

**BOARD OF ZONING APPEALS
MINUTES FOR THE
AUGUST 17, 2017
MEETING**

Pursuant to written notice, the meeting of the Board of Zoning Appeals (the “BZA”) was called to order by Chairman Al Schutte at 7:40 PM on Thursday, August 17, 2017, in the Council Chambers of the Village of Evendale Municipal Building. Attending were Chairman Al Schutte, members Dave Harwood and Mike Reed. Supporting the BZA was Pam Morin (staff). Also present were the persons listed on Exhibit A attached hereto and incorporated by reference herein.

After all those present who planned on giving testimony were duly sworn in by Chairman Schutte, the following appeals were on the Agenda:

1. Daniel Graham, 3680 Glendale-Milford Road

The applicant has submitted a request for an appeal of the Building Commissioner’s decision to deny the construction of a detached garage exceeding the maximum allowable area of 800 square feet for an accessory building in the Residential District as set forth in Schedule 1266.04(A) of the Village of Evendale Zoning Code and is seeking a variance from the maximum area requirement per 1284.01 of the Village of Evendale Zoning Code.

2. Catherine M. Fare, 3772 Sherbrooke Drive

The applicant has submitted a request for an appeal of the Building Commissioner’s interpretation of the definition of an abandoned vehicle per Section 1468.05(F)(2) of the Village of Evendale Code of Ordinance and is seeking an appeal as per Section 1284.01 of the Village of Evendale Zoning Code.

3. Daniel & Anna Hutzler, 9790 Otterbein Road

The applicant has submitted a request for a variance of the Building Commissioner’s decision to deny the construction of a residential addition exceeding the minimum front and side yard setback requirements in the Residential District as set forth in Schedule 1246.07 of the Village of Evendale Zoning Code and is seeking a variance from the minimum setbacks requirement per 1284.01 of the Village of Evendale Zoning Code.

Section 1284.02 of the Code establishes the parties entitled to appeal to the BZA. “Any application for appeal to the Board of Zoning Appeals may be filed by any person adversely affected by an order, decision, determination, or failure to act of the Building Commissioner or the Planning Commission”.

The first order of business was the continuation of the appeal filed by **Dan Graham** regarding 3680 Glendale-Milford Road.

After hearing the testimony of those testifying and reviewing the written evidence submitted, the BZA, upon motion made by Al Schutte, seconded by Dave Harwood, unanimously adopted the following Findings of Facts.

1. By letter dated June 30, 2017, Don Mercer, Building Commissioner of the Village of Evendale, Ohio, denied applicant's, Dan Graham, request for a building permit to build a free standing garage in excess of 800 square feet. A copy of said rejection shall be marked as Exhibit B, is on file in the Building Department and is incorporated by reference herein.
2. Applicant, Dan Graham filed an appeal dated July 6, 2017 with the Evendale Zoning Board of Appeals within the required 14 days following the denial of the applicant's request. A copy of said appeal is marked as Exhibit C, is on file in the Building Department and is incorporated by reference herein.
3. After proper notice to the required parties, the BZA held a hearing on July 25, 2017, said date being within the required time. A copy of said notice is marked as Exhibit D, is on file in the Building Department and is incorporated by reference herein.
4. Applicant submitted the following testimony and other evidence:
 - a. The property will yield a reasonable return without the variance.
 - b. Even though the proposed structure is substantial as a percentage of what would otherwise be allowed, the screening provided by the heavily wooded lot result in the proposed size not being a substantial variance.
 - c. The essential character of the neighborhood would not be substantially altered and the adjoining properties would not suffer a substantial detriment as a result of the variance given the wooded nature of the neighborhood.
 - d. The proposed structure can't be placed at a lower elevation without removing trees.
 - e. The applicant was told by his contractor if he reduces the pitch of his roof, he would lose the warranty on the roof shingles.
 - f. The variance would not adversely affect the delivery of governmental services
 - g. The property owner purchased the property without actual knowledge of the limitations currently imposed on it by this Zoning Code but the restrictions are in the public record.
 - h. The property owner's predicament feasibly can be obviated through some method other than a variance such as by renting off-site storage.

DECISION

RESOLVED, on the condition that no structures or decorative features such as weather vanes or other times be attached to the roof, that the BZA hereby accepts the application for a variance to allow a 1000 square foot, 22 foot high detached garage to be built on the subject property by the Applicant with a vote of 3 in favor, 0 against and 0 abstentions.

The next order of business was consideration of the appeal filed by **Catherine M. Fare** regarding 3772 Sherbrooke Drive.

After hearing the testimony of those testifying and reviewing the written evidence submitted, the BZA, upon motion made by Al Schutte, seconded by Dave Harwood, unanimously adopted the following Findings of Facts.

1. By letter dated June 21, 2017, Don Mercer, Building Commissioner of the Village of Evendale, Ohio, notified the applicant that the vehicle stored on her property was in violation of Section 1468.05(F)(2) of the Village of Evendale Zoning Code. A copy of said letter shall be marked as Exhibit B is on file in the Building Department and incorporated by reference herein.
2. Applicant filed an appeal with the Evendale Zoning Board of Appeals within the required 14 days following the denial of the applicant's request. A copy of said appeal is marked as Exhibit C is on file in the Building Department and is incorporated by reference herein.
3. After proper notice to the required parties, the BZA held a hearing on August 17, 2017, said date being within the required time. A copy of said notice is marked as Exhibit D, is on file in the Building Department and is incorporated by reference herein.
4. Applicant submitted the following testimony and other evidence:
 - a. The property will yield a reasonable return without the appeal.
 - b. The essential character of the neighborhood would not be substantially altered and the adjoining properties would not suffer a substantial detriment.
 - c. The appeal would not adversely affect the delivery of governmental services
 - d. The property owner purchased the property without actual knowledge of the limitations currently imposed on it by this Zoning Code but the restrictions are in the public record.
 - e. John Dyer, representing Catherine Fare, presented proof of registration, insurance, current licensure and testified that the car is not in disrepair.
 - f. The car belongs to Catherine Fare son, who is temporarily working in California.

DECISION

RESOLVED, that the BZA hereby reverses the findings made by Evendale Building Commissioner Don Mercer and grants the appeal of Mr. Mercer's interpretation of Section 1468.05(F)(2) of the Village of Evendale Zoning Code by a vote of 3 in favor, 0 against and 0 abstentions.

The next order of business was consideration of the appeal filed by **Daniel and Anna Hutzel** regarding 9790 Otterbein Road.

After hearing the testimony of those testifying and reviewing the written evidence submitted, the BZA, upon motion made by Mike Reed, seconded by Dave Harwood, unanimously adopted the following Findings of Facts.

1. By letter dated July 5, 2017, Don Mercer, Building Commissioner of the Village of Evendale, Ohio, denied applicant's, Daniel and Ann Hutzal, request for a building permit to construct a residential addition exceeding the minimum front and side yard setback requirements. A copy of said rejection shall be marked as Exhibit B, is on file in the Building Department and is incorporated by reference herein.
2. Applicants, Daniel and Anna Hutzal, filed an appeal dated July 17 2017 with the Evendale Zoning Board of Appeals within the required 14 days following the denial of the applicant's request. A copy of said appeal is marked as Exhibit C, is on file in the Building Department and is incorporated by reference herein.
3. After proper notice to the required parties, the BZA held a hearing on August 17, 2017, said date being within the required time. A copy of said notice is on file in the Building Department marked as Exhibit D and incorporated by reference herein.
4. Applicant submitted the following testimony and other evidence:
 - a. The property will yield a reasonable return without the variance.
 - b. The applicant is requesting a 3.83' variance from the required 50' front yard setback and a 1.85' variance from the north side yard property line.
 - c. The essential character of the neighborhood would not be substantially altered and the adjoining properties would not suffer a substantial detriment as a result of the variance.
 - d. There have been three tear down/rebuild homes on their street and the proposed addition/remodel would update the house and bring it in line with the newer houses.
 - e. The variance would not adversely affect the delivery of governmental services
 - f. The property owner purchased the property without actual knowledge of the limitations currently imposed on it by this Zoning Code, but the restrictions are in the public record.
 - g. The property owner have explored other options, such as moving and tear down/rebuild, but determined that no viable options exist that feasibly can be ;implemented through some method other than a variance.

DECISION

RESOLVED, that the BZA hereby approves the application for two variances: a 3.83' variance from the required 50' front yard setback and a 1.85' variance from the north side yard property line on the subject property by the Applicant with a vote of 3 in favor, 0 against and 0 abstentions.

The next order of business was review of the minutes from the July 25, 2017 meeting of the BZA. A motion was made by Mike Reed and seconded by Dave Harwood to approve the minutes of the July 25, 2017 meeting. The motion passed by a vote of 3 in favor, 0 against and 0 abstentions.

Upon a motion made by Dave Harwood, seconded by Al Schutte and unanimously adopted, the meeting was adjourned at 8:20 P.M.

Attest:

Al Schutte, Chairman
Board of Zoning Appeals