

**NORTH RIDGEVILLE BOARD OF ZONING AND BUILDING APPEALS
MINUTES OF
REGULAR MEETING – THURSDAY, JULY 25, 2024**

CALL TO ORDER:

Chairwoman Masterson called the meeting to order with the Pledge of Allegiance at 7:00 PM.

ROLL CALL:

Present were members James Cain, Shawn Kimble, Alternate Planning Commission Liaison Steve Ali and Chairwoman Linda Masterson.

Also present were Chief Building Official Guy Fursdon, Planning and Development Director Kimberly Lieber, Assistant Law Director Toni Morgan and Deputy Clerk of Council Tina Wieber.

MINUTES:

Chairwoman Masterson asked if there were any corrections to the minutes of the regular meeting on Thursday, June 27, 2024.

None were given.

Moved by Masterson and seconded by Kimble to accept the minutes as submitted.

A roll call vote was taken and the motion carried.

Yes – 4 No – 0

PLANNING COMMISSION REPORT

Alternate Planning Commission Liaison Ali stated that at the Planning Commission meeting held on July 9, they received an application for a 10,000 square foot addition to an existing building for storage and it was approved 4-1. He stated that the second application that came before them was for Pro Care We Care Landscape to construct a 9,000 square foot building, parking and landscape material storage and it was denied by a vote of 3-1.

OTHER REPORTS OR CORRESPONDENCE

Chairwoman Masterson asked Director Lieber if she gave the Mayor the spreadsheet of people who would be potential candidates to replace Neil.

Director Lieber said, yes, that she forwarded the master plan list of folks that had applied.

PUBLIC HEARINGS:

PPZ2024-0286: David & Christina Fagan, 9302 Winfield Lane, PPN 07-00-036-000-452

Proposal consists of an outbuilding in front yard. Property is zoned R-1 Residence District. Requests:

1. A variance for an accessory structure (outbuilding) in the front yard, code does not permit, Section 1294.01(g)(10). Note: Outbuilding is encroaching into the required front yard by 8 feet.

Application was read.

Chairwoman Masterson asked Director Lieber to give her review of the application.

Director Lieber stated that the applicant was proposing to install a new 120 square foot shed on their corner lot and as the Board was aware, for corner lots both street frontages are considered front yards. She explained that the zoning code required that all accessory uses be located within a side or rear yard. She stated that the shed encroached in the front yard that existed along the side street of Elizabeth Lane and that the property was developed under Chapter 1282 and therefore, in this case, the required front yard was 30 feet. She discussed that the proposed shed was about 22 feet set back from the right of way along Elizabeth Lane.

David & Christina Fagan, 9302 Winfield Lane, North Ridgeville, OH 44074, were sworn in.

Chairwoman Masterson asked the applicant to explain the application.

Mr. Fagan stated that there obviously were some preferences at play, but they were not just their own but also those of their neighbors and their HOA and that it was a strategic use of the property. He discussed that the large corner lot was a big selling point for them when they bought the house two years ago and that they had invested a small fortune in the backyard with building a deck and a patio and lighting, and now recently some fencing that had finally allowed them to be able to throw a frisbee for their overactive dog and just safely play baseball with the kids. He stated that he was trying to find a spot for the shed and the awkward unused corner behind their third car garage extension was an ideal spot to preserve that large play area and the views of the water that they have behind their lots for both them and their neighbors. He discussed that they originally aimed to tuck it all the way into the corner and was something their contractor Alpine had done in other towns, but they weren't aware that the rules could be so different town to town. He explained that they learned with the first permit rejection that it needed to be 10 feet away for freestanding buildings, so then they resubmitted with pulling it 10 feet out which ran into the setback line and brought them before the Board that day. He added that ultimately, they were just hoping that the 8 foot encroachment on that setback line wasn't substantial and that since there were two other houses in the neighborhood on their street actually, that had sheds tucked behind a third car garage extension, that there was a precedence from a consistency in the community standpoint and since their intent with it was really just to be smart and conscientious with the addition in a way that their neighbors and family would be grateful for the variance.

Chairwoman Masterson stated that they asked them to provide a hardship and that having their neighbor's consent and having the consent of the HOA did not pertain to the Board and was not something they took into consideration. She asked if they wanted to put the shed away from the house and weren't thinking of tucking it next to the garage, 10 feet away from the corner of that garage extension.

Mr. Fagan stated that they originally wanted to tuck it all the in but were told that they couldn't. He stated that per Ohio code it had to be 10 feet away. He mentioned that there was a house at 9554 Winfield Lane that had one that was tucked within 10 feet of their house behind their third car garage extension. He added that he thought that technically they were in Eaton Township, but it had a North Ridgeville address.

Chairwoman Masterson stated there were a different set of rules and regulations for Eaton Township. She asked Chief Building Official Fursdon to address that. She stated that first in the application it looked like

they were tucking that shed behind the garage next to the house and they were told that they couldn't do that at all.

Chief Building Official Fursdon stated that was correct because it was a free-standing shed and the ordinance stated that it had to be 10 feet away from the house. He stated that they did have the option to attach it to the house like they do in Ridgefield, but he wasn't sure if they were aware of that or chose not to use that option.

Mr. Fagan stated that the practical difficulty there was that it took the project from an \$8,000 shed to a \$48,000 home addition. He stated that he hadn't gotten an exact quote on that, but he did get clarification on what that would entail and it would be cemented floaters below the frost line, flashing against the house, headers and drywall and tons of hours of labor that would balloon the cost of the project. He explained that they were expecting their child in a little over a week and there would be a bunch of financial burden that they would be taking on and they had already invested so much into their house that it would be a difficulty. He stated that their practical difficulty regarding keeping it within the setback lines from both Winfield and the canal were that if they put it in the back right corner of where that jutted out, optically, that would be almost right in the middle of their fenced in backyard and would be a shame. He stated that putting it in the back left would block the views for them and their neighbor of the waterway in back which was near and dear to their hearts. He added that also, because they had invested over \$150,000 in their backyard, to then plop a shed in the middle of it when they worked so hard to cultivate that large play area and the views, both of those options would be a shame because they did all of that not thinking it would be a big deal to tuck the shed into that corner because two other houses had done that.

Chairwoman Masterson explained that by comparing their situation to their neighbor's was not comparing apples to apples but apples to oranges because he had two front yards.

Ms. Fagan stated that because of where they were on the corner lot, the community mailboxes were also located right behind their house and currently that was unlit by the city because of electrical issues, so they and their neighbors were concerned regarding being able to view that mailbox when folks went to access those. She mentioned that right now where it's approved to put the shed, was that Direct Line of view to those mailboxes.

Chairwoman Masterson asked if the mailboxes were behind their house.

Ms. Fagan explained that the mailboxes were all behind their house in the back left corner, if they were to follow Elizabeth west and stated that it was just off screen what they were viewing. She mentioned that there was concern there that people could potentially hide behind that and that it was not a lit area, so the concern for them was the line of sight to those mailboxes for folks that are out there.

Chairwoman Masterson mentioned that sadly financial concerns were not a hardship.

Mr. Fagan stated that they were aware of that, but they were just trying to set context with. He commented that he knew they were probably looking for more objective reasoning, but they were trying to appeal to some empathy for the situation that they were in. He discussed that he would also say in that same vein, looking through the notes that were provided on those Duncan Factors, it was mentioned that it was not going to block any government facilities, was not going to pose a safety hazard, and even though the 8 foot delta, he thought they called it, was not insignificant, it was also not substantial, which was the original prompt. He stated that he felt like there was not a lot of objectiveness in that.

Chairwoman Masterson explained that they were looking for the standard, “Could their property without this shed, be used” and the answer was yes, it could be used.

Mr. Fagan commented that it was a residence and regardless of how it ended up, they could live there. He stated that was correct.

Chairwoman Masterson read “Is the variance substantial” and stated that it was 22 feet rather than 30 feet, so it was substantial.

Ms. Fagan remarked that it was still within a fenced backyard.

Mr. Fagan asked if it was substantial, 8 feet? He stated that they called it not insignificant but was it substantial.

Chairwoman Masterson stated that it was not an insignificant difference, so it wasn’t small.

Mr. Fagan commented that it was also not substantial.

Director Lieber stated that it was her staff report and that she didn’t think that the Board had ever been in a position where they attempted to quantify where something turned significant. She discussed that they were not measuring in inches but were measuring in feet, and that it was a significant percentage of that requirement. She added that certainly they were not proposing to put the shed on the property line, but again a corner lot did require two front yards, and in that case, it did encroach substantially and then became the structure that was closest to the right of way line versus the house.

Mr. Fagan stated that right across the street from them at 9301 Winfield, they had a privacy fence that extended N from their garage extension towards Winfield. He stated that he hadn’t gotten out there with a measuring tape, but it was at least 8 feet, if not more and opaque. He remarked that for all intents and purposes, anybody walking down the sidewalk of Elizabeth, there was a 6 1/2-foot-tall opaque structure jutting out at them and it was white.

Chairwoman Masterson stated that they were talking about their house. She mentioned that if they had a problem with that, they were more than welcome to lodge a complaint with the building department.

Mr. Fagan stated that he didn’t have a problem with it but was saying that he didn’t think anybody else would notice that it was the closest thing in the neighborhood towards Winfield or towards Elizabeth.

Chairwoman Masterson read “Will the variance adversely affect the delivery of governmental services, water, sewer, garbage”, and stated that no, it wouldn’t. She then read “Did you purchase the property knowing the zoning restrictions” and commented that most people generally didn’t. She stated that they looked at the fact that they were buying a corner lot, and they have a whole bunch of property. She read, “Is there any other way you can address this through having a variance” and asked if they were stating that there was no other place to place the shed that wouldn’t require a variance of some kind.

Mr. Fagan stated that technically there was, and that they could drop it in the middle of their backyard.

Chairwoman Masterson read, “Would the spirit and intent behind the zoning requirement be observed

in substantial justice by granting this” commented that it was subjective. She asked if there was anybody else on the Board that had any comments, questions or concerns.

Member Cain stated that the big issue on the corner lots is obstruction for safety for vehicles, travel, and if that was going to be an obstruction of view. He commented that it wasn’t like a fence where you were past it, you had 8-foot, 12 feet of frontage of the shed. He stated that his issue was if there was plenty of room of line of sight past the shed for safety.

Chairwoman Masterson asked if he felt that there was.

Member Cain stated that he felt that there was.

Chairwoman Masterson stated that she drove by it and could understand their concern regarding the mailboxes that were farther down the street that somebody could be hiding behind it. She mentioned that wherever they put the structure, there could always be that problem that might occur.

Mr. Fagan stated that with where they were looking to put it, for them to hide behind it, for anybody that's walking on this right side of the picture, they would have had to have hopped his fence to get behind it. He indicated that if they put it in the back right corner of where those setback lines were, they could be on the opposite side, which would be the west end and not have hopped the fence but be out of sight behind a shed for anybody that was walking that way and that was his concern there. He stated that as soon as the walker was to clear his property line, someone could come running at them.

Chairwoman Masterson explained that what Mr. Cain was trying to say was that they were generally looking at self-contained and were looking at the sidewalk around his house and looking to see that kids would be ok.

Mr. Fagan stated that they had a stop sign there at the corner and they tested it out themselves, as well to see if you're at the stop sign and you're looking left and right, if there was plenty of sight on both sides.

Vice-Chairman Kimball, I do. I drove through and went by the property earlier that day and went by down Elizabeth, the next street around the cul-de-sac and came back and specifically was thinking of where it would be if there would be a visual obstruction and he didn't think that there would be from any safety standpoint. He mentioned that however, he did think they had plenty of room in their backyard where they could put that. He stated that the Board was intended for when they were out of options. He commented that he knew that it was not great to hear that they couldn’t get what they wanted but the Board was there for when there were no other options and he felt that they had several options.

Mr. Fagan stated that for them it was kind of a last-ditch effort because if they didn’t get the variance and found out that there was literally no way for them to get a shed even in that general area, they were probably not going to do a shed and they would just have to figure it out. He stated that currently they couldn’t park their cars in the garage because they had a two-year-old that had a lot of stuff, and they were about to add to it with a second child.

Chairwoman Masterson asked if there was anybody in the audience that wants to speak on behalf of this matter.

No comments given.

Chairwoman Masterson asked if anyone from the Administration had anything else that they wanted to add.

No comments given.

Moved by Kimble and seconded by Masterson to deny the variance request.

A roll call vote was taken and the motion carried.

Yes – 4 No – 0

PPZ2024-0287 George Delury, 32907 Chestnut Ridge Rd, PPN 07-00-004-109-005

Applicant: Daniel Margulies Company, Inc, 1210 Chase Ave, Lakewood, OH 44107.

Proposal consists of building addition. Property is zoned R-1 Residence District.

Requests:

1. An 8-foot variance for depth of required front yard. Applicant shows 42 feet, code requires 50 feet, Section 1250.04(b)(1).

Application was read.

Chairwoman Masterson asked Director Lieber to give her review of the application.

Director Lieber stated that the property owner was proposing an addition to their existing home. She mentioned that the current front stoop was to be replaced with a larger covered porch, which would also extend a bit closer to the front property line. She stated that the code required dwellings to be set back 50 feet from the property for that case and for that project.

Chairwoman Masterson asked if there was a representative for the application.

Dan Margulies, 1210 Chase Ave Lakewood, OH 44107, was sworn in.

Chairwoman Masterson asked the applicant to explain the application.

Mr. Margulies stated that there was an existing front stoop with a kind of a makeshift metal awning over it and the front stoop extended out about 6 feet. He explained that they wanted to replace that with an open-air, covered porch. He remarked that he had been doing his job a long time and had gotten hundreds of variances in various cities, but that this might be the first time he requested a variance where he didn't have a practical difficulty. He stated that they were doing a sizable addition on the rear of the house and decided that the house sort of looked like a very nice mobile home currently. He discussed that they felt this architectural element would enhance the house significantly and Mr. Delury and his wife as they got older wanted to sit out on the front porch and they didn't have one they could do that on. He stated that he wasn't sure if they wanted to go through all the Duncan Factors individually, but he didn't think that they were government services at all. He explained that since this was at the front door, they had no other place to put it that made sense.

Chairwoman Masterson stated that one of the practical difficulties is this is an extremely unique piece of property and that it was pretty deep. She asked what the dimensions of that pad for the front porch was, the floor of the porch, what the size was.

Mr. Margulies stated that it was 6 by 8, or something like that. He discussed that it projected into the front yard 6 feet and was roughly about 8 foot wide. He stated that they were making it a little bit wider and two feet deeper and that it wouldn't be enclosed, just purely roof covering.

Mr. Delury stated that the structure being built over the front window was because his wife wanted to make windows that open and so that they could be open while it was raining as well.

Chairwoman Masterson asked if any Board members had any questions, comments or concerns.

Vice-Chairman Kimble stated that driving down Chestnut Ridge, especially thinking about this variance, I think to possibly help you along with your practical difficulty is the approach of the visual coherency of your proposed project versus a lot of the homes that are on the road. He indicated that there were a number of homes that had fairly good size front porches and he believed that this would blend in with the rest of his neighbors along that stretch of road, so to him the proposal did make sense.

Chairwoman Masterson asked if anybody from the Administration had any comments, questions, or concerns?

Director Lieber stated that it looked like the existing stoop did already encroach, so it was a non-conforming situation and where the house was set, they couldn't construct anything on the front as a covering and comply with code. She stated that it would be two additional feet approximately and didn't think it was substantial. She added that they couldn't really move the house back and they couldn't change where the front door was, so that might be other hardships.

Member Cain commented that he was looking at the diagram and thinking that it was already encroaching into that area. He stated that he thought it would definitely make the neighborhood look better.

Chairwoman Masterson stated that his practical difficulty was that he had a nonconforming structure. She discussed that he was only adding two more feet and that was a very small variance, and it would enhance the appearance of the house. She commented that his practical difficulty was that he had something that was nonconforming that was there prior, and he was trying to improve what existed. She asked if anyone in the audience wanted to speak on behalf of this matter?

Moved by Masterson and seconded by Cain to approve the variance request.

A roll call vote was taken and the motion carried.

Yes – 4 No – 0

PPZ2024-0288 Feliciano Towing, Javier Feliciano, 5884 Rosebelle Ave, PPN 07-00-020-108-019

Proposal consists of an outbuilding for home occupation. Property is zoned RS-2 General Residence District. Requests:

1. An appeal to allow a second vehicle used primarily for the home occupation on the premises, Section 830.02(b)(15). Note: BZBA denied variance request for second vehicle in 2017.
2. A 1-foot variance for setback of a detached private garage. Applicant shows side setback (north) of 4 feet, code requires 5 feet, Section 1294.03.

3. A 356 square foot variance for area of detached private garage. Applicant shows 1,032 square feet, code allows 676 square feet, Section 1294.03(d)(1). Note: Garage also exceeds 26 feet in width.

Application was read.

Chairwoman Masterson asked Director Lieber to give her review of the application.

Director Lieber stated that the proposal was a little bit more complicated than the average too big garage. She mentioned that some of her comments would contain questions that hopefully the applicant could address in their remarks to the Board. She explained that in April of this year, building staff determined that the owner of the property had constructed or had begun constructing a garage addition on his property without the issuance of a permit, so at that time a citation was issued, or a notice violation was issued by the city in April. She indicated that on May 3rd the applicant submitted their permit application to obtain approval and during plan review it was then found that the garage addition did not comply with the requirements of the zoning code. She stated that on June 5th the city had issued its plan review findings to that effect indicating that the garage was located too close to the side property line and also significantly exceeded the maximum area, especially because this is a smaller lot and it fell under the under 1/2-acre lot size requirement. She discussed that the applicant was advised to either bring the structure into compliance or seek variances and so that was the genesis of the application to the BZBA, but a little bit more complicated. She described that within the written portion of the request, the applicant had indicated that the garage addition was made to accommodate the home occupation that existed on the lot and talked about the tow truck would be stored in the garage. She indicated that 2015 a home occupation permit was issued for the property to allow the towing business but then the applicant then appeared before this Board in 2017 to request a second work vehicle on the property and that was denied. She stated that her question would be what the intent of this garage addition would be as well and that if it was to house more than one work vehicle on the property, then that would be in violation of the BZBA denial, as well one the home occupation ordinances. She mentioned that she was aware that the Assistant Law Director had a conversation with the applicant who indicated it was not for a second work vehicle, but just because maybe what was heard over the phone seems to maybe not be completely in line with the written portion of the applicant submittal, she just wanted to make sure that that got clarified on the record for BZBA as to what the intended use of the structure was. She added that regardless, she would have concerns that if a garage was being constructed in violation of the code, also in support of a home occupation, which was not supposed to change the nature of a residential area, she would have concerns regarding that.

Assistant Law Director Morgan stated that there was some concern that it was an appeal for a second vehicle, so she called Mr. Feliciano and he indicated that it wasn't an appeal for a second vehicle. She discussed that what was before them had to do with just the garage and the shortcomings that it had. She stated that it was also a good opportunity for her to indicate to the Board, as she had many times before, that they were quasi-judicial, which was why they would swear people in and they would give testimony and show pictures. She stated that they were allowed to give whatever evidence they wanted because the Board's decision could be appealed to an administrative appeal to the courts. She explained that a quasi-judicial board, the idea, there's a term at law called Res judicata, which is a matter which was settled, once they made a decision, which they had in 2017, they couldn't rehear the same application. She stated that as long as it was the same parties asking for the same thing, it had already been settled. She added that it was not an appeal before them but just as a reminder, once you made a decision, people couldn't come back and ask for the same thing. She mentioned that they could make modifications that were significant, even similar things, but they couldn't come back and ask for the same thing, just for future reference.

Chairwoman Masterson responded that for clarification, they were not even dealing with the second vehicle.

Assistant Law Director Morgan stated that they were not. She indicated that they were dealing with the structure where it was built and the size of the variances, what it did to the neighborhood, and the Duncan factors were what they needed to look at. She stated that he indicated to her that he was not appealing that, but even if he wanted to, it was foreclosed, and he couldn't do that.

Chairwoman Masterson asked the applicant to explain the application.

Javier Feliciano, Feliciano's Towing, is 5884 Rosebelle Ave. North Ridgeville, OH 44039, was sworn in.

Chairwoman Masterson asked the applicant to explain the application.

Mr. Feliciano stated that he was getting a little older and I didn't want his trucks outside in the wintertime. He stated that they took a brutal beating when they were outside, and he had to use them. He stated that he wasn't asking for a second variance and that was a long time ago. He said that he had a shop in Elyria, on the border of North Ridgeville and Elyria. He mentioned that it was just basically if he came in with his tow truck, he wanted to be able to get it inside for wintertime. He stated that it was super hard on them and to be able to just start them and just go, because the line freezes and stuff like that. He stated that that was basically why he needed the extra garage.

Chairwoman Masterson asked if there was a reason that he did not ask for a building permit before building the structure.

Mr. Feliciano stated that he didn't know that I needed one.

Chairwoman Masterson remarked that he was a business owner and was not aware that he needed a permit.

Mr. Feliciano stated that he was a business owner, but he was not perfect. He responded that he didn't know and that he would have complied.

Chairwoman Masterson stated that she had real issues when people built something that didn't meet code and then asked for forgiveness. She commented that she didn't understand why he didn't think he needed a building permit.

Mr. Feliciano stated that he didn't know he needed one.

Chairwoman Masterson stated that it was going to be a little bit difficult in regard to Duncan factors because he had already built the structure

Mr. Feliciano stated and the reason it was a little high was because of the tow truck to be able to put it in my other garage is literally like five and a half feet tall.

Chairwoman Masterson asked if he was planning on bringing the tow truck home every day or just during the winter?

Mr. Feliciano said, no. He stated that he had a shop in Elyria but sometimes if he came in late and was tired and didn't want to go all the way and drop it off over there and come home, he would sit it at home and that was basically it.

Chairwoman Masterson asked if any of the board members had any comments, questions or concerns?

Alternate Planning Commission Liaison Ali stated that being a fellow business owner and mechanical, he used to have towing also, so he could relate with what he was talking about and also, he would snowplow too, so it was convenient. He stated that it was a plus to have that in a garage and be ready for the next call.

Chairwoman Masterson stated that the problem with is that the structure was built, and it didn't meet code requirements and because he built it where it was, he created his own problems.

Mr. Feliciano stated that the only thing that didn't meet the code was just the height.

Chairwoman Masterson stated that was not correct.

Mr. Feliciano stated that a guy came to his house before he retired and told him that he had to be four feet. He said Paul came to the house and he said as long as he was four feet up, which he told him when he came to his house. He said he went with what he said and that he always complied.

Chairwoman Masterson stated that Paul no longer worked with the City of North Ridgeville. She commented that he would have also told him that he needed a permit.

Mr. Feliciano stated that if I wasn't getting older, he would just do everything outside, but it was getting harder.

Chairwoman Masterson stated that he had several different issues and that one of the issues was that he needed several variances. She stated that he needed a height and a side yard variance, and they were substantial, not inconsequential.

Director Lieber stated that the two variances would be a setback and an area. She said that she knew the applicant had mentioned the height, but they measured height as the midpoint between the top of the wall and the peak, so even though the peak in this case is a foot higher, it still in the definition of height complied. She explained that the two variances were for setback and area.

Chairwoman Masterson stated that height of the garage nothing to do with it but was regarding how large the garage was and that he was to the side yard. She added that had he gotten a permit, they would have let him know that.

Mr. Feliciano stated that was why he was there to try to get a variance like they told him to do.

Chairwoman Masterson asked what were the practical difficulties that he was unable get a permit.

Mr. Feliciano stated that he was not aware and if he had been, he would have gotten it.

Chairwoman Masterson stated that what they were dealing with was that the structure was too close to the side yard and that it was too big and was larger than what the code allowed. She indicated that those were the two issues that they were addressing.

Mr. Feliciano stated that he did the numbers Mr. Blanchette told him to and if he had given him different numbers, he would have used those.

Chairwoman Masterson stated that Mr. Blanchette was a building inspector under the Chief Building Official and while he had the right, the final say always went to the Chief Building Official. She stated that maybe he gave him incorrect information.

Vice-Chairman Kimble stated that Mr. Blanchette had been referenced several times and he had worked with Paul on many occasions in business and through the city being on the Zoning Board. He mentioned that he had been active with the Board for years and that Paul had always been perfect. He stated that he was one of those people that was a phenomenal guy, a great guy, and knew his information. He commented that he could guarantee that he didn't tell him that he could build it four feet from the property line. He stated that he had had dozens of experiences with him.

Mr. Feliciano stated that he was a businessman and was not going to sit there and lie.

Vice-Chairman Kimble stated that it was essentially hearsay talking about what someone said he could do and that someone was not there. He discussed that he was someone that had extensive experience with the gentleman that they kept talking about and he had never been led wrong by the man. He stated that he knew there was no way he told him four feet from the property line, no chance, but either way he wasn't there. He stated that he agreed with the Chairwoman that it was a large request and even if it wasn't already built, he would have a hard time being in favor of it. He commented that the fact that it was built, maybe he made an honest mistake and would give him credit for that, but that had nothing to do with the determination of his opinion at this time. He stated that he had a voting record that had proven that sheds of that size and detached garages of that size in a neighborhood that was existing as that one, he had never been in favor for. He added that if it was a more rural area, things could be a little bit different, but part of the Duncan factors that they talked about were the essential character of the neighborhood. He mentioned that he also lived in that area and was shocked at how large the addition was. He stated that he drove through Rosabelle, Ridgeview, and Jaycox his entire life and had been born and raised in the city.

Mr. Feliciano stated that he was raised there as well.

Vice-Chairman Kimble remarked that that was fantastic. He discussed that he went back four generations deep, so they could go back and forth on that, but he had never seen that large of an addition on a lot in that area of the city. He stated that it was shocking that he just went ahead and built that. He commented that that had nothing to do with them and they were purely looking at whether he had a hardship or not. He added that the Building Department and the Law Department would address the permit.

Mr. Feliciano stated that the garage was right to the fence four feet, so he just followed it all the way through the four feet, because the existing garage to the fence was four feet. He didn't see why the existing garage was accepted when the house was being built, and why it wouldn't be accepted coming around and stated that was why they went off the property line. He mentioned that he had been in business since 2014 and he was trying to grow in the business.

Chairwoman Masterson stated that they had to take into effect Duncan factors and read “Would the property be able to be used without the large variance and the setback” and stated that the answer was yes. She read “Is the variance request substantial” and stated that it was quite substantial. She read “Will the essential character of the neighborhood be altered” and stated that yes, it was the only structure like that currently and now that it was built, they could see how large it was and how it would definitely change the neighborhood. She read “Would it affect the delivery of governmental services”, no, it wouldn’t. She read, “Did you purchase the property without knowledge of the zoning restrictions” and stated that generally most people did, however, not understanding what the law was didn’t give forgiveness from understanding what the law was. She read, “Could this predicament be dealt with a different way” and stated that he could park his vehicle in a much smaller building. She read “Would the spirit and intent behind the zoning requirement be observed in substantial justice by granting the variance” and said that she had a problem with that. She mentioned that the structure was very large and the variance was substantial and putting it that close to the other person's property, she thought that was an issue.

Mr. Feliciano asked if the existing garage was four feet, why was it too close to the property.

Chairwoman Masterson stated that he was mistaken, the sideline was the issue, not the back line.

Mr. Feliciano commented that the sideline was a different number than the backline was.

Chairwoman Masterson explained that he built the addition to the existing garage, and it was built larger than what he was allowed and that was one of the issues. She stated that the other issue was that it was too close to the side yard.

Mr. Feliciano stated that that was why he was there to try to get a variance because he really needed it.

Chairwoman Masterson asked what his hardship was and asked why they should grant it.

Mr. Feliciano stated that it had to do with going back to get orders and working on the vehicle and that it really was a task just not having a garage. He stated that he didn’t have a garage where his shop was, and it was super hard to just work. He stated that he never greased anything up and always kept his house clean. He stated that regarding ice on the vehicle that would be perfect, and it would just be useful for the type of business that he had to be able to have it there.

Chairwoman Masterson asked if there anybody in the audience that wanted to speak on behalf of the matter?

Jeff Greenberg, 5932 Sandlewood Avenue, North Ridgeville, OH 44039, was sworn in.

Mr. Greenberg stated that he was there because he received notice, and it was behind his property, and he wanted to see if there were going to be any changes that might encroach onto his property. He stated that that was all that he wanted to find out.

Mr. Feliciano stated that he loved North Ridgeville, he grew up in North Ridgeville, bought a house in North Ridgeville and his business was in North Ridgeville. He stated that it wasn’t easy being a small business.

Director Lieber stated that she had concerns regarding the home occupation being the rationale for the variance. She stated that home occupations were not intended to change the central character of neighborhoods and if the business became a rationale for a variance, it was no longer something unique about the property, it would be about the business in a residential district.

Chairwoman Masterson asked Assistant Law Director Morgan if according to her advice, they were not rehashing anything about the home occupation because that was already done. She mentioned that they were not dealing with anything regarding a business and that all they were not dealing with the second vehicle or the home occupation.

Assistant Law Director Morgan stated that she felt he was talking himself out of the home occupation. She explained that in looking at the home occupation ordinance it said it must not involve any external or extension or modification of the dwelling. She stated that the problem was that he kept bringing up the subject of bringing his work vehicle home.

Mr. Feliciano stated that he barely did. He said that he drove his car home.

Chairwoman Masterson stated that the Board and Administration were concerned about was that he kept tying it to being related to his business.

Mr. Feliciano stated that he was allowed to have a business at his house.

Chairwoman Masterson stated that they really didn't care about the truck or the business, but what they were addressing was the garage that he already built without a permit. She discussed that had he asked for a permit, they would have told him what the setback requirements were and what the size of the structure he would have been allowed to build and because he didn't do that, he built the structure one foot closer to the sideline than he was allowed, he and made the garage much larger than allowed. She stated that he kept telling them he needed it so that he could park your vehicle out of the elements. She added that it didn't need to be that big to park a vehicle in. She stated that he was doing more damage to himself by telling them that he wanted to bring his towing truck there.

Mr. Feliciano stated that he didn't know what to tell them because that was what he wanted. He stated that when he got home late at night, he wanted to be able to bring his truck home and park it inside when it snowed. He stated that he always for years brought his truck home, but he just wanted it inside this time.

Chairwoman Masterson asked Chief Building Official Fursdon if he could give clarification to Mr. Feliciano.

Chief Building Official Fursdon explained that what they were telling him was that the tow truck could be parked in a garage much smaller than what he had constructed. He stated that he could even park two cars and that tow truck in a building smaller than what he constructed.

Mr. Feliciano stated that when he parked his tow truck inside, he only had about two and a half feet to the front and two and a half feet back. He stated that it was kind of even tough to even work inside of it. He stated that to the side it was maybe another three feet.

Chairwoman Masterson stated that his garage was 24 feet deep and 23 feet wide and asked if his vehicle was that big.

Mr. Feliciano stated that his flatbeds were 31 total, but he didn't bring a flatbed there, he just brought his tow truck. He stated that he didn't know the size of the tow truck but when he put it in there, he had two and a half feet in the front and two and a half feet in the back. He stated that it looked big but once inside it really wasn't.

Chairwoman Masterson stated that it didn't meet the code requirements and that was why they were there. She stated that he needed to give the Board a reason and the reason that he wanted to park his tow truck there wasn't a good enough reason. She stated that it seemed like they kept circling around the same thing.

Mr. Feliciano stated that it was because he did not understand what they wanted. He stated that he truly did not understand.

Chairwoman Masterson stated that to be clear, he had been cited for building a building without a permit and when he submitted his plans to the building department, he said it was going to be a 23 by 24 addition and then he showed how far off the property line the building was going to be and it didn't meet code. She added that he wanted to park a vehicle in there regardless of what kind of a vehicle it is and that was not a hardship.

Mr. Feliciano stated that he had a garage for the cars, he just wanted to park his tow truck only in there.

Vice-Chairman Kimble stated that for the Board's view of what they needed to consider, the fact that he wanted to put a tow truck in the large space had nothing to do with their decision-making task that we had in front of them. He discussed that it was the simple fact that it was a very large structure and that was what he was asking for approval on the variance. He added that he could never park his truck in there and it would not matter. He stated that his tow truck was not specifically a hardship enough of a reason that the Board to consider. He asked what other reason he would have that he needed this.

Mr. Feliciano stated that it was to keep his truck from freezing his truck or if he had to work on his if he had to pull the boom up. He stated that was the only thing.

Director Lieber commented that at some point, the applicant's testimony was his testimony, and the Board asked their questions and she thought they had heard the reasons and whether that met their justification for granting variances or not was up to them.

Chairwoman Masterson asked if there were any other comments, questions or concerns from the Board.

None were given.

Moved by Masterson and seconded by Cain to deny the application because sufficient reasons for the variance were not provided.

A roll call vote was taken and the motion carried.

Yes – 4 No – 0

ADJOURNMENT:

**BOARD OF ZONING AND BUILDING APPEALS
REGULAR MEETING-THURSDAY, JULY 25, 2024**

PAGE 15

The meeting was adjourned at 8:05 PM.



Linda Masterson
Chairwoman

Tina Wieber
Recording Secretary/Deputy Clerk of Council

Thursday, August 22, 2024

Date Approved