



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

---

TUESDAY, JUNE 14, 2022  
7:00 PM

COUNCIL CHAMBERS

---

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  
Dan Satterfield  
Ted Roy

**A motion to excuse Mrs. Bushey was made by Mr. Victor and seconded by Mrs. Kuzior.**

All members present voted in favor. (4-0)

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

IV. Approval of Minutes

**A motion to approve the December 22, 2021 minutes was made by Mrs. Kuzior and seconded by Mr. Satterfield.**

All members present voted in favor. (4-0)

V. Agenda Additions

**None**

VI. Correspondence & Communications

**Correspondence presented with the applicable case.**

VII. Agenda Items

a. Election of Officers

**A nomination for Chuck Victor as chair was made by Richean Kuzior and seconded by Mr. Satterfield.**

No other nominations were made.

All members present voted in favor. (4-0)

**A nomination for Richean Kuzior for vice chair was made by Mr. Victor and seconded by Mr. Satterfield.**

No other nominations were made.

All members present voted in favor. (4-0)

## b. Cases

**Case No. 1070****Paul Rusinko**, applicants/owner**545 Woodland Dr**

- Two Variances are requested from Tallmadge Codified Ordinance 1103.01 B
  - 1) Minimum Rear Yard Setback is 25 feet.
  - 2) Minimum Side Yard Setback is 10 feet
- **Request 15-foot variance, to allow 10-foot rear yard setback.**
- **Request 5-foot variance, to allow 5-foot side yard setback**
- For review and determination

*Public Hearing opened at 7:04 pm.*

*Correspondence*

Received 1 correspondence with no objection to the request.

The representative for this case, Paul Rusinko, was sworn in.

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

*Discussion*

Mrs. Kuzior: Is the retaining wall your lot line?

Mr. Rusinko: No, that's before the back line. I planted 27 arborvitae for a natural barrier. The shed that's presently there will be removed.

*Public Hearing closed at 7:07 pm.*

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

**I move to approve the variance request for Paul Rusinko, applicant and owner for the property located at 545 Woodland Dr for the variance requested from Section 1103.01 B Minimum Rear Yard Setback is 25 ft and Side Yard Setback is 10 ft granting a 15-foot variance to allow a 10-foot rear yard setback and a 5-foot variance to allow a 5-foot side yard setback, upon the showing based on the plans and application submitted dated May 18, 2022 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*

Mr. Victor: I appreciate that you've been proactive by planting across your lot line and I don't think it will affect... no one has spoken in opposition so I'm going to be in favor of this.

All members present voted in favor. (4-0)

**Case No. 1071**

**Arthur Lucas**, applicant/owner

**694 Sydney Place**

- A Variance is requested from Tallmadge Codified Ordinance 1103.03 B- Minimum Rear Yard Setback is 25 feet.
- **Request 22-foot variance, to allow 3-foot rear yard setback.**
- For review and determination

*Public Hearing opened at 7:10 pm.*

The representative for this case, Arthur Lucas, was sworn in.

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

Mrs. Hussing explained the marked-up Site Plan.

Received 1 correspondence from 664 Clark Dr opposed to the request. Letter read into the record.

*Comments from the Board*

Mrs. Kuzior: When you purchased the property, that grill unit was already there?

Mr. Lucas: Yes.

Mrs. Kuzior: The pavilion part, was that within code?

Mr. Lucas: There are existing poles for a covering, existing well before I bought it. After finding out how the poles were utilized for the grill and the roof structure that it held, it really didn't meet the criteria to say you could use the existing poles, so that's why we had to come back in and apply. But the poles have been there for years.

Mrs. Kuzior: But there was no permanent covering like you're putting there now. Was there an awning?

Mr. Lucas: Yes, there was an awning.

Mr. Lucas tells the Board about the decision he and his neighbors made about the existing trees on the tree line.

*Public Hearing closed at 7:24 pm.*

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

**I move to approve the variance request for Arthur Lucas, applicant and owner for the property located at 694 Sydney Place for the variance requested from Section 1103.04 B Minimum Rear Yard Setback is 25 ft granting a 22-foot variance to allow a 3-foot rear yard setback, upon the showing based on the plans and application submitted dated May 19, 2022 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*

Mr. Victor: I just want to make a comment on the letter that was received in opposition. My interpretation of the letter is... I certainly appreciate people getting involved but I don't think it's in direct opposition to your request. I think it's more in general that the Zoning Code should be followed and be strict in its application so again, I appreciate the letter, but I don't think it's completely applicable to your specific situation. I think you have extraordinary circumstances. Those posts were there prior to you, you've reached out, talked to the neighbors and everyone seems to be in agreement.

All members voted in favor. (4-0)

**Case No. 1072**

**Steve Larson, applicant**

**Scott Myers, owner**

**695 North Ave**

- A Variance is requested from Tallmadge Codified Ordinance 1104.08 S Roadside Stands not to exceed 100 square feet.
- **Request 143 square foot variance, to allow 243 square foot roadside stand.**
- For review and determination

*Public Hearing opened at 7:30 pm.*

The representatives for this case, Steve Larson, was sworn in.

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

*Correspondence*

Received 2 correspondence (143 Kevin Dr and 164 Kevin Dr) in favor of the variance.

*Public Hearing closed at 7:31 pm.*

*Comments from the Board*

Mr. Victor: When you came before us for your fence, you stated that you had no intent of having sales. The change is based on...?

Mr. Larson: The change is based on wanting to be more accessible with the produce that we're growing. People have reached out and the various ways we sell produce aren't that convenient for them. People are constantly driving past so it just makes sense to have that as an opportunity.

Mr. Victor: In your explanation, you said you want to 'increase the size of our roadside stand', so you already have a stand?

Mr. Larson: No, I just worded it wrongly.

Mr. Victor: Are you aware of the Zoning Code section 1104.08 S, the zoning on roadside stands?

Mr. Larson: Yes.

Mr. Victor: The one that stands out to me is 'roadside stands may only be located in the front yard setback for 90 days within the calendar year'. Your proposal calls for electric in the roadside stand so how do you balance that since it can only be there for 90 days?

Mr. Larson: We only plan on having it open for 90 days so for the rest of the year, it just wouldn't be open to the public. But we wouldn't be able to take it down.

Mr. Satterfield: Can we get clarification if that can stay there as long as it's not open? Or the structure has to go after 90 days...

Mrs. Raber: This is the newly adopted code. The code says it may only be located in the front yard setback for 90 days. The intent of this code... the plain reading is may only be located, not open.

Mr. Satterfield: So, if it was approved, how far would he have to move it?

Mrs. Raber: So, it can't be in the front yard setback so you could probably store it as long as it doesn't exceed the allowable accessory structure total square footage...

Mrs. Kuzior: Is there anywhere else on the property that you could locate that? Maybe have a sign and people could drive back to it?

Mr. Larson: The yard that the stand will be in is across the driveway from the farmhouse, it's a separate property, so I'm not exactly sure on that property where the front and back yard line would be. We might have other places to put it but I'm not sure what the legal perimeters are.

Mrs. Raber: Before we get too far into that thought process, there then becomes a concern that it doesn't meet the definition of the roadside stand. I think the intent was to have temporary structures for people to temporarily sell their product for the season and not have it become a commercial-type situation. With the parcel, it is a residential parcel with an accessory use of the garden, so it falls under the residential code.

Mrs. Raber explains the Home Occupation Code.

Mr. Victor: We are up against the 90-day thing and I'm not sure how to reconcile that. If we approve it, it will have to be as long as it's in compliance with the provisions with the roadside stand code, which it's not.

Mr. Larson: When I initially met with the City, that wasn't brought up as an issue so this is a new interpretation.

Mrs. Raber: I believe we did discuss that, and we raised that concern with you at the time.

Mr. Larson: You raised the concern that it could only be open for 90 days but I don't recall that the structure being there after it was closed was an issue.

Mrs. Raber: We gave you a copy of the code and told you that you needed to comply with all the code requirements and this a code requirement. I don't know how in depth we got on that concern itself...

Mr. Larson: I'm pretty sure we sat down and talked through all of them and those were the 2 that came up and the 90 days came up as something that we would have to abide by and I brought the pictures and it was never brought up that it was an issue that it's there all year. I'm pretty sure I would have remembered that. But it's ok if it's reinterpreted but that is not the understanding, I had going into this.

Mr. Victor: I can appreciate that you may have a different understanding but the clear reading of it says may only be located not may only be open so I can understand your frustration but we're kind of at a standstill here.

Mr. Satterfield. Yes, number 6 is pretty clear. 243 square feet isn't that large. If you wanted to get this approved, it's not that big... you can move it.

Mr. Larson: Where would I have to move it to?

Mr. Satterfield: Just out of that front setback, correct?

Mrs. Hussing: Correct. And you would be restricted from selling from it except for the 90 days that it's in the front setback as a roadside stand.

Mr. Larson: How far would that be?

Mayor Kline: The setback is 50 feet. The question I would have, how are you going to get clients in and out of your driveway?

Mr. Larson: We would have to extend the driveway and get a right-of-way to have another entrance on to the property.

Mayor Kline: So, you're thinking about putting a U driveway in?

Mr. Larson: Yes.

Mrs. Hussing: The accessory structure would have to be either in the side or rear yard after 50 feet.

Mr. Larson: Can we just put it 50 feet back and not have to move it and for 3 months have it open?

Mrs. Hussing: Number 3 says located in the front or side yard so that would be a possibility. So, if it would be set back 50 ft, you would not need a variance for that.

Mrs. Raber: And you could make it be a permanent structure.

Mr. Victor: But he would still be subject to the 90-day provision of selling?

Mrs. Hussing: Correct.

*Public Hearing closed at 7:16 pm*

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

**I move to approve the variance request for Steve Larson, applicant, Scott Myers, owner, for the property located at 695 North Ave for the variance requested from section 1104.08 S**

**Roadside Stands not to exceed 100 square feet granting a variance to allow 243 square feet, upon the showing based on the plans and application submitted dated May 19, 2022 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 subject to the following conditions, modifications and/or amendments based on the evidence presented:
  - a. Structure must be located in the side yard, at least 50 ft from the right-of-way;
  - b. Structure may only be used for sales of product for 90 days of the calendar year.

*Additional Discussion*

Mr. Satterfield: I'm glad it worked out. I think it's going to be nice.

Mrs. Kuzior: We came to a good compromise.

All members voted in favor. (4-0)

VIII. Adjournment

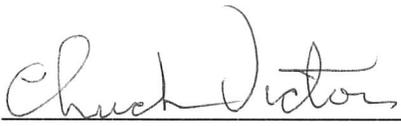
**A motion to adjourn was made by Mr. Roy and seconded by Mrs. Kuzior.**

All members in favor. (4-0)

Meeting adjourned at 7:52 pm

Respectfully submitted,

  
\_\_\_\_\_  
Kelli Funk, Secretary

  
\_\_\_\_\_  
Chuck Victor, Chair

*Full audio recording of meeting is hereby incorporated as part of meeting record*