



MINUTES OF THE MARCH 8, 2022 BOARD OF ZONING APPEALS MEETING

I. Opening of Meeting

Chairman McGuinness opened the Clayton Board of Zoning Appeals meeting that convened at 7:00 PM on Tuesday, March 8, 2022.

II. Members in Attendance

Mr. Robert McGuinness, Ms. Jennifer Weeks, Ms. Jessica Hunter, Ms. Barbara Buyers, and Mr. Zach Goit.

Mr. Seth Dorman, City Planner/Zoning Administrator

III. Minutes of the Previous Meetings

Mr. McGuinness presented the minutes of the November 16, 2021, Board of Zoning Appeals meeting, asking if there were any comments or changes. Hearing none, Mr. McGuinness asked for a motion to approve the minutes as presented. Motion to approve the minutes of November 16, 2021 was made by Ms. Weeks, second by Ms. Hunter. Mr. McGuinness-yes, Ms. Weeks-yes, Ms. Hunter-yes, Ms. Buyers-yes, and Mr. Goit-yes. Motion passed 5-0.

IV. Organizational Items

Mr. McGuinness advised this is our first meeting of 2022 so there are some organizational items we need to address.

Mr. McGuinness advised Board members received in their packets the Rules of Procedure of the City of Clayton Board of Zoning Appeals and asked if everyone acknowledges receipt and understanding. After discussing the Rules and making recommended changes, Mr. Dorman advised he will make the changes discussed and bring the revised version to our next scheduled meeting.

Mr. McGuinness asked for approval of the 2022 Board of Zoning Appeals meeting schedule with meetings being held the first Tuesday of the month going forward. Motion by Ms. Hunter to approve the 2022 Board of Zoning Appeals meeting schedule as proposed, motion was second by Ms. Weeks. Voting: Mr. McGuinness-yes, Ms. Weeks-yes, Ms. Hunter-yes, Ms. Buyers-yes, and Mr. Goit-yes. Motion was approved 5-0.

Mr. McGuinness stated we need to appoint a Chair for 2022 and asked for nominations. Ms. Hunter made a motion to appoint Ms. Weeks as Chair for 2022, motion was second by Mr. McGuinness. Voting: Mr. McGuinness-yes, Ms. Weeks-yes, Ms. Hunter-yes, Ms. Buyers-yes, and Mr. Goit-yes. Motion was approved 5-0.



Mr. McGuinness stated we also need to appoint a Vice-Chair for 2022 and asked for nominations. Ms. Weeks made a motion to appoint Mr. McGuinness as Vice-Chair for 2022, motion was second by Ms. Hunter. Voting: Mr. McGuinness-yes, Ms. Weeks-yes, Ms. Hunter-yes, Ms. Buyers-yes, and Mr. Goit-yes. Motion was approved 5-0.

Mr. McGuinness stated we then need to appoint a Commission Secretary. Ms. Hunter made a motion to appoint Barbara Seim as Commission Secretary, motion was second by Mr. McGuinness. Voting: Mr. McGuinness-yes, Ms. Weeks-yes, Ms. Hunter-yes, Ms. Buyers-yes, and Mr. Goit-yes. Motion was approved 5-0.

V. New Business

Newly appointed Chair Weeks administered the Oath to anyone who wished to speak this evening. Weeks then introduced Case VAR22-01, a request for a swimming pool location Variance for the property at 11211 Old Mill Road. The applicant is proposing to install a swimming pool in the side yard instead of the rear yard. The request was made by Brian and Jane Oosthuizen, the property owners.

Mr. Dorman, City Planner, advised the city received this application on February 2, 2022 requesting approval to install an in-ground swimming pool in the side yard instead of the rear yard. A public notice was printed in the Brookville Star on February 23, 2022 and letters were sent to property owners within 300 feet of the subject property on February 22, 2022. The subject property is 11211 Old Mill Road and has an area of 6.07 acres. This property is zoned RCD-1, Rural Conservation District. Dorman then showed an aerial image of the property and indicated the proposed location of the pool. The requested variance from Section 1121.02(D)(1)(ii) states that "The swimming pool and pool house shall be located in the rear yard only and shall be setback a minimum of 15' from the primary structure and any lot line, and not within any recorded easements." The applicant's preference is to put the pool in the rear yard, but they have been advised they can not due to the location of the leach field for their existing septic system. The location of the property is in an area where there are larger lots so the spacing between homes is greater than a typical subdivision lot and therefore the impact to the neighbors coming from a pool in the side yard should be minimized. All other zoning requirements for a swimming pool are met with the proposed plan. Staff recommends approval of the requested variance, given the following facts. The applicant has fully vetted locating the pool in the rear yard but is unable due to the location of the existing leach field for their septic system, and the applicant has a larger lot that is surrounded by other larger lots, so the impact of locating the pool in the side yard will be minimized by the spacing between the existing residence and the proposed pool.

Ms. Weeks asked the board members if they had any questions for Mr. Dorman.

Mr. Goit stated this property is zoned RCD-1 which are larger lots, does that prohibit the lots from being parceled off and split into smaller lots in the future.



Mr. Dorman stated in RCD-1 you can split the lots but they have to be a minimum size. RCD-1 are lots less than 10 acres, and they would have to meet the frontage requirements.

Mr. Goit asked what is the likelihood the parcel could be split.

Mr. Dorman stated he does not anticipate based on the other properties in that area, and the pool will have a fence around it, the security feature that the code requires.

Ms. Weeks asked the applicant, Brian Oosthuizen, if he had anything to add.

Brian Oosthuizen advised he and his wife Jane are the property owners. We have been wanting to install the pool for a year now. We didn't have the issue of it being a problem on the side of the house, but the code changed which made us put the pool on the side of the house. We hired an engineer to look at the land on the side of the house and performed soil testing that determined it could be installed there.

Mr. Goit stated we know you have an existing leach field in the backyard. Are there any financial hardships in adhering to the code; have there been any discussions about doing anything to the leach field.

Mr. Oosthuizen stated he received a quote to move the septic tank and the existing leach field, it would cost \$10-12 thousand just to move the tank. Then I have drainage line that protects the property, the house itself. If I damage the drain line, I would damage my leach fields and I would have damage from any runoff from the house. I would be damaging my foundations. I would have to build a retaining wall in order to put in the pool due to the slope in my yard.

Mr. Goit stated I appreciate that; it does sound like adherence to the code would be ridiculous in this instance and constitute financial hardship. I believe it was stated you are going to be putting in a fence around the pool.

Mr. Oosthuizen there will be a six foot tall fence installed around the pool.

Hearing no further questions Ms. Weeks advised we would normally ask for a motion to open the floor for public comment. However, there was no one in attendance to speak for or against this case.

Ms. Weeks Mr. Dorman if he received any comments from neighbors.

Mr. Dorman stated letters were sent to all residents within 300 feet and received no objections.

Findings of Facts:

Ms. Weeks read the findings of facts and after discussion found that all were satisfied with the variance request.

Mr. McGuinness made a motion to approve the variance, motion second by Ms. Hunter. Vote: Mr. McGuinness-yes, Ms. Weeks-yes, Ms. Hunter-yes, Ms. Buyers-yes, and Mr. Goit-yes. Motion passed 5-0.



Board of Zoning Appeals
P.O. Box 280
Clayton, Ohio 45315-0280

VI. Next Meeting

Mr. Dorman stated we have no upcoming cases pending at this time.

VII. End of Meeting

There being no other business to come before the Board, Mr. McGuinness moved to adjourn the meeting and Mr. Goit seconded the motion. All approved. Meeting adjourned at 7:40 PM.

A handwritten signature in blue ink that reads "Bob McGuinness".

Mr. Bob McGuinness, *Vice-Chair* for
(Ms. Jennifer Weeks, *Chair*)

5 APRIL 2022
Date

A handwritten signature in blue ink that reads "Barbara Seim".

Ms. Barbara Seim, *Secretary*

April 5, 2022
Date