

**BOARD OF ZONING APPEALS
MINUTES FOR THE
DECEMBER 9, 2015 MEETING**

Pursuant to written notice, the meeting of the Board of Zoning Appeals (the "BZA") was called to order by Chairman Al Schutte at 7:30 PM on Wednesday, December 9, 2015, in the Police Training Room of the Village of Evendale Municipal Building. Attending were Chairman Al Schutte, members Dave Harwood, Lynn McCarthy, Mike Reed, and Ken Valentine. Supporting the BZA was Pam Morin (staff). Also present was Nicholas Young.

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

Nicholas Young

10351 Arborhill Lane

Applicant has submitted an application for a variance from Schedule 1266.04(A) of the Village of Evendale Zoning Code requiring all sheds to be built in the rear yard.

File #V-15-07

Mr. Young has submitted plans to build a shed at the end of his existing driveway. The proposed location would place 80% of the shed in the side yard to the west of the house. The shed can't be placed behind the house because of an existing patio and the topography of the lot. This proposed location would place the shed four feet from a sharp drop off. Mr. Young also chose this location so he could easily move his large tools in and out of the shed. There was a discussion of the possibility of placing the shed on the east side of the house. This area is more level, but some trees would have to be removed to place it to the east. Mr. Harwood argued that that the line of sight of the shed from Arborhill Lane would be greater if placed on east side of the house.

Mr. Schutte read into the record the justifications provided by Mr. Young.

After hearing Mr. Young's testimony and reviewing the documents filed and exhibits presented, the BZA makes the following Findings of Fact:

WHEREAS, pursuant to Evendale Municipal Code Section 1284.01, the Board of Zoning Appeals, upon application thereto, shall have the powers as granted to them per § 1270.04 of this Code, including, but not limited to, hearing and deciding appeals and granting variances from the provisions and requirements of this Zoning Code which will not be contrary to the public interest or the general purpose and intent of this Code, and only in those specific instances defined by this chapter and based upon the standards set forth in this chapter;

WHEREAS, Nicholas Young, owner of 10351 Arborhill Lane, Evendale, Ohio (the "Property"), submitted a request to the Building Commissioner of Evendale, Ohio for building permit allowing him to install a shed on the Property;

WHEREAS, the application was denied by the Building Commissioner November 9, 2015 because a portion of the shed would have been in the side yard of the Property, in violation of Schedule 1266.04(A) of the Evendale Municipal Code (the "Code");

WHEREAS, the applicant timely filed an appeal (within 14 calendar days, as set forth in Section 1284.03 of the Code) and the BZA timely (within calendar 60 days, as set forth in Section 1284.03(d) (1) of the Code) held a public meeting at the Village of Evendale Municipal Building after providing the requisite notice; and

WHEREAS, the applicant provided testimony in furtherance of his appeal.

NOW, THEREFORE, upon motion made by Mrs. McCarthy, duly seconded by Mr. Reed and adopted by a vote of 5 in favor, 0 against, the BZA adopted the following resolutions:

RESOLVED, that the following findings of act and conclusions of law be and hereby are adopted:

1. The applicant is the owner of the Property;
2. The applicant's request for a building permit allowing him to construct a shed partially in the side yard of the Property was correctly and timely denied;
3. The applicant timely filed an appeal from the denial;
4. The Village of Evendale timely and properly provided public notice as well as notice to all required parties;
5. The BZA timely conducted a hearing at which testimony was presented and exhibits introduced in support of the applicant's appeal from the adverse decision of the Evendale Building Commissioner;
6. The weight of the evidence before the BZA satisfied enough of the justifications set forth below that the BZA is required to consider when determining whether to grant a variance from the provisions of Schedule 1266.04(A) of the Code;
7. This lot is unique because of the topography of the lot and sharp drop behind the house;
8. The shed would be more visible when driving down Arborhill Lane, if it was placed on the east side of the house.

RESOLVED FURTHER, that the appeal is granted upon the following condition, the placement of the shed is moved back two feet. This would place the shed 20 feet behind the front wall and harmonious with the existing home.

The following are the justifications set forth in Section 1284.05(c):

- i. Whether the property will yield a reasonable return without the variance or whether there can beneficial use of the property'
- ii. Whether the variance is substantial;
- iii. 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;
- iv. Whether the variance would adversely affect the delivery of governmental services;
- v. Whether the property owner purchased the property with knowledge of the limitations currently imposed on it by this Zoning Code;
- vi. Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and
- vii. Whether the spirit and intent behind this Zoning Code would be observed and substantial justice done by granting the variance.

Section 1284.05 (b) Prohibited Variances. Notwithstanding any other provision of this chapter, no variance shall be granted that:

- (1) Is intended as a temporary measure only;

(2) Is greater than the minimum variance necessary to relieve the particular hardship or practical difficulty demonstrated by the applicant; or

(3) Constitutes a change in land use resulting in the establishment of a use not normally permitted in the applicable use district.

A motion was made by Mr. Schutte and seconded by Mrs. McCarthy to approve the minutes of the October 5, 2015 meeting, with three changes. The motion passed with a 5 – 0 vote.

The meeting was adjourned at 8:00 PM.

Attest:

Al Schutte, Chairman
Board of Zoning Appeals