

CITY OF TWINSBURG
BOARD OF ZONING APPEALS MINUTES
JANUARY 9, 2019

**CITY OF TWINSBURG
BOARD OF BUILDING AND ZONING CODE APPEALS
JANUARY 9, 2019**

Mr. Kancler called the meeting to order at 6:30 pm.

Present: Messrs: Brown, Wilner, Kancler, Griffith and Zeitz
Absent: None

Also Present: Mr. Russ Rodic, Building Commissioner
Mr. Sam Scaffide, City Council Representative

The Board recited the Pledge of Allegiance.

**CITY OF TWINSBURG
BOARD OF BUILDING AND ZONING CODE APPEALS
WORK SESSION
JANUARY 9, 2019**

1. Appeal # 13-2018 revised
Variance 1153.04

A public hearing will be conducted at 6:30 pm on January 09, 2019; for the purpose of hearing an appeal for a variance from section 1153.04(b) & (f) of the Twinsburg Zoning and Development Regulations which requires a total floor area of all accessory structures other than a detached garage shall not exceed 140 square feet and building height not more than 12 feet. The applicant is proposing a 16'D x 24'W accessory structure in the rear yard. This appeal is made by Toby Sturgill of 1725 W. Idlewood Drive.

- Specifically, a 264 square foot floor area and 6 foot height variances are requested.

Mr. Kancler asked if there is anyone other than the applicant present to speak for or against the requested variances. As there were none, he requested a motion to waive the work session and move right into the regular meeting.

MOTION: MOTION TO WAIVE THE WORK SESSION AND GO RIGHT INTO THE APPLICANT SESSION OF THE REGULAR MEETING.

MR. WILNER MOVED MR. BROWN SECONDED, UPON ROLL CALL, MOTION PASSED UNANIMOUSLY.

**CITY OF TWINSBURG
BOARD OF BUILDING AND ZONING CODE APPEALS
MEETING MINUTES
JANUARY 9, 2019**

PUBLIC PARTICIPATION – NONE

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Mr. Rodic administered the Oath to Mr. Toby Sturgill, 1725 W. Idlewood Dr.

Mr. Kancler noted that this is a revised request for variance, is the applicant no longer seeking a side yard variance?

Mr. Sturgill stated that this application request is for an accessory building, which does not have a side yard setback requirement.

Mr. Rodic commented that there is a setback requirement for all structures.

Mr. Sturgill replied that the shed would sit 5 to 6 feet from the property line as there is a 4 foot shrub bed behind the fence.

Mr. Kancler noted that the Board has not received a site plan showing where the proposed building would be.

Mr. Rodic stated that the original application showed it at 5 ½ feet off the side property line and 6 feet off the rear property line and the applicant was going to revise the drawing to show it complying with the regulations and not requiring a variance.

- Mr. Rodic noted that there is not a side variance request on this application.

Mr. Kancler suggested that the Board hear all information for the accessory building at this time.

There is a drawing of a building showing 18 foot height with a variance request of 6'; how many floors will this structure be?

Mr. Sturgill replied that there will be a second floor loft area of about 8 feet tall and 2/3 the square footage of the first floor.

Mr. Kancler calculated that there should be 258 square feet added to the 384 square foot variance request because the ordinance limits total floor area to 140 square feet.

Mr. Sturgill explained that he was not aware that the second floor was included in that.

Mr. Kancler noted to the Board that the ordinance as written states that 140 square feet is the maximum allowed floor area.

- This would result in a request of 642 square feet, which would be approximately 250% more than the code allows.

Mr. Wilner stated that the Code says "The total floor area of all accessory structures" so he agrees with Mr. Kancler.

Mr. Kancler stated that his percentage is approximate but it is 502 square feet more than the ordinance requires.

Mr. Kancler asked what practical difficulty the applicant has regarding this accessory building.

Mr. Sturgill replied that he wants to be able to build a structure which will facilitate everything that he wants to store, a large lawn tractor, perhaps a whelp den, a work shop for leather crafts, a general work station; he is not able to park his vehicle in his garage because of tool storage and lawn care supplies. He feels it would also enhance the appearance of his back yard which he has put a lot of work into already.

Mr. Kancler asked if Mr. Sturgill has considered any alternatives to this, perhaps an addition to his house.

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Mr. Sturgill commented that he has thought about it but it would be a difficult layout and he is not really looking for additional living space, he needs storage.

Mr. Kancler advised that an addition would likely not require a variance.

Mr. Sturgill replied that he did not know that and was just considering what he wanted in his back yard.

Mr. Kancler explained that the Board of Zoning Appeals is able to give administrative relief, meaning that they are not City Council and if they go too far with granting a variance they step toward enacting legislation.

*If they grant a variance that is 502 square feet larger than the Code permits, they would be legislating, not working as the Board of Zoning Appeals.

*Also, there is something called spot zoning, which is when something is created on one property that is something that either nobody else wants or is able to have.

*The BZA allows variances because of hardships, practical difficulties and absence of effect on other properties; granting this variance would have an effect on other properties, they would want the same thing and then the zoning code would be destroyed because the Board of Zoning Code Appeals went beyond its jurisdictional duty.

Mr. Sturgill stated that he understands this but it is only a barn, a normal structure, there is a large garage on Ravenna Rd. which was allowed by the City.

Mr. Zeitz explained that the large garage is on a large property which allows for that square footage; the difference is that Mr. Sturgill's neighborhood has small lots with homes close together and he is requesting a structure that is taller than his house.

- Mr. Sturgill repeatedly refers to the structure as a "barn" which is not something that is not allowed in a residential area.

Mr. Kancler reiterated that the Board is limited by the Code and if they grant the 50% height variance would result in the proposed barn being taller than the homes in the neighborhood.

Mr. Zeitz commented that he feels an addition would be the best solution, he cannot support a structure this size in a residential area and he does not see any hardship justifying a barn in a residential area with this height, width, depth, sitting so close to the storm easement; he does not see the need.

Mr. Wilner agreed that the best option that he sees for the applicant to get what he wants is to build an addition to his house.

Mr. Sturgill noted that the neighbors have all been notified and none of them have come forward to complain about the plan.

Mr. Kancler explained that the Board still has to take action within their jurisdiction of what they are allowed to do.

MOTION:

I MOVE THAT WE DO NOT APPROVE APPEAL #13-2018
REVISED AS PRESENTED ON THE 9TH OF JANUARY 2019.

MR. WILNER MOVED, MR. BROWN SECONDED

Mr. Kancler noted the reasons for the denial for the request for variances are: The concern that the Board would be exceeding its power to grant a variance and instead would almost be legislating which is within the purview of City Council, not the Board of Zoning Appeals in as much as the total floor area of the proposed structure would be substantial, 602 square feet at least more than the ordinance allows and, in addition, there is no showing of a practical difficulty or hardship

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with the variance being so substantial and in addition under 1153.04, not only is the 140 square foot floor area violated but the height area of 18 feet versus the ordinance of 12 feet is a 50% variance and we seldom, if ever, consider a 50% variance so with those reasons, please call the roll.

UPON ROLL CALL, MOTION PASSED UNANIMOUSLY,
APPLICATION FAILED.

Mr. Kancler suggested that the applicant find an alternative option.

Mr. Sturgill stated that he may sell his home and move to a rural, less restricted area.

- He feels that the maximum square footage was set low; he does not feel that his request was overly large.

Mr. Kancler explained that Mr. Sturgill has the right to appeal this decision to City Council.

Mr. Sturgill stated that he probably won't do that.

Mr. Rodic noted that there are several options.

Mr. Sturgill commented that he is aware of his options

APPROVAL OF MINUTES – Dated October 24, 2018.

MOTION: TO APPROVE THE MINUTES DATED OCTOBER 24, 2018.

MR. BROWN MOVED, MR. WILNER SECONDED
UPON ROLL CALL, MOTION PASSED UNANIMOUSLY.

COMMUNICATIONS –

Mr. Rodic noted that the BP gas station on S.R.82 is being purchased by Circle K and some of the renovations will require variances.

- There has been nothing new on the project next to Bob Evans and nothing on the Damon's property.
- Mr. Rodic pointed out that the Board received a summary of variance requests from 2011-2017; Mr. Scaffide asked in November about the number of variance requests made on cul de sac properties and in this time frame that number is 6.

Mr. Brown asked about the Whispering Woods III property, they took down all of the trees, including where he thought they were supposed to leave a buffer, along Chamberlin Rd. as well as E. Aurora Rd.

Mr. Rodic explained that they would plant a barrier along E. Aurora Rd. once the proper grade is established.

Mr. Brown asked if the builder is planning a larger number of homes than BZA agreed to allow.

- He feels that they are setting up another situation where many variances are required in these neighborhoods.

Mr. Rodic stated that he would look at the number.

Mr. Scaffide commented on the cul de sac issue, he thinks that it was determined to be an issue largely with the older neighborhoods.

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Mr. Kancler noted that he would like to be sure that Planning and City Council has in mind to allow school buses and delivery trucks, etc. to function on cul de sacs along with on street parking and traffic.

EXCUSE ABSENT - NONE

ADJOURNMENT- The meeting was adjourned at 7:03.

Ed Kancler, Chairman

Russ Rodic, Building Commissioner