



**CITY OF TALLMADGE  
BOARD OF ZONING APPEALS  
MEETING MINUTES**

April 13, 2021

7:00 p.m.

Virtual Meeting

*As permitted by House Bill 197- extended by HB 404, this meeting was held via videoconference and/or teleconference only and was live-streamed. Per the RC-2 Schedule, meeting recording and communications will remain on file in the Planning and Zoning Department.*

I. Call to Order

Chair Chuck Victor called the meeting to order at 7:00 pm.

II. Pledge of Allegiance

III. Roll Call

Commission Members present: Chuck Victor  
Richean Kuzior  
Melanie Bushey  
Tim Gregg  
Dan Satterfield

Administration present: Dave Kline, Mayor  
Megan Raber, Law Director  
Helene Hussing, Planning & Zoning Manager

IV. Approval of Minutes

**A motion to approve the March 9, 2021 minutes as written was made by Mrs. Kuzior and seconded by Mrs. Bushey.**

All members voted in favor. (5-0)

V. Cases

**Case # 1049**

Case continued from March 9, 2021

**Joshua Scalia, applicant/owner  
244 Lois Lane**

- Variance requested from Subsection TCO 1155.03 (c) accumulative accessory building not to exceed 900 sf.
- Request variance of 1,900 sf to allow 2,800 sf accessory structure.
- For review and determination

*Public Hearing opened at 7:04 pm.*

The representative for this case, Joshua Scalia, was sworn in.

Mr. Scalia presented the plan according to the updated plans.

*Questions/comments from the Board with answers*

Q: Did we ever receive an answer about whether a rain study would be needed?

A: It will not be necessary because of the reduced size.

Q: Did you speak to your neighbors that were having problems?

A: My grandmother has because essentially the water problem lies with her property and not mine and she's making very good progress with the neighbors.

Q: The revised application says it will include a 10 x 80 covered porch, but the letter says there will be no porch. Which is it?

A: There will be no porch.

*Public Comment*

*No residents registered to speak, and no communications were received.*

*Public Hearing closed at 7:09 pm.*

***The following motion was made by Mrs. Kuzior and seconded by Mrs. Bushey:***

**I move to approve the variance request for Joshua Scalia Applicant/Owner for the property located at 244 Lois Ln for a variance requested from Subsection 1155.03 (c) accumulative accessory building not to exceed 900 sf. Requesting a variance of 1,900 sf allow 2,800 sf accessory structure upon the showing based on the plans and application submitted dated February 5 and March 18, 2021 and evidence presented that:**

**(1) The strict application of the provisions of this Zoning Code would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of this Zoning Code.**

**(2) There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development of the property that do not apply generally to other properties or uses in the same zoning district or neighborhood.**

**(3) The granting of such variance will not be of substantial detriment to the public interest or to property or improvements in such district in which the variance is sought and will not materially impair the purpose of this Zoning Code.**

*Additional Discussion:*

Mayor Kline: Thank you for listening to the Board and the neighbors and the modifications you made are commendable.

RK: I think it will be a nice-looking building. The way that it's situated sitting back in the lot with the shorter end facing the street, I think that will look nicer. It is nice to have all of your big items in one place.

CV: I second the sentiments of the Mayor. We appreciate your cooperation in revising your plans and reaching out to the neighbors.

All members voted in favor. (5-0)

**Case # 1051**

**Josh Chaney, applicant/owner  
695 North Ave**

- A Variance is requested from Tallmadge Codified Ordinance 1181.04 (a) Fences/walls in front yard setback not to exceed 3 ½ feet.
- Request variance of 2 ½ feet, to allow 6-foot-high fence.
- For review and determination

*Public Hearing opened at 7:14 pm.*

The representatives for this case, Josh and Julie Chaney, were sworn in.

Mrs. Chaney presented the plan according to the submitted plans.

*Questions/comments from the Board with answers*

Q: Will the fence go around the island of trees

A: The fence is only in the back yard and will not come past the back corner of the house.

Q: How did you determine 38 feet?

A: These are the plans that the Contractor drew up and I didn't want it to be right up against the sidewalk crowding people walking by.

Q: Part of the rationale for the code is sight lines and technically this should be at the 50' building line so is there any compromise other than the 39'?

A: The 50' pretty much splits the yard in half. I would basically have a fence running down the center of our backyard. The way I'm looking at it, from the back corner of my lot to the stop sign, there is lot a room there where it's not going to impede anyones vision.

C: (Mayor Kline) As someone in this neighborhood who walks down this road, I looked at it very closely and there is no impedance of any traffic sightlines and I think it's good for the area.

*Public Comment*

*No residents registered to speak, and no communications were received.*

*Public Hearing closed at 7:16 pm.*

***The following motion was made by Mrs. Kuzior and seconded by Mr. Gregg:***

**I move to approve the variance request for Applicant Josh Chaney for the property located at 1084 Lawndale Dr for a variance requested from Subsection 1181.04 (a) Fences/walls in front yard setback not to exceed 3 ½ feet. Requesting a 2 ½ feet variance, to allow 6-foot-high fence upon the showing based on the plans and application submitted dated March 9, 2021 and evidence presented that:**

**(1) The strict application of the provisions of this Zoning Code would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of this Zoning Code.**

**(2) There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development of the property that do not apply generally to other properties or uses in the same zoning district or neighborhood.**

**(3) The granting of such variance will not be of substantial detriment to the public interest or to property or improvements in such district in which the variance is sought and will not materially impair the purpose of this Zoning Code.**

*No Additional Discussion*

All members voted in favor. (5-0)

**Case # 1052**

**Christina Tohill, applicant/owner  
439 Melony Lane**

- A Variance is requested from Tallmadge Codified Ordinance 1157.08 (a) minimum rear yard setback is 25 feet.
- Request variance of 15 feet, to allow 10-foot rear yard setback.
- For review and determination

*Public Hearing opened at 7:30 pm.*

The representatives for this case, Christina and Patrick Tohill, were sworn in.

Mr. and Mrs. Tohill presented the plan according to the submitted plans.

*Additional questions/comments from the Board with answers*

None

*Public Comment*

*No communications were received.*

*Registered speakers*

Carol Kilway, 427 Melony Lane, Tallmadge

Q: I have no problem at all with them putting a pool in their backyard and it would be a great addition to the neighborhood.

*Public Hearing closed at 7:32 pm.*

***The following motion was made by Mr. Gregg and seconded by Mrs. Bushey:***

**I move to approve the variance request for Applicant/Owner Christina Tohill for the property located at 439 Melony Ln for a variance requested from Subsection 1157.08 (a) minimum rear yard setback is 25 feet. Requesting variance of 15 feet, to allow 10-foot rear yard setback upon the showing based on the plans and application submitted dated March 16, 2021 and evidence presented that:**

- (1) The strict application of the provisions of this Zoning Code would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of this Zoning Code.**
- (2) There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development of the property that do not apply generally to other properties or uses in the same zoning district or neighborhood.**
- (3) The granting of such variance will not be of substantial detriment to the public interest or to property or improvements in such district in which the variance is sought and will not materially impair the purpose of this Zoning Code.**

*Additional Discussion:*

RK: I think it's a good thing that you moved the pool 10 feet off the property and didn't try to wedge it right up against the fence. I see no problem with it. I think it's in a good spot and it is a hardship to put in the middle of your deck.

MB: I think it's a good idea also. I got to meet their 1-year-old little girl and I would hate for her to go climbing into the pool from the deck.

All members voted in favor. (5-0)

**Case # 1053**

**Walter Nesity, applicant/owner**  
**414 Whittlesey Dr**

- A Variance is requested from Tallmadge Codified Ordinance 1154.08 (a) minimum rear yard setback is 25 feet.
- Request variance of 20 feet, to allow 5-foot rear yard setback.
- For review and determination
- A Variance is requested from Tallmadge Codified Ordinance 1154.09 (a) minimum side yard setback is 10 feet.
- Request variance of 5 feet, to allow 5-foot-rear yard setback.
- For review and determination

*Public Hearing opened at 7:39 pm.*

The representative for this case, Walter Nesity, was sworn in.

Mr. Nesity presented the plan according to the submitted plans.

*Additional questions/comments from the Board with answers*

Q: What is the measurement from the house to the proposed pool?

A: Not sure.

Q: What is the measurement from your house to the rear of the property?

A: About 28 feet.

*Public Comment*

9 letters with no objection to the request were read into the record from the following property owners:

- Susan Habyan-419 Whittlesey Dr
- Rebecca Seroke-260 Ernest Dr
- Jeff Breznak-267 Ernest Dr
- Michael McGarry-424 Whittlesey Dr
- Phil Kohari-276 Ernest Dr
- Carolyn Wolfe-434 Whittlesey Dr
- Edward Troyan-409 Whittlesey Dr
- Mark Swinderman-429 Whittlesey Dr
- Dawn Eid-383 Whittlesey Dr

Received 1 phone call in Planning and Zoning Department from Richard Fair at 240 Ernest Dr stating he has no objection with the request.

*No residents registered to speak.*

*Public Hearing closed at 7:41 pm.*

***The following motion was made by Mrs. Kuzior and seconded by Mrs. Bushey:***

**I move to approve the variance request for Applicant/Owner Walter Nesity for the property located at 414 Whittlesey Dr for a variance requested from Subsection 1154.08 (a) minimum rear yard setback is 25 feet. Requesting variance of 20 feet, to allow 5-foot rear yard setback upon the showing based on the plans and application submitted dated March 16, 2021 and evidence presented that:**

- (1) The strict application of the provisions of this Zoning Code would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of this Zoning Code.**
- (2) There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development of the property that do not apply generally to other properties or uses in the same zoning district or neighborhood.**
- (3) The granting of such variance will not be of substantial detriment to the public interest or to property or improvements in such district in which the variance is sought and will not materially impair the purpose of this Zoning Code.**

*No Additional Discussion*

All members voted in favor. (5-0)

***The following motion was made by Mrs. Kuzior and seconded by Mrs. Bushey:***

**I move to approve the variance request for Applicant/Owner Walter Nesity for the property located at 414 Whittlesey Dr for a variance requested from Subsection 1154.09 (a) minimum side yard setback is 10 feet. Requesting variance of 5 feet, to allow 5-foot-rear yard setback upon the showing based on the plans and application submitted dated March 16, 2021 and evidence presented that:**

- (1) The strict application of the provisions of this Zoning Code would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of this Zoning Code.**
- (2) There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development of the property that do not apply generally to other properties or uses in the same zoning district or neighborhood.**
- (3) The granting of such variance will not be of substantial detriment to the public interest or to property or improvements in such district in which the variance is sought and will not materially impair the purpose of this Zoning Code.**

*Additional Discussion:*

RK: I don't see a problem with the placement of the pool. It is an irregular lot and size and if you went with the setbacks, it would be right up against the house.

DS: I personally wouldn't have a problem with it, and it sounds like his entire neighborhood already doesn't.

CV: It is most helpful when the neighbors offer their opinions.

All members voted in favor. (5-0)

**Case # 1054**

**Richard & Terryl Swejk, applicant/owner**  
**527 Vinewood Ave**

- A Variance is requested from Tallmadge Codified Ordinance 1155.07 (a) minimum front yard setback is 40 feet, as platted.
- Request variance of 20 feet, to allow 20-foot front yard setback.
- For review and determination
  
- A Variance is requested from Tallmadge Codified Ordinance 1181.04 (a) Fences/walls in front yard setback not to exceed 3 ½ feet.
- Request variance of 2 ½ feet, to allow 6-foot-high fence.
- For review and determination

*Public Hearing opened at 8:00 pm.*

The representative for this case, Terryl Swejk, was sworn in.

Mrs. Swejk presented the plan according to the submitted plans.

*Questions/comments from the Board with answers*

C: The last letter was substantial in its content but as the Board of Zoning Appeals, we only address the variance request of the fence requirements and setbacks not the construction of the pool or the drainage, only the location.

*Public Comment*

6 letters with no objection to the request were read into the record from the following property owners:

- Em Valentine-140 Emmitt Rd
- Judi Sears-157 Emmitt Rd
- Megan Slane-528 Vinewood Ave
- Thomas Bowling-517 Vinewood Ave
- Michael Daly-507 Vinewood Ave
- Gene and Rebecca Fischer-516 Vinewood Ave

2 letters against the request from Janette Stender of 120 Emmitt Rd and Therese Vorraber of 84 Emmitt Rd were read into the record.

1 letter remaining neutral to the request from Richard Vorraber of 84 Emmitt Rd was read into the record.

*No residents registered to speak.*

*Public Hearing closed at 8:02 pm.*

***The following motion was made by Mr. Gregg and seconded by Mrs. Bushey:***

**I move to approve the variance request for Applicant Richard and Terryl Swejk for the property located at 527 Vinewood Ave for a variance requested from Subsections 1. 1155.07 (a) minimum front yard setback is 40 feet, as platted. Requesting variance of 20 feet, to allow 20-foot front yard setback and 2. 1181.04 (a) Fences/walls in front yard setback not to exceed 3 ½ feet. Requesting a variance of 2 ½ feet, to allow 6-foot-high fence upon the showing based on the plans and application submitted dated March 18, 2021 and evidence presented that:**

**(1) The strict application of the provisions of this Zoning Code would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of this Zoning Code.**

**(2) There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development of the property that do not apply generally to other properties or uses in the same zoning district or neighborhood.**

**(3) The granting of such variance will not be of substantial detriment to the public interest or to property or improvements in such district in which the variance is sought and will not materially impair the purpose of this Zoning Code.**

*Additional Discussion:*

CV: I would offer again for clarification, the issues before this Board are only for the 20' setback and the 2.5' variance to allow for the fence height. While it's noted that there have been some objections, the points brought up are outside the scope of what this Board is able to address. I appreciate Ms. Terryl that you have tried to address the concerns of the neighbors by putting up that fence to help shield the pool from others and you did take the steps necessary to check on the riparian. I applaud you for reaching out to Summit Soil and Water to find out where you could put that and it's the only place that would actually fit.

RK: I see your hardship with the height of the fence and also the setback because it is a side yard. As far as the height, I think it will keep the pool out of the view of others.

MB: I appreciate her putting the poles out to show the exact location and I think she was very thorough on this and she's done her due diligence.

All members voted in favor. (5-0)

**Case # 1055**

**Fred Deemer, applicant**

**John Traina, owner**

**527 Vinewood Ave**

- A Variance is requested from Tallmadge Codified Ordinance 1155.03 (c) Accumulative area for all accessory buildings shall not exceed 900 sf.
- Request variance of 920 sf, to allow 1,820 square feet.



- For review and determination

*Public Hearing opened at 8:21 pm.*

The representatives for this case, John Traina and Fred Deemer, were sworn in.

Mr. Traina and Mr. Deemer presented the plan according to the submitted plans.

*Public Comment*

3 letters against the request from the following addresses were read into the record:

- 323 Barnes Dr
- 535 Northeast Ave
- 511 Swank Dr

1 letter in support of the request from David Lazic of 368 E Howe Rd was read into the record.

Due to incorrect information submitted, the applicant withdrew the application at the meeting.

*Registered speakers chose to wait to comment until the case is presented at a future meeting.*

VI. Adjournment

**A motion to adjourn was made by Mr. Gregg and seconded by Mrs. Bushey.**

All members in favor. (5-0)

Meeting adjourned at 8:41 pm

Respectfully submitted,

  
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Kelli Funk, Secretary

  
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Chuck Victor, Chair