**BOARD OF ZONING APPEALS**

**MINUTES FOR THE**

**JULY 31, 2019 MEETING**

Pursuant to written notice, the meeting of the Board of Zoning Appeals (the “BZA”) was called to order by Chairman Dave Harwood at 7:30 pm on Thursday, July 31, 2019, in the Council Chambers of the Village of Evendale Municipal Building. Attending were members Dave Harwood, Rhett McGregor, Mike Reed, Tom Shanks and Ken Valentine. 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 Mr. Harwood, the following appeal was heard:

* Applicant, Gregory D. McSwain, one of the owners of 10311 Evendale Drive, Evendale, Ohio (the “Property”), submitted a request on July 17, 2019 as requested by the Evendale Planning Commission (EPC) to split the property into 2 lots of 1.7736 acres each instead of the minimum lot size required under the current zoning code of not less than 2 acres each. As a result, applicant is seeking a variance from Section 1250.07 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”.

Mr. McSwain provided the following testimony:

* A portion of the property is located within the flood plain and as such, flood insurance is required for the entire property.
* Flood insurance is very expensive so if the subject property could be divided into 2 parcels, one in the flood plain and one outside of the flood plain, the savings to the property owner would be very substantial (currently about $5,000.00 per year).
* Dividing the subject property into two smaller parcels would also allow the owner flexibility to sell one of the properties and retain the other.
* But for the multiple takings of the property for various highway projects, the property would be well over the size required to divide the property into two without the need for a variance.

It was also noted that the Board of Zoning Appeals received correspondence from James Jeffers, Village Engineer, supporting applicant’s request for a variance. A copy of said correspondence is marked as Exhibit B and is attached hereto and incorporated by reference herein.

After hearing the testimony of those testifying and reviewing the written evident submitted to the BZA, Mr. Reed summarized the following findings of fact and conclusions of laws:

* By the EPC minutes for their July 16, 2019, the EPC approved the lot split lot with the condition that the applicant receive approval from the BZA for a lot split resulting in less than the minimum of 2 acres otherwise required in this situation. A copy of said minuites, shall be marked as Exhibit C and is on file in the Building Department and is incorporated by reference herein.
* Applicant filed an appeal dated July 17, 2019 with the Evendale Zoning Board of Appeals within the required 14 days following the denial of the applicants request. A copy of said appeal, shall be marked as Exhibit D, is on file in the Building Department and is incorporated by reference herein.
* After proper notice to the required parties, the BZA held a hearing on July 31, 2019, said date being within the required 60 day time period prescribed by Section 1284.03 (5). A copy of said notice is marked as Exhibit E, is on file in the Building Department and is incorporated by reference herein.
* Pursuant to Section 1284.05 (c) of the Code, the following factors are to be among those considered in determining whether to grant a variance:

(1) Whether the property will yield a reasonable return without the variance or whether there can be beneficial use of the property;

(2)   Whether the variance is substantial;

(3)   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;

(4)   Whether the variance would adversely affect the delivery of governmental services;

(5)   Whether the property owner purchased the property with knowledge of the limitations currently imposed on it by this Zoning Code

(6)   Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and

(7)   Whether the spirit and intent behind this Zoning Code would be observed and substantial justice done by granting the variance.

The ZBA found as follows with regard to the aforesaid factors:

(1) Whether the property will yield a reasonable return without the variance or whether there can be beneficial use of the property; No

(2)   Whether the variance is substantial; No

(3)   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; No

(4)   Whether the variance would adversely affect the delivery of governmental services; No

(5)   Whether the property owner purchased the property with knowledge of the limitations currently imposed on it by this Zoning Code: (No)

(6)   Whether the property owner's predicament feasibly can be obviated through some method other than a variance (No); and

(7)   Whether the spirit and intent behind this Zoning Code would be observed and substantial justice done by granting the variance (Yes).

Mr. Reed made and Mr. McGregor seconded the motion to approve the variance request. There was no further discussion. The motion passed with a vote of 5 – 0 and 0 abstentions.

The next order of business was review of the minutes from the June 6, 2019 meeting of the BZA.

A motion was made by Mr. Reed and seconded by Mr. Valentine to approve the minutes of the June 6, 2019 meeting as read. The motion passed by a vote of 5 in favor, 0 against and 0 abstention(s).

Upon a motion made by Mr. McGregor, seconded by Mr. Valentine and unanimously adopted, the meeting was adjourned at 8:15p.m.

Attest:

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David Harwood, Chairman

Board of Zoning Appeals