Enforcement Officer and discovered to have **no permit**. The owner was notified by letter, and he immediately contacted the Zoning office.

Investigation finds the building is within 1-foot of the rear property line and within 4-feet of the west side property line.

According to the Huber Heights Zoning Code, section **"1191.01 – Location - In any "R", "B", "A", "P-PD" or "I" District an accessory building not exceeding one and one-half stories or 14 feet in height may be permitted in any rear yard not within five feet of the side and rear lot lines.** In order for any structure to be classified as an accessory building, it shall be at least five feet from any permanent structure.

(Case 269, 7-16-69; Case 411, 6-1-78; Ord. 81-O-08, Passed 8-3-81; Case 95, 3-9-87; Ord. 87-O-229, Passed 2-9-87)"

Location is in the rear yard as required, but due to its proximity to the property lines the building does not meet guidelines set forth in the Code.

Action

Mr. Schaeffer recused himself because he is on the board for the HOA.

Mr. Davidson moved to approve the request by the applicant, John Greene, for a variance from Section 1191.01 – Accessory Structure Location. Property is located at 5892 Red Oak Court. Seconded by Mr. Mach.

Roll call showed: YEAS: Mr. Davidson, Mr. Mach, and Ms. Newby. NAYS: None. Motion to approve carried 3-0.

2. BZA Case 23-06

The applicant, Akram Kadirov, is requesting a variance from Section 1181.04,h – Projection/height. Property is located at 6027 Buttonbush Street.

Mr. Millard stated that the owner is requesting a variance to construct a rear patio cover which would exceed the Zoning code's height limit.

This proposed plan will complement the home's design and architecture.

According to the Huber Heights Zoning Code, section 1181.04, (h)

"A cover, carport, or enclosure shall not be taller than 14 feet above grade at any point.

(Ord. 2012-O-1939, Passed 2-13-12; Ord. 2016-O-2214, Passed 4-11-16; Ord. No. 2018-O-2354, § 1, 11-28-18)"

The proposed cover would attain a height of 16-feet which is 2-feet above the allowable height, **therefore, the applicant requires a variance to allow the cover to be built as proposed.**

If the Board grants the variance it is stressed to the applicant that any height that exceeds the granted variance will not pass final inspection*.
The applicant also should submit drawings to Montgomery County Building Regulations.

Action

Mr. Davidson moved to approve the change of request by the applicant, Akram Kadirov, for a variance to 17 feet. Property is located at 6027 Buttonbush Street. Seconded by Mr. Schaeffer.

Roll call showed: YEAS: Mr. Mach, Mr. Schaeffer, Mr. Davidson, and Ms. Newby.
NAYS: None. Motion to approve carried 4-0.

Mr. Schaeffer moved to approve the request by the applicant, Akram Kadirov, from Section 1181.04, h – Projection height. Property is located at 6027 Buttonbush Street. Seconded by Mr. Mach.

Roll call showed: YEAS: Mr. Mach, Mr. Schaeffer, Mr. Davidson, and Ms. Newby.
NAYS: None. Motion to approve carried 4-0.

3. BZA Case 23-07

The applicants, Clifford & April Pennington, are requesting a variance from Section 1191.01 – Accessory Structure Location. Property is located at 6619 Deer Bluff Drive.

Mr. Millard stated that the owner is requesting a variance to allow placement of a storage building inside of the required 5-foot setback from the property lines.

According to the Huber Heights Zoning Code, section 1191.01 "In any "R", "B", "A", "P-PD" or "I" District **an accessory building not exceeding one and one-half stories or 14 feet in height may be permitted in any rear yard not within five feet of the side and rear lot lines.** In order for any structure to be classified as an accessory building, it shall be at least five feet from any permanent structure.

(Case 269, 7-16-69; Case 411, 6-1-78; Ord. 81-O-08, Passed 8-3-81; Case 95, 3-9-87; Ord. 87-O-229, Passed 2-9-87)"

The proposed location would place the building within 2-feet of the property lines **therefore the applicant requires a variance to allow this to be built as proposed.**

The proposed structure will lie with a utility easement (white dashed line on your aerial map) **however, Zoning does not enforce easements void of City utilities; there are no City utilities in this easement.**

Action

Mr. Davidson moved to approve the request by the applicants, Clifford & April Pennington, for a variance from Section 1191.01 – Accessory Structure Location. Property is located at 6619 deer Bluff Drive. Seconded by Mr. Mach.
Roll call showed: YEAS: Mr. Davidson, Mr. Mach, Mr. Schaeffer, and Ms. Newby.
NAYS: None. Motion to approve carried 4-0.

4. BZA Case 23-08

The applicant, William Knisely, is requesting a variance from Section 1181.00 – Swimming Pool Location. Property is located at 7900 Huntsman Court.

Mr. Millard stated that the owner is requesting a variance to allow placement of an above ground swimming pool that will encroach into the secondary front yard of this corner property.

According to the Huber Heights Zoning Code, section 1181.00 "No swimming pool shall be allowed in any residential district except as an accessory use and, unless it complies with the following conditions and other conditions as required in this Zoning Ordinance: (a) The pool is intended and is to be used principally for the enjoyment of the occupants of the principal use of the property on which it is located.

b) 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.

Accessory buildings associated with the pool operation shall maintain the minimum side and rear yard setback requirements.

(Ord. 2001-O-1240, Passed 2-12-01; Ord. 2016-O-2214, Passed 4-11-16; Ord. No. [2019-O-2374](#), § 1, 6-10-19)

The proposed location would place the above ground pool partially into the frontage on Timber Hill Dr. There is a substantial area of fenced yard into the secondary front to enclose the pool (fencing is permitted anywhere it does not impact the City right-of-way). The proposed location will maintain more than the required 10-foot setback from the south property line.

In order for the pool to be placed as proposed the owner requires a variance for encroachment into the yard on Timber Hill Dr.

Action

Mr. Mach moved to approve the request by the applicant, William Knisely, for a variance from Section 1181.00 – Swimming Pool Location. Property is located at 7900 Huntsman Court. Seconded by Mr. Schaeffer.
Roll call showed: YEAS: Mr. Davidson, Mr. Mach, Mr. Schaeffer, and Ms. Newby.
NAYS: None. Motion to approve carried 4-0.

VIII. Additional Business

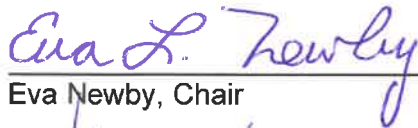
A. None

IX. Upcoming Meetings

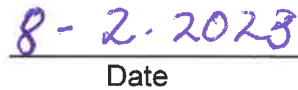
August 2, 2023
September 6, 2023

X. Adjournment

There being no further business to come before the Board, the meeting was adjourned at approximately 7:00 p.m.



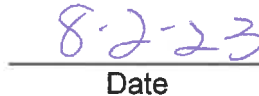
Eva Newby, Chair



Date



Geri Hoskins, Administrative Assistant



Date