

Minutes of the City of Vandalia Board of Zoning Appeals
April 11, 2018

Agenda Items

1. Call to Order
2. Attendance
3. New Business
 - a. **BZA 18-07** – 823 Roxana Dr. – Variance to 1276.06 “Front Yards”
4. Approval of BZA Minutes of March 28, 2018
5. Communications
6. Adjournment

Members Present:	Mr. Michael Flannery, Mr. Scott Fullam & Mr. Christopher Prokes
Members Absent:	Mr. Aaron Hathaway
Others Present:	Toby & Jamie Gunnell, Scott Allen and Amber Holloway

1. Call to Order

Mr. Flannery called the meeting to order at 6:00 p.m. Mr. Flannery described the BZA as a recommending body that evaluates the BZA application and stated that the City Council makes the final decision on all variance requests, but will not hold a public hearing such as BZA. He noted that City Council will hear the requests at the meeting on May 7, 2018 at 7:00 p.m. Mr. Flannery then swore in those who intended to speak during the public hearing.

2. Attendance

It was noted that a quorum of members was present.

3. New Business

- a. **BZA 18-07** – 823 Roxana Dr. – Variance to 1276.06 “Front Yards”

Mr. Flannery introduced the item and asked for the report from Staff.

Ms. Holloway gave the report from Staff explaining that the Applicant, Toby Gunnell, had requested a variance to allow construction of a 7 foot by 16 foot 2 inch aluminum patio cover on his property at 823 Roxana Drive. She noted that City Code Section 1276.06 (e) permitted architectural features, like canopies, to project into a front yard not more than 3 feet. She added that the property was built with a compliant 30-foot front yard. She stated that the variance request is for an additional 4 feet. Ms. Holloway noted that Applicant provided that they had installed a new concrete driveway and patio last fall and noted that the home faces south so it received sun all day. She advised that the Applicant cited a number of homes in the neighborhood with similar patio covers.

She went on to say that the Gunnell's had submitted for a permit last summer for the patio cover and decided to hold off on their variance request due to the Zoning Code rewrite to see if the regulations changed. She noted that with summer around the corner and the rewrite still in process, the Applicant decided to go ahead and submit.

Ms. Holloway stated that Staff was recommending approval of the request as the cover was not out of character for this particular street or neighborhood and would provide the owner a greater use of their front yard.

Mr. Flannery invited the Applicant to speak.

Mr. Scott Allen, contractor, said they were asking to install an identical cover to the neighbor next door. Mr. Toby Gunnell, homeowner, said that several houses in the neighborhood have this type of cover. He said a lot of it is to shade the property, noting that they lost a couple of trees to ants.

Mr. Prokes stated that he drove the neighborhood and noticed several similar covers. Mr. Fullam said he felt this was pretty straight forward.

Mr. Flannery asked if the Applicants would like to add anything before they closed the public hearing. Mr. Gunnell said no.

Mr. Flannery closed the public hearing and proceeded through the variance criteria.

(1) Whether, unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions with the property or the neighborhood in which the property is located that burdens the property heavier than other property in the same zoning district;

The Board agreed that there were generally no unique physical circumstances or conditions with the property that burden this property heavier than another property in the same zoning district.

(2) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

The Board determined the property would yield a reasonable return and could be beneficially utilized without granting of the variance for a patio cover.

(3) Whether the property owner purchased the property with knowledge of the zoning restrictions;

The Board agreed that the property owner did not purchase the property with knowledge of the zoning restrictions.

(4) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;

The Board agreed the variance would not alter the essential character of the neighborhood and did not feel adjoining properties would suffer a substantial detriment as a result of the variance as four houses on Roxana and numerous others throughout the plat have similar covers.

(5) Whether the property owner's predicament feasibly can be eliminated through some method other than a variance;

The Board agreed that short of requesting the owner reduce the projection of the cover, the predicament of the desire to have a shaded area out front and to protect their home from the south facing sun could not be feasibly eliminated through another method.

(6) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and

The Board determined that substantial justice would be done by granting the variance as a number of homes on this street and in the neighborhood have patio covers with a similar projection into the yard.

(7) Whether the variance is substantial.

The Board agreed that the variance request of 4-feet was not substantial.

Mr. Prokes made a motion to recommend approval of the requested variance from City Code Section 1276.06 (e) to permit a 7' x 16'-2" aluminum patio cover at 823 Roxana Drive. Mr. Fullam seconded the motion. The motion carried 3-0.

4. Approval of March 28, 2018 Minutes

Mr. Prokes made a motion to table the minutes of March 28, 2018 due to Mr. Hathaway's absence. Mr. Fullam seconded the motion. All in favor.

5. Communications

Ms. Holloway, referencing the March 28 meeting, explained that the Code requires that a concurrent vote of three members makes a recommendation. She noted that the minutes from the prior meeting reflect that both motions failed, one for lack of second and one for a lack of concurrent vote of three members. She said that the Board did what they were supposed to, in that they voted how they felt, but she wanted to explain since they had not encountered that type of situation before.

Mr. Fullam made a motion to exclude Mr. Hathaway from the meeting. Mr. Prokes seconded the motion. The motion passed 3-0.

Ms. Holloway noted that the Board had three items for their April 25th agenda.

Ms. Holloway briefly updated the Board on the status of the Zoning Code Rewrite.

6. Adjournment

The meeting was adjourned at 6:26 p.m.

Michael Flannery
Chairman