



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

August 10, 2021

7:00 p.m.

Council Chambers

Per the RC-2 Schedule, meeting recordings 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
Tim Gregg (arrived at 7:02 pm)
Dan Satterfield

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

All members present voted in favor. (3-0)

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

IV. Approval of Minutes

A motion to approve the July 13, 2021 minutes was made by Mrs. Kuzior and seconded by Mr. Satterfield.

All members voted in favor. (3-0)

V. Agenda Additions

None

VI. Correspondence & Communications

Correspondences received will be read into the record with the appropriate case.

VII. Cases

Case No. 1063

Matthew Heinl, applicant/owner
1149 Woods Dr

- A Variance is requested from Tallmadge Codified Ordinance 1154.07 (a) Minimum front yard setback is 50 feet
 - **Request variance of 3.2 feet, to allow 46.8' feet.**
- For review and determination

Public Hearing opened at 7:02 pm.

The representative for this case, Matthew Heinl, was sworn in.

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

Discussion

Mrs. Kuzior: The way I read your letter before I got there was the original house, the way it sat, was not 50' from the road, it's 46.8' from the road. Is that not correct?

Mr. Heinl: The house is further from the road. The 46.8' is where the overhang on the new addition will be at. The foundation will be closer to that 50'.

Mrs. Kuzior: What happens with your garage in the back? Are you just going to use it for storage or something like that? You're not going to use it for commercial?

Mr. Heinl: Correct, it's just going to be storage, workshop... stuff like that.

Public Comment

Received an email from Ann McClellan from 1176 Broadview Rd stating she has no issue with the request.

No residents registered to speak.

Public Hearing closed at 7:05 pm.

Comments from the Board

Mrs. Kuzior: I can see the hardship with this application because of the roofline and where things end up. I don't think it's very much of a variance of 3' 2" to allow the setback and I think it will enhance the neighborhood and the property.

Mr. Victor: I would echo the comments of Mrs. Kuzior. I think it's a reasonable request and it makes sense for the roof line and where it falls at the back of your house. I agree with that.

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

I move to approve the variance request for, MATTHEW HEINL applicant and owner for the property located at 1149 WOODS DR for the variance requested from 1154.07 (a) minimum front yard setback is 50' from right-of-way granting a 3.2' variance to allow 46.8' front setback upon the showing based on the plans and application submitted dated JULY 12, 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

None

All members voted in favor. (4-0)

Case No. 1064

**Richard & Marianne Quintrell, applicants/owners
909 S Munroe Rd**

- A Variance is requested from Tallmadge Codified Ordinance 1154.09 (a) Minimum rear yard setback is 25 feet.

- **Request variance of 2 feet, to allow 23 feet.**
- For review and determination

Public Hearing opened at 7:11 pm.

The representative for this case, Richard Quintrell, was sworn in.

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

Discussion

Mr. Satterfield: I think it's great you've been here that long and you're trying to make the home that you want to continue to live in Tallmadge.

Mrs. Kuzior: I was out there today, and I don't see any problem. It's not obstructing anyone's view or anything like that. 23' is not that big of a deal.

Mr. Victor: I agree, it's not an unreasonable request.

Public Comment

No residents registered to speak, and no correspondence received.

Public Hearing closed at 7:14 pm.

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

I move to approve the variance request for, RICHARD & MARIANNE QUINTRELL applicant/owners for the property located at 909 S MUNROE RD for the variance requested from 1154.08 (a) minimum rear yard setback is 25' granting a 2' variance to allow 23' rear setback upon the showing based on the plans and application submitted dated JULY 13, 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

None

All members voted in favor. (4-0)

Case No. 1065

**Peter De Silva, applicant
Southeast Ave Co LLC, owner
769 & 773 Perry Rd**

- 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 6 ½ feet, to allow 10-foot-high fence.**

- For review and determination
- A Variance is requested from Tallmadge Codified Ordinance 1181.04 (b) Fences/walls erected other than within the minimum front yard setbacks, shall not exceed 7' height.
 - **Request variance of 3 feet, to allow 10-foot-high fence.**
 - For review and determination

Public Hearing opened at 7:16 pm.

The representatives for this case, Peter De Silva and Jason Roberson, were sworn in.

Mr. De Silva and Mr. Roberson presented the plan according to the submitted plans.

Discussion

Mrs. Kuzior: Have you spoken to the neighbors that are next to those empty lots there?

Mr. De Silva: No we haven't. That property is one of our rentals so we will inform them if we get the approval. We'll make sure they're aware of it. The one next to us... we have it far enough that we feel it's not going to be right up on their property line. The fence isn't going to go all the way north. It's just going to go where there is a little bit more tree line. We feel that is going to be enough of a deterrent. But we would give them adequate notice.

Mrs. Kuzior: I understand. I went there today and I can see where someone could just go there and you wouldn't be able to see them.

Mr. De Silva: Actually when I was out there measuring, I had 2 people come up right behind me and just cut across our property.

Mr. Victor: Other than the theft last year, have you experienced other thefts from your property?

Mr. De Silva: Not to my knowledge, no.

Mr. Victor: I understand the fence is not going to be an enclosure, it's going to be open north and south but 10' seems pretty high to be a deterrent. I don't know a lot of people that are going to go and climb over a 7' fence. Why the extra 3'? What would stop them at 10' that wouldn't stop them at 7'? If you're talking about people with ATVs and dirt bikes and what have you...

Mr. De Silva: We just feel that if someone really wanted to get through to our property, that extra 3' will be more of a deterrent.

Mr. Victor: Well if they wanted to go through to your property, they would just go to the end of the fence, because they're going to figure that out.

Mr. De Silva: That's why we had the fence going far enough north and far enough south to where, if they have an ATV, they really can't.... yes, it won't technically deter trespassers but we're trying to make it more intimidating.

Mr. Victor: The cell phone tower that's near the end of your property, do you know how high that fence is?

Mr. De Silva: I do not.

Mr. Victor: I don't believe that's 10' and that's a secure environment. That's my big problem with your request. I think what you're doing is admirable in helping your

property be isolated and prevent people from coming on there and possibly cause damage but I have a real problem with the 10' vs 7'.

Mr. Gregg: I was thinking the same thing. Is there is anything you could show us from security professionals that state a 10' high fence is better? I too believe that a 7' tall fence would accomplish the same thing.

Mr. Satterfield: I understand the visual of the 10', it looks very daunting. The 7' looks like you might be able to climb over it and hit the ground pretty safe and keep going. I think between the 7' and 10', if that group of people wanted to get in there, if it's 10' or not, they're going to get in there. They're going to cut a link, they're going to walk to the end, clear brush, and that's just my personal thought. The 10' is going to be scary, but the 7' is probably going to be just as scary to 90% of people.

Mrs. Kuzior: I personally don't have a problem with the 10' fence just because it's so isolated. My concern was the neighbors. It's in the middle of a wooded lot... My concern was the people across the street and maybe the fence needed to be back a little bit but I look here and it looks like it's going to be 10' back so they may not even notice it. It's going to blend right into the scenery.

Mr. Satterfield: I actually don't see a problem with a 10' fence, as isolated as this is, I just wanted to share my comments and my thoughts on the 7' to 10' difference but honestly I don't have an issue with 10'.

Mr. Victor: My concern is setting precedence. It says you can do a 7' fence and 3 out of 4 of us are saying 7' seems applicable to us yet I don't really have an issue per se but I don't want to open us up to something and then everyone wants a 10' fence because it's more secure.

Mrs. Raber: I would just point out that each case is taken case by case so you have to look at the unique situation presented with each one. So, there is not really a precedence per se for anything the Board does.

Mr. Victor: I appreciate that comment but I also know that someone else may bring that up and say well you did it for them and I just don't want to go down that road. Any thoughts on the comments you've heard Mr. De Silva?

Mr. De Silva: No.

Mr. Victor: Would you be willing to do a 7' fence?

Mr. De Silva: We would just follow whatever you guys determine. We would like to have the 10' fence but if we're only allowed 7' then that's what we'll do.

Mr. Victor: If we vote on the request as is and say we don't like the 10', would they have to make that request to modify it to a 10' fence since their request was a 10' fence?

Mrs. Raber: You can split the request. So, you can grant one and not the other. The front yard is the issue for one of them. They can change their request but I think what I just heard the applicant say is that they don't want to change the request. They would like to remain at the 10'. If that were to not be approved, you can take 2 different motions and I would highly recommend that, so you would take a motion on the first variance, which is the front setback. So, having that in the front yard and then the other...

Mr. Victor: My suggestion, and tell me if I'm right on this, I think they may be willing to go 7' the whole way. If we approve the second one and not approve the first one, they're still at a 3.5' fence in the front and that's not going to work for them. I understand that. But if you would modify the first request to be 3.5 ft variance to allow a 7' high fencing the first one, we may be more inclined to go with that and then the second one also for a 7' fence. Or even remove the second one because if it doesn't exceed the 7' then you don't need the second one.

Mrs. Kuzior: I would still like to vote on each one. I don't want to remove that one request. We should vote on it.

Mr. Victor: I agree anything is going to take a vote.

Mrs. Kuzior: I thought you meant we were going to remove the request.

Mr. Victor: The second one, if he does 7', he doesn't need a variance.

Mrs. Kuzior: I would like to vote for the 10'. It think we should vote on it.

Mr. Victor: If we turn him down, he can't come back for a year, correct?

Mrs. Raber: You need to have a majority. If you have a split vote, it remains on the agenda until the next month. If it is a negative vote, it would be a year. Maybe you can have a little further discussion and kind of lay out with the 10' or the 7' and see if that looks like it is going to move forward or not.

Mrs. Kuzior: But they're not prohibited from building, they're just prohibited from getting another variance request, right?

Mrs. Raber: They would be able to put a 7' fence up but not in the front yard setback. My suggestion to the Board would be to have a little bit further discussion as to where that vote may land and whether the majority is going to require it to be a 7' or 10' before you pursue that with the applicant.

Mr. Gregg: I don't see that the fence is going to be a detriment in that area so I can't really see it hurting the property and since we really can't look at setting a precedence, because each case is looked at separately...

Mr. Satterfield: I agree. I have no issue with the height.

Mrs. Kuzior: I don't see a problem with it either.

Public Comment

No residents registered to speak, and no correspondence received.

Public Hearing closed at 7:30 pm.

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

I move to approve the variance requests for, PETER DE SILVA applicant and SOUTHEAST AVE CO LLC owners for the properties located at 769 and 773 PERRY RD for the variance requested from 1181.04 (a) Fences/walls in front yard setback not to exceed 3 ½ feet and from (b) Fences or walls erected, other than within the minimum front yard setbacks, shall not exceed 7' height granting the variances of 6 ½ feet and 3 feet to allow a 10' high fence upon the showing based on the plans and application submitted dated JULY 14, 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

None

All members voted in favor. (4-0)


VIII. Adjournment

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

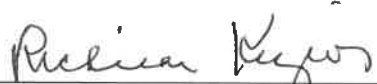
All members in favor. (4-0)

Meeting adjourned at 7:17 pm

Respectfully submitted,



Kelli Funk, Secretary



Richean Kuzior, Vice-chair