

Board of Zoning Appeals
November 18, 2021
Minutes

Meeting called to order:

Chairman John Feick called the meeting to order at 4:30pm. The following voting members were present: Bill Semans and Gregg Peugeot. Alec Ochs represented the Community Development Department. City Commission liaison Dave Waddington and clerk Kristen Barone were also present.

Review of minutes from October 21, 2021:

Dr. Semans moved to approve the minutes as submitted Mr. Peugeot seconded. All members were in favor of the motion and the minutes were approved.

Swearing in of audience and staff members offering testimony on any agenda items:

Mr. Feick swore in everyone wishing to do so.

Adjudication Hearing:

1) 1030 Sloane St. – Area Variance

Mr. Feick stated that this application was tabled at the last meeting and asked if staff could go through the report again since Mr. Peugeot was not at the last meeting. Mr. Ochs explained that the applicant at 1030 Sloane St. has applied for a variance to zoning code section 1145.17 (g) to allow a 6 ft. fence along the southern property line in the front and side yard. The code requires a fence be no more than 4 ft. in side yards and 3 ft. decorated fences in the front yard. The homes of the applicant and the direct neighbor to the south (1034 Sloane St) are only several feet from each other and the applicant wishes to increase privacy. These properties are unique in the fact that they have opposite front/back yards to one another. The immediate neighbor to the south (1034 Sloane St) expressed concern that installing a 6-foot fence would prohibit him access to his home for regular maintenance such as gutter cleaning. He also mentioned concern a fence could violate an existing easement agreement between the two properties but did not provide detailed information to staff on the location or nature of the easement. At the last meeting the board requested the applicant to provide a drawing of where the fence would be and where the easement is, and the applicant did provide a drawing before the meeting and a copy was passed out to all of the board members to review. Given the unique circumstances of the two properties, staff does not have any objection to the variance request. Barry Vermeeren, attorney for the applicant's neighbor Stan Fisher, said that when you consider the reasons to allow variances, there is no way the board can approve it. There are no special conditions, there is no hardship to the owner, Mr. Fisher believes the 6 foot fence would cause harm to him, there are no unique circumstances, and nothing in the zoning creates the hardship. He stated that a four foot fence would be fine, but if you go out to Stan's house, you will notice that there is window where that six foot fence would go. Mr. Feick stated that he think the circumstance is unique since the houses are offset from one another and because the property line is right at the edge of Mr. Fisher's brick home and so his overhang and gutters do enter into Mr. Santana's property. Mr. Feick also let Mr. Peugeot know that at the last meeting there was a neighbor that came to the meeting that also expressed concerns with the fence mainly because he says that

Mr. Santana keeps a bunch of stuff in his yard so he wants a high fence to hide all of that. Mr. Peugeot asked Mr. Santana what a six foot fence would do for him that a four foot fence would not. Mr. Santana stated that he would like more privacy because his neighbor Mr. Fisher causes a lot of problems for him and is always watching him when he has people over. Dr. Semans made a motion to deny a six foot fence in the side yard, but would allow a four foot fence, and would also allow a four foot fence in the front yard. Mr. Peugeot seconded the motion. All voting members were in favor of the motion.

2) 2701 Cleveland Rd. – Height Variance

Mr. Ochs stated that this application is for a variance to allow construction of a building at the Cedar Point Indoor Sports Center that exceeds the 40 ft. height limit requirement and the two story height limit, in accordance with Section 1137.09 of the code. The site is currently at full capacity to meet other requirements such as parking and landscaping. The vertical expansion is necessary to meet the applicant's needs. Staff feels that the variance is not substantial and would not be a substantial alteration to the character of the neighborhood. A variance is the only method to resolve the predicament. The spirit and intent of the zoning code would be satisfied with the granting of the variance. The variance does not go against the general purpose of the code. The situation is unique and does create unnecessary hardship for the applicant. The proposal will not negatively impact public health, safety or general welfare. Nick Bradac, project architect with OSports stated that the height variance would only be for a little over a third of the building, the rest of the building would be two stories and under the 40 feet height limit. Mr. Feick asked if they would be adding any more parking. Mr. Bradac said that they would be adding more parking but does not have those numbers with him today. Mr. Ochs stated that the parking plan was approved this past summer by Planning Commission. Dr. Semans stated that he does think this is a substantial difference but made a motion to approve the variance and Mr. Peugeot seconded. All voting members were in favor.

3) 1225 Cedar Point Rd. – Floodplain Variance

Mr. Ochs stated that this application is for a variance to allow construction of an addition to a garage at 8 in. above the base flood elevation whereas the zoning code requires two feet. The applicant has stated that they want to increase the height of the current garage to accommodate larger vehicles. In order to maintain consistent eave height levels, the new garage floor must be lower than the existing house floor elevation. The applicant's proposal is legally conforming 30 days after the November 8th, 2021 City Commission meeting, where City Commission voted to waive the two feet requirement. However, the applicant has stated the several weeks until then are important to getting the project started and wished to keep the application in consideration. Dr. Semans stated that as long as they do not see any liability for floodwater flowing through his property, he would make a motion to approve the variance. Mr. Peugeot seconded. All voting members were in favor.

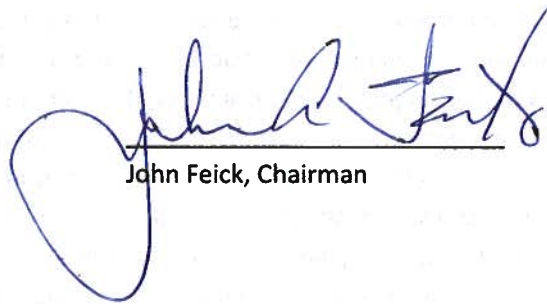
Adjournment:

Dr. Semans motioned to adjourn and Mr. Peugeot seconded. The meeting ended at 4:58pm.

APPROVED:



Kristen Barone, Clerk



John Feick, Chairman