

# AGENDA – BOARD OF ZONING APPEALS

City of Trenton, Ohio

Date: April 26, 2021 7:00 p.m.

**MEETING PLACE: CIVIC HALL - 11 EAST STATE STREET**

CALL TO ORDER – Meeting called to order at 7:01 PM.

PLEDGE OF ALLEGIANCE - Recited

ROLL CALL – Mr. Yontz, Mr. Perry and Ms. Archibald were present, Mr. Nichols and Ms. Matala were absent.

A motion was made by Ms. Archibald, second by Mr. Yontz, motioned passed 3 yes.

APPROVAL OF MINUTES – April 22, 2019 minutes. The minutes were not approved. At this time they are missing and need to be done at the next meeting.

## NEW BUSINESS

1. A variance request by Ryan Prewitt of 439 Martin Avenue to place a privacy fence into a side yard setback.
  - a. Swearing in of witnesses. Mr. Jones and Mr. Ryan Prewitt were sworn in.
  - b. Discussion-

Mr. Jones went over the application for a fence variance. The drawing for the fence location is on page 5D. He wants to put a fence up into the side yard because there is only a side door, there is no rear door to the house.

Mr. Prewitt wants to put a new fence to enclose his side door to allow future children and his current pets to be released into the fence area without having to go outside, open a gate and let them in the rear yard area. Ryan did present pictures of his house showing all sides of the house explaining that there is no back door to the house. He also showed a picture where the side door was located, the area where he want to enclose by a fence.

Mr. Jones went over the fencing regulations and says that fences must only be located in the rear yard and this is the reason his application was initially denied. There are exceptions to this but they pertain to corner lots, there are no exceptions for this event.

Mr. Jones went over the definition of a Practical Difficulty. You have to have a Practical Difficulty in order to be granted a variance.

- Shape of Parcel-Both Mr. Jones and Mr. Prewitt agree the shape of the parcel is not the problem.
- Topography of the parcel. Both Mr. Jones and Mr. Prewitt agree the topography of the parcel is not the problem.
- Legal permanent structure. Both Mr. Jones and Mr. Prewitt agree the legal permanent structure on the parcel is not the problem.
- Code requirements that would impede the functionality of a legal or legal non-conforming building or structure. Mr. Jones states there is no legal or legal non-conforming structure in this case so this would not be a proper application of the definition. Mr. Jones believes this is more of

a convenience item than a practical difficulty. Mr. Prewitt believes this is where he has a Practical Difficulty, pertaining to unreasonably limit the functionality of being able to let kids and pets out a door into a fence areas. If a variance is not granted, they would probably not put up a fence. It doesn't make sense not to be able to let the kids and or dogs out into the rear fenced area.

Ms. Archibald wanted to know if it is common for homes in Trenton to not have rear doors. Mr. Jones does not live here and does not know if that is common or not. Others stated there are other homes that do not have rear yards. New home usually all have rear doors.

Mr. Prewitt explained that the two rooms that occupy the back of the house are bedrooms and the side door enters into the kitchen.

Mr. Prewitt did want to correct for the record that this will be a 4ft chain link fence, not a privacy fence.

- The other provisions of the definition do not apply, both agreed by Mr. Jones and Mr. Prewitt agreed.
- Criteria (1) The requested variance is justified by a practical difficulty. Mr. Jones believes that this answer should be no. The applicants did not meet the requirements, this is more of a convenience for him; nothing is stopping him from putting up a fence in the rear yard as required by code. Mr. Prewitt wants to focus on the structural problem. He believes there is a structural problem with his house that prevents him from putting up a fence that is reasonable. Both rooms on the back of the house are bedrooms and it would make no sense to put a doorway in one of the two bedroom to gain access to the rear yard. This is the structural problem making it a Practical Difficulty. The house was built before the fence code.
- Criteria (2) The practical difficulty was not created by the unlawful acts or omissions of any owner or tenant. Mr. Jones believes this should be no because there is not a Practical Difficulty but if the board decided there was a Practical Difficulty, the answer should be yes. Nothing was done illegally to cause the need for a variance. Mr. Prewitt agreed he did nothing illegal to cause the need for a variance.
- Criteria (3) The practical difficulty does not commonly occur in any neighborhood in the City having the same zoning classification as the subject property. Mr. Jones again stated this should be a no answer because he does not believe the requirements of a Practical Difficulty has been met. If the board believes that there was a Practical Difficulty. Mr. Jones does not have enough information to testify is this is common or not. New homes do have rear doors. Mr. Prewitt agrees this may occur in older homes but not in new homes.
- Criteria (4) Approval of the variance would not materially damage the character of the neighborhood. Mr. Jones and Mr. Prewitt believe this would be yes, a variance would not materially damage the character of the neighborhood.
- Criteria (5) Approval of the variance would not violate a significant legislative purpose of the Zoning Code. Mr. Jones stated believes this answer should be no. A variance is something that should be used when the code makes it impossible to do something permitted in the code. A good example would be the building where Richards is located. We do not allow signs on a roof but that building is allowed. They got a variance to put signs on the roof because the front walls for this building is all glass and doors. Mr. Prewitt believes this answer should be yes as Mr. Jones mentioned, like everyone else is allowed to do. He would like to be able to do what everyone else would be allowed to do because they have a rear door, he does not. He is just trying to do the same as everyone else.
- Criteria (6) Approval of the variance would not reduce the efficiency of emergency services or adversely and unreasonably affect non-emergency public services. Mr. Jones believes this answer should be yes, emergency services would not be affect, Mr. Prewitt agreed.

- Criteria (7) There is no reasonable solution to the practical difficulty other than a variance and the variance requested is the least that can reasonably reduce the practical difficulty. Again, Mr. Jones stated he did not believe the requirements of a Practical Difficulty exists. The reasonable thing to do is put up the fence as required by law. If the board believes there is a Practical Difficulty, the position of the fence is the least he can do in order to solve his problem. Mr. Prewitt believes this is the least he can do to include the side door. Putting a door in the rear of the house is unreasonable.

After no further discussion, the board was polled on the seven criteria. It was a unanimous vote on all 7 criteria being a yes answer and that they believe a variance should be granted.

A motion was made by Ms. Archibald to approve the variance, second by Mr. Yontz. The motion passed with a 3 yes vote.

#### **REPORTS BY STAFF AND BOARD MEMBERS –**

Mr. Jones reported he is working on locating last meeting minutes. We probably will be meeting next month over the denial of a fence permit. Mr. Jones also reported the Dale Perry was leaving the BZA because he was recently appointed to fill in a vacant position on City Council. We have a posting out for anyone who is interested, send in a resume for the position. They just need to send in a resume to Mr. Jones. Council has the final decision.

There were no other reports.

**NEXT MEETING –** May 24, 2021 if needed.

**ADJOURNMENT –** Mr. Yontz made a motion to adjourn, second by Mr. Perry. The motion carried with a 3 yes vote. The meeting was adjourned at 7:47PM.