

HARRISON TOWNSHIP
BZA
November 27, 2018

Members present: Valerie Hans, Dwight Gibson, Jr., James Hannahs, Jeremy Nestor, Rick Biniker and Alternate Jack Treinish. Absent: Ryan Bailey

Also present: Tom Frederick, Zoning Inspector, Vickie Noble, Zoning Secretary and Marilyn Martin of Anderson Reporting.

Guests: Joe Skaggs, Deborah Morgan, Lee Morgan, John J. Pendleton, Anna Clendenen, William Laing, Rosemary Farren, Jim Shotsky and Trustee Eric Smith.

The purpose of this meeting is to consider a Variance Application submitted by Lee and Deborah Morgan 268 Middleground Road Pataskala, OH 43062. The applicants are requesting a variance from the required 15' setback for an accessory building.

The Public Hearing was called to order at 6:30 p.m. by Valerie Hans with all standing for the Pledge of Allegiance.

Those who wanted to speak during tonight's hearing were asked to be sworn in by the court reporter.

Ms. Hans read the application for the Variance request.

Ms. Hans asked if the applicants had anything to add. Mrs. Morgan stated that the letter included in the application explained everything. She introduced Mr. John Pendleton, a neighbor. She said he has no problems with the shed and is in favor of the application.

Mr. Frederick's Report:

November 26, 2018

Harrison Township Zoning Inspector's report & recommendation for the variance request submitted by Lee and Deborah Morgan for 268 Middleground Rd. Pataskala, Ohio 43062.

The variance request is from the required Rear Yard setback. The required rear yard setback is 15 feet from the lot line or property line. The Morgans applied for and received a Zoning Permit on September 6, 2016 for an accessory building (Yard Barn). The Zoning Permit application was approved for a 15 ft. rear yard setback. At the time Mrs. Morgan was obtaining the Zoning Permit I explained to her that the side and rear yard setbacks, effective April 20, 2016, had

changed from 6 ft. to 15 ft. The site plan she submitted with the Zoning Permit application had the yard barn 10 ft. from the rear property line.

This variance recommendation will follow the requirements of Harrison Township Zoning Resolution Article 4 – Section 4.12 #2. – Area Variance.

Area Variance Section 4.12 #2

#2 states the factors to be considered and weighed in determining whether a property owner seeking an area variance has encountered practical difficulties in the use of the property. They include but not limited to:

a. whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without a variance.

The Morgan's lot is 105 ft. wide and 220 ft. in depth. There is plenty of room on the lot to have met the 15 ft. setback.

b. whether the variance is substantial.

The Morgans have stated within their Variance application that the yard barn is 10.7 ft. from the rear property line according to the County's mapping system. The 4.3 ft. of distance is not substantial.

c. whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.

No.

d. whether the variance would adversely affect the delivery of governmental services (e.g. water, sewer, garbage, medical, fire, police).

No.

e. whether the property owner purchased the property with knowledge of the zoning restrictions.

I believe the Morgans were aware of the zoning restrictions at the time of their purchase of the property and were made aware of the required 15 ft. rear setback at the time she applied for the Zoning Permit.

f. whether the property owner's predicament feasibly can be prevented or corrected through some other method other than a variance.

The yard barn could be moved 4.3 ft. to the south and it would comply the zoning restrictions.

g. whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

The Variance request is from the 15 ft. rear yard setback and the yard barn is estimated to be 10.7 ft. from the rear property line. The side and rear yard setback used to be 6 ft. from property lines for detached buildings.

Item to consider:

- *Mrs. Morgan was told, and I wrote 15 ft. on the Zoning Permit application at the time she applied for the permit. My mistake was that I should have crossed off the 10 ft. they had on the site plan that was submitted for the permit. And I should have written in 15 ft. on the site plan.*
- *Mrs. Morgan is a Zoning Secretary for a local township.*

*Thomas D. Frederick
Harrison Township Zoning Inspector*

Joe Skaggs asked who would be paying the fee for the Public Hearing. Ms. Hans said the decision to waive the fee for the applicant was made by the Trustees. Mr. Skaggs referred to the September 6, 2016 zoning application for a permit. He feels Mrs. Morgan signed this accepting the 15' requirement. He has a problem with the Morgans going by the county website for the property line location and says they don't know where the pins are located. He also feels the shed is closer than 10 ft. from the property line. He presented the board with pictures to view.

Ms. Hans asked the applicant if they had the pins located. Mrs. Morgan-"no". Ms. Hans asked if they knew where the pins are. Mrs. Morgan-"no". Mr. Frederick added there is a pin, but he has concerns since it is sticking out of the ground about 6-8" meaning it could have been pulled and put back in the ground.

Ms. Hans asked how long the Morgans had owned the property. Mrs. Morgan said they bought the property May 2015. Ms. Hans inquired about a survey. Mrs. Morgan said they did not have a survey since the property was a foreclosure.

Mr. Skaggs thinks the pin was from a fence survey done previously.

Anna Clendenen thinks it's a shame to have this matter before the board. She thinks the applicants did a wonderful job with the yard and is an improvement to the neighborhood.

William Laing said he will be applying for a variance on his property and questioned the setbacks requirements since they don't show on his survey. Ms. Hans explained the set back requirements are from the township and wouldn't show on a survey. He asked why the township had changed the requirements from 6' to 15'. Ms. Hans said the changes were made by the Zoning Commission.

Rosemary Farren had her deed from 1990. She said it states 10' for setbacks. Ms. Hans explained that this was a deed restriction and the township regulations take priority.

Mr. Hannahs stated he has been on the board for four years and feels that this is the most trivial matter to come before the board. He feels the Morgans are doing the right thing and is in favor of approving the variance.

Mr. Gibson feels there is not a substantial difference between 10' and 15'. He doesn't see any reason for foot stomping.

Mr. Skaggs stated if this variance is approved, he would like to see a survey required to make sure the shed is 10' from the property line. If it is not, he would like to see the shed moved and the Morgans paying the fees for a variance.

Mr. Frederick wanted it noted that he would not have written 15' on the application page without telling Mrs. Morgan.

Ms. Hans asked Trustee Eric Smith his opinion and if the BZA should table the application and seek legal advice. Mr. Smith said it was a decision to be made by the Board of Zoning Appeals.

Ms. Hans stated that each Variance request is handled on a case by case basis.

Mr. Biniker doesn't agree with Mr. Skaggs wanting to put options on the decision. If this is considered, he is not ready to vote. Ms. Hans stated that the board has the decision on options, not Mr. Skaggs.

Mr. Hannahs moved to approve the Variance Application as submitted. Mr. Biniker seconded.

Vote:

Dwight Gibson, Jr.-yes, James Hannahs-yes, Jeremy Nestor-yes,
Rick Biniker-yes, Valerie Hans-no.

The motion passed with four yes votes and one no vote.

At 7:18 p.m. Ms. Hans closed the public hearing.

A working session began at 7:23 p.m.

Mr. Gibson moved to approve the minutes from the October 10, 2018 meeting. Mr. Hannahs seconded. The motion passed with unanimous ayes.

At 7:29 p.m. Mr. Gibson moved to adjourn. Mr. Biniker seconded. The motion passed with unanimous ayes.

Respectfully submitted

Vickie Noble, Zoning Secretary

Valerie Hans, Chair

Public hearing professionally recorded by Anderson Reporting