

# Board of Zoning Appeals

## December 17<sup>th</sup>, 2015

Mr. Gary Leever called the meeting to order and announced the matters before the Board at 7:00 p.m.

Members present:            Ted Schroeder  
                                     David Lipson  
                                     Harold Eberenz  
                                     Rhonda Southwick  
                                     Gary Leever  
                                     Don Furterer

Mr. Leever explained the procedures and guidelines the Board would use to reach a decision during the course of the hearing. Mr. Leever asked any persons wishing to offer testimony or speak during the hearing to stand and an oath was administered.

Mr. Leever asked if the notice had been published in the newspaper. Ms. Michelle Tegtmeier, Community Development Coordinator, replied yes.

Mr. Eberenz read the legal ad stating this is a request from Mr. & Mrs. Chad Schliesler, 1288 Tecumseh, Hamilton Township, Ohio 45039. The applicant has requested a variance from Section 6.1.3.E to reduce the minimum rear yard setback from 30 feet to 17 feet for a four season room addition.

Ms. Tegtmeier began the PowerPoint presentation. She noted the legal notice ran in the newspaper December 6<sup>th</sup> and 13<sup>th</sup>. The applicant has requested a variance from Section 6.1.3.E in order to allow a new four season room to be constructed into the rear yard setback requirement for Miami Bluffs Subdivision. Fortunately, information was misunderstood and the variance is 3.5 feet not 13 feet, the request is then reducing the required 30 feet to 26.5 versus the 17 feet as first presented for the rear yard setback. The rear yard setback shall extend the full width of the lot and shall be measured from the rear lot line. Ms. Tegtmeier presented an aerial view of the location. The Board of Zoning Appeals may authorize in specific cases a variance from the Resolution so the spirit of the Resolution shall be observed and substantial justice done per ORC 519.14. Staff recommended denial of the variance request at 13 feet with the great reduction to 3.5 it is much more acceptable. Yet with the flat topography a patio would be ideal and require no variance and provide added space.

Mr. Furterer asked if the neighbors on the mailing list re-communicated with about the change in the variance. Ms. Tegtmeier stated the letter she received was anonymous and had no way of contacting them, but did contact Dr. Frank Colon, member of the architectural board for the Home Owners Association (HOA). Dr. Colon stated the difference was easier to ‘swallow’, but

do not like any variances period. He also stated there was a four (4) foot variance granted previously and would appreciate the Board not approving anything over four (4) feet. Ms. Tegtmeier stated the Board always sees the cases individually and a precedent is not established. If the variance is approved, the case will go before the HOA Board.

Mr. Leever stated even with the reduced request to 3.5 feet would the staff still recommend denial. Ms. Tegtmeier stated the staff is going along with the Hamilton Township Zoning Code.

Ms. Southwick asked if it still is the northwest corner piece that would be the issue. Ms. Tegtmeier showed the board the diagram showing the small section that violates the setback.

Mr. Ryan Biehl, Biehl Brothers Contracting, presented the board with a bit more information and a scalable print of the project. This was made 'Exhibit A'. Mr. Biehl stated this is an important feature for the family to enjoy the home as they choose and believed a lot of care has been taken to construct something to look like it has always been there. The deck will be 'trimmed out' just as the house is and will make every effort to match the brick to the existing home exterior.

Mr. Leever asked for an elevation of the proposed addition. Mr. Biehl provided a full size drawing to view. Mr. Biehl stated there is also a side elevation to get an idea of the projection of the addition into the yard. The elevation will be made 'Exhibit B'.

Mr. Leever asked what the attachment to the existing house and if it would use the existing doorway adjacent to the bay window or would a new doorway be added. Mr. Biehl stated the doorway would function as the entrance from the home into the addition. Looking at the site plan, the view isn't in the way from other homes.

Mr. Schroeder asked if the house had been surveyed. Mr. Biehl stated yes. Mr. Schroeder stated by looking at the elevation it looks like the house is encroaching in the front, but it does say it is 36 feet.

Mr. Furterer asked what Mr. Biehl's definition of a four season's room was. Mr. Furterer stated he read there would be no heating or cooling. Mr. Biehl stated there will be a fireplace in there and recently discussed adding air-conditioning to the room. He would consider a four season's room HVAC capable and making it comfortable year around.

Mr. Schroeder asked what the family would do if the variance was denied. Mr. Schliesler stated he would have to discuss that with the family. Mr. Schroeder asked if it could be reconfigured. Mr. Schliesler stated potentially yes. Mr. Schroeder asked if the entire addition could be moved to the right. Mr. Biehl stated anything is possible, but it is located now in the best area for the use of the space.

Mr. Chad Schliesler, Applicant, stated the reason for the layout is so none of the existing structure would be changed. The purpose of the room is a space for the family to be together and enjoy sports on television and watch the kids play outside. Also to entertain guests as many people congregate in the kitchen and this would be an extension off of it. As the project

continued to evolve they decided to add the heating and cooling to the room, but were not originally planned for.

Mr. Leever asked if the finished floor elevation in the four season's room matched the first floor elevation of the house. Mr. Biehl stated it was about a step down.

Mr. Leever closed the public portion of the meeting. The Board discussed the case amongst themselves.

Mr. Schroeder made a motion and Mr. Eberenz seconded the motion to approve the 3.5 foot variance on the rear yard setback at 1288 Tecumseh as laid out on Exhibit A.

Roll call as follows:	Gary Leever	Yes
	Don Furterer	Yes
	David Lipson	Yes
	Harold Eberenz	No
	Ted Schroeder	Abstain

Motion Carried.

Mr. Schroeder urged the builder to get a survey and make sure it is built in the 3.5 feet and not beyond.

A recess was given at this time of 7:38 p.m.

Mr. Leever reopened the meeting at 7:47 p.m.

Mr. Furterer read the legal ad stating this is a request from Mr. & Mrs. Timothy Davidson, 1034 Oak Forest Drive, Hamilton Township, Ohio 45152. The applicant has requested a variance from Section 6.1.3.E to reduce the minimum rear yard setback from 30 feet to 26 feet for a wood deck.

Mr. Leever explained the procedures and guidelines the Board would use to reach a decision during the course of the hearing. Mr. Leever asked any persons wishing to offer testimony or speak during the hearing to stand and an oath was administered.

Ms. Tegtmeier began the PowerPoint presentation. She noted the legal notice ran in the newspaper December 6<sup>th</sup> and 13<sup>th</sup>. The applicant has requested a variance from Section 6.1.3.E in order to allow anew 24 x 27 wood deck constructed into the rear yard setback requirement for Thornton Grove subdivision. The new deck would change the setback to a 26 fee rear yard setback instead of the required 30 feet. The rear yard setback shall extend the full width of the lot and shall be measured from the rear lot line. Ms. Tegtmeier presented an aerial view of the property. The Board of Zoning Appeals may authorize in specific cases a variance from the Resolution so that the spirit of the Resolution shall be observed and substantial justice done per ORC 519.14. Staff recommends denial of the variance request. There are options that would not require a variance. The deck could come out along the back of the house instead of out into the rear yard.

Mr. Furterer stated he thought the deck was 12 feet wide, Ms. Tegtmeier stated the deck was actually 24 x 27. She went on to explain the steps and the entrance to the deck is counted in the size.

Mr. Doug Tordowski, Outdoor Design and Remodeling, stated the deck could have gone across the backside without changing the variance, but it has a walkout basement with windows that need as much natural light for the area as possible. Also a fireplace with a hot shield is in the area, which is why there is a sharp turn to get out onto the deck area. Without the variance the deck wouldn't be big enough for a table and chairs.

Mr. Furterer asked if the deck would be going over top of the poured concrete. Mr. Tordowski stated it could, but again they want to keep as much natural light going to the basement as possible. Mr. Furterer stated the deck would not go over the walk out door of the basement. Mr. Tordowski stated it would not pass the fireplace bump out and the window right below it.

Mr. Schroeder asked if the drawing was done knowing it would encroach into the setback. Mr. Tordowski stated no, the original drawing was set for 10 feet and after starting the permit process he found out there was a problem with the setback and it clips a corner off.

Mrs. Betty Joan Davidson, Applicant, stated she moved back to the area to be with family after 21 years gone. She stated she is battling colon cancer for the second time and would like to be able to enjoy the backyard. By taking the deck the other way, it would be covering up the windows and doors to the basement. She was going to settle for the 8 feet, but when she found out she could get a variance for the 10 feet and make it further out she wanted to try. None of the neighbors she has spoken to have any problem with the project nor does the HOA president who lives two (2) houses down.

Mr. Furterer asked about the concrete pad and Mrs. Davidson stated a hot tub will be placed there and an outdoor fireplace.

Mr. Lipson asked if any storage would be done under the deck or screened in sides. Mrs. Davidson stated no, nothing is planned for under the deck.

Mr. Leever closed the public portion of the meeting. The Board discussed the case amongst themselves.

Mr. Eberenz made a motion and Mr. Furterer seconded the motion to reduce the rear yard setback from 30 to 26 feet at 1034 Oak Forest Drive.

Roll call as follows:	Gary Leever	Yes
	Don Furterer	Yes
	David Lipson	No
	Harold Eberenz	No
	Ted Schroeder	Yes

Motion Carried.

Mr. Lipson made a motion and Mr. Furterer seconded the motion to approve the minutes at written from November 19, 2015.

Roll call as follows:	All	Yes
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Motion Carried.

Mr. Furterer made a motion and Mr. Schroeder seconded the motion to close the meeting.

Roll call as follows:	All	Yes
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Motion Carried.