

Board of Zoning Appeals

1 **Application #VA-21-10 & #CU 21-11**

September 16, 2021

LEGAL NOTICE

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4
5 Notice is hereby given that the Orange Township Board of Zoning Appeals will hold a public hearing on Thursday,
6 September 16, 2021, beginning at 6:00 p.m. to consider the following application/s:

7
8 **Variance Application #VA-21-10 Builderscape / Easy Living Pools,**

9 Seeking a variance from Orange Township Resolution Section 21.05 c) to allow for a fence less than five (5) feet in
10 height to enclose a swimming pool. The subject property is located at 5325 Meadow Bend Drive Lewis Center, OH
11 43035 and having parcel number 318-210-06-002-000.

12
13 **Conditional Use Application #CU-21-11 Evan & Jodi Eshleman,**

14 Seeking a Conditional Use from Section 24.03 of the Orange Township Zoning Resolution to allow an addition to an
15 existing two-car garage, creating space for one hundred twenty (120) square feet of additional living area. The
16 subject property is located at 292 W Orange Rd. Delaware, OH 43015 and having parcel number 318-233-04-006-
17 000.

18
19 The hearing will be held at the Orange Township Hall, 1680 East Orange Road, Lewis Center, Ohio, 43035.

20
21 The applications and plans are available for inspection for a period of at least 10 days prior to the hearing at the
22 Orange Township Zoning Office, 1680 East Orange Road, Lewis Center, Ohio, 43035. Zoning Office hours are
23 Monday through Friday, 8 a.m. to 4:30 p.m. except legal holidays.

24
25 Following this hearing the Board may have a meeting for general purposes to consider such business as may
26 properly come before it including, but not limited to, consideration and/or approval of minutes, scheduling future
27 hearing dates for this or other applications and like matters.

28
29 The person responsible for the publication of this notice is Jeff Beard, Orange Township Zoning Department.

30
31 *Jerry Miller, Chairman*
32 *Jeff Beard, Orange Township Zoning Department*

33
34
35 *Please publish one time, on or before Friday, September 3, 2021 in The Delaware Gazette*

36
37 Mr. Miller called the hearing to order at 6:00 p.m.

38
39 Roll Call: Jerry Miller, Rick Oster, Aaron Shipley, Kelvin Trefz, Punitha Sundar

40
41 Township Officials Also Present: Jeff Beard, Senior Zoning Officer
42 Brett Wiemken, Zoning Inspector

43
44 Mr. Miller administered the oath to those speaking: Anyone who intends to testify, please raise your right
45 hand to be sworn. Do you solemnly swear that the testimony that you are about to give is the truth, the
46 whole truth and nothing but the truth, and state I do. And when it's your turn to offer testimony, please
47 state your full name, address and affirm that you've been sworn in. Also on the swearing in Brett and
48 Jeff, in the legal training it is required that Orange Township officials also be sworn in, so when you do
49 talk, please affirm that you've been sworn in.

50
51 **Variance Application #VA-21-10 Builderscape / Easy Living Pools,**

52 Seeking a variance from Orange Township Resolution Section 21.05 c) to allow for a fence less than five (5) feet in
53 height to enclose a swimming pool. The subject property is located at 5325 Meadow Bend Drive Lewis Center, OH
54 43035 and having parcel number 318-210-06-002-000.

Board of Zoning Appeals

55 Mr. Wiemken: I affirm I've been sworn in. Presented the staff report and presentation The property is located east of
56 Meadow Bend Drive. The surrounding area is all Single Family Planned Residential District with all single family
57 residences. The fence the applicant has proposed is 4' in height/. The applicant is asking for a 1' variance from the
58 requirement of 5'in height and this is a 20% request from the Zoning Resolution requirement. Exhibit 1 shows the
59 site plan showing the location of the fence. Exhibit 2 is the fence details submitted by the applicant. Staff received a
60 couple of inquiries from neighbors. Both of the ones that I spoke to were in favor of the request; one of them was the
61 one who wrote the conditional use approval from the HOA. Also included are some materials for the safety cover
62 and details of the pool as well.

63
64 Brian Griffith and I affirm. I work for Easy Living Pools, 7500 Industrial Parkway, Plain City, Ohio. The owner
65 approached us and we know the Orange Township 5' requirement but in this instance there is a full perimeter fence
66 existing that the family has put some investment in. Also, there are 4 other neighbors that share their property lines
67 with and it's kind of a shared fence. The fence has been built to their HOA's standards of 4' tall roughly, so it is
68 very inter-connected. If the Dehaais did replace that fence, it would be costly for demolition and disposal as well as
69 the installation of that fence not to mention the untangling whose portion of the fence is whose with all the different
70 neighbors. They have had considerable conversations with the HOA and I believe the president is one of their
71 neighboring properties, so there's been a request for this variance to keep this existing fence. One of the things the
72 owner has done to try and mitigate this is include an automatic pool cover. This one is built by Cover Star and is
73 UALS rated and meets the State of Ohio code requirements for barrier and I believe Delaware County does accept it
74 as well but they're hoping with the blessing of their HOA as well of the installment of this very expensive safety
75 cover which is 4 digit controlled and not just a light switch that opens and closes it that they would be able to
76 mitigate this and the cost is going into this piece rather than having to do a fence.

77
78 Mr. Oster: Is this is what is considered a hard cover?
79

80 Mr. Griffith: It is an in-ground fiberglass pool and the track system is installed directly on the shell and then the
81 coping is installed over that so it's not a surface mount track system. It is flush to the surrounding pool deck. There's
82 a vault that has a motor and a mechanism that opens and closes this but it is made out of vinyl. It does hold 800+
83 pounds; it's kind of like walking on a water bed but you can literally walk right down to it safely because this is
84 pretty much like a garage door opener for your pool. You're able to open it pretty quickly, have your swim and they
85 have small children so they're always going to be there supervising it. What's nice is you close it up, it's secure; you
86 don't have to worry about it when you don't have eyes on the pool and you just open it back up again.

87
88 Mr. Shipley: Pretty much like a garage door opener, it has a 4 digit code?
89

90 Mr. Griffith: Correct.
91

92 Ms. Sundar: Is it 2 pieces or just 1 piece?
93

94 Mr. Griffith: It is 1 piece of vinyl and there's like an aluminum 2x4 that goes from the deep end and it closes across
95 the entire area of the pool and it's just 1 big rolled out sheet of vinyl. It's a very high grade vinyl, kind of like a big
96 plastic tarp, but at a higher density and then when you open it, there's a mechanism that just rolls it open, so you're
97 able to secure your pool this way.

98
99 Ms. Sundar: Is the vinyl cover going to come up on top of the pool?
100

101 Mr. Griffith: It's underneath the pool coping, so we've installed kind of a bull nose brick coping and then the track
102 system is underneath that then there's the pool shell. The vinyl runs on a track system underneath the bull nose
103 coping, so there's no way you can pry underneath the cover, the cover doesn't sit on top of the concrete; it's actually
104 integrated into the construction of the pool.

105
106 Ms. Sundar: Is there a sensor or something, it stops or does it close completely?
107

108 Mr. Griffith: The way that they work by code is that you have to have the controller where the code is within the line
109 of sight of the entire pool, then you put in the code and you hold the button as it opens or closes so that you're

Board of Zoning Appeals

110 personally monitoring the use of that. There's no just press the button and it zips; you are actually looking at it while
111 you operate the cover.

112
113 Ms. Sundar: So you have to keep holding the switch until it closes completely?

114
115 Mr. Griffith: Yes, and it opens fairly quickly and then it closes at a ridiculous slow speed so you're paying attention
116 to it as it closes to make sure there's no one in the pool.

117
118 Mr. Oster: So it's an intentional act. You're manually sitting there controlling it.

119
120 Mr. Trefz: It appears that there's a playset and is there a fence between the playset and the pool?

121
122 Mr. Jeffrey Dehaai, 5325 Meadow Bend, Lewis Center, Ohio and I affirm I've been sworn in, no.

123
124 Mr. Miller: So the playset is within your property?

125
126 Mr. Dehaai: Yes.

127
128 Mr. Miller: The self-latching gate, are these going to be locked in conjunction with the pool cover or is it something
129 you would have to have a lock or some type that you would put in to prevent kids to have easy access?

130
131 Mr. Shipley: Those are magna latches so when the gate closes they auto lock. I have the same thing on my fence
132 around my pool. The gate can't stay open unless you're holding it open and it automatically closes and latches. It's a
133 magnetic latch.

134
135 Mr. Dehaai: Yes, we have the self-closing automatic latches that automatically latches when you close the gate
136 because there's a gate on either side and we want to limit access back there.

137
138 Mr. Shipley: That fence is fully compliant except it's only 4' and the Township requires 5'. Other than that, the
139 fence is fully compliant.

140
141 Mr. Miller: There's a statement in here that the HOA approved it. Has a letter been received for that?

142
143 M. Shipley: There's 2 of them. It basically says if the Zoning Board approves it then it's approved. It's just a foot
144 shorter than Orange Township requires and they have the automatically locking cover on it.

145
146 Mr. Oster: We have already been allowing this set up just because you've got the safety cover in place and a fence.
147 You can't protect other people and their kids 100%. You're doing everything that you can in my opinion.

148
149 **MOTION TO APPROVE VARIANCE APPLICATION #VA-21-10**

150
151 Mr. Oster made a motion to approve Variance Application #VA-21-10, Builderscape/Easy Living Pools, as
152 presented; seconded by Mr. Miller.

153
154 Vote on Motion: Mr. Miller-yes, Mr. Oster-yes, Mr. Shipley-yes, Mr. Trefz-yes, Ms. Sundar-yes
155 Motion carried

156
157 Hearing continued with Conditional Use Application #CU-21-11

158 Minutes prepared by Cindy Davis, Zoning Secretary

159
160

Board of Zoning Appeals

1 **Application #CU 21-11**

September 16, 2021

2
3
4 **Conditional Use Application #CU-21-11 Evan & Jodi Eshleman,**

5 Seeking a Conditional Use from Section 24.03 of the Orange Township Zoning Resolution to allow an addition to an
6 existing two-car garage, creating space for one hundred twenty (120) square feet of additional living area. The
7 subject property is located at 292 W Orange Rd. Delaware, OH 43015 and having parcel number 318-233-04-006-
8 000.
9

10 Mr. Beard presented the staff report and presentation. The subject property is located on the north side of W.
11 Orange Road. Surrounding areas are all zoned Farm Residential District. To the north is Farm Residential District,
12 to the south is Orange Road, east and west are also residences. Section 24.03 is part of the non-conforming lots and
13 this is a non-conforming lot in use currently, so we have to follow that section of the Zoning Resolution. 24.03
14 would be an enlargement; this would be e) a non-conforming use shall not be extended by more than 50% of the size
15 of the non-conforming use that existed at the time of the passage of the Zoning Resolution. There is an email
16 attached because there was some confusion on the numbers that were listed, so we asked for some clarification from
17 Mr. Eshelman and the additional square footage will be 958 square feet which is roughly 39% of what the original
18 square footage of the house plus the garage, and that total will be 2408 square feet originally and this will be adding
19 958 square feet. Exhibit 1 is the site plan that shows the existing house and it has an outline of the garage and the
20 addition. Exhibit 2 is the site plan of the overall site layout showing his lot with the proposed addition. For the
21 record, I did not receive any calls or emails of complaint about this from any of the neighbors.
22

23 Mr. Miller: Question from a legal standpoint, garages are not typically considered part of the square footage of a
24 home nor is a patio.
25

26 Mr. Beard: This is attached to the house as part of the overall square footage of the building footprint. Since it is
27 attached, they do have the 440 square feet.
28

29 Mr. Oster: I think you're talking about for taxing purposes.
30

31 Mr. Miller: No, it's considered from a livable standpoint. Square footage of a livable home would be garages; are
32 not considered square footages unless it has either an egress or is part of the living space.
33

34 Mr. Shipley: This is adding living space I think.
35

36 Mr. Miller: Part of it is.
37

38 Evan Eschelmann, 292 W. Orange Road, I swear to tell the truth. The new garage area is 1278 square feet. Inside of
39 that space we're going to add a mud room and bathroom off the kitchen. so that's where the living area comes into
40 play.
41

42 Mr. Miller: But that's part of the 1000 square feet.
43

44 Mr. Eshelman: Its part of the 1278 square foot of new garage. The new space is entirely, including the living space,
45 1278 square feet. The existing garage is 434, so you're looking at total additional area 1040 square feet I believe it
46 is.
47

48 Mr. Trefz: You're non-conforming on the right side of this currently, right?
49

50 Mr. Eshelman: Neither side is conforming to the current 25' side yard setback.
51

52 Mr. Miller: But that was based on zoning when it was approved, it was fine, but not based on today's
53 conforming.
54

Board of Zoning Appeals

55 Mr. Beard: A lot of these old ones that are non-conforming were there before zoning was in place, so
56 even with that, zoning might still might not have been applied back then.

57
58 Ms. Sundar: You said there is a mud room and living space?
59

60 Mr. Eshelman: Yes. If you look at the plans, we're going to add a little area to transition from the kitchen
61 to the garage and have another bathroom in there. So inside of this entire area of 1040 square feet is this
62 1020 that we want to put inside the area.

63
64 Mr. Miller: About 13-14%. The back part of that though is an extension of the garage.

65
66 Mr. Eshelman: Correct. You've got the existing garage, so you go a little bit back. Right now there's a
67 paver patio.

68
69 Mr. Oster: What is the measurement of the easement right now to the existing garage? There's so much
70 math that was missing in this.

71
72 Mr. Miller: The big thing I look at is based on Exhibit 2, which shows the existing garage, the addition of
73 the mud room area and then the garage, your lot is 415' deep and you've got plenty of room to go to the
74 back. The side setback would not be changing at all, so in my eyes that would be conforming based on the
75 existing structure and then because the depth of the lot, you're not changing anything on the side setback
76 at all; you're just basically extending your garage.

77
78 Mr. Oster: I thought the side setback was changing.

79
80 Mr. Beard: It's changing.

81
82 Mr. Trefz: 8'.

83
84 Mr. Oster: So what is the measurement of the existing garage right now to the side; how far off of that are
85 we as far as what's there and what's that supposed to be, 25'?

86
87 Mr. Eshelman: Yes and right now it's 15-1/2'.

88
89 Mr. Oster: Right now with the existing garage?

90
91 Mr. Eshelman: Yes.

92
93 Mr. Miller: So you'd want to go from 15-1/2' to 7-1/2' basically.

94
95 Mr. Trefz: No, 10'. You're additional almost 8', 7-3/4'.

96
97 Mr. Eshelman: The current garage...

98
99 Mr. Trefz: Is 15.5'.

100
101 Mr. Beard: That 15-1/2' is the proposed garage.

102
103 Mr. Trefz: So you're going to add another 7-1/2' because it's roughly 5-1/4' plus the 2' of the sidewall of
104 the garage, it's got a 2' inset, so from the existing garage wall to the proposed new garage is
105 approximately 7-3/4'.

Board of Zoning Appeals

106 Mr. Oster: Do you have any of this math in writing that we can look at? We have nothing that really
107 shows what you want to do, what the accurate measurements are, and I'm not comfortable with doing
108 anything by word of mouth.

109
110 Mr. Trefz: I measured it based upon the scale and what was laid there because it's been reduced to fit the
111 page, and I totally understand that, but I did some rough measurements and from the existing current
112 outside wall of the left side of the garage, there's 2' there, then from that 2', the existing garage wall is
113 approximately 5-3/4', so that's 7-3/4' from the existing garage wall to the new garage wall.

114
115 Mr. Miller: What you're looking at the 2' is the edge of the corner of the garage to where the garage door
116 opener would be.

117
118 Mr. Trefz: Yes. There's nothing else on there so that's why I had to take some measurements.

119
120 Ms. Sundar: Do you have anything with better measurements?

121
122 Mr. Eshelman: Not with me. To summarize, it's not dimensioned very well; its 15-1/2' current garage
123 wall to current lot line. I'm asking for 10' from the current lot line rather than 15-1/2'.

124
125 Mr. Trefz: Normally we'll get what the setback is as well as what the percentage of square footage in this
126 case and that's why we're going back and forth on this.

127
128 Mr. Miller: One way to look at this as well is if this is approved, we could approve it based on the
129 condition of it meeting "x" criteria; so that's one of the protections we do have.

130
131 Ms. Sundar: Otherwise we're okay with extending the other side.

132
133 Mr. Trefz: You mean front to back?

134
135 Ms. Sundar: Yes.

136
137 Mr. Shipley: It's under the total amount so that's not the issue; it's moving it over closer to the setback.

138
139 Mr. Oster: And you're already sitting 10' too closet now and you're going to move it over even further
140 into where you're not supposed to be.

141
142 Ms. Sundar: Are you widening out the garage so you can get 2 cars in it?

143
144 Mr. Eschelman: No, I have a truck and SUV and I only park 1 vehicle in there right now.

145
146 Mr. Beard: From "here" to the edge of the new garage is just about 6'. Based on the 2', that's only 4'.

147
148 Mr. Oster: Which is what he said. You have 5 and you're going to 10, so you're within 5" of what he
149 said. We still don't really have anything with anything documented on it that I want to put my name on. Is
150 this the company that's doing it, the garage addition?

151
152 Mr. Eschelman: This was designed by a professional architect.

153
154 Mr. Oster: I saw that and I don't want to blast him but I thought this was a terrible job for us. It might be
155 fine for what you want to know for what you're doing but for us to look at it with current measurements

Board of Zoning Appeals

156 and revised measurements because you've got all the room in the world to go behind the house and do all
157 kinds of stuff.

158
159 Mr. Miller: The challenge would be if he extended it strictly to the back then he'd have to move one car to
160 get the other car out. Jeff, what were the figures again?

161
162 Mr. Beard: It was almost 6' that they were widening it but the other plans it is 15-1/2' from their property
163 line so that measurement is correct.

164
165 Mr. Oster: So the new will be at 15-1/2'?

166
167 Mr. Beard: Right now it's roughly 21.7', so it would be roughly 15.7'.

168
169 Mr. Oster: For the existing garage, the company should have had you're at 21.6' or wherever you are
170 clearly marked out on this then we're going to go to go over this far to put you at 15.5' because that
171 wasn't very clear to me.

172
173 Mr. Trefz: You show a setback of 20'.

174
175 Mr. Beard: I don't know why they have that easement marked at 20'. I think there was a subdivision that
176 was a part of this years ago and so we can't enforce that. You can see the house on the right side is well
177 within that 20'.

178
179 Mr. Trefz: I was just curious as to why it was a 20' setback at that point.

180
181 Mr. Shipley: When I first looked at it I didn't do the math but the 15.5' from the new garage to the
182 property line, but you're right, it doesn't read well.

183
184 Mr. Oster: I went through it for quite a while and I couldn't get to where I need to go to vote one way or
185 another as far as where are we really and fortunately what you've got is what you've got and clearly no
186 one is going to come after you for what our side setback is now but going forward...

187
188 Mr. Miller: Like I said, if it's approved it could be approved with the condition that the 15.5' side setback
189 would have to be adhered to if we agree based on the plan.

190
191 Mr. Eschelman: Right now the current garage is 15.5' from the lot line. Maybe I'm not understanding side
192 setback.

193
194 Mr. Trefz: Go from the lot line because we don't know what the setback is.

195
196 Mr. Eschelman: From the lot line to the current garage is 15.5'. I'm asking to build to 10'. I think we got
197 a little sideways there with the math.

198
199 Mr. Miller: You're asking from 15.5' to 10.5'?

200
201 Mr. Eschelman: Yes.

202
203 Mr. Oster: You're wanting 10.5'.

204
205 Mr. Eschelman: Yes.

206

Board of Zoning Appeals

207 Mr. Oster: Then the documentation isn't right. Jeff just said it was at 15.5'.
208
209 Mr. Eschelman: In the description of the project, second paragraph. The current garage is situated with
210 the western most wall 15.5' from the western lot line. The proposed construction would extend 10' from
211 the west lot line.
212
213 Mr. Miller: Mr. Beard, you said there was no response from neighbors either for or against?
214
215 Mr. Beard: Correct.
216
217 Mr. Oster: Because it looks like all of those houses are probably set right there at that 20-22'.
218
219 Ms. Sundar: Especially that bigger house.
220
221 Mr. Oster: Have we re-adjusted anything in this area through Orange Township since everybody was
222 obviously working on that 20' side yard easement?
223
224 Mr. Beard: No.
225
226 Mr. Oster: So he's going to be precedence.
227
228 Mr. Beard: I don't know every house on that street. This house is pretty close to the line...
229
230 Mr. Trefz: And then on the other side also.
231
232 Mr. Oster: And that was another thing I kept looking at. that those 2 houses there were already pretty
233 close together.
234
235 Mr. Trefz: The current measurement from your garage to your neighbor's is roughly how much?
236
237 Mr. Eschelman: I'd say about 25-30'. I'm 15.5'; they're probably between 10' and 15' right now.
238
239 Mr. Trefz: That's more of a curiosity question than anything else.
240
241 Mr. Miller: You said they're more like 10-15', your guesstimate, from their edge of the house to the
242 property line?
243
244 Mr. Eschelman: Yes.
245
246 Mr. Trefz: What did you measure, Jeff:
247
248 Mr. Wiemken: 27-28' from the property line. They had 20', at least that's what I got.
249
250 Mr. Shipley: In any case, your request is to 10'? Under 50% overall with that 10' from the property line.
251
252 Mr. Oster: And we have that in writing, wanting to go down to 10'?
253
254 Mr. Miller: That's the one I just showed you.
255
256 Mr. Beard: Evan, have you had a survey done?
257

Board of Zoning Appeals

258 Mr. Eschelman: I have a fence on the lot and I ran a rope down the west lot line and it was between 15.5'
259 and 16'.
260
261 Mr. Trefz: In one sense there's the existing garage with the new garage on top so that you don't have lines
262 clearly delineating all the differences.
263
264 Mr. Eschelman: Aside from that, it's going to match the styling of the house. It's got some brick basing
265 on the garage, stucco sides, metal roof; it's going to look exactly like the rest of the house.
266
267 Mr. Oster: From my point of view we're already looking at a non-approved setback and now they want to
268 go to 10' on a side yard setback.
269
270 Ms. Sundar: Have you looked at other options at the back of the house like a tandem garage to save from
271 some of these complications?
272
273 Mr. Eschelman: There is room in the back. I did look at the detached options. I have a 1 year old and
274 we're going to have more kids, so being attached to the house would be nice so they could come in and
275 out, and I would still be kind of with the family when I'm outside working in the garage. That's what was
276 attractive. We liked having another bathroom with a growing family and if you do a detached...
277
278 Ms. Sundar: I'm not talking about a detached. There's a style they call tandem garage where you have
279 like an "L" shape; I'm seeing it more these days.
280
281 Mr. Eschelman: That would be built in the front of the house then?
282
283 Mr. Trefz: Yes, I'm trying to draw it but my pen just died.
284
285 Ms. Sundar: This would actually give you more room
286
287 Mr. Trefz: You would just have to move your patio.
288
289 Mr. Eschelman: The patio right now is just right outside the kitchen, we have a side door coming out.
290
291 Mr. Trefz: The kitchen is right here and you have a window?
292
293 Mr. Eschelman: Yes.
294
295 Mr. Miller: Just for clarification, you said you currently can only get 1 vehicle in your garage?
296
297 Mr. Eschelman: To use the realtor term, it is a 2 car garage but we have a dog cage on one side, shovels
298 on the other, I can't open the back door and get a baby out of the car in the garage.
299
300 Mr. Oster: So you don't know what is the width and the depth of this existing garage?
301
302 Mr. Eschelman: 20'x20'.
303
304 Mr. Trefz: That's just barely a 2 car garage.
305
306 Mr. Oster: So by the time you move over and put in your mudroom and everything and then move over
307 on the other side, it looks like you're going to end up with the same or less width, correct?
308

Board of Zoning Appeals

309 Mr. Eschelman: We'll still have 26' total.

310

311 Mr. Oster: In front of the mudroom?

312

313 Mr. Eschelman: Yes and we'll probably stagger a couple of feet but we'll still be able to get the cars out
314 at the same time, open the doors all the way.

315

316 Mr. Oster: So you're probably going to be in that range beside your mudroom and bath with another 20'
317 span.

318

319 Mr. Trefz: Its 28' total then you've got 6' so it's 22'.

320

321 Mr. Miller: 2' wider. Mr. Beard, do you have a frontal view from the street of the existing along with his
322 neighbors?

323

MOTION TO APPROVE CONDITIONAL USE APPLICATION #CU-21-11

324

325
326 Mr. Miller made a motion to approve Conditional Use Application #CU-21-11, Evan and Jodi Eschelman,
327 predicated on the following conditions:

328

329 1. It's Farm Residential District

330 2. It is within the 50' and the original side setbacks which were in the 15-20' range back 30-50 years ago

331

332 Seconded by Mr. Shipley

333

334 Vote on Motion: Mr. Miller-yes, Mr. Oster-no, Mr. Shipley-yes, Mr. Trefz-no, Ms. Sundar-

335

336 Ms. Sundar: Are we clear with the setback of the easement?

337

338 Mr. Oster: He wants to take it all the way down to 10'. Our Code right now is 25', regardless of what was
339 done before. So he wants to go into it even more to a 10'.

340

341 Mr. Miller: From a 20' to a 10'.

342

343 Mr. Oster: It's not really from a 20'; it's from a 25' to a 10'.

344

345 Mr. Miller: Based on existing is what I'm saying.

346

347 Mr. Oster: We can't base it on existing; that was out of our purview. We've got to base it on what our Code
348 is right now.

349

350 Mr. Beard: Yes, we have to follow the Code.

351

352 Mr. Oster: We can't rush in and tell him to tear 20' of your house down to meet Code today.

353

354 Mr. Beard: But you have to follow what the Code is asking. There is a non-conforming section in our Code
355 and the non-conforming is not to be extended more than 50% of the existing non-conforming use that
356 existed at the time of the passage of the Zoning Resolution.

357

358 Mr. Trefz: And Jeff, the side yard setbacks are not in place?

359

Board of Zoning Appeals

360 Mr. Beard: No, because that's part of the non-conforming use. So even here, he's currently at almost 15 or
361 16' going down to 10', so that's still less than 50% of going into that setback that he currently has as a non-
362 conforming.

363

364 Mr. Oster: Non-conforming, that means not approved, nobody ever looked at it?

365

366 Mr. Beard: No, it means it was probably built before zoning was in place. Like the Village of Lewis Center,
367 almost all those houses are non-conforming, so if they do any additions to their house, they would have to
368 come in for a Conditional Use which we've had that on a couple of cases.

369

370 Mr. Trefz: Based on that, I'd like to change my vote to a yes.

371

372 Mr. Beard: Ms. Sundar.

373

374 Ms. Sundar-yes

375

376 Motion carried

377

378 Mr. Miller: I would like to make sure that it does stay within the 10' as written in his request.

379

OTHER BUSINESS

380

381
382 Mr. Miller: Before we go on to the minutes I'd like to ask a question that I should have asked when we
383 had the legal training. My reason for asking this is it was brought up this past week, the legality of Google
384 Map, etc. and a Google Map, is that drone for example taking a direct view overhead or to the left or the
385 right or whatever, to askew the photograph and because of that, is Google Map and things like that a true
386 legal representation?

387

388 Mr. Beard: I can reach out to legal counsel and ask for sure. Like the last case, he stated his house was
389 16'. If you measure the distance to the garage on the Auditor's site, it shows its 21'.

390

391 Mr. Oster: And that's askew.

392

393 Mr. Beard: But that's the County Auditor that has the parcel data and that's one of the images that we use
394 when looking at permits and site plans.

395

396 Mr. Oster: Clearly you can see the side of that building and it's askew. If you measured just down to the
397 bottom of the foundation, drop your blue line down a little bit, which may be the way you're operating it,
398 you might see a more accurate measurement.

399

400 Mr. Miller: If you drop that blue line to the base of the foundation instead of the roof line?

401

402 Mr. Oster: Yes, he was going up to the wall which you wouldn't do on an askew. Clearly you're to the
403 left of that because you're seeing the wall.

404

405 Mr. Miller: But I don't know if it's something that should be asked to the Prosecutor's Office. I
406 understand we have to use the Auditor's website as a legal reference, but the question came up if Google
407 Maps or things like that. Is there a legal issue with that?

408

Board of Zoning Appeals

409 Mr. Beard: It's more of a reference; it would be like us going out and taking a site photo, so it's just a
410 reference. We're not using the Google photo to measure things; that's why they still have site plans and
411 stuff, so they're supposed to submit it to show the layout of that property.

412

413 Mr. Miller: It's just a legal question and that's why I'm bringing it up.

414

415 **Approval of Meeting Minutes:**

416

417 Mr. Miller made a motion to approve the March 4, 2021 minutes of the Orange Township Board of
418 Zoning Appeals for Special Training Meeting with the following corrections:

419

- 420 • Lines 84 and 85: "ag" should read "AG"
- 421 • Line 544 should read: "And it's hard to do a reasonability test with ordinary sensibilities"
- 422 • Line 698 should read: "...so they asked us to face the damage to the vehicle away from the road."
- 423 • Line 731: remove the comma from "Members"
- 424 • Line 968: "mixed" should read "ethics"
- 425 • Line 968: "aspects" should read "ethics"
- 426 • Line 972 should read: "A thing of value can be a benefit or a detriment..."

427

428 Seconded by Ms. Sundar

429

430 Vote on Motion: Mr. Miller-yes, Mr. Oster-yes, Mr. Shipley-yes, Mr. Trefz-yes, Ms. Sundar-yes

431

432 Motion carried

433

434 Mr. Trefz made a motion to approve the July 15, 2021 minutes of the Orange Township Board of Zoning
435 Appeals for Variance Application #VA-21-07, David J. Allen & Sara L. Allen, with the following
436 corrections:

437

- 438 • Correct the spelling of Mr. Wiemken's name
- 439 • Correct Mr. Wiemken's title to Zoning Inspector

440

441 Seconded by Mr. Oster

442

443 Vote on Motion: Mr. Miller-yes, Mr. Oster-yes, Mr. Shipley-yes, Mr. Trefz-yes, Ms. Sundar-abstain

444 Motion carried

445

446 Mr. Shipley made a motion to approve the August 19, 2021 minutes of the Orange Township Board of
447 Zoning Appeals for Variance Application #VA-21-07, David J. Allen & Sara L. Allen, with the following
448 corrections:

449

- 450 • Line 21: address should be changed to 6040 Weeping Rock.
- 451 • Line 41 should read: "No, it will not have footers around it".
- 452 • Line 52 should read: "...and the drainage easement?"

453

454 Vote on Motion: Mr. Miller-yes, Mr. Oster-yes, Mr. Shipley-yes, Mr. Trefz-yes, Ms. Sundar – yes

455 Motion carried

456

457 Mr. Shipley made a motion to approve the August 19, 2021 minutes of the Orange Township Board of
458 Zoning Appeals for Variance Application #VA-21-08, Anil Marini, with the following corrections:

459

Board of Zoning Appeals

- 460
- Line 9: Correct the spelling of Mr. Wiemken's name
- 461
- Line 18 should read: "would be encroaching 3'-7"
- 462
- Line 22 should read: "My previous house had the same dimensions with an open fire pit space, so we went with
- 463
- what we had then with the 16' by 18' dimensions."

464

465 Seconded by Mr. Oster

466

467 Vote on Motion: Mr. Miller-yes, Mr. Oster-yes, Mr. Shipley-yes, Mr. Trefz-yes, Ms. Sundar – yes

468 Motion carried

469

470 Mr. Shipley made a motion to approve the August 19, 2021 minutes of the Orange Township Board of

471 Zoning Appeals for Variance Application #VA-21-09, Corey Kracht, with the following corrections:

472

- Correct the spelling of Mr. Wiemken's name
- Correct Mr. Wiemken's title to Zoning Inspector

474

475

476 Seconded by Mr. Oster

477

478 Vote on Motion: Mr. Miller-yes, Mr. Oster-yes, Mr. Shipley-yes, Mr. Trefz-yes, Ms. Sundar-yes

479 Motion carried

480

481

482

483 Hearing adjourned at 7:10 p.m.

484 Minutes prepared by Cindy Davis, Zoning Secretary

485

486