

Minutes of the City of Vandalia Board of Zoning Appeals
July 25, 2018

Agenda Items

1. Call to Order
2. Attendance
3. New Business
 - a. **BZA 18-17** – Variance to City Code Section 1276.20 “Secondary Dwelling” – 3888 Stonequarry Road
4. Approval of BZA Minutes of June 27, 2018
5. Communications
6. Adjournment

Members Present:	Mr. Michael Flannery, Mr. Christopher Prokes and Ms. Amber Aivalotis-Weaver
Members Absent:	Mr. Scott Fullam
Others Present:	Donna Wright, Amber Holloway and David Marlow

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 August 20, 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 18-17** – Variance to City Code Section 1276.20 “Secondary Dwelling” – 3888 Stonequarry Road

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

Mr. Marlow gave the report from Staff explaining that the Applicant, Donna Wright, had requested a variance in order to appeal City Code Section 1276.20 “Secondary Dwellings” in order to permit a 925 square foot secondary dwelling on property located at 3888 Stonequarry Road. Mr. Marlow continued to explain that the Code limits secondary dwellings to 25% of the floor area of the principal dwelling. He noted the floor area of the principal dwelling was 2172 square feet, and as such, the Applicant would be limited to 543 square feet for the proposed secondary dwelling.

Mr. Marlow stated that both the Applicant and Owner had submitted a letter of justification in which they explained the secondary dwelling unit was for the Applicant's mother who was 67 and in need of assistance with everyday chores of living as she had a heart condition, nerve damage in her right leg and lower back, and had to have metal cages placed in her lower back and neck. Mr. Marlow continued to state that the Applicant wrote in her letter of request the additional 382 square feet that she was requesting was to allow her mother to have the room she needed to be able to physically adjust with the use of a walker.

Mr. Marlow mentioned that the Applicant was currently in the conditional use process for the secondary dwelling through the Planning Commission as required by the Charter. He noted that the determination as to the use as a secondary dwelling or other matters regarding the conditional use was not matter for the Board of Zoning Appeals and that the Board's review of the case should be solely on the variance issue.

Mr. Marlow stated that Staff was recommending the Board of Zoning Appeals recommend approval of the requested variance from City Code Section 1276.20 "Secondary Dwelling" for the purposes of allowing the secondary dwelling to exceed 25 percent of the floor area of the principal structure on property located at 3888 Stonequarry Road with the following condition:

- The conditional use for the secondary dwelling was approved

Mr. Flannery invited the Applicant to speak on the matter.

The Applicant stated that the aerial view of the property that was provided to the Board did not show the steep grade behind the house. She continued to state that her mother-in-law was 71 and she had inherited the house upon her father-in-law's death earlier in the year. The Applicant mentioned that the property was not bought with the intent of doing a rental property and that someone in her family had lived in the house since 1965. She noted that her mother-in-law had asthma really bad and had heart conditions. She continued to note that her mother was coming back to Ohio to have more surgery on her back and that she was an only child. The Applicant said she was asking for an additional 382 square feet which was essentially the size of an average hotel room. The Applicant stated that the house would be in close proximity to the main house which is where her husband, children and mother-in-law lived. She continued to state that the secondary dwelling to the main house was easily walkable for her mother. She mentioned that she had asked for 925 square feet due to the assumption that the maximum square footage of the secondary dwelling could not exceed 25 percent of the gross floor area of the principal structure. The Applicant noted that the principal structure is over 2100 square feet on the main floor with a finished basement below and the property was over 2-acres in size. She continued to note that she had talked to the closest neighbor to the east and told them of their plans and that they did not have any problems with it. The Applicant mentioned that there was a wooded area between the houses and that she had also talked to the neighbor to the west and they also did not have any problems with it. She continued to mention that the next closest neighbors were the neighbors behind them which were over an acre away. The Applicant stated that there was other secondary dwellings within a quarter-mile of her property. The Applicant continued to state there would not be any rent charged and that her husband and herself would eventually move into the secondary dwelling and have their children take care of them.

Mr. Prokes stated he had driven by the property several times within the past week and that the property was significant in size and there would be substantial space between the secondary

dwelling and any other house and that the pond acted as a natural barrier between the secondary dwelling and the homes behind their property.

The Applicant noted the secondary dwelling would be placed behind the shed and that the secondary dwelling would be built by Unibilt, which had stricter codes than the City of Vandalia. She continued to note that it would be built on a crawl space with no basement and that the secondary dwelling would be white to go along with the trim of the principal structure and the shed. The Applicant stated that she was not trying to make it obvious that the secondary dwelling was there.

Ms. Aivalotis-Weaver mentioned that she had visited the property for visualization and asked Staff whether a separate driveway would cause any issue. Mr. Marlow answered that the only possible issue would be the impervious surface coverage, but with the property being over 2-acres that it would not be an issue. Ms. Holloway stated that it would be an issue if the Applicant was asking for a second curb approach, but it was her understanding that the Applicant was simply extending off of the existing driveway. The Applicant answered that yes, they had planned to add onto the existing driveway and have the additional driveway wrap around the shed and go straight up to the secondary dwelling.

Mr. Flannery asked Staff whether they received any comments from adjacent neighbors. Mr. Marlow answered that they did not hear back from any neighbors regarding the conditional use or the variance.

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 they did not feel there were any unique physical circumstances or conditions that burden the property heavier than another 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 agreed that the property would yield a reasonable return, but felt limiting the secondary dwelling to 543 square feet may not accommodate the needs of the Applicant's mother.

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

The Board agreed that they did not believe the property owner purchased 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 did not feel the requested size of the secondary dwelling would alter the essential character of the neighborhood, nor did they believe adjoining properties would suffer a substantial detriment as the property was 2.27-acres and could accommodate the proposed size of the secondary dwelling, the proposed location was not easily viewable from the street as the detached garage was blocking visibility, and there was a screened wooded area separating the secondary dwelling and the closest neighbor to the east.

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

The Board agreed that the predicament could not be eliminated by reducing the size of the secondary dwelling as the Applicant's mother may not have the proper maneuverability space to accommodate her walker.

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

The Board felt the spirit and intent behind the zoning requirements would be observed as the Applicant's mother clearly met the requirements for a secondary dwelling and may not have the proper space to maneuver if limited to 543 square feet without reducing the amenities within the secondary dwelling.

(7) Whether the variance is substantial.

The Board agreed the variance was substantial.

Mr. Prokes made a motion to recommend approval of the requested variance from City Code Section 1276.20 "Secondary Dwelling" for the purposes of allowing the secondary dwelling to exceed 25 percent of the floor area of the principal structure on property located at 3888 Stonequarry Road with the following condition:

- The conditional use for the secondary dwelling was approved

Ms. Aivalotis-Weaver seconded the motion. The motion carried 3-0.

Mr. Flannery mentioned to the Applicant that her requested variance would be heard at the August 20th City Council study session and voted on at the Council meeting that same night.

4. Approval of June 27, 2018 Meeting Minutes

Mr. Prokes made a motion to recommend approval of the June 27, 2018 meeting minutes. Ms. Aivalotis-Weaver seconded the motion. The motion was approved 3-0.

Mr. Prokes made a motion to excuse Mr. Fullam.

Ms. Aivalotis-Weaver seconded the motion. The motion passed 3-0.

5. Communications

Mr. Marlow stated that the last Zoning Code Steering Committee meeting would be on Monday August 13th at 4:00p.m. in the Large Conference Room and the next scheduled Board of Zoning Appeals meeting for August 8th had been cancelled as there were no items on that agenda.

6. Adjournment

The meeting was adjourned at 6:19 p.m.

Michael Flannery
Chairman