

BOARD OF ZONING APPEALS

MINUTES

February 6, 2018

Members Present: Lynne Thomas Roth Glynn Marsh
 John Bruns Mayor O’Callaghan

City Staff Members

Present: John Applegate
 Denise Winemiller

Mrs. Thomas-Roth called the Board of Zoning Appeals meeting to order. Attendance was taken and all of the board members were present.

1. Mrs. Thomas-Roth asked if there were any corrections or additions to the minutes from the April 4, 2017 meeting. There were no corrections so Mr. Bruns moved that the minutes be accepted as prepared. Mrs. Thomas-Roth seconded the motion. Mayor O’Callaghan abstained and the other members concurred. The minutes were adopted.

2. 18-01 - Application for a variance requested by Amy Kincer and Lindsay Shepherd for 904 Old Springfield Road, to build closer to the property line than the 100 feet setback to be further from the natural spring that runs through the property.

Mr. Applegate said Mike Neff the builder, and the property owners were present. Mr. Applegate said he had met with the applicant and he was concerned about the setback for all the additional lots. Mr. Applegate noted that one of the property owners that already had a house built was also attending the meeting.

Mr. Applegate said he understood the reason and request for a variance of the 100 foot set back. He said he had spent time on the phone with the Ohio EPA who had concerns regarding the storm water issues because there is a natural spring that

runs through the back of the property and they do not want that spring disturbed. Mr. Applegate said he assured them that it is not the city's goal to have the spring disturbed. The spring runs year round and Mr. Applegate had already instructed the builder that they could not drive a back hoe or other heavy equipment through the spring.

With the one hundred foot set back and the size of the home that they want to build, the back of the house will be too close to the spring and they will not have a rear yard north of the spring which is why they are requesting a variance from the 100 foot set back.

The one home that has already been built, is located behind the required 100 feet back or even further. Mr. Applegate said in looking at all of the lots, there is one other lot that would be in the same situation as the one they are discussing but there would not be a problem with the other lots, so not all of the lots would need a variance. However, Mr. Applegate said this would open the door for other variance requests, the same or for a greater set back.

They are currently asking for 35 feet. Mr. Applegate discussed the road right of way and that eventually, in possibly five or twenty-five years, the road will be widened and go to three to five lanes. That would reduce the 35 foot set back requested to 25 feet. Mr. Applegate said the staff understands the situation and wants the house built on the lot. The city owns 30 acres behind those lots and that area will always remain in its natural state.

In looking at the lots, the board and one resident at with a house already built were worried about a "domino effect" where the setbacks on the lots would end up further and further back, and people building new homes would always be looking at the back of everyone's houses.

The board members discussed the increasing amount of traffic on the road, due to the P & G facility and that with the location of the industrial park, there would be more semi-trucks and the road would need to be wider. Mr. Applegate also mentioned that the lots would need to be designed that cars could pull forward out of the residences, and not need to back out because of the amount and speed of the traffic on the road.

Mr. Applegate said he knew that the property owners wanted 35 feet but said it would need to be more. Mayor O'Callaghan asked if there could be some kind of a compromise.

Mr. Applegate asked the residents that were already living there and they want it to stay at 100 feet and they don't want to be looking at the back of a house or a privacy fence from their front lot. Their lot is five acres.

In the discussion that followed, the creek is 142 feet back from the road. Mayor O'Callaghan said they could not build the house 100 feet back because it would be too close to the creek. They talked about it being impossible to have a 100 foot set back on the property and asked why it was set at 100 feet back, and if the owners were aware of that when they purchased the property. They said they were but the spring had not appeared on any of the maps and the lot was too thick with vegetation when they purchased it so they hadn't walked the lot.

Mr. Applegate said the developer had set the 100 foot set back and some of the lots had been purchased and sold several times.

All lots can work with the 100 foot set back except for two lots.

Mr. Marsh complimented the applicants on all the information provided and said they have a good concept of what they wanted to do.

They were asked what the bare minimum was that they could live with because 35 feet was not going to be possible. They were also asked if there was an alternative design for the house, where it would not be so deep.

Mr. Neff discussed that they wanted a deck on the back and that would encroach on the spring. He suggested a compromise at 45 feet. There were comments of gradually changing each lot in stair step increments, like 50 feet, 60, feet, etc. Mr. Applegate said with all the trees, he didn't think the houses would be visible.

Mrs. Thomas-Roth said she understood the situation but said she was worried about the next three lots. Mayor O'Callaghan said they could all come in for a variance. Both Mr. Marsh and Mrs. Thomas-Roth complimented the applicants on the thoroughness of the variance application, and said they did a good job and even did all of the math. Amy said they wanted to keep away from the creek, and they wanted a back yard and wanted a playground for the kids. She said beyond the creek is wetlands.

Mr. Marsh asked if they granted a variance on a covenant, who would be responsible. Mr. Applegate said it would become a lawsuit. The city can grant a

variance but the residents can go to court and probably win, which was his opinion. The covenants are recorded. Mr. Applegate said the city could approve the variance but they could not change the covenants. They prevail. He said the county grants that right. This is Stoney Crest South that is being discussed. Mr. Neff said they need to use common sense saying you can't build a house on a lot and walk out into a creek. He said the setback should not be 100 feet.

Mr. Bruns talked about postponing the matter and let the people work it out, the applicants and the existing property owners. The people involved felt there was nothing to talk about. Mr. Applegate suggested they try to find some common ground.

Mr. Marsh suggested they change the design of the house. Mr. Applegate suggested they talk to each other and come back in two weeks, saying they would have a special meeting if necessary. Mr. Bruns said they wanted everyone to be happy and suggested they try to work together.

Mr. Marsh pointed out if covenants were broken, it would be up to the residents to bring up a law suit. The City of Union would not be liable.

Mr. Applegate suggested that the matter be tabled.

Mr. Bruns moved that the variance request 18-01 be tabled. Mayor O'Callaghan voted against the motion, the other members voted in favor of the motion. The matter was tabled.

The board members said they were willing to get together again if the property owners could work something out.

3. Open Agenda

There was nothing for the open agenda.

4. Mr. Bruns moved that the meeting be adjourned. Mayor O'Callaghan seconded the motion. All concurred and the board of zoning appeals meeting was adjourned.